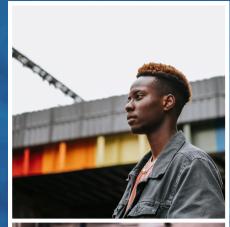
# 20 24 CALIFORNIA RACIAL EQUITY GOALITION (CREC)









### **Table of Contents**

#### 03 Who We Are

- **3** Coalition
- 3 Foundational Elements Required to Actualizing Equity within Government

#### 05 E

#### Background

- **5** Governor's Executive Order on Equity
- 5 Racial Equity Commission (REC)

#### **N7** Coalition's Purpose & Values

- 7 Our Equity Principles & Purpose
- 7 Values

#### **18** The California Racial Equity Coalition Budget Tool Brief

- 8 Purpose
- 8 Sample Questions to Include in the Budget Equity Tool
- 9 Success Factors for Actualizing Racial Equity in Public Budgeting
- 12 Suggested Definitions

#### **1**/ The California Racial Equity Coalition Community Engagement Brief

- 14 Purpose
- 14 Recommendation on Community Engagement for Racial Equity
- 15 The Spectrum of Community Engagement to Ownership
- 15 Community Engagement Best Practices

#### **18** The California Racial Equity Coalition Framework Brief

18 Purpose

- 18 Why Racial Equity?
- **19** Why Should the Government Do Racial Equity?
- 19 Suggested Table of Contents for the California Racial Equity Framework
- 21 Sample Racial Equity Analysis Tool
- 28 Suggested Definitions

### **30** Clarifying the Parameters of Proposition 209 & Equal Protections Law for California's RacialEquity Commission

- 30 California Racial Equity Coalition
- 30 Purpose
- 30 Introduction
- 31 Proposition 209
- 31 Allowable Actions Under Prop 209
- 33 Limits of the Supreme Court's Affirmative Action Ruling
- 33 Guidelines for the Racial Equity Commission

# Who We Are

#### Coalition

The California Racial Equity Coalition represents a strong group of policy and government program advocates, researchers, organizers, capacity builders, and partners, dedicated to institutionalizing racial equity policy and programmatic work within government. In 2021, <u>Senate Bill 17 authored by Senator Pan</u> sought to create an Office of Racial Equity which inevitably became the Racial Equity Commission via <u>Executive Order N-16-22</u>. As a result of the coalition's legislative advocacy efforts, the next phase of our work seeks to ensure the Racial Equity Commission fulfills all aspects of its directives that materializes in systemic change within government and the people whose lives they impact. Our objective is to advance toward making California's government.

The process by which state government, state and local agencies, local government or any entity wanting to effect systemic change is a continuous journey. Below are key foundational elements necessary to begin, continue and ultimately sustain the work towards an equitable future.

#### Foundational Elements Required to Actualizing Equity within Government

- Holding government entities accountable to racial equity transformation includes embedding racial equity policies and practices as a part of government functions and operations.
- Fostering and maintaining direct, authentic engagement with impacted communities.
- Centering community self-determination in policy and decision making while cocreating solutions and efforts with communities.
- Support community empowerment and direct and authentic lines of communication and engagement with government actors for impacted communities.
- Bring forth best practices and established protocol from the community of practice.
- Center the participation, needs, and priorities of low-income BIPOC communities in our approach and process to inform our advocacy.
- Develop and implement standardized equity practices, frameworks, and analysis tools.
- Create permanent staff positions, offices, and build enterprise-wide capacity and competencies for equity.

## The Coalition includes but is not limited to the following organizations:

- Asian Resources, INC.
- California Academy of Child and Adolescent Psychiatry
- California Climate & Agriculture Network (CALCAN)
- California Food and Farming Network
- California Pan-Ethnic Health Network
- California ReLeaf
- Catalyst California
- Children's Defense Fund- California
- Coalition for Humane Immigrant Rights (CHIRLA)
- Community Coalition
- Courage California
- Dolores Huerta Foundation
- Housing California
- Indivisible CA: State Strong
- Justice in Aging
- Korean Community Services
- Latino Outdoors
- Los Angeles Neighborhood Land Trust
- National Association of Social Workers, California Chapter

- NextGen CA
- PolicyLink
- Prevention Institute
- Public Health Advocates
- Regional Asthma Management and Prevention (RAMP)
- San Francisco Black & Jewish Unity Coalition
- SEIU California State Council
- Silicon Valley Leadership Group
- Southeast Asia Resource Action Center
- State of Equity (a program of the Public Health Institute)
- The California Alliance of Child and Family Services
- The Children's Partnership
- The Greenlining Institute
- The Los Angeles Trust for Children's Health
- United Ways of California
- Western Center on Law and Poverty

# Background

#### **Governor's Executive Order on Equity**

On September 13, 2022, Governor Newsom issued <u>Executive Order N-16-22 (EO)</u> which directed state agencies and departments to take actions to embed equity analysis and considerations in their mission, policies and practices. Of particular relevance, the executive order created the Racial Equity Commission inside the Governor's Office of Planning and Research.

#### **Racial Equity Commission (REC)**

In recent years, California's state government has taken discrete steps to address and atone for past racist policies that have produced or sustained racial inequities among racial groups. Such steps include the creation of the <u>Reparations Taskforce</u> to develop reparations proposals for Black/African Americans or making information publicly available to a Department's <u>Racial Equity Action Plan</u>. Despite these efforts, their collective impact has not produced the systemic change needed to address racial inequities within state government policies, processes, and practices, resulting in further distrust from communities in their state institutions. Since the late 1800s, there has not been a holistic effort to dismantle the racism embedded in state policies and programs, and no proactive actions to ensure that all future policies and programs the state operates are equitable.

The goal of the Racial Equity Commission (REC) is to help support the State on its path towards anti-racism. The REC is an 11-member commission housed under the Office of Planning and Research and is tasked to:

- Develop a statewide Racial Equity Framework with private and public stakeholders. The framework will include:
  - methodologies and tools that can be employed in California to advance racial equity and address structural racism;
  - budget methodologies, including equity assessment tools, that entities can use to analyze how budget allocations benefit or burden communities of color;
  - processes for collecting and analyzing data effectively and safely, as appropriate and practicable, including disaggregation by race, ethnicity, sexual orientation and gender identity, disability, income, veteran status, or other key demographic variables and the use of proxies; and
  - summaries of input and feedback from stakeholder engagements.

- Hold hearings and perform acts that may be necessary to carry out the commission's duties.
- Engage with advisers or advisory committees when the commission determines that the experience or expertise of advisors or advisory committee is needed for the commission's work.
- Upon request by a state agency, provide technical assistance on implementing strategies for racial equity.
- Engage stakeholders and directly-impacted community members by holding quarterly stakeholder meetings and hearings.
- Engage, collaborate, and consult with policy experts to conduct analyses and develop tools, including by building on and collaborating with existing bodies.
- Promote equitable delivery of benefits and opportunities by:
  - providing technical assistance to local government entities engaging in racial equity programming, upon request from the local government; and
  - encouraging the formation and implementation of racial equity initiatives by local government entities, including cities and counties.

