

Proposition 209 and ANR Affirmative Action Policy AA newsletter, Winter, 2002

Many people are confused about why ANR continues to ask people about their racial identity after the passage of Proposition 209. Asking these questions is permitted under Proposition 209 and helps ensure that ANR programs are available to everybody.

Proposition 209 did not outlaw any recognition of racial identity. What Prop. 209 did was prohibit the state from granting "preferential treatment to any individual or group on the basis of race." ANR does not grant preferential treatment based on race; we collect data on race to assure that all of our programs are being made available in a fair and equitable manner to everyone.

Advisors are not told they have to work with a certain quota of people from one race or another. Often, groups may be unable to take advantage of a ANR program because of language differences, or cultural differences, or a lack of knowledge about ANR. Monitoring the racial make-up of those making use of ANR programs helps us determine if there are any groups who might need our assistance but are not getting it.

California courts have agreed that Proposition 209 does not prohibit using racial data to monitor programs for nondiscrimination. In *Connerly vs. State Personnel Board*, the court said, "a monitoring program designed to collect and report accurate and up-to-date information is justified by a compelling governmental need for such information . . . and may be employed without violating the principles of equal protection or Proposition 209."

Also, Proposition 209 expressly exempted programs like ANR, which receive federal funds and would lose those funds if it ceased to follow federal affirmative action requirements. Proposition 209 reads, "Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in loss of federal funds to the state."

Without federal funds, ANR could not operate most of its programs. In order to receive these funds, we must follow federal laws and regulations that require the collection of racial data. This activity is expressly allowed under Proposition 209.

The confusion about Proposition 209 is understandable. However, by asking for racial information, ANR is not violating the spirit or the letter of the law. We are merely attempting to operate our programs as fairly as possible, and for the benefit of the greatest number of people we can help.