

Board of Education Workshop

Friday, April 23, 2021 9:30 AM

Via Zoom *Members of the public can view the meeting by watching the live stream on the WPS YouTube channel. Please view the Google Calendar on the District website for link and agenda., 24 School Road, Weston, CT 06883-1623

I. Call to Order

II. What do we want to accomplish in this workshop and future workshops?

A. April (Planning)

B. Summer (Goal Setting and Accountability)

C. Late Fall and Late Spring (Reviews)

III. BOE Role and Expectations around DEI/Administration Role?

IV. Reviewing Current State and Setting Goals

A. Curriculum

B. Policies

C. Staffing

V. How we incorporate DEI Goals into Overall District Goals and Accountability

VI. Board DEI Statement that guides our actions

VII. Working with the Community - TEAM, Town DEI Committee and parent groups

VIII. Adjournment

WESTON BOARD OF EDUCATION

Weston, CT

Meeting Date: April 23, 2021

Information Only

Action Requested

Agenda Item Subject: Reviewing Current State and Setting Goals

Submitted by: Kenneth Crow

Document Summary/Purpose and/or Recommended Action:

Draft document reporting on the Diversity, Equity and Inclusion workshops for the 2020-21 school year.

WORKING DRAFT

DEI Professional Development Workshops 2020-21 School Year

WPS Curriculum Council

The following professional learning series was conducted via Zoom with the full leadership team and the curriculum instructional leaders K-12. Facilitators Kerry Lord and Patrice Nelson from the Connecticut Center for School Change led the sessions.

DEI Workshop #1: December 14, 2020

Focus:: How do leaders reduce the effects of [bias](#), in particular racial bias, and create the conditions that [welcome diversity](#), and ensure [equity and inclusion](#) for each and every member of the school community?

Goals:

- Use equity self-assessment to begin to identify personal, institutional and systemic practices that cause and reinforce inequities, bias, and exclusion
- Recognize the importance of “building the skills and stamina to engage in ongoing work over the long term”.
- Identify and commit to a next step in leading for diversity, equity and inclusion.

DEI Workshop #2: February 22, 2021

Focus: Examine unconscious bias in schools

Goals:

- Read and capture/quotes and passages that resonate with you or have implications for your work.
- Share what you have done since the last session regarding your leadership move to create the conditions for transformational learning.

DEI Workshop #3: March 8, 2021

Focus: Explore the ways in which having and applying an [equity lens](#) can help [school leaders](#) avoid equity detours in their role as a leader, and begin to articulate a leadership stance related to equity.

Goals:

- Examine how to avoid racial equity detours
- Analyze and understand how biases play out in your daily life.
- To understand what you can do to “add friction” as a way to disrupt biased actions/interactions in your daily life.

DEI Workshop #4: April 26, 2021

Focus: Effective tools for exposing disparities and inequities

Goal:

- School leaders will engage in an [Inequity Artifact Review](#) as an important initial step in exposing disparities, inequities, and facets of the organizational culture around issues of equity, including race.

WESTON HIGH SCHOOL

Consultant Dr. David Nurenburg, author of *What does Injustice Have to Do with Me? Engaging Privileged White Students with Social Justice* worked with the WHS faculty during four workshops

WHS FACULTY

DEI Workshop #3: October 9, 2020

Focus:

Goals:

DEI Workshop #2: November 3, 2020

Focus: Why we need to do this work

Goals:

- To generate an acknowledgement that there is a problem to be addressed
- To create a sense of [urgency and mission about antiracism](#) work at Weston HS
- To recognize/validate that speaking about [race can be an uncomfortable](#), but is necessary

DEI Workshop #3: November 18, 2020

Focus: Foundations of antiracism and social justice work

Goals:

- To share a working definition of [culturally responsive teaching](#) (CRT)
- To recognize and commit to two arms of CRT
 - [Inclusion](#)
 - [Active antiracism](#)
- To recognize that race is a social construct, yet exerts powerful effects on Americans' lives
- To understand the concept of "[mirrors and windows](#)"
- To commit to a plan for an inclusive curriculum

DEI Workshop # 4: January 28, 2021

Focus: Understand the concept of [privilege](#)

Goals:

- Use the framing of [inequities](#) through the lens/concept of [privilege](#) as a means on including/soliciting involvement from white teachers and students in addressing those inequities - i.e., it's not just a problem that involves "someone else"
- Examine the [negative effects of privilege](#) on white students and teachers
- Explore possible active anti-racist roles for white students and teachers (including introduction of concept of [microaggressions](#) and how/why to avoid them)

WHS English Department

Dr. Nuremberg, who is also a high school English teacher, led a workshop for WHS English teachers as part of the integration of new texts into the curriculum.