The commission is responsible for preparing an annual report that summarizes feedback from public engagement with communities of color, provides data on racial inequities and disparities in the State, and recommends best practices on tools, methodologies, and opportunities to advance racial equity.



## **Coalition's Purpose & Values**

#### **Our Equity Principles & Purpose**

We strive to influence and engage California state government to intentionally center and institutionalize Racial Equity within all its practices, processes, and policies, including through the 2022 Equity Executive Order and the Racial Equity Commission, by prioritizing the experiences of those who have been most harmed and negatively impacted by the systems, policies and programs the state operates.



#### Values

**Racial Equity:** Transforming systems so they can generate just outcomes for all, regardless of race, ethnicity, language, age, gender identity, sexual orientation, disability status, income, veteran status, class, immigration status, or other key demographic variables. Racial Equity, as both a process and an outcome, calls attention to the impact of human-constructed racial classifications on creating inequitable systems. Racial equity approaches require dismantling institutional and systemic racism in order to create a more equitable California for all.

**Community Power:** Integrating power-building groups rooted in communities who have been most harmed, including, but not limited to, low-income Black, Indigenous, and People of Color (BIPOC) in our decision-making process to develop policies, advocacy, narrative, and strategies to enhance their collective power at the state and local levels. This includes supporting and advocating for governmental efforts to foster democratic participation and equity through community-driven decisions-making and bridging the divide between community and governance.

**Multiracial and Intersectional Solidarity:** Building a coalition inclusive of multiracial and multi-issue groups to eliminate systemic inequities that impact individuals differently across intersections including income, sexual orientation, gender identity, immigration status, age, disability, education, language, etc., and amplify the concerns and needs of marginalized communities.

### The California Racial Equity Coalition Budget Tool Brief

Authored by Maria Barkat, MPP, and Abigail Hewins, MPA The California Racial Equity Coalition

#### Purpose

This brief is produced by the California Racial Equity Coalition (CREC), a group of over 100 organizations rooted in communities around the state, with decades of collective experience as racial equity practitioners. The guidance provided in this document stems from the CREC's extensive working knowledge of racial equity practice and the urgent needs of California's most marginalized communities. It is infused with learning from the most comprehensive <u>racial equity framework and budget tool study</u> in the United States to date, conducted in partnership with the Office of Planning and Research, Strategic Growth Council and Public Health Institute in 2023. This brief is intended to orient the Racial Equity Commission to the field of government racial equity transformation. The data and recommendations are directly applicable to the State of California's current landscape and the Commission's mandates. **The California Racial Equity Coalition requests that the Commission integrate the following principles, definitions, and practices into the forthcoming statewide framework and budget equity tool.** 

#### **Budget Equity Tool (BET) Recommendations**

- LEAD WITH RACE; Budget equity requires extensive analysis of racial inequity. Leading with race is an important starting point to examine broader systemic inequities affecting marginalized communities with diverse experiences
- Use the words "race" and "racial equity" in the BET
- The BET is an independent form/tool packet

   a.At the Department of Finance level, it could be an external form linked to the Budget Change
   Proposal
- Account for gaps in racial equity understanding and skills in the BET

   a. Provide clear process instructions and requirements
   b.Set clear expectations and provide examples of successful equity tool responses
   c. Provide standardized definitions of all pertinent words or terms
- Prioritize the quality of the BET contents over quantity
- Establish criteria and weighting standards for the BET a.Ensure racial equity is a weighted criteria required in the BET
- Racial equity is a normal, core function of the state's multi-level budget process
  - a.The BET is required at every level of budget development, proposal, and legislative decision making

- Establish accountable, transparent, structured review and feedback processes of the BET

   a.Create timelines that allow effective racial equity analysis to occur
   b.Make processes and outcomes publicly available
- Recommend departments, agencies, and their leadership provide avenues for user feedback to make improvements and enhance equity impacts
- Make the BET standardized and consistent, but also evolving and iterative as needed.

#### Sample Questions to Include in the Budget Equity Tool

- 1. How does the proposed budget request align with clearly defined racial equity goals or plans in the office, department, agency, and state?
- 2. How does the proposed program, policy or initiative improve racial equity?
- 3. Who will be impacted and how will they be impacted?
- 4. What data was used to make projections and determine community needs? If more data is needed, how is this being addressed in lasting ways?
- 5. How have communities been included in goal setting & decision making? How have relationships been fostered for ongoing inclusion?

#### Success Factors for Actualizing Racial Equity in Public Budgeting

#### 1. Establish Co-Governance & Community Partnerships

### Partner with impacted communities at all stages of the legislative and administrative budget processes to generate equitable outcomes.

Intentionally share power with communities by establishing standards and processes that provide ways for communities to *speak and be heard*. These processes should be responsive and transparent to the public, demonstrating that the government is taking responsibility for past and current harm and integrating community input in ways communities can *feel*.

Involve impacted communities throughout the budgeting process from priority setting to oversight of implementation. For example, at the start of the budget process, a community budget committee might inform budget development, how funds are used, and provide specific recommendations for what California should invest in and divest from. Communities should represent a significant number of positions on advisory bodies and have decision-making power. Community involvement should have meaningful financial investments to compensate members, support participation, and make meetings accessible to all people. The government must provide dedicated funding to ensure all departments and agencies have the resources to carry out meaningful community engagement. Make processes nimble and adaptable.

#### 2. Establish Racial Equity Infrastructure

Government function relies on formal structures. Current structures serve to maintain inequities. Therefore, infrastructure that promotes and protects equity is necessary to transform the inequitable function of government. Examples of racial equity infrastructure are tools, offices, codes, legislation, rules, laws, regulations, and policies that safeguard racial equity. California requires a permanent office or department that serves as a hub for statewide racial equity analyses, equity committees, technical assistance, accountability and public transparency, long-term strategizing and implementation of tools, practices, and policy recommendations. An office must analyze government process and practice to find root causes and intervention points where establishing racial equity infrastructure will have the most impact. Establishing racial equity infrastructure at these key intervention points and anchoring them with measurable racial equity outcomes ensures lasting change in government systems. One way this may be accomplished is by creating racial equity interagency committees with authority and transparency to make binding recommendations.

Racial equity must be a normal, core function of the state's multi-level budget process. Making the BET required at every level of budget development, proposal, and legislative decision making ensures that racial equity is operationalized throughout the state enterprise. Require racial equity analysis at all fiscal policy development stages and legislative fiscal policy processes (See <u>HR 39</u> and <u>SCR 136</u> in California).

#### 3. Build Racial Equity Knowledge and Skills Establish positions for racial equity practitioners at all levels of state government

Racial equity practitioners are full time staff with capacity and resources who generate and maintain racial equity infrastructure, create policies, provide technical assistance, and educate staff at all levels of state government. Racial Equity Practitioners should work in collaboration with fiscal analysts in the Department of Finance and state offices, departments and agencies throughout the budget cycle.

