



**Action of the 2010-2011 American Sociological Association Council
On Signing an *Amicus Curiae* Brief in *Perry v. Schwarzenegger*
By Unanimous Email Vote of those Responding
October 20, 2010**

Present by Vote: Cecelia Menjivar, David Snow, Debra Minkoff, Edward E. Telles, Erik Wright, Evelyn Nakano Glenn, Jennifer Lee, Joya Misra, Catherine White Berheide, Omar M. McRoberts, Pierrette Hondagneu-Sotelo, Randall Collins, Robin Wagner-Pacifici, Rosanna Hertz, Sandra Smith, Sarah Soule, Sara Fenstermaker.

Absent from Vote: John Logan, Mario Small

ASA Executive Officer Sally T. Hillsman provided the following background information by email.

Background

After consultation with the ASA President and President-elect, I am forwarding for your consideration of and vote on whether ASA should sign an *amicus curiae* brief on behalf of a set of professional and scholarly societies (lead by the AAA) supporting California plaintiffs who are asking the 9th Circuit to uphold the lower court ruling that the California constitutional amendment prohibiting gay marriage is a violation of due process and equal protection clauses of the US Constitution.

The amicus brief focuses on social and psychological literature that provides scientific evidence that that a prohibition against same sex marriage is stigmatizing and harmful in a variety of ways laid out in the brief for your review. Some sociological literature is included.

The request to join this amicus brief is from lawyers at Covington and Burling with whom we have worked on previous amicus briefs. It is highly time sensitive. We need to act before this Thursday afternoon (10/21) or we lose the opportunity.

Any decision to prepare or to sign an *amicus* brief requires the vote of Council. If Council decide to do so by an email vote of Council, the vote must be unanimous. All binding email decisions must be unanimous; if it is not, we hold a telephone conference and discuss and vote on the matter.

Based on Council's current policies regarding making statements on behalf of the association (membership), Council needs to consider the following:

- (1) whether there is sufficient scientific evidence to support the policy position, and
- (2) whether that evidence is sufficiently robust that it should not be highly controversial among ASA members.

Prior ASA Member Resolution

A member resolution opposing a constitutional amendment prohibiting same sex marriage was included on the 2004 ASA ballot. When asked, "Do you endorse the membership resolution opposing a constitutional amendment prohibiting same sex marriage?" 75.32% of voters responded "Yes" ; 384 voters responded "No"; 250 marked "Abstain"; and 115 did not mark any choice on this question.

In addition, Council included an Opinion Poll on the ballot that asked voters the following question: "Do you personally favor or oppose legislation that bans same sex marriage?" Members voted in even larger numbers in favor of this item, with 78.88% of voters responding "Oppose" and 8.43% responding "Favor". Another 8.57% responded "Abstain" and 4.12% did not mark any choice on this issue.

Proposed Action: That the ASA sign the *amicus curiae* brief in *Perry v. Schwarzenegger*. A copy is attached.

Action Steps: Vote YES to support ASA signing the amicus brief. Vote NO to reject ASA's signing. Please reply by close of business tomorrow, Wednesday, October 20, 2010.

Action: Council approves ASA sign the *amicus curiae* brief on behalf of professional and scholarly associations by Covington & Burling in *Perry et a. v. Schwarzenegger et al.*

Passed unanimously