

**June 1, 2021**

**Meeting Open:** 5:08 p.m.

**Attendees:** DM (departs at 6:00 p.m.), DC, SBC, CD, MD, JD, SH, AL (departs at 5:16 p.m.), JM, SM, PN, RQ, MR, ER, SL, AM (Absent James Morse, Allyson Ryder)

**Quorum:** Yes

**HB 2 and "Divisive Concepts":**

- Devon Chaffee will give overview of the legislative changes to the "Divisive Concepts" legislation that was formerly HB 544 and incorporated into HB 2 by the House of Representatives.
  - Overview of the history of HB 544, the Council's opposition, and the Governor's opposition to the legislation.
  - HB 544 was tabled by the house but the language was incorporated into the budget trailer bill, HB 2.
  - Thursday, May 27, 2021, revealed some revisions to the HB 544 language and that was incorporated into HB 2.
  - The revisions eliminate application to government contractors, but it still applies to government employees, K-12 classroom instruction, government programs, etc. The language still raises concerns about the chilling effect on diversity, equity, and inclusion training. Implications on certain government contracts that may require trainings that could be subject to challenge under the revised language.
- Question: Expansion of legislation to all protected classes? Yes, the statute and expands to all protected classes.
- Question: What does this do in terms of freedom of speech and compliance with federal obligations, i.e. Title IX?
  - Sean explains what Title IX is and that this could create a supremacy clause question if certain trainings are specifically required by federal law or regulation that may offend this statute
  - There may be ways to finely thread the needle but it may make colleges hesitant to pursue certain trainings
  - It does not affect or reach private activities of government employees and is not meant to reach so far as to limit teaching of CRT at the collegiate level
- Discussion of HRC's role:
  - Understanding is that this was expanded to all protected classes to fit well within RSA chapter 354-A.
  - Ahni explains that under existing law the HRC can take complaints related to charges of discrimination, and that even applies in the sense of a training that an agency may host.
  - Concern raised about the shift in the interpretation, feels like it is different.

- Never been a charge made related to these issues since Ahni has been the director of the HRC.
- HRC will work with the Attorney General's Office to establish an interpretation.
- May be necessary to create guidance for the public.
- Discussion about what to happen if the legislation is passed and questions of what the legislation means.
- Question of whether we can move forward to discuss the letter or some sort of response
- Emphasis on the issue of the extreme examples are likely covered by the existing anti-discrimination laws but the language of the new legislation and its ambiguity may risk chilling what may be legal and important discussions in the public discourse.
- Question of having a face-to-face conversation with the Governor's office.
- Question about providing a statement about the legislation to the Senate
  - The Senate will not have public comment opportunity on Thursday
- Re-emphasis of the chilling effect and fear this instills in teachers and those who want to address these subjects.
- **Motion: Council vote to permit the executive committee led by Sean to draft a letter in opposition and request a meeting with the Governor.**
  - Amend the motion to have Devon and Dottie draft the letter.
  - Respect in the Workplace initiative by the Governor that may be threatened or at risk as a result of the ambiguity from this legislation. State grants also could be impacted by the legislation because it may require certain trainings, programming, and diversity initiatives.
  - DC, SBC, MD, JD, SH, JM, SM, PN, RQ, MR, ER, AM - Yea
  - SL – Abstain
  - **Passes 12 Y, 1 A**
  - Devon will circulate a draft by AM.

**Next Meeting:** Tuesday, June 22, 2021, at 5:30 p.m.

**Adjourn:** 6:10 p.m.