In addition to establishing dedicated racial equity practitioners, it is vital to train all staff on racial equity so that they are equipped to conduct root cause analysis and operationalize racial equity as a normal, core function of government and work in partnership with racial equity practitioners Racial equity training is ongoing, frequent, and builds over time. Address government and fiscal office culture that contributes to inequities, such as status quo bias or number-centric vs human impact-centric decision making criteria.

#### 4. Require Use of Disaggregated Data

### Collect and systematically analyze data disaggregated by race to inform all proposals and decisions.

Data must be analyzed using race and geography where appropriate and feasible, but also using intersectional metrics such as disability status, gender and socioeconomic status with race, or race and income level. Data must be collected often and updated to account for demographic changes and ensure no one is left out. Provide user-friendly, publicly transparent data resources and create a statewide racial equity data hub.

Invite key stakeholders to participate in team meetings to share on-the-ground lived experiences and incorporate information provided by community groups in analysis. Qualitative data from communities and target populations should hold the same weight as quantitative data. Make data and analysis accessible and understandable to the general public. Include historical data in collection and analysis to account for and repair past and current harm and adverse outcomes based on race. Only then can a policymaker or public administrator know the baseline of need and potential for harm or benefit for historically racialized groups.

#### 5. Embed Key Racial Equity Principles

**Procedural Equity:** Ensure internal state and external public-impacting processes are racially equitable, inclusive, and responsive.

**Distributional Equity:** Ensure programs, resources, services, provisions, contracts, and procurement are distributed equitably.

**Longevity:** Make racial equity last in California state government function and outcomes. Racial equity lasts when the government establishes permanent infrastructure.

**Accountability & Transparency:** Establish mechanisms for accountability and transparency with the public in all aspects, levels, policies, and structures.

**Evaluation & Measurement:** Use disaggregated data and community experiences to inform and develop metrics for racial equity outcomes.

**Wellbeing:** Establish expansive equity indicators to increase equity impacts. Ensure that the health and wellbeing of communities, land, and ecosystems are held in high priority, meaning that they are an essential and weighted evaluation and decision making criteria.

#### Examples of expansive equity indicators:

- Individual and community economic status
- Community and public safety
- Digital Equity
- Early childhood development and education attainment, foster status
- Food systems access and health
- Healthy built and natural environment, neighborhood, parks and natural resources, Transportation accessibility, affordability, and safety
- Housing, jobs, and job training
- Interactions with the criminal legal system

#### **Suggested Definitions**

- **Racial Equity**: The achieved condition if one's racial identity no longer predicts how one fares in a statistical sense; Eliminating policies, practices, attitudes, and cultural messages that reinforce differential outcomes by race or fail to stop them; Transforming institutions and structures to create systems that provide the infrastructure and resources for all communities to thrive.
- **Equity:** The state, quality, or ideal of being just, impartial, and fair. The concept of equity is synonymous with fairness and justice. It is helpful to think of equity as not simply a desired state but also a functional process; a structural and systemic concept; The inclusion and fair representation of all populations. Equity in resource allocation means that programs and services across Central California consider the unique situations and experiences of the region's diverse populations.
- **Reparations:** A process of repairing, healing, and restoring a people injured because of their group identity and in violation of their fundamental human rights by governments, corporations, institutions, and people. Those groups that have been injured have the right to obtain from the government, corporation, institution or family responsible for the injuries that which they need to repair and heal themselves. In addition to being a demand for justice, it is a principle of international human rights law.
- **Reparations Lens:** Analyzing, assigning, and accepting responsibility for, and repairing past injustices and systemic and institutional harms to Black, Indigenous, Latinx, Chinese, Japanese, People with Disabilities, and Trans-Queer communities. Applying a Reparations Lens to government policy, program, and budget processes requires the State Government at all levels taking responsibility for past social, political, and economic harms, displacement, theft, violence, and abandonment conducted against any marginalized and impacted groups. The Reparation Lens seeks to repair harm through economic, social, political, and health modes to restore negatively impacted groups to whole citizenship and opportunity.
- **Ageism:** The systemic devaluing of older people based on cultural norms that older individuals have less to offer than younger people; prejudice or discrimination on the grounds of a person's age.
- **Disability:** A person with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability.
- **Gender:** A social, rather than a biological, construct, that varies with the roles, norms, and values of a given society or era.
- **Sexuality:** The components of a person that include their biological sex, sexual orientation, gender identity, and sexual practices.

- **Inequity:** The difference in outcomes between population groups that are rooted in unfairness or injustices.
- **Racism:** The concept of one group having the power to carry out systemic racial discrimination through the institutional policies and practices of society thus shaping the cultural beliefs and values that support racist policies and practices.
- **System:** A set of elements or parts that is coherently organized and interconnected in a pattern that produces a set of behaviors, often classified as its "purpose."
- **Systemic Racism:** The social theory that explains how major societal institutions have been thoroughly pervaded by racial framing, ideas, stereotypes, images, emotions, and practices to perpetuate racial oppression not only on the surface level of society but also in its underlying permeations and interconnections through our major social groups, networks, and institutions.
- Intersectionality: The analysis of overlapping or intersecting social identities and related systems of oppression, domination, or discrimination.
- Reinforce the groups named in equity.
- <u>Targeted Universalism</u>: A platform to operationalize programs that move all groups toward a universal policy goal as well as a way of communicating and publicly marketing such programs in an inclusive, bridging manner.

### The California Racial Equity Coalition Community Engagement Brief

Authored by the Community Engagement Workgroup of The California Racial Equity Coalition

#### Purpose

This brief is produced by the California Racial Equity Coalition (CREC), a group of over 100 organizations rooted in communities around the state, with decades of collective experience as racial equity practitioners. The guidance provided in this document stems from the CREC's extensive working knowledge of community engagement, racial equity practice, and the urgent needs of California's most marginalized communities. The purpose of this brief is to 1) provide a recommendation for the Commission to develop a community engagement plan and a set of best practices for the Commission to adopt as they engage with communities, and 2) to ensure that these best practices are embedded into the racial equity framework for state government to implement. The aim is to orient the Racial Equity Commission to center community engagement throughout all stages of the Commission's work, and especially as part of the process of developing California's racial equity framework. Executive Order N-16-22 calls for all state departments and agencies to, "as part of the development or updating of the strategic plans, engage and gather input from California communities that have been historically disadvantaged and underserved within the scope of policies or programs administered or implemented by the agency or department, and make the plans publicly available." To meet this mandate, the CREC requests that the Commission integrate the following recommendations into the Commission's approach to its work and within the Racial Equity Framework and Budget Equity Tool, which ultimately will become the guiding north stars for implementing racial equity in state government.

#### **Recommendation on Community Engagement for Racial Equity**

**Develop a Community Engagement Plan:** Continuously ensure public participation in the framework development process through a robust community engagement plan that lays out the purpose and goals of engaging communities, including the what, when, where, why, and how the commission will conduct community engagement. Utilize tools for conducting effective community engagement, such as <u>The Spectrum of Community Engagement</u> and <u>Equitable Community</u> <u>Engagement Toolkit</u>, which lay out different levels of engagement from marginalization to ownership, and provide a roadmap for creating an engagement plan. Through the use of these tools, determine the REC's recommendation for building a pipeline of engagement that establishes power-sharing and decision making with community stakeholders, and enhances community voice, collaboration, and ownership. For example, include a recommendation in the framework that all state governments must eventually move towards the "collaborate" level with communities, where the outcome is delegated power "to ensure community capacity to play a leadership role in implementation of decisions," as described in the Spectrum of Community Engagement resource guide (linked above).

