

GOVERNOR'S ADVISORY COUNCIL ON DIVERSITY AND INCLUSION

Annual Report

December 30, 2021





CHRISTOPHER T. SUNUNU
Governor

Governor's Advisory Council on Diversity and Inclusion

December 30, 2021

Ahni Malachi, Chair
Sean Locke, Secretary
Sarah Burke Cohen
Sheriff Chris Connelly
Sean Connor
Jeremy Denlea
Chief Charlie Dennis
Meghan Eckner
Adrienne Evans
Ann Landry
Karyl Martin
Commissioner Robert Quinn
Marianne Rechy

His Excellency Christopher T. Sununu
Governor of the State of New Hampshire
State House
107 North Main Street
Concord, NH 03301

Dear Governor Sununu,

Pursuant to Executive Order 2017-09, please accept the enclosed annual report of the Governor's Advisory Council on Diversity and Inclusion. The purpose of this report is (1) to recount the status of the Council's recommendations to date and (2) to summarize the Council's activities during the past year.

Sincerely,

A handwritten signature in blue ink that reads "Ahni Malachi".

Ahni Malachi, Chair

have been economically disadvantaged as a result of COVID-19. The Council continues to support the implementation of all of the GCERT's recommendations whether through legislative or executive action.

The remaining recommendations from 2021 relate to public leadership. The Council recognizes the Governor's and executive branch's efforts to improve training opportunities on diversity, inclusion, and equity for state government personnel and encourages municipalities to begin or continue similar efforts. The Council continues to support and recommend that governments at the state and local level develop and implement strategies to promote diversity and inclusion work. These efforts could be in the form of hiring individuals to oversee the development of strategies that would promote diversity and inclusion work or bringing together individuals from across the government to collaborate and develop strategies that would promote diversity and inclusion work. Opportunities exist to make the state, its towns and cities, and its schools more inclusive and welcoming places for all, and state and local government should continue to pursue those opportunities whenever they arise.

The Council looks forward to working with the Governor and other state actors to ensure that concrete, measurable progress is made in implementing the remaining recommendations over the coming year.

III. Council Activities

Throughout 2021, the State, the nation, and the world continued to grapple with the effects of the COVID-19 pandemic. The 2021 legislative session also provided numerous opportunities for the Council to examine and discuss pieces of legislation that may affect the Council's work or its efforts to promote diversity and inclusion within the state. Amid these developments, the Council also bore witness to the rise of local groups determined to stymie those who would promote diversity, equity, and inclusion at both the state and local level. The Council met regularly throughout the year to discuss and monitor these events and took steps to provide advice and guidance to the Governor as matters developed.

a. "Divisive Concepts" Legislation, HB 544

During the 2021 legislative session, House Bill 544, an act relative to the propagation of divisive concepts, was introduced and debated. As introduced, House Bill 544 would prohibit state actors and contractors with the state from teaching, instructing, or training "any employee, contractor, staff member, student or any other individual group" any one of a non-exhaustive list of "divisive concepts." Included among the list of "divisive concepts" were:

- One race or sex is inherently superior to another race or sex;
- The State of New Hampshire or the United States is fundamentally racist or sexist;
- An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

- An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- An individual's moral character is necessarily determined by his or her race or sex;
- An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or
- Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

House Bill 544 also prohibited teaching, instructing, or training that “any other form of race or sex stereotyping or any other form of race or sex scapegoating.”

The Council discussed House Bill 544 and its impact upon the work that the Council seeks to achieve during its February meeting and voted to send a letter recommending that the Governor oppose the legislation. One significant concern was that House Bill 544 would hamper “educational conversations relative to historical events dealing with race, racial identity, racism, gender, sex, or sexism.” The Council expressed its view that “honest, robust discussion on significant issues such as racism and sexism is important” and that “limiting conversations amongst all citizens of New Hampshire is not reflective of our state’s embrace of freedom of speech and freedom of expression.”

The Council provided its letter and recommendation to the Governor in March, 2021. Shortly thereafter, the Governor expressed opposition to House Bill 544.

Ultimately, House Bill 544 was laid on the table by the House of Representatives. Despite this action, proponents of House Bill 544 successfully moved to include its provisions in the biennial budget trailer bill, House Bill 2, as section 330 of House Bill 2. Therefore, the legislation made its way to the Senate for consideration.

The Senate Finance Committee amended section 330 removing the original language regarding “divisive concepts” and replacing it with new anti-discrimination provisions to be included in RSA chapter 354-A and RSA chapter 193. The major provisions of section 330, prohibit training, education, or other state-sponsored speech that incorporates any of the following four concepts:

1. That people of one age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin, are inherently superior or inferior to people of another age, sex, gender

- identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin;
2. That an individual by virtue of that person's age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
 3. That an individual should be discriminated against or receive adverse treatment solely or partly because of that person's age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin; and
 4. That people of one age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin cannot and should not attempt to treat others equally and/or without regard to age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin.

