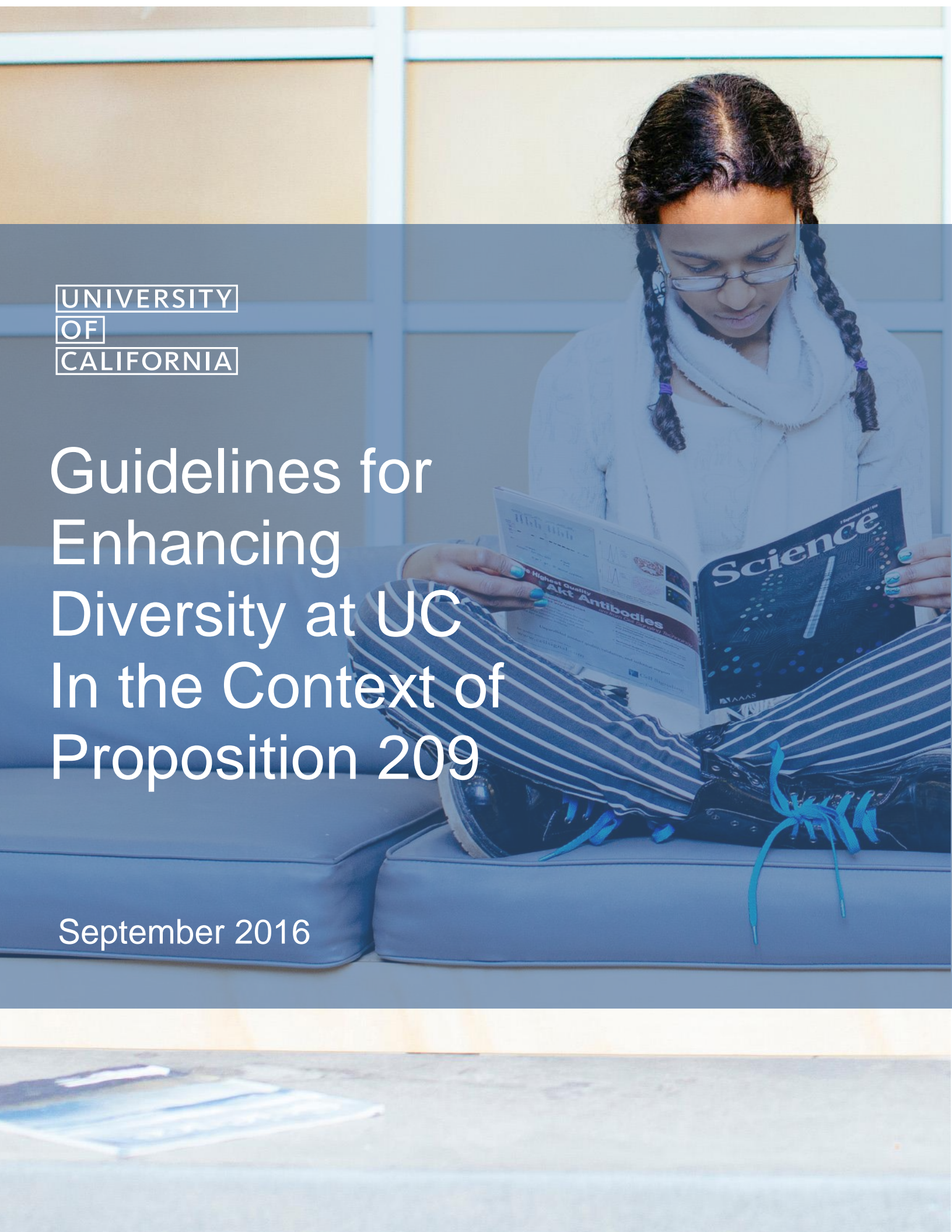


UNIVERSITY  
OF  
CALIFORNIA

# Guidelines for Enhancing Diversity at UC In the Context of Proposition 209

September 2016



## DIVERSITY UNDER PROPOSITION 209 INTRODUCTION

This brochure gives a general overview of guidelines that apply to outreach, enrollment, retention and hiring practices with regard to the diversity and inclusion of University of California (UC) students, faculty, and staff. UC administrators can use this information to ensure they are in alignment with both the university's firm commitment to creating a diverse and equitable student body, faculty and staff and with California law established under Proposition 209.

Founded as a land-grant university in 1866, UC was given a federal mandate to make higher education available to the whole populace of California, which was a diverse and varied public in the 19<sup>th</sup> century and is even more so now. During the civil rights movement of the mid-20th century, affirmative action measures were put in place so that people of every race and gender could compete on equal footing for employment, housing and education. When California's Proposition 209 ballot initiative passed in 1996, it prohibited universities from discriminating or "granting preferential treatment" to individuals on the basis of race, sex, color, ethnicity or national origin. While Proposition 209 eliminated some of the tools that the university had previously employed to achieve diversity in its student body and its workforce, there are many steps that the university can take to maintain and enhance diversity and equal opportunity.