#### The Spectrum of Community Engagement to Ownership

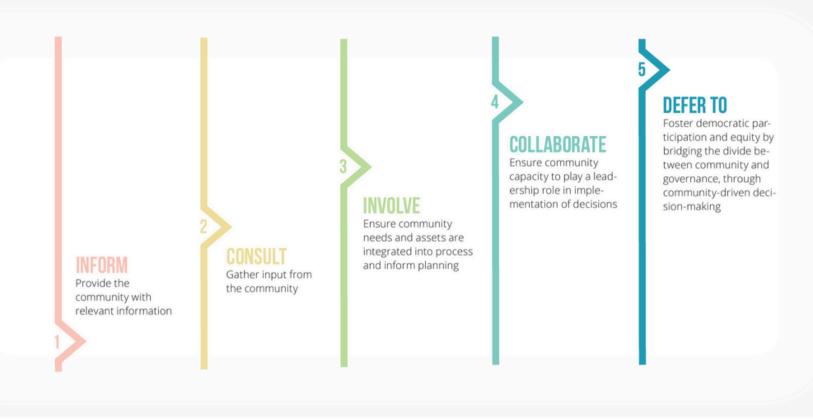
STANCE TOWARDS COMMUNITY	IGNORE	INFORM	CONSULT	INVOLVE	COLLABORATE	DEFER TO
ІМРАСТ	Marginalization	Placation	Tokenization	Voice	4 Delegated Power	Community Ownership
COMMUNITY INGAGEMENT GOALS	Deny access to decision-making processes	Provide the community with relevant information	Gather input from the community	Ensure community needs and assets are integrated into process & inform planning	Ensure community capacity to play a leadership role in implementation of decisions	Foster democratic participation and equit through community- driven decision- making; Bridge divide between community & governance
MESSAGE TO COMMUNITY	Your voice, needs & interests do not matter	We will keep you informed	We care what you think	You are making us think, (and therefore act) differently about the issue	Your leadership and expertise are critical to how we address the issue	It's time to unlock collective power and capacity for transformative solutions
ACTIVITIES	Closed door meeting Misinformation Systematic	Fact sheets Open Houses Presentations Billboards Videos	Public Comment Focus Groups Community Forums Surveys	Community organizing & advocacy House meetings Interactive workshops Polling Community forums	MOU's with Community-based organizations Community organizing Citizen advisory committees Open Planning Forums with Citizen Polling	Community-driven planning Consensus building Participatory action research Participatory budgeting Cooperatives
RESOURCE ALLOCATION RATIOS	<b>100%</b> Systems Admin	<b>70-90%</b> Systems Admin <b>10-30%</b> Promotions and Publicity	<b>60-80%</b> Systems Admin <b>20-40%</b> Consultation Activities	50-60% Systems Admin 40-50% Community Involvement	20-50% Systems Admin 50-70% Community Partners	<b>80-100%</b> Community partners and community-driven processes ideally generate new value and resources that can be invested in solutions

#### **Community Engagement Best Practices**

- **Prioritize Racial Equity:** Use racial equity to identify impacted community stakeholders and representatives with lived experience. Honor, acknowledge, and center relationships with historically racialized, marginalized communities. Identify and engage with communities that have been most impacted by racism in specific contexts.
- Conduct Culturally Responsive Outreach: Utilize culturally appropriate methods to reach low-income BIPOC communities in specific geographies through CBOs and trusted messengers, such as community leaders, local and ethnic media and especially through local radio stations, and other culturally relevant communication channels. Designate a Communication personnel to conduct outreach for public meetings on behalf of the Commission, and any state governing bodies. Recognize and respect the diversity within these communities and tailor engagement strategies accordingly.

- Design Accessible Meetings and Materials: Design public meetings and forums that are physically accessible and welcoming to all, especially low-income residents, communities of color, non-English proficient speakers, people with disabilities, youth and elderly, immigrants, etc. Ensure that meetings are held at times and locations accessible to community members, including evenings and weekends. Provide interpretation services, sign language interpretation, digital accessibility, and materials in all of the most spoken languages of each region where a commission meeting is taking place. Guarantee that virtual relay channels of commission meetings are clear, including interpretation, and direct participants to the appropriate feedback/participation channels, such as clearly stating multiple times how both in-person and virtual participants can provide public comments. This ensures that language and accessibility barriers do not prevent meaningful participation.
- Build Trust-Based Relationships with Community Stakeholders: Build trust and rapport with community members by establishing ongoing relationships and demonstrating a genuine commitment to listening and acting on their feedback in ways they can touch and feel. Develop standard practices, such as a meet n' greet, before every commission meeting. Create sustained reciprocal opportunities to meaningfully engage communities in dialogue exchange with commissioners and staff outside or as part of public meetings, such as through community forums, panel discussions, focus groups, and/or interactive workshops. Provide regular updates on how community input has been integrated into the framework and be clear about how decisions were made, who made them, and how community input influenced those decisions.
- Ensure Community Stakeholders are Compensated and Supported: Recognize the valuable time and expertise of community members by offering compensation, food, childcare, transportation assistance, and other support services to facilitate their participation. Coordinate with state departments and philanthropic organizations to cover the costs of meals during meetings and offer transportation stipends for community members. This helps overcome barriers to engagement and ensures that diverse voices are represented.
- Provide Transparent and Accessible Information: Provide clear and transparent
  information about the commission's work, including agendas, meeting minutes,
  supplementary materials, and decision-making processes, in formats that are easily
  accessible to all community members. Foster open dialogue and ensure that feedback
  mechanisms are accessible and responsive. Institute a communication feedback protocol to
  follow-up with community, demonstrating how public input is shaping the decisions of
  commissioners and informing the creation and evaluation of the racial equity framework.
  Provide the public with a roadmap or timeline of commission activities to clarify their
  process, such as through a quarterly report displayed on the website that allows the public to
  track the progress of the commission.

• Establish Co-Governance & Community Partnerships: Establish partnerships with impacted communities across government sectors to ensure equitable processes and outcomes. Map out and inform community members of the decision makers in government processes, and create avenues for communities to collaborate in making decisions. Intentionally share power with communities by establishing standards and processes that provide ways for communities to speak and be heard. These processes should be responsive and transparent to the public, demonstrating that the government is taking responsibility for past and current harms and integrating community input in ways communities can touch and feel. Involve impacted communities in all areas of government function, including budgeting, priority setting, and the administration and evaluation of public services. Partnering with community and faith-based organizations is an effective way of uplifting the perspectives of historically disinvested communities.



