

Handout #2  
Affirmative Action

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The following questions accompany the text excerpts from Chapter 4, “The Fight for Racial Equality,” in *Wherever There’s a Fight: How Runaway Slaves, Suffragists, Immigrants, Strikers, and Poets Shaped Civil Liberties in California*.

**Bakke**

- 1) The Supreme Court has ruled that if you are going to categorize people based on race (e.g. in an affirmative action policy), you must show that doing so supports a “compelling state interest.” What “compelling state interest” argument does UC Davis Medical School make for favoring certain applicants based on their race? (\* “compelling” in this context means the affirmative action policy would support something that is necessary or crucial to the government—what necessary or crucial value does the UC Davis medical school argue is served by its affirmative action policy?)
- 2) How did the Superior Court rule on Bakke’s case? The State Supreme Court?
- 3) Why would people *in favor* of affirmative action plead with UC Davis to accept its loss and not to appeal its case to the U.S. Supreme Court?
- 4) The U.S. Supreme Court decision was complicated!
  - a) What did Justices Burger, Rehnquist, Stevens and Stewart say about race and admissions to the medical school?
  - b) What did Justices Brennan, Marshall, White and Blackmun say about race and admissions to the medical school?
  - c) Justice Powell was the deciding vote. He said that you could have racial classifications *IF* what? What did he conclude about UC Davis’s argument for a diverse student body?
  - d) What was the final conclusion in the Supreme Court case about whether or not race could be used as a factor in admissions policies?
- 5) What was the “lasting impact” of the *Bakke* Supreme Court decision?
- 6) Review the different court opinions in the *Bakke* case. Which of the arguments do you most agree with? Why?
- 7) Are you sympathetic to Alan Bakke? Why or why not?

### **Proposition 209**

“The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education or public contracting.” –1996 California Ballot Proposition 209

- 1) Evaluate this statement. Does it sound like a good idea? A bad idea? A little of both? Explain.
  
- 2) How would Proposition 209 serve to support Pete Wilson’s political career? Which voters was he trying to attract?
  
- 3) Do you think the campaign for Proposition 209 meant to confuse voters? Explain.
  
- 4) Proposition 209 was passed by 54 percent of Californian voters. What option did supporters of affirmative action pursue after election day?
  
- 5) What did opponents of Proposition 209 say about the “will of the majority”?
  
- 6) What did U.S. District Court Judge Thelton Henderson cite as the main issue when he issued an injunction barring enforcement of Proposition 209? Use your own words.
  
- 7) What happened when Judge Henderson’s decision was appealed to the Ninth Circuit Court of Appeals?
  
- 8) What was the lasting impact in California of Proposition 209?