Workshop: January 20, 2021

Focus: Centering [student voice](#) (English department PD with Dr. Nuremberg)

Goals:

- Exploring research-based educational methods to create opportunities for democratic and inclusive student-centered spaces in the English classroom
 - Ed Cafe activity
 - Cogenerative dialogues
 - Co-teaching with students
 - [Reciprocal teaching](#)
- Enlisting students in [social justice study](#) and action

WHS Social Justice Advocacy Faculty

Facilitator: Dr. Elizabeth Bishop, Director of Curriculum and Outcomes at Global Kids. All sessions conducted over Zoom. Students also attended the sessions in December and March. Dr. Bishop also worked with SJA faculty and students in the December and March sessions.

December 15, 2020

Focus: To create ongoing opportunities for youth to step into leadership to support the school community as it moves toward becoming a more inclusive, anti-racist learning environment

Goals:

- Understand the strengths and opportunities for growth within our school community
- Analyze potential strategies steps to promote diversity, equity, inclusion, and justice
- Create tangible action steps, momentum, and partnerships for moving the work forward

March 24, 2021

Focus: Creating ongoing opportunities for youth to step into leadership to support the school community as it moves toward becoming a more inclusive, [anti-racist learning environment](#)

Goals:

- Learning about the skills of consensus building
- Building out structure for committee & affinity work
- Looking at [intersectionality](#) and its effects on justice work

April 22, 2021

Focus: Engaging and sustaining youth leaders in equity work

Goals:

- Developing [affinity spaces](#)/groups for students
- Creating an action research plan on equity issues, informed by student voices

Weston Middle School

Facilitators: Kerry Lord and Patrice Nelson, Connecticut Center for School Change. Sessions took place during Professional Development time on Wednesday afternoons. Each session was 90 minutes long and took place via Zoom.

DEI Workshop# 1: November 18, 2020

Learning Targets:

1. I can name my membership in multiple **identity groups** and explain how I negotiate my identity in multiple spaces.
2. I can explain how I have been socialized to think about **racial and other identity groups**.
3. I can begin to practice having open conversations about racial identity with my colleagues and with my students.

Guiding question for the session: What are the assumptions you carry into the classroom based upon your socialization around identity and how does that support **valuing diversity, inclusion** and equity in the classroom?

DEI Workshop #2: December 9, 2020

Learning Targets:

1. I can name at least one single story (stereotype) I hold about a specific racial identity group.
2. I can examine the **history of race** to help me understand institutional and systemic racism.
3. I can begin to practice having open conversations about racial identity with my colleagues and with my students.

Guiding questions for the session: What are the assumptions you carry into the classroom based upon your socialization around identity and how does that influence valuing diversity, inclusion and equity in the classroom?

DEI Workshop# 3: January 28, 2021

Learning Targets:

1. I can explain the relationship between socialization, stereotypes, prejudice, discrimination, and bias.

2. I can begin to use an equity lens as a tool for critical thinking/examination of story, both historical and personal.
3. I can examine and have an open conversation about the origins and impact of unconscious bias in schools.

Guiding questions for the session: How do we critically interrogate the story (historical and personal) to recognize bias and understand its impact in schools?

DEI Workshop# 4: March 3, 2021

Learning Targets:

1. I can explain the relationship between socialization, stereotypes, prejudice, discrimination, and bias
2. I can use an equity lens as a tool for critical thinking/examination of how racial bias works--and how to disrupt it
3. I can examine and have an open conversation about the origins, expression and impact of unconscious bias in schools.

Guiding questions for the session: How does implicit or unconscious bias evolve into normalized practices (institutional and personal) and what is the impact on students and staff in schools?

DEI Workshop# 5: April 7, 2021

Learning Targets:

1. I can continue to examine and have an open conversation about the origins, expression and [impact of unconscious bias](#) in schools.
2. I can use an equity lens as a tool for critical thinking/examination of representation and its impact on all of our students?

Guiding questions for the session: How does implicit or unconscious bias evolve into normalized practices (institutional and personal) and what is the impact on students and staff in schools? What are the implications for my practice, for our school as a whole?

Hurlbutt Elementary and Weston Intermediate Schools

March 22, 2021

Focus: Recognize how my own social identity group membership informs my perspectives and my responses

Goals:

- I can recognize how my social identity group membership influences my social capital/positionality
- I can practice managing responses that challenge my perspectives
- I can better understand how to create an inclusive classroom environment

May 19, 2021**Focus and Goals:** TBD

A planning meeting is scheduled for May 10 with Laura Kaddis, Pattie Falber, Ken Craw and the consultants to determine the learning targets.