### The California Racial Equity Coalition Framework Brief

Authored by Maria Barkat, MPP, and Abigail Hewins Freshley, MPA The California Racial Equity Coalition

#### Purpose

This brief is produced by the California Racial Equity Coalition (CREC), a group of over 100 organizations rooted in communities around the state, with decades of collective experience as racial equity practitioners. The guidance provided in this document stems from the CREC's extensive working knowledge of racial equity practice and the urgent needs of California's most marginalized communities. It is infused with learning from the most comprehensive <u>racial equity</u> framework and budget tool study in the United States to date, conducted in partnership with the Office of Planning and Research, Strategic Growth Council, and Public Health Institute in 2023. This brief is intended to orient the Racial Equity Commission to the field of government racial equity transformation and what is needed to actualize and operationalize racial equity in California. The data and recommendations are directly applicable to the State of California's current landscape and the Commission's mandates. The California Racial Equity Coalition requests that the Commission integrate the following principles, definitions, and practices into the forthcoming statewide framework and budget equity tool.

#### Why Racial Equity?

**Racism**, a human-made hierarchy of power imbalance based on skin color, is generated and entrenched by individuals, institutions, and systems through conscious and unconscious actions, legal code, practices and policies. **Racial Equity** is the leading approach to disrupting and transforming systemic racism and inequity. It is both a process and an outcome of transformation of systems of power.

Racial Equity means transforming the institutional practices of government, including its systems and structures, to reduce disparate racial outcomes, in health, wealth, education, housing, and other measures, thus ensuring that historically harmed communities facing the greatest inequities are prioritized for additional investments and support in order to close these gaps.

Racial Equity is achieved when one's race and address no longer determines their socioeconomic outcomes or ability to thrive. Equity is achieved when our economic system no longer depends on and enshrines racial inequities through state imposed racialization and discrimination via capitalism, profit motive and privatization of public services needed to live a dignified life, and when processes to share power & decision making with those most impacted by structural inequities are integrated in the creation and implementation of the policies and practices that impact their lives.

#### Why Should the Government Do Racial Equity?

In the United States, state and federal government plays a unique role in creating and regenerating inequality through laws, practices, and narrative domination. From the imposition of racial legal categories on bodies viewed and classified as "non-white" to racial discrimination that excluded people of color from political, economic, and social spheres, to the "colorblind" policies and practices of today that result in persistent, systematic exclusion and harm, government is responsible for the unequal distribution of power, wealth and health. The State of California and its agents make decisions every day that affect millions of people across the state; a state that produces acute and persistent racial inequity<sup>1</sup>. We know that closing the racial power, wealth and health gaps require robust policy changes and investments into new ways of function and practice that effectively address anti-blackness and anti-indigeneity, foundational racial frameworks of oppression and genocide and dehumanization that were the cornerstones fo the establishment of the nation as we know it today. The California Racial Equity Commission was created to help California do just that.

Acknowledging these unequal realities as the result of California State government, Governor Gavin Newsom's administration mandates tangible changes to California's expansive government systems and their function (CA Reparations Task Force; Executive Order N-16-22).

Mandates directed towards state agencies include:

- Addressing disparities in state budgeting and government practice
- Embedding equity analysis into practice and policies
- Utilizing demographic and disaggregated data and racial equity analysis tools
- Engaging with communities who have been historically underserved and marginalized to increase accountability and integrate community perspectives into strategic planning
- Requiring the Department of Finance to embed equity into the budget change proposal form
- Requiring all agencies and departments to embed equity into strategic plans for fiscal years 2023-24, 2024-25, and/or 2025-26

#### Suggested Table of Contents for the California Racial Equity Framework

Below is a list of suggested components for a successful California Racial Equity Framework.

- Land Recognition and Commitments of Repair to Indigenous People and Descendants of Enslaved People
- California State Definitions (developed in consultation with California's equity organizations and coalitions; applied to the California legislature and legislation, agencies, and departments, local governments)
- California State Racial Equity Vision and Values
- California State Racial Equity Goals
- California Racial Equity Action Plan

1 Kacey Bonner and Barbra Ramos. April 11, 2024. "Persistent gaps for Black Californians would take over 248 years to close." UCLA Newsroom. <u>https://newsroom.ucla.edu/stories/state-of-black-california-2024#:~:text=This%20means%20that%20the%</u> <u>20outcomes,1.14%20for%20Asian%20Pacific%20Islanders.</u>

- California Community Engagement/Power Sharing and Decision-Making Structure
- Guidance for State Agencies and Departments for Capacity Building
  - Training Recommendations
    - Building Racial Equity Knowledge and Comprehension as Ongoing and Iterative
    - How to Envision, Normalize, Organize, and Operationalize Racial Equity
    - How to Use Racial Equity Tools
    - How to Work Across the State Enterprise in Partnership to Actualize Equity
    - How to Work and Consult Effectively with Community and Share Power in Decision Making Processes
    - How to Engage Effectively with the Office of Racial Equity and State Racial Equity Practitioners
  - Baseline and Annual Analyses of Racial Equity for Agencies/Department Staff to assess needs of staff and organizational structure/gaps (non-punitive)
  - Building Blocks Towards Racial Equity (how to move along the equity spectrum)
- California Racial Equity Budget Tool (see recommendations)
  - Guidance for Budget Tool
    - Scope and Use
    - Racial Equity Training and Collaboration between Agencies, Departments, the Department of Finance, and the California Legislature
    - Transparent Evaluation and Accountability Mechanisms
    - Guidance for Agency/Department Staff for Working With Office of Racial Equity and Racial Equity Practitioners
    - Consulting Plan from the Office of Racial Equity for Technical Assistance
- Guidance on Collecting, Analyzing, Utilizing, and Reporting Data for Racial Equity
  - Identifying the Most Impacted/Underserved/Highest Inequities
  - Sharing Data and Results with Communities to Inform Decision Making
  - Using Data for Planning and Administration of Racial Equity in Organizational Policy and Programs
  - Quality Improvement
  - Including Racial Equity Data Considerations, framing, lessons learned, and challenges in reports and policy documents
- Guidance for Creating Departmental/Agency/Interdepartment/Interagency Infrastructure for Racial Equity
- Guidance to State Agencies and Departments for adopting Racial Equity Action Plans into Strategic Plans
  - Template
  - Resources
  - Guidance for Agency/Department Staff for Working With Office of Racial Equity and Racial Equity Practitioners
  - Consulting Plan from the Office of Racial Equity for Technical Assistance

- Racial Equity Tool
  - Scope and Use
  - Guidance for Agency/Department Staff for Working With Office of Racial Equity and Racial Equity Practitioners
  - Racial Equity Training and Collaboration between Agencies, Departments, the Department of Finance, and the California Legislature
  - Template for All State Bodies to Adopt and Adapt
  - Statewide Definitions
  - Criteria for Decision Making
  - Metrics for Racial Equity
  - Feedback Processes for Staff
  - Transparent Accountability, Evaluation and Enforcement Mechanisms
    - Infrastructure for Evaluation and Regulatory Body for Enforcement
      - Rating process to assess the answers provided on an racial equity analysis tools
      - Determine body to assure plans, policies and processes are in line to strengthen and improve racial equity
      - Ensure tools are used effectively and appropriately, and clarify enforcement
- Racial Equity Resources for California Government Agents and the Public

#### Sample Racial Equity Analysis Tool

#### Step 1. Set Equity Outcomes and Define Impact

1. Does your agency/department have a Racial Equity Strategic Plan? (Please circle response) Yes / No If so, what does your agency define as the most important equitable community outcomes related to the investment or program?