This material summarizes a more detailed document, *UC's Guidelines for Addressing Diversity*, published in 2015 by the UC Office of General Counsel. The guidelines are not intended to be a substitute for legal advice. Administrators are encouraged to consult with their campus diversity officers about program design and with their local campus counsel on legal questions when considering specific practices. The goal is to support diversity and equal opportunity programs, while minimizing legal risk and maintaining compliance with applicable laws and UC policies.

For the full document, and more information about Proposition 209, go to [http://www.ucop.edu/general-counsel/\\_files/guidelines-equity.pdf](http://www.ucop.edu/general-counsel/_files/guidelines-equity.pdf)

For more information about UC's diversity efforts and programs, go to:  
<http://diversity.universityofcalifornia.edu/>

*\*For simplicity, these guidelines will refer to "race, color, ethnicity and national origin" collectively as "race."*

**FAQS: GENERAL**

**Can UC target programs by race or gender if the programs provide only benefits that are generally available to all?** As part of a comprehensive outreach program, UC may target certain efforts by race or gender if their benefits are generally available to all. UC may use outreach programs to reach particular groups as long as the program's benefits are also available to other groups, and the special efforts to reach the targeted groups are necessary. This includes targeting efforts within a more general program of outreach to communicate to specific groups, using those special efforts to "level the informational playing field."

**Can UC offices collect data on race, gender or other demographic characteristics?** The university may collect data on the race or gender of its students, employees, contractors and applicants to gauge the effectiveness of its efforts.

**Can race or gender be used as admissions or hiring criteria?** UC may choose to advance goals like diversity and equal opportunity using a broad range of admissions and hiring criteria that are not based on an individual's race or gender. For example, *holistic review* in admissions considers income level, first-generation status, neighborhood circumstances, disadvantages overcome, low-performing secondary school attended, and the impact of an applicant's background on academic achievement. Factors in selection for scholarships or employment may include applicants' ability to contribute to a diverse educational or working environment, and/or their potential for leadership in increasing equitable access to higher education

**Is UC required to comply with federal equal employment and non-discrimination policies?** Even under Proposition 209, the university has an obligation to comply with affirmative action regulations for federal contractors that apply to all employment programs, including academic personnel. Federal affirmative action regulations and university policy require that all campuses develop and maintain a written affirmative action program covering staff, faculty and all other academic employees.

**Can UC departments offer courses in race or gender, or other topics relating to diversity?** UC may offer programs relating to race or gender as long as those programs are open and available to all. This includes programs like ethnic studies departments, workshops about women in science, speaker series highlighting the contributions of scholars of color, research institutes focused on race or gender issues, resource guides directed to the needs of individuals from a particular race or gender, and retention efforts that address the barriers faced by women or minorities in higher education.

**FAQS: STUDENT OUTREACH** *Prospective, Undergraduate and Graduate Students*

**Outreach and Pre-Admissions Offer Recruitment**

***Can we target our outreach to potential undergraduate applicants based on race or gender?***

Campuses may make special efforts to reach particular groups as long as the same information is available in some way to all. These targeted efforts may be necessary to reach certain underrepresented minority students (URM) groups and to ensure truly equal access to UC's application process. For example, some campuses work with community organizations serving particular groups to encourage and inform potential applicants.

***Can we use non-racial factors like neighborhood or school performance to target our outreach efforts?*** Yes. Targeting outreach to potential applicants based on certain non-racial characteristics may also have the effect of increasing the racial diversity of the applicant pool and is generally permissible.

***We would like to try outreach programs that might be of specific interest to URM or gender-specific groups: is this allowed?*** As long as they are open to all participants, regardless of their race or gender, UC may offer programs whose content may be of particular interest to members of a particular racial group or gender. For example, campuses may invite applicants to programs addressing "the African American experience at UC" or "Women's Issues at UC."

***Can we provide assistance for non-UC organizations' outreach to URM or gender-specific groups?***

UC may provide routine assistance (for example, providing information or facilities for outreach activities) to related organizations that are not bound by Proposition 209 on the same terms it does for other similar non-UC-related organizations, without participating directly.

## Admissions and Post-offer Recruitment

**Can UC use racial or gender demographics among its admissions criteria?** The university may grant special consideration to students from, for example, particular high schools or neighborhoods based in part on the overall ethnic demographics of the school or neighborhood, as long as UC does not differentiate among applicants on the basis of their individual race or gender.

**Can we target outreach to parents of URM or gender-specific prospects?** The university may target parents of URM or gender-specific students with phone calls, letters, or meetings to persuade URM prospects to enroll, a) without offering additional benefits to the students and b) with information that is available to all.