WESTON BOARD OF EDUCATION

Weston, CT

Meeting Date: April 23, 2021

Information Only

Action Requested

Agenda Item Subject: Weston Public Schools District Diversity Recruitment Plan

Submitted by: William McKersie

Document Summary/Purpose and/or Recommended Action:

This is a draft version of WPS District Diversity Recruitment Plan. This document has been developed through WPS participation in the *CES Minority Teacher Recruitment (MTR) Planning Consortium*. The document requires reviews through additional CES workshops, as well as by the WPS administration and ultimately the WPS BOE.

For more Board of Education Meeting and Committee Meeting Information, visit:
<https://meeting.cabe.org/public/Agency.aspx?PublicAgencyID=47&AgencyTypeID=1>

**Weston Public Schools
District Diversity Recruitment Plan
April 2021**

This document has been developed through WPS participation in the *CES Minority Teacher Recruitment (MTR) Planning Consortium*. The document requires reviews through additional CES workshops, as well as by the WPS administration and ultimately the WPS BOE.

BOE DEI Statement to be added as part of introduction

The Weston Board of Education and administration strives for diversity in the hiring of teachers, staff, and administrators. WPS is committed to engaging in active efforts to recruit and retain an outstanding and diverse staff. WPS is committed to hiring individuals who best represent the global community, and understand the need to foster an inclusive environment for our staff and students.

Background:

In 2019 Weston Public Schools applied and was awarded a state grant of \$3000 from RESC Alliance MTR Regional Initiative Funding. These funds were to be allocated for workshops with CES Minority Teacher Recruitment (MTR) Planning Consortium in increasing minority candidates to apply to Weston Public Schools. With the pandemic, funding was put on hold for the 2019-2020 school year. For the school year 2020-2021 the grant monies were to be used for expanding recruiting partnerships with diverse organizations as well as professional development for WPS staff. WPS began working in workshops with CES MTR and other Fairfield County school districts in November 2020 to create this District Diversity Recruitment Plan.

District Intent

Recruit more diverse candidates for Weston Public Schools job openings in Administration, Faculty, and Staff

To create and sustain a more inclusive school climate that values and supports all students and staff, and does not tolerate discrimination based on race, ethnicity, sexual orientation or other perceived differences. (See: WPS District Goals 2020-21 - Healthy Learning Environment Goals)

Provide regular professional learning for administrators and staff in diversity, equity, and inclusion.

Policies

There are two WPS Board of Education policies that speak to the recruitment process that may be found at these links:

- [Recruitment and Selection Policy and Regulation 4111](#)
- [Plan for Minority Recruitment Policy 4111.1](#)

WPS is committed to prohibiting race-based and other forms of discrimination, and any such discrimination in employment decisions is expressly prohibited by Board policy found at this link:

- [Non-Discrimination Policy and Regulation 4118.11](#)

ANNUAL GOALS

Goal 1: To ensure all policies, goals, and action steps aligned to the WPS District Diversity Recruitment Plan are reviewed and evaluated on an annual basis

Action 1. Review of Policy 4111.1 Plan for Minority Staff Recruitment Policy for effectiveness

Action 2. Review of District Diversity Recruitment Plan to monitor achievements, create new goals, to evaluate and reconcile gaps

YEAR ONE OF THREE YEAR PLAN (2021-2022 TO 2023-2024)

This multi year plan consists of goals and action steps that will serve to frame this district work. It should be noted that all action steps will not be achieved in the first year. There are specific areas of focus that will be prioritized for 2021-2022 under each goal.

Goal 1: Create recruitment partnerships with organizations and candidates

Action 1. Continue to work with CES Regional and Statewide MTR Planning Consortium

Action 2. Continue national collaboration with diversityined.com and diversejobs.net

Action 3. Expand use of the Handshake platform to link to historically diverse colleges and universities students and their alumni. Handshake is an online job posting, virtual career fair platform that works with Universities and Colleges to “ensure that all college students have equal access to meaningful careers...Handshake has become the leading early career community in the US.”

Action 4. Develop contacts with state training institutions, colleges and universities educational institutions, including those with diverse enrollments, to publicize job openings and solicit referrals for administrative internships and student teaching opportunities

Action 5. Develop contacts with minority/diverse community organizations and WPS school alumni to publicize job openings and solicit referrals

Action 6. Connect with all applicants to create relationships for when openings occur

Action 7. Connect with alumni groups

Evidence Indicators of Success:

TO BE DETERMINED

Goal 2: Develop and implement consistent and equitable hiring processes at every level

Action 1. Recruit WPS staff to serve on district committee to review and revise hiring processes as to be aligned with WPS DEI mission.