2. What is the policy/program under consideration?

- 3. Which racial equity areas will the policy/program primarily impact? (Check all that apply)
- \_\_\_Criminal Justice Reform and Police Accountability
- \_\_\_Economic Opportunity
- \_\_\_Education
- \_\_\_Environmental Justice/Natural Resources
- \_\_\_Health Equity
- \_\_\_Housing and Homelessness
- \_\_\_Jobs/Employment
- \_\_\_Community/Public Safety
- \_\_\_\_Transportation
- \_\_\_Other

Are there impacts on:

\_\_Contract/Procurement Equity \_\_Culturally Specific Programs and Services \_\_Immigrant and Refugee Access to Services \_\_Inclusive Communications and Outreach \_\_Workforce Equity \_\_Other: \_\_\_\_\_ Please explain your selection:

4. What are the desired results and outcomes with this program?

#### Step 2. Analyze Data

5. Does the program/policy have different impacts within different geographic areas? (Please circle response) Yes / No

6. What are the demographics of those living in the area or impacted by the program/policy by race, ethnicity, tribal membership, historic and current tribal land, political identity, gender, gender identity, age, income level, education status, justice system-impact (individual/community), health care access status, marital status, immigration status, language, disability status, regional or community housing condition?

7. How are we collecting, reviewing, and analyzing demographic data to inform program/policy decisions?

8. How are we notifying and educating constituents in the collection of this data and how it will be used?

9. How is demographic data being woven into program decision-making? Will this data, or a version of this data, be incorporated into the agency's open data efforts, so that constituents may view and understand this dataset in accessible, plain language?

#### Step 3. Determine Benefit and/or Burden

10. Who benefits from the policy/program, both directly and indirectly?

11. Who will be burdened from the proposal?

12. How does the program/policy increase or decrease racial equity? Does the program have potential unintended racial equity consequences? What benefits may result?

#### **Inclusive Communications**

1. How have we ensured communications and messaging are getting to all Californians?

2. Who are the communities being left behind and how do we connect with those communities?

3. What processes are in place for:

\_\_\_\_Translating and interpreting agency communications?

\_\_\_Ensuring that ADA requirements are met or exceeded?

\_\_\_Communicating with people who may be unable to read, lack access to the internet, and/or need information through alternate media?

\_\_\_\_Working with trusted messengers and local leaders to communicate with communities?

\_\_\_\_Seeking early input to inform the development of communications materials?

#### **Data Collection and Data-informed Decision-Making**

1. Are we collecting, reviewing, and analyzing demographic data to inform mitigation measures, communication strategies, and targeted investments?

2. How are these data being woven into decision making?

3. Who is interpreting the data?

4. Is the data being used to impact systems rather than define people?

5. Was there a community engagement or other outreach process in the creation of this data system, collection methodology, or standard?

6. Will this data be made publicly available as open data to support the state's vision for transparency?

#### **Community-Informed Policy and Partnerships**

1. How are we ensuring we have representation of voices across race, culture, ethnicity, tribal membership, historic and current tribal land, political identity, gender, gender identity, age, income level, education status, justice system-impact (individual/community), health care access status, marital status, immigration status, language, disability status, regional or community housing condition? And geographically?

2. What are the ways we engage agency/department racial equity leaders and communities in decision-making currently? How are we collaborating, breaking down silos?

3. Whose voices and perspectives are not at the table? Why?

4. What can we do to ensure they are part of our decision-making process?

5. What are the barriers that keep communities from participating in decision-making?

6. How are we ensuring that we provide access to and address the needs of:

- Language?
- Affordability?
- Technology?
- Physical accessibility?
- Adequate support and preparation?
- Financial support?

#### **Resource Allocation and Accessibility**

1. How are we ensuring that forms of response/relief/benefit/resource/budget allocation are:

- Being prioritized based on their ability to increase racial equity?
- Going to programs and policies that are Affordable, Safe, Reliable, Sustainable and going directly to the communities who need them most because of historic, racialized harm and disinvestment?
- Accessible regardless of economic status or wealth/income?
- Accessible regardless of disability or status?
- Accessible regardless of language?
- Compliant with the ADA requirements?
- Accessible regardless of access to technology?
- Supporting, consulting, and/or partnering with tribes?
- Accessible regardless of geographic location including rural Californians?
- Being prioritized for communities already living on the margins (e.g., older adults, gender, ethnic, and racial minorities, immigration status, socio-economic status)?

2. Are we using strategies that are culturally specific and responsive to address the distinct needs of Californians? If not, what resources or community partners can we consult with to develop culturally specific and responsive strategies?

3. Are our programs and services providing reasonable accommodations in compliance with the ADA to Californians? If not, what resources or partners can we consult with to develop strategies to better support people with disabilities?

#### **Evaluation**

1. What measurable outcomes are most important to our historically and currently underserved communities?

- 2. How will impacts be documented and evaluated?
- 3. How will our communities participate in the evaluation process?
- 4. Are we achieving the anticipated outcomes?
- 5. Are we having a measurable impact in the communities?

6. How are we consistently communicating our efforts with our communities and demonstrating our results?

- 7. How do we collect and respond to feedback?
- 8. How do we use these results to continually reevaluate and improve our efforts?
- 9. How are we ensuring these partnerships do not exploit the communities we seek to engage?
- 10. How will we operationalize equity and create accountability systems?
- 11. How will we ensure adequate capacity to implement strategies as outlined?

#### Success Factors for Actualizing Racial Equity in California State Government

#### 1. Establish Co-Governance & Community Partnerships

#### Partner with impacted communities throughout government function to generate

equitable outcomes. Intentionally share power with communities by establishing standards and processes that provide ways for communities to speak and be heard. These processes should be responsive and transparent to the public, demonstrating that the government is taking responsibility for past and current harm and integrating community input in ways communities can feel.

Involve impacted communities in all areas of government function, including budgeting, priority setting, and the administration of public services. Partnering with community and faith based organizations is an effective way of uplifting the perspectives of historically disinvested communities.

#### 2. Establish Racial Equity Infrastructure

Government function relies on formal structures. Current structures serve to maintain inequities. **Therefore, infrastructure that promotes and protects equity is necessary to transform the inequitable function of government**. Examples of racial equity infrastructure are tools, offices, codes, legislation, rules, laws, regulations, and policies that safeguard racial equity.

