

Dear Marriage Allies:

We are writing as partners in the fight for LGBT equality because we believe that too much of the conversation about getting rid of Proposition 8 is focusing on the wrong question.

As you probably know, the ACLU has been involved in the fight on virtually every important civil rights initiative at least since Proposition 13 in 1964. We fought against the death penalty, “three strikes,” and the initiatives aimed at getting rid of affirmative action and data on race. We fought Prop. 6, the gay school workers initiative in 1978, the two “La Rouche” AIDS initiatives in the mid 80s, and the Dannemeyer “AIDS Quarantine” initiative in 1988. We fought the anti-choice initiatives on the ballot in the last three elections. We fought Prop. 22 in 2000, and, of course, we fought Proposition 8. The ACLU has also worked hard to pass initiatives that have strengthened our rights. For example, we helped write and ultimately pass the initiative that added an explicit right to privacy to the California Constitution.

Those initiative campaigns convince us that rather than asking what year we should go back to the ballot to repeal Proposition 8, we should be focusing on where we need to be with the voters to stand a solid chance of winning. We should, we believe, go to the ballot when we’ve established the predicates we need to win, and not a moment later or sooner.

We think that we haven’t established the predicates we need for winning yet. If we were to enter a campaign in either 2010 or 2012 with the people of California where they are now on marriage for same-sex couples, we’d have a tougher time winning than we did in 2008. As the work of David Binder and the Field and Public Policy Institute polls show, at the start of the election campaign in 2008, a significant percentage of voters were conflicted about marriage, and could potentially have gone either way. But most of those people made up their minds on Election Day. Only a very small portion of the electorate can be called undecided today. Not enough to swing us the election even if we persuaded all of them, which is unlikely.

That means that to win at any election in the foreseeable future, we are going to have to convince people who voted against marriage to change their votes. As you know, convincing people who have made up their minds to change them is far more difficult than persuading undecided voters to side with you. And it is far more difficult to persuade people to do that during the heat of an election campaign. To have a serious shot at winning, we need to go into any election with a majority of voters on our side, so that our task is to keep a winning majority through the campaign, not to create one as we go along.

To create a majority for marriage, LGBT people and our closest allies are first going to have to talk to close friends and family about their lives and their relationships, and why this fight matters. Even if those people are already on our side, we need to talk to them to convince them to join the fight and to act as ambassadors to their close friends and family.

To create a majority for marriage, LGBT people and our closest allies are also going to have to engage in a dialogue with the conflicted voters we lost in 2008. These people need to be persuaded. Most of them won’t be if we talk about hate and bigotry. These folks voted against us, and people rarely change their mind in response to an attack. We need to convince them that our relationships deserve the respect and dignity of marriage. That’s a conversation that needs to be based on the truth of how we live, not abstract principles.

At the same time that we engage with friends and family and conflicted voters and bring it to a scale that it can affect the electorate, we shouldn’t focus on convincing voters who are committed against us. They are the toughest to persuade, and we don’t need them.

Equality California, the Courage Campaign, Marriage Equality USA and others have made smart beginnings on both conversations with close friends and family and with conflicted voters. But it is far too early to see if these

efforts as currently constituted will change enough minds to get us to a majority, much less to do so by some fixed date. That goal—majority support—should be the first prerequisite before we decide to mount any campaign.

Moreover, to hold a majority for marriage in an election campaign, we would have to have the commitment of the community to support a massive one-to-one engagement campaign. We need to have a thought-through plan to pay the cost of running a good statewide campaign, buy-in from those who will have to help us raise the money, and the demonstrated commitment of the community to pay for it. That means we need to set benchmarks for community engagement and benchmarks for fundraising from significant donors and the grass roots before we commit to a campaign. We think we—everyone who will commit to play a significant role in the campaign—need to set these benchmarks together.

Once we decide to go back to the ballot, we'll need to have a sophisticated plan for community engagement, field, mail, media, endorsements—all the elements of a successful statewide initiative campaign. We'll also need a structure to run a campaign like that. That structure needs to facilitate broad participation, while providing for disciplined management.

Let's get the LGBT people of California and our allies focused on establishing the predicates we need to win before we decide when to go back to the ballot. Together, let's define and set out to achieve those predicates for success.

We are proud to be a partner in this movement.

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