

Prop 8 FAQ

1. What has happened in this case before the U.S. Supreme Court issued its decision?

Here's a quick recap of *Hollingsworth v. Perry*:

- 1) In 2010, after a two-week trial, United States District Court Judge Vaughn Walker ruled that Proposition 8 was unconstitutional under the United States Constitution. As a result, he issued an order prohibiting the state and local officials named in the lawsuit from enforcing Proposition 8. In legal terms, his order is referred to as an injunction.
- 2) The individuals who placed Proposition 8 on the ballot (who are called the "proponents" of Proposition 8) appealed the district court's ruling to the appellate court. That appellate court is called the Ninth Circuit Court of Appeals.
- 3) After hearing arguments, the Ninth Circuit agreed with the district court that Proposition 8 is unconstitutional, though its reasoning was somewhat different.
- 4) The proponents filed a petition asking the United States Supreme Court to hear the case and review the district court's and the Ninth Circuit's rulings.
- 5) The U.S. Supreme Court agreed to hear the case, and oral arguments took place in March 2013.

2. What did the U.S. Supreme Court do?

On June 26, 2013, the U.S. Supreme Court issued a ruling holding that the proponents of Proposition 8 lacked standing to appeal the District Court's ruling that Prop 8 is unconstitutional.

3. What does it mean that the U.S. Supreme Court dismissed the case for lack of standing?

None of the state and local officials who were named in the lawsuit defended the constitutionality of Proposition 8. Instead, it was defended by the proponents of the measure. The U.S. Supreme Court held that under the United States Constitution, the proponents did not have the ability to appeal the district court's ruling. As a result, the U.S. Supreme Court did not decide whether Proposition 8 is unconstitutional. Instead, it decided only that the appeal from the district court's ruling was improper, and it nullified the Ninth Circuit's ruling. The only court ruling on Proposition 8 that remains intact is Judge Walker's district court ruling that Proposition 8 is unconstitutional, as well as its injunction prohibiting state and local officials from enforcing Proposition 8. That decision went into effect on June 28, 2013, and same-sex couples are once again permitted to marry in California.

Attorney General Harris advised Governor Brown that the district court's decision applies statewide, and that officials at the Department of Public Health (DPH) should notify county officials that they are required to issue marriage licenses to same-sex couples. DPH has notified all counties of this obligation.

4. Can I get married anywhere in California?

Yes. While the U.S. Supreme Court found that the proponents of Proposition 8 did not have the right to appeal the trial court's decision finding Proposition 8 to be unconstitutional, the trial court's decision remains intact.

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If you attempt to obtain a marriage license and you are denied one, you should contact the Attorney General's office immediately at 916-324-5437.

5. Will my out-of-state marriage be recognized in California?

Yes. Marriages of same-sex couples performed in other states or countries are valid and recognized in California. If you were legally married in another jurisdiction, you should not attempt to marry again in California.

6. Will my California registered domestic partnership be recognized as a marriage?

No. A registered domestic partnership is not the same as marriage, and to obtain all the benefits of marriage you should obtain a marriage license and solemnize your marriage. You can only get married to your registered domestic partner, but you do not need to dissolve the partnership before you get married.

7. Will my out-of-state domestic partnership or civil union be recognized as a marriage in California?

No. You should obtain a marriage license and solemnize your marriage. You may wish to consult an attorney as to whether you should dissolve your out-of-state domestic partnership or civil union after being married in California.

8. I got married in San Francisco in 2004 during the time the City issued marriage licenses to same-sex couples. Will my marriage be recognized?

No. You should obtain a new marriage license and solemnize your marriage.

9. Since the Supreme Court overturned part of the Defense of Marriage Act (DOMA), am I and my spouse entitled to federal benefits?

Yes, if you are legally married in California or another state, the federal government will recognize your marriage if you are a California resident. The federal government will likely not

treat a registered domestic partnership or a civil union as a marriage for federal purposes. If you do not live in California, please check with officials in your state.