California requires a permanent office or department that serves as a hub for statewide racial equity analyses, equity committees, enterprise-wide technical assistance, accountability and public transparency, legislative policy consulting and analysis, long-term strategizing and implementation of tools, practices, and policy recommendations. An office analyzes government process and practice to determine intervention points where establishing racial equity infrastructure will have the most impact. Establishing racial equity infrastructure at these key intervention points and anchoring them with measurable racial equity outcomes ensures lasting change in government systems. One way this may be accomplished is by creating racial equity interagency committees with authority and transparency to make binding recommendations.

Require racial equity analysis (i.e. a racial equity tool) at all fiscal policy development stages and legislative fiscal policy processes (See <u>HR 39</u> and <u>SCR 136</u> in California). Use racial equity analysis to guide policy development, identify and weight criteria to prioritize programs, policies, projects, and practices, and decision making towards closing power, wealth and health gaps. Racial equity analysis (tools) must inform the decisions the government makes and ensure alignment to state racial equity values and priorities.

#### 3. Build Racial Equity Knowledge and Skills

#### Establish staff positions for racial equity practitioners at all levels of state government.

Racial equity practitioners are full time staff with capacity and resources who generate and maintain racial equity infrastructure, create policies, provide technical assistance, and educate staff at all levels of state government. Racial Equity Practitioners should work in collaboration with fiscal analysts in the Department of Finance and state offices, departments and agencies throughout the budget cycle.

In addition to establishing dedicated racial equity practitioners, it is vital to train all staff on racial equity so that they are equipped to conduct root cause analysis and operationalize racial equity as a normal, core function of government and work in partnership with racial equity practitioners Racial equity training is ongoing, frequent, and builds over time. Address government and fiscal office culture that contributes to inequities, such as status quo bias or number-centric vs human impact-centric decision making criteria.

#### 4. Require Use of Disaggregated Data

**Collect and systematically analyze data disaggregated by race to inform all proposals and decisions**. Data must be analyzed using race and geography where appropriate and feasible, but also using intersectional metrics such as disability status, gender and socioeconomic status with race, or race and income level. Data must be collected often and updated to account for demographic changes and ensure no one is left out. Provide user-friendly, publicly transparent data resources and create a statewide racial equity data hub.

Invite key stakeholders to participate in team meetings to share on-the-ground lived experiences and incorporate information provided by community groups in analysis. Qualitative data from communities and target populations should hold the same weight as quantitative data. Make data and analysis accessible and understandable to the general public. Include historical data in collection and analysis to account for and repair past and current harm and adverse outcomes based on race. Only then can a policymaker or public administrator know the baseline of need and potential for harm or benefit for historically racialized groups.

#### 5. Embed Key Racial Equity Principles

**Procedural Equity:** Ensure internal state and external public-impacting processes, including decision-making and policy development, are racially equitable, inclusive, and responsive.

**Distributional Equity:** Ensure programs, resources, services, provisions, contracts, and procurement are distributed equitably.

**Longevity:** Make racial equity last in California state government function and outcomes. Racial equity lasts when the government establishes permanent infrastructure, builds and nourishes capacity and competency, and enforcement mechanisms, and sets clear goals and measures outcomes.

**Community Care:** Establish processes that support the changemakers working within current systems working towards new, racially equitable systems and structures, often Black, Indigenous, and People of Color and often women/femme identifying people. People at the frontlines of systems impact and systems change should be recognized, supported, and prioritized. Engage with frontline racial equity practitioners and communities with trauma-informed care, rest, healing, and harm reduction principles and practice in government spaces.

**Accountability & Transparency:** Establish mechanisms for accountability and transparency with the public, especially impacted communities in all aspects, levels, policies, and structures.

**Evaluation & Measurement**: Use disaggregated data and community experiences to inform and develop metrics for racial equity outcomes.

**Wellbeing:** Establish expansive, holistic equity indicators to increase equity impacts. Ensure that the health and wellbeing of communities, land, and ecosystems are held in high priority, meaning that they are an essential and weighted evaluation and decision making criteria.

Examples of expansive equity indicators:

- Individual and community economic status
- Community and public safety
- Culture and Arts
- Digital equity
- Early childhood development and education attainment, foster status
- Food systems access and health
- Healthy built and natural environment, neighborhood, parks and natural resources, Transportation accessibility, affordability, and safety
- Housing, jobs and job training
- Interactions with the criminal legal system

#### **Suggested Definitions**

- **Racial Equity:** The achieved condition if one's racial identity no longer predicts how one fares in a statistical sense; Eliminating policies, practices, attitudes, and cultural messages that reinforce differential outcomes by race or fail to stop them; Transforming institutions and structures to create systems that provide the infrastructure and resources for all communities to thrive.
- **Equity:** The state, quality or ideal of being just, impartial and fair. The concept of equity is synonymous with fairness and justice. It is helpful to think of equity as not simply a desired state but also a functional process; a structural and systemic concept; The inclusion and fair representation of all populations. Equity in resource allocation means that programs and services across Central California consider the unique situations and experiences of the region's diverse populations.
- **Reparations:** A process of repairing, healing and restoring a people injured because of their group identity and in violation of their fundamental human rights by governments, corporations, institutions and people. Those groups that have been injured have the right to obtain from the government, corporation, institution or family responsible for the injuries that which they need to repair and heal themselves. In addition to being a demand for justice, it is a principle of international human rights law.

- **Reparations Lens:** Analyzing, assigning and accepting responsibility for, and repairing past injustices and systemic and institutional harms to Black, Indigenous, Latinx, Chinese, Japanese, People with Disabilities, and Trans-Queer communities. Applying a Reparations Lens to government policy, program, and budget processes requires the State Government at all levels taking responsibility for past social, political, and economic harms, displacement, theft, violence, and abandonment conducted against any marginalized and impacted groups. The Reparation Lens seeks to repair harm through economic, social, political, and health modes to restore negatively impacted groups to whole citizenship and opportunity.
- **Ageism:** The systemic devaluing of older people based on cultural norms that older individuals have less to offer than younger people; prejudice or discrimination on the grounds of a person's age.
- **Ableism:** A system that places value on people's bodies and minds based on societally constructed ideas of normality, intelligence, excellence, desirability, and productivity.
- **Gender:** A social, rather than a biological, construct, that varies with the roles, norms, and values of a given society or era.
- **Sexuality:** The components of a person that include their biological sex, sexual orientation, gender identity, and sexual practices.
- **Inequity:** The difference in outcomes between population groups that are rooted in unfairness or injustices.
- **Racism:** The concept of one group having the power to carry out systemic racial discrimination through the institutional policies and practices of society thus shaping the cultural beliefs and values that support racist policies and practices.
- **System:** A set of elements or parts that is coherently organized and interconnected in a pattern that produces a set of behaviors, often classified as its "purpose."
- **Systemic Racism:** The social theory that explains how major societal institutions have been thoroughly pervaded by racial framing, ideas, stereotypes, images, emotions, and practices to perpetuate racial oppression not only on the surface level of society but also in its underlying permeations and interconnections through our major social groups, networks, and institutions.
- **Intersectionality:** the analysis of overlapping or intersecting social identities and related systems of oppression, domination, or discrimination.
  - Reinforce the groups named in equity.
- <u>Targeted Universalism</u>: A platform to operationalize programs that move all groups toward a universal policy goal as well as a way of communicating and publicly marketing such programs in an inclusive, bridging manner.