Section 330 did not prohibit racial, sexual, religious, or other workplace sensitivity training "based on the inherent humanity and equality of all persons," workplace trainings based upon the "ideal that all persons are entitled to be treated with equality, dignity, and respect," and did not prohibit discussing or teaching students about the historical existence of ideas related to the four prohibited subjects, such as the history of discrimination.

As a result of these amendments, the Council voted to send a letter to the Governor advising him its concerns regarding section 330. In the letter, the Council recognized the Senate Finance Committee's efforts to address the concerns that it had previously identified with the original House Bill 544. Yet, the Council expressed concerns that section 330 carried the potential to undermine the Governor's work to promote diversity and inclusion within the Granite State.

Ultimately, the Senate included section 330, which later became sections 297 and 298, in House Bill 2 and the House of Representatives, after a committee of conference discussed the amendments, concurred in the changes. House Bill 2 was signed into law and sections 297 and 298 took effect on June 25, 2021.

b. HB 266

During the March 23, 2021 meeting, the Council discussed House Bill 266, an act relative to enforcement of immigration laws and the prohibition of sanctuary policies. House Bill 266. The bill would have prohibited municipalities and the state from enacting policies that would limit interactions with civil immigration authorities. It would have also empowered the Attorney General to investigate and determine whether state or local agencies had violated the provisions of House Bill 266.

At the meeting, the Council learned from its law enforcement members about the civil immigration process, the fair and impartial policing practices adopted by the Division of State Police and other law enforcement agencies, and the potential impact that House Bill 266 could have on those policies. The primary concern was that House Bill 266 would undermine or otherwise make it unlawful for law enforcement agencies to adopt and implement fair and impartial policing practices. This, in turn, would undermine the trust in law enforcement agencies that those agencies have sought to develop with new American, refugee, and immigrant communities.

As a result of these concerns, the Council voted to recommend to the Governor that he oppose this legislation because of the harm it would have on law enforcement in the state. Ultimately, however, the recommendation became unnecessary because shortly after the March 23, 2021 meeting, the House of Representatives voted to table House Bill 266, which ended its progress through the legislature in the 2021 legislative session.

c. Outreach Session with Franklin Pierce University

Starting in January 2021, the Council began exploring doing education and outreach sessions to learn more from the communities we serve but to also educate those communities about the Council's work in particular areas. One subcommittee, focused on law enforcement and state action, held a session with students from Franklin Pierce University regarding policing and reporting hate-motivated acts in the state.

The outreach session occurred on April 26, 2021. Five representatives from the Council attended and spoke with approximately 20-30 students and administrators. Questions from the participants focused on the LEACT report and progress on those recommendations and the work of local police departments and how they are responding to the LEACT recommendations. The Council representatives provided additional education regarding different aspects of law enforcement, such as the differences in dismissing problematic officers that exists between sheriff's offices and local police departments or State Police. Overall, the event was well-received and informed aspects of how the Council can continue to engage with the public as it looks ahead to the future.

d. Reorganization of the Council and Planning for the Future

In the wake of the passage of House Bill 2 and the anti-discrimination provisions that it contained, several members of the Council resigned in protest. Without a quorum to operate, the Council was unable to meet and carry out its work for several months while new members were identified and appointed. By September, 2021, the Council had enough members to resume its operations and met for the first time in this renewed form on September 28, 2021.

From this meeting, the Council began to reflect upon the work of the past while considering how to develop the internal infrastructure to facilitate its work in the future. The

process of bringing New Hampshire's laws related to housing discrimination into line with the U.S. Department of Housing and Urban Development's (HUD) expectations for substantial equivalence. In time, this will permit the Commission for Human Rights to accept referrals of cases from HUD and the related funding to further enhance and support the Commission for Human Rights' operations. Additionally, House Bills 1 and 2 continued to support the state's efforts to fully implement the recommendations of the Ten-Year Mental Health Plan and produce a properly-funded and fully staffed mental health service system. The Council commends the legislature and Governor's efforts and support in these areas.

Yet, several budget-related recommendations remain incomplete. Included among those recommendations are: (1) a full-time Department of Education leadership position to administer, develop, and implement diversity and inclusion training, services, and curriculum support; (2) funding to support Vocational Rehabilitation, or another appropriate agency, in its efforts to better connect with businesses to promote competitive integrated employment and opportunities for people with disabilities; (3) a requirement that all state agencies include a budget line-item covering communication access needs; (4) increased support for the Department of Justice's Civil Rights Unit; and (5) increased capacity and resources for the state to identify and address the needs of immigrant and refugee communities within the state. The Council stands ready to lend its support to any efforts that would address these needs.