Action 2. Ensure a fair and equitable district wide hiring process which may include:

- Blind resume reviews of qualified candidates redacting information to eliminate unconscious bias
- Form hiring committees to include trained DEI staff
- Ensure interview process is sensitive to all applicants
- Standardize interview questions districtwide
- Utilize flexible interview times (alternatively in video)
- Establish interview norms to create a comfortable and welcoming environment

Action 3. Review for exclusive language and unconscious bias, revise, and maintain inclusive and unbiased job descriptions/postings

Action 4. Maintain and expand advertising to include media targeted to diverse groups

Action 5. Continue to participate in local/state/national job fairs and expand to include newly formed partnerships

Action 6. Increase participation in professional development opportunities focused on non-discrimination hiring practices and diversity recruitment

Evidence Indicators of Success:

TO BE DETERMINED

Goal 3: Develop social media and promotional tools to attract a more diverse workforce

Action 1. Incorporate WPS commitment to recruit a diverse workforce on district website

Action 2. Review and revise major communications mechanisms (Website, social media, and publications) to clearly articulate WPS commitment to an inclusive district climate that values and supports all students and staff and promotes diversity, equity and inclusion

Action 3. Create promotional items to be posted electronically as well as distributed at events

Action 4. Join/follow key groups on social media to promote and support reciprocal interests

Evidence Indicators of Success:

TO BE DETERMINED

WESTON BOARD OF EDUCATION

Weston, CT

Meeting Date: April 23, 2021

Information Only

Action Requested

Agenda Item Subject: Shipman and Goodwin Memo on Minority Educator Recruitment Plans, Diversity, Affirmative Action, and Non-Discrimination

Submitted by: William McKersie

Document Summary/Purpose and/or Recommended Action:

Shipman and Goodwin provided CES this memo, who were then permitted to share it with all the school districts in the MTR Consortium, advising districts of the legal parameters to keep in mind while creating their district recruitment plans.

For more Board of Education Meeting and Committee Meeting Information, visit:
<https://meeting.cabe.org/public/Agency.aspx?PublicAgencyID=47&AgencyTypeID=1>

CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION



To:

From: Jessica Richman Smith, Dori Pagé Antonetti, and Sarah Gleason

Re: Minority Educator Recruitment Plans, Diversity, Affirmative Action, and Non-Discrimination

Date: April 1, 2021

You recently asked for legal advice regarding promoting a diverse educator workforce while ensuring that the _____ Public Schools and the _____ Board of Education (collectively, the “District”) do not run afoul of applicable law as it pursues these efforts. As public school districts across Connecticut are aware, the state has mandated that each school district develop and implement a written plan for minority¹ educator recruitment. In 2016, the State Board of Education created a five-year strategic plan to increase the racial, ethnic, and linguistic diversity of the educator workforce. The goal was to have 1,000 new educators of color in classrooms across Connecticut by this year, 2021. It is therefore no coincidence that this topic has gained increasing attention over the last year or so.

While a full discussion of all of the relevant legal nuances is beyond the scope of this memorandum, it may be useful to understand how different approaches to achieving and promoting diversity are viewed under the law, including the use of “affirmative action” plans and “diversity and inclusion” initiatives. The minority educator recruitment mandate is neither an “affirmative action” plan nor a “diversity and inclusion” initiative. These distinctions are important because each comes with its own set of legal parameters. There is also the related legal requirement that public school districts not discriminate against individuals on the basis of certain characteristics. Non-discrimination laws are a critical part of the legal landscape around issues of diversity and inclusion. They establish important protections for members of protected classes, but they are also the reason why there are limits to what the District can include in its minority educator recruitment plan.

I. Legal Background

¹ We note that we use the word “minority” throughout this memorandum because it is the term used in the relevant laws. However, we recognize that the term “minority” is no longer the term of choice for purposes of referencing persons of color.

Affirmative action and diversity are related concepts, but the terms have different origins and legal connotations. **Workforce diversity** is a business management concept under which employers voluntarily promote an inclusive workplace. Employers that value diversity create a culture of respect for individual differences in order to “draw talent and ideas from all segments of the population.”² They implement diversity and inclusion initiatives for reasons other than in response to discrimination, although these initiatives may also help to avoid discrimination.

Affirmative action, in contrast, means those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity. Affirmative action under Title VII of the Civil Rights Act of 1964 (Title VII) may be (1) court-ordered after a finding of discrimination, (2) negotiated as a remedy in consent decrees and settlement agreements, or (3) conducted pursuant to government regulation.³ Also, employers may implement voluntary affirmative action plans in appropriate circumstances, such as to eliminate a manifest imbalance in a traditionally segregated job category.