**What about outreach to prospects based on non-racial factors that may correlate with racial diversity, like neighborhood demographics?** As with pre-offer outreach (see previous page), targeting post-offer outreach to prospects based on certain non-racial characteristics, such as residency in certain geographic areas, may serve to increase racial diversity as well.

**Can we use outreach for programs that may be of particular interest to URM or gender-specific prospects?** UC may offer programs focusing on information of particular interest to specific prospects - for example, a weekend program about the African American experience at the campus – as long as they are open to all students regardless of race or gender

**What about creating a targeted resource guide for race- or gender-specific prospects: Permissible?** As part of a comprehensive program of outreach, the university may target or increase specific efforts to reach race- or gender-specific prospects. Such efforts may be necessary to effectively reach certain groups or to level the informational playing field. The information must be available to all interested individuals, regardless of race or gender

**Can we offer assistance to external organizations' race- or gender-targeted outreach?** Non-UC student programs not bound by Proposition 209 may limit participation exclusively to URM or gender-specific prospects and provide funding directly to such prospects for university outreach, such as assistance with travel costs to attend university outreach programs. UC may provide routine assistance to such entities by, for example, providing lists of certain consenting students, as long as UC is not involved in selecting the participants.

## Financial Aid, Scholarships and Student Support Services

### ***Can race- or gender-specific scholarships be provided by outside, non-governmental agencies?***

Proposition 209 does not apply to private, non-UC organizations, which may provide scholarships or other educational benefits targeted to race- or gender-specific students. UC may provide information, incidental logistical support and access to campus facilities to such organizations that target efforts on the basis of race or gender if (1) assistance is provided on a non-discriminatory basis (that is, similar private organizations are eligible for similar assistance, regardless of the race or gender of the groups the private organization serves; (2) UC neither controls nor administers the private organization; and (3) UC is not involved in choosing recipients of the organization's benefits.

### ***Can UC support fundraising for scholarships for race- or gender-specific students or funded by external sources?***

Though Proposition 209 prohibits UC from basing funding decisions on a student's race or gender, it may provide routine assistance to un-restricted outside organizations. For example, UC may provide information, incidental logistical support, and access to campus facilities. Such assistance should be provided on a non-discriminatory basis, to organizations that are independent of the university, and UC should not be involved in selecting recipients of the funding.

***What about funding aimed at students from particular local high schools?*** UC may consider the racial or gender demographics of a school in deciding how to allocate its resources, as long as it does not consider an individual student's race or gender. Targeting funding assistance for schools with certain demographic profiles may open access to a more diverse pool of prospects.

***Are we allowed to direct funding to students who have the potential to become leaders in diversity?*** UC may award funds to students likely to advance its commitment to diversity through demonstrated leadership on this issue, without regard to a student's individual race. Such funding will help attract students with the interest and capacity to contribute to the university's diversity efforts.

***Can we create retention programs that are focused on the experience of URM students?*** UC or student groups may provide support services that focus on the experience of URM students, to increase their chances of success at UC, as long as those services are open to all students.

***Is it acceptable to give assistance to external organizations' URM-targeted retention efforts?*** UC may provide routine assistance to retention programs run by non-UC entities not bound by Proposition 209 that may limit participation exclusively to URM students.

**FAQS: EMPLOYMENT** *Recruitment, selection, and retention of faculty and staff*

***Can race or gender be used in targeting potential employees for recruitment?*** Race or gender may not be used as the sole criterion in the recruitment and selection of potential employees. Efforts should be made to attract a robust pool of candidates that includes individuals from groups that are underrepresented in the field and in higher education generally. Position announcements should be drafted as broadly as possible with regard to field and should include language reflecting the department's interest in candidates who can contribute to diversity.

***Can our department consider contributions to diversity in faculty appointment and advancement?***

The [UC Academic Personnel Manual \(APM\) section 210-1-d](#) provides explicit guidance for the consideration of faculty contributions to diversity in appointment and advancement. Departments and search committees may consider whether a candidate's research will advance understanding of present-day societal issues related to gender, race, ethnicity and culture. They also may consider a candidate's demonstrated past commitment to increasing access for individuals from groups underrepresented in their field.

***Can our department require faculty candidates to include a statement on “contributions to diversity”?*** Some UC campuses are asking candidates to include a diversity statement in their cases for appointment or advancement. These statements provide candidates with an opportunity to showcase their leadership and accomplishments in scholarly work, pedagogical techniques, outreach, mentoring and other types of engagement that may enhance the university's commitment to diversity. Requiring such statements sends an important message to candidates and may increase the diversity of the applicant pools. Including such statements in faculty advancement cases provides an opportunity to compensate women and minority faculty for the often unrecognized burden of service and advising they experience due to their underrepresentation in the department or the field.