The Council also recommended that the Governor and legislature work toward the full implementation of the recommendations by LEACT and continue to pursue the recommendations made by the GCERT.

For LEACT, of the forty-eight recommendations made by that commission: seven have been completed through legislative action, including creating a path for the Exculpatory Evidence Schedule to become public and reforming juvenile justice laws; thirty-five have been completed through executive action, including training for law enforcement on implicit bias, culture responsiveness, ethics, de-escalation, hate crimes, and civil rights violations, the establishment of the Public Integrity Unit within the Attorney General's Office to investigate allegations of criminal misconduct by public officials, and improving relationships with the trans and gender non-conforming community as well as the deaf and hard of hearing communities; and seven remain in progress or to be completed, including establishing a state-wide entity that will receive and review police misconduct complaints. The Council recognizes the critical importance of these efforts and commends all involved for their support and work to fully realize all forty-eight recommendations. The Council stands ready to lend its support to any efforts pending in the 2022 legislative session and encourages the legislature and the executive branch to implement all of the remaining recommendations.

For GCERT, the response team was able to oversee the distribution of \$500,000 in funds to support various community groups including those supporting communities of color and non-English speaking communities, improving support for communication access related to COVID-19 services or needs, and providing support for children, families, and those who may

I. Overview

Governor Christopher T. Sununu established the Governor's Advisory Council on Diversity and Inclusion (the "Council") by Executive Order 2017-09 on December 14, 2017.

Pursuant to Executive Order 2017-09, the Council works cooperatively with the New Hampshire Commission for Human Rights, the Civil Rights Unit of the New Hampshire Department of Justice, and other relevant State entities to:

- A. Review and analyze New Hampshire laws, regulations, and agency policies and procedures, and recommend changes or amendments, where necessary, to further combat discrimination and advance the ends of diversity and inclusion;
- B. Identify and recommend ways in which the State can support local and community efforts, through educational programs or otherwise, to combat discrimination and advance diversity and inclusion;
- C. Identify and recommend ways in which the State can partner with non-governmental organizations to combat discrimination and advance diversity and inclusion; and
- D. Identify and recommend revisions to RSA 354-A and the scope of the duties of the Commission for Human Rights to combat discrimination and advance diversity and inclusion.

The Council is comprised of representatives from governmental agencies and non-profit organizations, and members of the public.

The Council issues this report pursuant to Executive Order 2017-09. The purpose of the report is twofold: (1) to recount the status of the Council's recommendations to date and (2) to summarize the Council's activities during 2020.

II. Status of Council Recommendations to Date

In its last report, the Council made eight budgetary recommendations and recommended taking steps to implement the recommendations made by the Governor's Commission on Law Enforcement Accountability, Community, and Transparency ("LEACT") and the Governor's COVID-19 Health Equity Response Team ("GCERT"). Over the past year, steps have been taken to support several of these recommendations while others continue to need further support in 2022 and beyond.

Among the recommendations related to the budget that advanced through the legislature this session were those that impacted the Commission for Human Rights and the Mental Health Plan. Part III of Senate Bill 220 will take effect on January 1, 2022, and begin the

Council began by examining its stated mission and strategies for achieving that mission. It decided to revise its original mission statement to the following:

The Council's mission is to combat inequity, advance diversity and inclusion, and improve system responsiveness, so that all residents can live free of discrimination and have full opportunities to participate and prosper in our communities.

It chose this language to simplify the statement that lies at the heart of the Council's work.

Next it chose to clarify its strategy for achieving its mission. It revised its original strategy statement to the following:

To achieve the Council's mission, it will: (1) engage in ongoing education and comprehensive discussion with State residents, community organizations, and State actors; (2) identify the issues impacting New Hampshire's communities; and (3) understand, inform, and strengthen New Hampshire laws, regulations, and agency policies and practices.

It chose this language to bring focus on how the Council will achieve its mission and to better align with the mandate provided to the Council in Executive Order 2017-09.

These exercises in reflection and revision have aided the Council in rediscovering its purpose and have laid the foundation for its plans to continue its important work going forward into 2022. The next steps that await the Council include identifying subcommittees that can more deftly plan and carry out different portions of the Council's mission under the supervision of the entire Council and connecting with other governmental and non-governmental partners that work in fields that share all or part of the Council's goals.

IV. Conclusion

Looking ahead to 2022, the Council is continuing to transition and welcome its newest members. The Council continues to examine the best methods for it to carry out its mission, provide the best advice possible to the Governor, and remain accessible to the public and the communities that the Council represents and serves. As always, the Council stands ready to assist the Governor and Granite Staters in achieving those important goals.