Any affirmative action plan by a public entity such as a school district would also be subject to the Equal Protection Clause of the United States Constitution. Because an affirmative action plan involves racial classification, the courts will strictly scrutinize such a plan. To be constitutional, the District would have to produce a compelling government interest and narrowly tailor the racial classification to achieve this interest. This is a very high standard to meet. In addition, Connecticut law requires certain government entities to implement affirmative action plans, but school districts are not included in that requirement.

Connecticut law does, however, require boards of education to have **minority educator recruitment plans**. Connecticut law defines the educational interests of the state to include, among other things, “the concern of the state that . . . **in order to reduce racial, ethnic and economic isolation**, each school district shall provide educational opportunities for its students **to interact with students and teachers from other racial, ethnic, and economic backgrounds** and may provide such opportunities with students from other communities.”⁴ In addition, boards of education must “develop and implement a written plan for minority educator recruitment” for the purposes of serving this educational interest.⁵ Beyond these requirements, there are no clear requirements in the law regarding what minority educator recruitment plans must include.

The purpose of this memorandum is to provide some considerations for elements that can be incorporated into these plans in light of other relevant legal parameters, including non-discrimination laws. In Connecticut, boards of education are prohibited by

² U.S. Equal Employment Opportunity Commission (EEOC), Compliance Manual Section 15: Race and Color Discrimination, VI.C., available at https://www.eeoc.gov/laws/guidance/section-15-race-and-color-discrimination#N_103_#N_103 (further citations omitted).

³ *Id.*

⁴ Conn. Gen. Stat. § 10-4a.

⁵ Conn. Gen. Stat. §§ 10-220(a); 10-4a.

law from discriminating against individuals on the basis of race, color, religion, age, sex, marital status, sexual orientation, national origin, alienage, ancestry, disability, pregnancy, genetic information, veteran status, or gender identity or expression, except in the case of a bona fide occupational qualification. Many boards of education also have non-discrimination policies establishing that they will not discriminate in their employment practices or educational programs on any of these bases. These laws and policies are part of the reason why districts are advised to be extremely careful in how they fulfill the mandate to engage in minority educator recruitment. What may seem like a practical way to increase diversity in the workforce could actually violate the requirement not to discriminate.

With that background, we offer the following legal considerations for the District as it works to develop and implement its minority educator recruitment plan.

II. Legal and Practical Considerations in Developing Minority Educator Recruitment Plans

A. Can the District set aside a certain number of positions for minorities?

In short, race-based quotas must be avoided. The Supreme Court has acknowledged that public schools have an obligation to eliminate “every vestige of racial segregation and discrimination in the schools.”⁶ However, as a public employer, the District must also act in accordance with the Equal Protection Clause of the United States Constitution.

Under the Equal Protection Clause, any race-based classifications are considered inherently suspect and will be subject to *strict scrutiny* by the courts. Thus, when a government actor uses racial classifications, it must show that its actions are *narrowly tailored* to further a *compelling government interest*. Indeed, racial and ethnic distinctions of any sort demand the most exacting judicial examination, whether or not the challenged classification operates against a group that has suffered discrimination historically.

The State Board of Education (SBE) and the Connecticut State Department of Education (CSDE) have highlighted that the racial, ethnic, cultural and linguistic diversity of Connecticut’s educators does not reflect the diversity of Connecticut’s students or the diversity of the state.⁷ In the public school context, however, the Supreme Court has rejected, as a compelling government interest, the “role model theory” of the importance of providing minority role models for minority students *as an attempt to alleviate the effects of societal discrimination*.⁸ In a different context, the Supreme Court has addressed higher education admissions and found that the educational benefit afforded by a diverse student

⁶ *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 276 (1986).

⁷ See SBE, Ensuring Equity and Excellence for All Connecticut Students, available at <https://portal.ct.gov/-/media/SDE/Board/BoardMaterials070616/AdoptionofFiveYearComprehensivePlanforEducationEnsuringEquityandExcellenceforAllConnecticutStudents.pdf?la=en>.

