

**OFFICE OF THE PROVOST AND SENIOR VICE PRESIDENT- ACADEMIC AFFAIRS
OFFICE OF THE PRESIDENT
300 LAKESIDE DRIVE, 22ND FLOOR
OAKLAND, CALIFORNIA 94612-3550**

September 29, 1997

CHANCELLORS

Dear Colleagues:

I am writing to provide you with specific guidance about how to implement Proposition 209, the California Civil Rights Initiative, so that the ability of University of California faculty to compete for federal research funds will not be impaired.

As you know, the courts have decided to allow immediate implementation of Proposition 209, and the proposition is now state law. Proposition 209 was approved by California voters in the November 1996 election. The new law prohibits the consideration of race and gender in state employment, education and contracting programs, including those administered by the University of California.

At the same time, certain federal agencies have recently adopted, or are considering the adoption of merit evaluation requirements aimed at promoting ethnic and/or gender diversity among the recipients of federal research awards. Proposition 209 permits the University to consider race and gender if such consideration "must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds." Thus, when a federal program requires targeting based on race and gender, the University can apply to that program with the targeting specified. Proposition 209 does not supersede federal requirements, nor was it intended to impair the ability of California-based scholars to compete for federal research grants. I wish to emphasize that the University of California strongly agrees with the view stated in the National Science Foundation's draft strategic plan for FY 1999-2003, that "In a democratic society that is highly dependent on science and engineering for its well-being and its place in the world, the science and engineering enterprise cannot thrive unless it is open to all segments of the population.

There are, of course, federal programs where the achievement of diversity is one of the criteria for review, but for which targeting is not explicitly required. At this date, the National Science Foundation (NSF) is the only federal science agency which has formally adopted what might be termed a "diversity criterion" for use in judging the relative merits of competing research proposals. NSF's new merit review rules, approved in March 1997 by the National Science Board, base proposal evaluation on two criteria in place of the four criteria in use since 1981. NSF reviewers will now evaluate proposals based on the reviewer's answers to two broad questions; (1) What is the intellectual merit of the proposed activity; and (2) What are the broader impacts of the proposed activity? Each broad question is accompanied by a set of more specific questions which must also be answered by the reviewers. Among the specific questions listed under #2 is: How well does the proposed activity broaden the participation of underrepresented groups (e.g., gender, ethnicity, geographic, etc.)? Reviewers are directed to provide a single composite rating, separate comments for each criterion, and a summary recommendation with respect to each proposal reviewed.

University of California principal investigators applying for research grants from NSF, as well as from other federal agencies with similar merit evaluation criteria based on ethnic or gender diversity, may make affirmative efforts to recruit members of underrepresented groups to the research team for the proposed project, if (a) such efforts are necessary to meet criteria for diversity in the research team, as defined by the federal agency in the agency's published merit review criteria; and (b) in the principal investigator's informed judgment, such recruitment efforts and their description in the research proposal are necessary to compete effectively for the funding. In addition, principal investigators may choose to include the following "boilerplate" paragraph in their proposals for funding:

In conformance with applicable state and federal laws and University policy, the University of California will comply with all federal agency requirements directed at broadening the participation of underrepresented groups (e.g., gender, ethnicity, geographic, etc.) in federally-sponsored research.

Please feel free to contact me or Vice Provost Shelton at (510) 987-9436 if you have further questions related to the potential impact of the law on research funding at the University.

Sincerely,
C. Judson King
Provost and Senior Vice President-
Academic Affairs

cc: Members, President's Cabinet