### Clarifying the Parameters of Proposition 209 & Equal Protections Law for California's Racial Equity Commission

Authored by: Maria Barakat, MPP (Greenlining Institute) and Abigail Hewins, MPA (Public Health Advocates) Members of the California Racial Equity Coalition With Review and Approval by the Equal Justice Society

#### **California Racial Equity Coalition**

The CA Racial Equity Coalition (CREC) is a group of policy advocates and community-based organizations dedicated to institutionalizing racial equity within all state government processes, practices, and policies. The coalition formed to initiate SB17 (2021), which sought to create an Office of Racial Equity. This eventually materialized as the Racial Equity Commission (REC) through Newsom's Executive Order N-16-22. As a coalition, our objective is to support the work of the commission in fulfilling all aspects of its directive, and to inform the development of a state racial equity framework and budget equity tool.

#### Purpose

The purpose of this document is to clarify what Proposition 209 and rulings on affirmative action allow and disallow in relation to the work of the California Racial Equity Commission. This document is not intended to render legal guidance or opinion on affirmative action policies, only to clarify their scope and limitations with advice from a variety of legal experts.

#### Introduction

Executive Order N-16-22 established the California Racial Equity Commission in order to advance racial equity and address structural racism in California state government practice and policies. The EO emphasizes the importance of fulfilling its mandates with strong community engagement. The Commission is tasked with creating a Racial Equity Framework and Budget Equity Tool with community and stakeholder input. In order to lead with race and meaningfully achieve its purpose, the Commission must function with clarity and shared understanding between government and community about what is possible and legal.

There is often caution when considering how to work toward racial equity in the current legal landscape. This is in part driven by the passage of Proposition 209 in California and Supreme Court decisions on Affirmative Action policies in 2023. The undersigned organizations created this document to clarify which activities are permissible in that context. We ask you to consider adopting them as a guide for the Commission's work to create a Racial Equity Framework and Budget Equity Tool for the State of California.

#### **Proposition 209**

In 1996, California, voters passed <u>Proposition 209</u>, an amendment to Article I, Section 31 of the Constitution of California. This proposition states that "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**."

Although this proposition is often cited as a reason that the government cannot adopt racial equity practices or policies, the restrictions from the proposition are limited, and there are many actions that California government institutions can and should take to advance racial equity.

#### **Allowable Actions Under Prop 209**

Proposition 209 prohibits preferential treatment of certain groups based on race in education, employment, and contracting by the state, however, the government is still legally allowed to engage in activities that yield racially equitable outcomes. For example, in government contracting, where the state cannot not allocate certain percentages or dollar amounts for contractors of certain races or genders, they can make contracting more accessible to women- and BIPOC-owned small businesses. Similarly, the state may make application processes easier for small businesses to expand participation in government programs.

These examples highlight the differences between race-conscious policy and race-based policy.

**Race-conscious policy:** A policy, program, or initiative that has a racial purpose, goal, or objective, or is otherwise aware of racial context.

**Race-based policy:** Supreme Court's prevailing language for describing policies that are more specific and targeted than race-conscious; they use race as a decision or selection criterion, generally at the individual level.

In general, **race-conscious policy is allowable under Proposition 209, but race-based policy is not**. Below is a non-comprehensive list of activities that are allowable and unallowable under Proposition 209.

Allowable Activities	Unallowable Activities
Targeting geographic areas and neighborhoods because of racial demographics to help solve problems for the people who live there.	Hiring and contracting based on race, ethnicity, or sex.
Using data that displays racial and ethnic identities in a population as a tool for measuring baselines, projecting outcomes, defining need, assigning responsibility, and measuring policy outcomes	Admission to public institutions based on race, ethnicity, or sex.

Allowable Activities	Unallowable Activities
Government contracting with an organization based on their mission to serve a specific group experiencing adverse outcomes based on race.	Discriminatory policies based on race, such as Jim Crow laws.
Setting a goal to increase program participation by race, without establishing a quota E.g. equity in state procurement (see below)	
Race-conscious solutions with research methodologies that show patterns of past and continuing discrimination. E.g. creating a Black Infant Health program (see below)	

In the 28 years since the passage of Proposition 209, many race-conscious policies and programs have been legally and successfully enacted in California. Examples of race-conscious policies and programming include:

#### • Black Infant Health Program (Function of California Department of Public Health)

 This health equity program offers individual and group support to pregnant and postpartum Black mothers and birthing people. The Black Infant Health Program was created in recognition that anti-Black racism, social and economic stressors, and neighborhood conditions contribute to poorer birth outcomes for Black mothers, birthing people, and infants, compared to their peers.

#### • Let's Get Healthy California

 Let's Get Healthy California is the state's health improvement plan. The plan's strategic approach includes: "leveraging data to identify and prioritize historically underserved and disproportionately impacted populations;" and "engage and elevate community voice to inform meaningful solutions to structural and social inequities." This strategy includes analyzing and responding to health outcomes correlated with race and ethnicity, in addition to location-based data.

#### • AB 2019, Equity in State Procurement

 Signed into law by Governor Newsom in 2022, AB 2019 increases access to procurement opportunities for small, minority and women-owned, and disabled veteran-owned businesses by requiring all state agencies to conduct targeted outreach to and set a minimum goal of 25% participation of the above-named groups in state procurement and contracts.

#### • Department of General Services Coaching for Diverse Businesses

 The California Department of General Services offers individual coaching for diverse business owners on how to effectively do business with the State of California, as a tactic to increase minority owned business participation in procurement.

#### Limits of the Supreme Court's Affirmative Action Ruling

In recent rulings, the Supreme Court of the United States narrowed the scope of permissible racebased affirmative action policies that universities could use to promote campus diversity. This means that race can no longer be used as a determining factor in admission to a college or university. Colleges and universities may still promote race-conscious policies with measurable goals. At the second meeting of the Racial Equity Commission, **legal expert Lisa Holder described the scope of the ruling as limited to education and asserted that reducing or eliminating DEI initiatives in other sectors is not necessary**.

#### **Guidelines for the Racial Equity Commission**

In consideration of the above understanding of Proposition 209 and the limited impact of the Supreme Court's affirmative action ruling, this coalition recommends the Commission use the following guidelines for leading with race:

- 1. Use **"racial equity"** and **"race"** in definitions and guidelines to set clear, **measurable** goals for achieving racial equity.
- 2. Require and use **disaggregated data** that analyzes race and geographies, inclusive of other intersecting indicators of equity such as disability, gender, income, and education level.
- 3. Recommend bold **racial equity commitments in budgeting** in service of universal outcomes where documented disparities exist. (<u>See Targeted Universalism</u>)
- 4. Encourage race-conscious policies and procedures that **measure and evaluate disparate outcomes** based on race.
- 5.Co-develop **strategies and mechanisms** with state and local partners that serve and support groups based on race and ethnicity to address documented challenges.

# 

CALIFORNIA RACIAL EQUITY COALITION (CREC)