⁸ See *Wygant*, 476 U.S. at 276.

body *is* a compelling government interest.⁹ However, *even when such a compelling interest has been found*, the rigid use of racial quotas is impermissible.¹⁰

B. Can the District encourage only minorities to apply to certain positions?

Just as race-based quotas must be avoided, the District must also avoid encouraging only minorities to apply to certain positions. Employers must provide equal access to all job opportunities. The Equal Employment Opportunity Commission (EEOC) has summarized: “Generally, employers should not express a racial preference in job advertisements. Employers can indicate that they are ‘equal opportunity employers.’”¹¹

Further, federal and state laws prohibit an employer from indicating a preference or limitation based on a protected class, including race, when advertising a position. Under federal law and Title VII, it is unlawful for employers covered by Title VII, including school districts, to print or publish any notice or advertisement indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin. While there may be some exceptions when religion, sex, or national origin is a bona fide occupational qualification, race and color can never be a bona fide occupational qualification.¹² Under state law and the Connecticut Fair Employment Practices Act, an employer is prohibited from advertising employment opportunities in a manner that restricts such employment so as to discriminate against individuals because of a protected class, including race.¹³

In addition to following federal and state laws, when going through the hiring process, it is important to ensure that the entire process aligns with the District’s non-discrimination policies.

The District may encounter a situation where it has the opportunity to receive a grant to fund a fellowship teaching position for a minority educator. However, even under these circumstances, the District cannot set aside a specific position for a minority candidate, as a grant or other funding source does not trump the state and federal laws that employers must follow regarding non-discrimination. The receipt of a grant or other funding, even if contingent on the District hiring a minority educator, does not mean that an employer can violate Title VII and the Connecticut Fair Employment Practices Act by not providing equal access to job opportunities to all applicants regardless of race.

C. Can the District recruit from historically diverse sources?

As explained above, federal and state law prohibit employers from advertising employment opportunities in a way that restricts employment to discriminate against

⁹ See, e.g., *Regents of Univ. of California v. Bakke*, 438 U.S. 265 (1978); *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Grutter v. Bollinger*, 539 U.S. 306 (2003).

¹⁰ *Bakke*, 438 U.S. at 319-320.

¹¹ See EEOC, Questions and Answers about Race and Color Discrimination in Employment, available at <https://www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment>.

¹² 2 U.S.C. § 2000e-3(b).

¹³ Conn. Gen. Stat. § 46a-60(b)(6).

individuals because of their race, color, or membership in another protected class, except in very limited circumstances such as the case of a bona fide occupational qualification. However, school districts are advised to ensure that they cast a wide net to solicit applications from a population that is diverse in every sense.

Indeed, the EEOC has addressed the issue of homogeneous recruitment sources and stated that “[e]mployers should attempt to recruit from racially diverse sources in order to obtain a racially diverse applicant pool.”¹⁴ For example, if the employer’s primary recruitment source is a college that is not racially diverse, the employer may adopt other recruitment strategies, such as also recruiting from colleges with high minority populations, to ensure that its applicant pool reflects the diversity of the labor force.

In addition, the CSDE has published Creating a District Plan to Increase the Racial, Ethnic and Linguistic Diversity of Your Educator Workforce: A Guidebook for Hiring and Selection (“the Guidebook”),¹⁵ which is intended to support districts and schools in their efforts to design and implement minority educator recruitment plans. The Guidebook suggests, as one strategy, that districts develop relationships with Historically Black Colleges and Universities and Latinx/Hispanic Serving Colleges and Universities to create career pathways for students.¹⁶

Thus, the District *can* review and consider revising its practices to ensure that it recruits from racially diverse sources to obtain a diverse applicant pool. As part of this effort, the District can develop contacts with local training and educational institutions and other community organizations, including those that traditionally have high minority enrollments or membership, to publicize job openings and solicit referrals of qualified minority candidates. When pursuing these initiatives, however, the District should not recruit *only* from historically diverse areas and should continue to advertise for open positions in other relevant forums as well.

D. Can the District ask an applicant his/her race during the application process?

In general, an employer *cannot* ask an employee about his or her race, national origin, or ancestry during the application process, such as when employees are being interviewed by Human Resources or by others on the hiring committee. The EEOC has stated, however, that employers *may* have a legitimate need to request that applicants provide demographic information in certain situations and has identified two such reasons for the request: (1) for affirmative action purposes and/or (2) in order to track applicant flow.¹⁷ However, if racial or ethnic information is used in the selection decision, and

¹⁴ See EEOC, Questions and Answers about Race and Color Discrimination in Employment, available at <https://www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment>.

¹⁵ CSDE, Creating a District Plan to Increase the Racial, Ethnic and Linguistic Diversity of Your Educator Workforce: A Guidebook for Hiring and Selection, available at https://portal.ct.gov/-/media/SDE/Talent_Office/HiringAndSelectionGuidebook.pdf.

¹⁶ *Id.* at 8.

¹⁷ See EEOC, Questions and Answers about Race and Color Discrimination in Employment, available at

members of particular racial or ethnic groups are excluded from employment, such inquiries can constitute *evidence of discrimination*. The same analysis holds true for inquiries regarding other aspects of an applicant's background, such as gender or religion.

Therefore, when asking for demographic information, *the District must proceed with caution*. First, the District must have a legitimate need for collecting this data. As explained above, minority educator plans *are not* affirmative action plans and therefore demographic information cannot be collected for purposes of affirmative action. However, the CSDE has encouraged school districts to track the flow of applicants in their recruiting and hiring process, from receiving applications, to conducting initial screenings, to interviewing candidates, to offering positions, and finally, to determining who accepts these positions. In its Guidebook, the CSDE notes that “[c]ollecting candidate data throughout the entire application process -- from posting teaching vacancies through the actual hiring -- is essential to understanding what happens to applicants over the course of the hiring cycle.”¹⁸ This rationale for collecting applicant data mirrors one of the legitimate needs identified by the EEOC: allowing employers to track applicant flow.

In collecting such information, however, the District *must* establish and follow various procedural safeguards to help avoid legal liability. First, applicants can only be asked to provide demographic information *on a voluntary basis*. Any form asking for such information must clearly state that providing the information is strictly voluntary, and an applicant will not be penalized or subject to any adverse treatment if he or she does not provide respond to the request for information.

In addition, when collecting information about applicants' race, the District must *simultaneously guard against* using the information *as part of the selection process*. Federal and state law are *clear* that such information cannot be used as part of the reason for hiring an employee, and the District should make sure that its Human Resources departments and hiring committees are aware of this prohibition. The District should also *use separate forms* or *otherwise keep the information about an applicant's race separate from the application*. In that way, the District can capture the information it may need while ensuring that it is not used in the selection decision.

Some districts may wonder, if they cannot use demographic information during the selection process, why collect it? Again, it bears emphasis that employers *cannot* ask information regarding race, ethnicity, and other protected characteristics during the interview process, and they *cannot* use such information as part of a hiring decision.

Such information may be accessed, however, *after employment decisions have been finalized*, in order to monitor outcomes at each point in the hiring process. For example, the District may choose to use this information as part of an after-the-fact analysis to determine how many minority candidates, as compared to the entire pool of applicants, submitted applications and how many passed the District's initial application screening process. The District may also choose to use this information, *after the hiring*

<https://www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment>.

¹⁸ Guidebook, at Appendix 3. See also Guidebook at 10-11.

process has been completed, to determine how many minority candidates, as compared to non-minority candidates, participated in an interview, were selected to fill a vacancy, and/or accepted a formal offer to hire.

By collecting this information and reviewing it *after hiring decisions have been made*, the District can analyze the “funnel” through which candidates are recruited, evaluated, and chosen, and where in the process the District was able to recruit and maintain -- or not recruit and maintain -- minority candidates. This data can help the District better understand and evaluate its recruiting and hiring process and identify stages in which they may be able to cast a wider net for applicants. It may also help the District identify where implicit or unconscious bias might have played a role in excluding candidates. Finally, such data can also inform next steps for revising the District’s recruiting and hiring practices.

E. What can the District do to let applicants know that it values diversity?

There are numerous things that the District can do to let applicants know that diversity is important to the District without running afoul of the law.

- In the position posting, the District can include a diversity statement along with its non-discrimination statement to let applicants know that the District values diversity and strives to achieve an environment that is reflective of its students and community.
- The District can market itself and its schools in ways that communicate its values and the impact of diversity on the District and its schools.
- The District can craft employment applications to communicate that cultural responsiveness is important to the District. The District can emphasize its diverse student body and note that it values having a staff that is culturally competent.
- In developing factors to be used in the hiring process, the District can prioritize cultural competence and responsiveness as one of the hiring factors.
- The District can create a hiring committee that also values diversity.

Many of the strategies above focus on “cultural competence” and “cultural responsiveness.” The CSDE defines “cultural competence” as encompassing three things: (1) an understanding of one’s own cultural identity, biases, prejudices, and experiences of both privilege and marginalization; (2) the continuous pursuit of skills, knowledge, and personal growth needed to establish a connection with people from various cultural backgrounds; and (3) a lifelong commitment to action that supports equity within the school community.¹⁹ “Cultural responsiveness,” as defined by the CSDE, is using that

¹⁹ CSDE, Professional Learning – Cultural Competence, available at <https://portal.ct.gov/SDE/Evaluation-and-Support/Professional-Learning---Cultural-Competence>.

cultural competence to evaluate, examine, challenge, and adapt educational practices to facilitate equitable education that supports the success of all students, including those from underserved populations.²⁰

F. How can the District create a hiring committee that values diversity?

The hiring process can play a critical role in building a staff that values diversity. In order to create a hiring committee that values diversity the same way the District does, the District can provide training on unconscious and implicit bias and diversity to personnel who serve on hiring committees. In fact, legislation is currently being considered by the Connecticut General Assembly that would, among other things, require school district employees involved in the hiring process to complete a video training module related to implicit bias and anti-bias in the hiring process.²¹ We will continue to monitor this legislation as it proceeds through the General Assembly to see if it becomes a law. The District can also diversify who is engaged in the hiring process at every phase. This can be done through a general review of the District's hiring policies.

²⁰ *Id.*

²¹ Raised S.B. No. 1034.

G. How else can the District support diversity initiatives?

Beyond developing and implementing minority educator recruitment plans, there are several opportunities through which the District may choose to show its support for diversity initiatives.

First, state law requires each board of education to *prepare a statement of educational goals* for the school district.²² This statement should be developed with the participation of parents, students, administrators, teachers, and other individuals or groups in the community. Among other things, the statement of goals must be consistent with state-wide goals established by the SBE in its comprehensive educational plan.²³ The current plan, entitled Ensuring Equity and Excellence for All Connecticut Students (the “SBE Plan”),²⁴ stresses the importance of ensuring that every student -- regardless of gender, race, ethnicity, family wealth, zip code, or disability status -- is prepared to succeed in lifelong learning and work beyond school. It also identifies the SBE’s commitment to establishing great schools that are safe, diverse and welcoming and to develop great teachers and leaders, including teachers and leaders that collectively reflect the rich cultural diversity in Connecticut and are culturally responsive instructors.

In addition, the Board of Education can adopt a position statement regarding its belief in the importance of diversity and equity. Some districts may be called to adopt such a position statement in light of the senseless acts of hate and violence -- as well as other forms of discrimination -- that continue to plague our nation. However, because such a statement is not required by law or necessary to establish standards for board operations and procedures, the District may wish to consider articulating its beliefs through a position statement rather than through Board policy.

Another way the Board of Education can demonstrate its commitment to working on these important issues is by establishing a standing agenda item for regular Board meetings to highlight and review diversity issues affecting the District. In this way, the District can show a continual and long-term commitment to addressing diversity and equity in its educational programs.

The District can also promote diversity through the curriculum. In 2019, the General Assembly enacted legislation directing all boards of education to include a high school elective course that provides students with a better understanding of the African-American, Black, Puerto-Rican, and Latino contributions to the United States. Districts may begin offering this course in the fall of 2021 and are required to offer it beginning in the fall of 2022.²⁵ Although the District may wish to only recruit and hire a minority teacher to teach this course, such course of action must be avoided. The state and federal

²² Conn. Gen. Stat. § 10-220(b).

²³ *Id.* See also Conn. Gen. Stat. § 10-4(c).

²⁴ See generally SBE, Ensuring Equity and Excellence for All Connecticut Students, available at <https://portal.ct.gov/-/media/SDE/Board/BoardMaterials070616/AdoptionofFiveYearComprehensivePlanforEducationEnsuringEquityandExcellenceforAllConnecticutStudents.pdf?la=en>.

²⁵ Public Act No. 19-12; Conn Gen. Stat. § 10-16uu.

employment laws discussed above still apply to these positions, and the District must not advertise employment opportunities in a way that restricts employment to discriminate against individuals because of their race, color, ancestry, or membership in another protected class. Further, during the hiring process, the District cannot take race into consideration when making hiring decisions. However, the District can prioritize cultural responsiveness as a hiring factor.

Finally, the District can also perform a policy audit to ensure that its non-discrimination policies are up to date and comply with recently enacted legislation, such as the CROWN Act. Under the CROWN Act, employers are prohibited from discriminating on the basis of ethnic traits historically associated with race, including, but not limited to, hair texture and protective hairstyles, like wigs, headwraps, and braids.²⁶ The District may also choose to review other relevant policies to ensure that they reflect the diversity and inclusion that the District values, including the Board of Education's minority recruitment plan policy, non-discrimination policies, bullying prevention policy, and dress code policy.

III. Conclusion

We acknowledge that we do not have all the answers, and that many efforts which may appear to advance the goals of achieving workforce diversity actually are not permitted under the law. However, we hope the information above provides clarification and practical guidance as the District continues to develop and implement its minority educator recruitment plan.

* * *

We hope that this information is helpful to you. Please feel free to reach out to us with any further questions. Thank you.

²⁶ Public Act No. 21-2; Conn. Gen. Stat. § 46a-51 (23)-(24).