



# BOSTON CITY COUNCIL

Committee on Government Operations  
Ricardo Arroyo, Chair

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## REPORT OF COMMITTEE CHAIR

June 29, 2022

Dear Councilors:

***Docket #0259, Ordinance Amending City of Boston Code, Ordinances, Chapter XV, Section X and Establishing the Boston Fair Chance Act***, was sponsored by Councilor Ricardo Arroyo and Councilor Julia Mejia and referred to the Committee on February 9, 2022. The Committee held a hearing on March 8, 2022 and a working session on April 12, 2022.

### **Summary of Legislation As Filed:**

This ordinance would amend existing language in the Boston City Code by establishing a Chief Diversity Officer, who would provide oversight over the City's non-discrimination, equal opportunity, and affirmative action policies. This ordinance would also require regular updates on progress made regarding diverse hiring and promotions, and require that the Chief Diversity Officer work with offices to make sure there are fair hiring policies in place for family members of current employees.

### **Information Gathered at the March 8, 2022 Hearing:**

Councilor Mejia gave opening remarks explaining that her office has been working with and hearing from city employees for nearly a year, and hearing similar stories of employees of color who have routinely been denied career advancement. She noted that the Council has asked City departments through hearings about the diversity of their workforce. Councilor Mejia explained that Docket #0259 would codify a Chief Diversity Officer (CDO) position, who would work with all City agencies to develop plans for hiring and promoting minority, women, LGBTQ+ employees and employees with disabilities, as well as plans for improving workplace culture and preventing harassment, intimidation and bullying, and plans for disseminating this information to covered employees. The CDO would also be responsible for ensuring opportunities for nepotism and other types of workplace discrimination are eliminated. Other councilors provided opening remarks as well regarding support for the city's workforce.

Mariangely Solis Cervera, Chief of Equity and Inclusion, and Segun Idowu, Chief of Economic Opportunity and Inclusion, testified on behalf of the Administration. Chief Solis Cervera began by acknowledging the feeling of employees of color of being overlooked, noting that opportunity and training is often also not presented to these employees in the course of their professional development. She explained that as the newly appointed Chief of the Equity and Inclusion Cabinet, her team will be restructuring its work to ensure constituent needs are met, which includes leading the transformation of City practices to better work with marginalized communities. She stated that the CDO role proposed already exists in the City, but the

Administration is hoping to operationalize and better structure the role to work with City departments. Chief Idowu stated that creating opportunities to build generational wealth is part of the vision of the Economic Opportunity and Inclusion Cabinet.

President of Massachusetts Association of Minority Law Enforcement Officers (MAMLEO) Jeffrey Lopes, President of the Boston Society of Vulcans Darrell Higginbottom, President of Local Lodge 100 BWSC Jerome Hargow, and EMT Dennis Bynum testified in support of the proposed ordinance. Mr. Lopes testified first about MAMLEO's founding because fair practices and fair chances did not exist for those who didn't identify as white. He stated that the ordinance should not just be about eliminating the traditional meaning of nepotism, but should be about changing the face of what leadership looks like in the City more holistically. He noted specifically the exclusion of people of color from leadership positions within the Boston Police Department (BPD), citing statistics to this effect, and highlighting political influence in promotions. Mr. Higginbottom testified next, explaining that the Boston Vulcans was established to address and promote recruitment, retention, and promotion of firefighters of color. He reviewed past lawsuits against the City, including one that helped establish the consent decree, which required the City to hire one-for-one a non-minority for a minority. He noted that the consent decree ended in 2003, and since then the number of people of color in the department has fallen, citing statistics to demonstrate. He explained that public safety careers are some of the most well-paid, though pay obviously correlates to rank. He shared additional statistics showing salaries against demographics to demonstrate the economic loss suffered by people of color by not receiving promotions. He stated that demographic data is often hard to obtain from the department, which is why the reports required by the ordinance will be helpful in better identifying the problems and documenting progress towards diversity goals. Mr. Hargow testified about his personal experience with racism and discriminatory practices in the workplace, including disparities in promotional opportunities, work practices, treatment, overtime, and discipline. Mr. Bynum also testified about his personal experience with attempts to move up that have been denied. He shared statistics from the Boston Emergency Medical Services to demonstrate disparities in leadership and overall workforce in the department. He suggested that the City should be more involved in the hiring and promotional practices of the public safety agencies, and argued that practices should be standardized for consistency.

The Committee asked Chief Solis Cervera to explain the current work of the Office of Diversity. Chief Solis Cervera stated that prior to Mayor Wu's Administration, the Office worked with the cadet program, created a diversity dashboard, and coordinated employee resource groups. Chief Solis Cervera stated that the Equity Cabinet's vision is to embed equity and inclusion throughout city practices, which includes growing talent from each cabinet to become diversity and inclusion ambassadors. She stated that the ordinance seems aligned with the Cabinet's mission.

The Committee discussed what non-discriminatory promotional processes might look like. Suggestions included centralizing processes across and within agencies through a multidisciplinary team, finding ways to close preferential loopholes like "double dipping", standardizing the use of evaluations in promotional decisions, minimizing the use of discretion in scoring civil service points, and having the Chief Diversity Officer be jointly appointed by the Mayor and the City Council. Other topics of discussion included civil service reform, lack of formal mentorship and professional development programs, and questions about how the ordinance could or would address misconduct by hiring managers or unfair or discriminatory disciplinary actions.

Members of the public who signed up for testimony shared their experience and frustration with people of color not receiving promotions and losing promotions to others with familial ties to a higher-up, and also experiences with fearing retaliation for speaking out. The Committee also heard additional public testimony from City workers about their experiences being overlooked for positions or feeling discriminated against at work.

**Information Gathered at the April 12, 2022 Working Session:**

Chief Mariangely Solis Cervera from the Office of Equity and Inclusion and Margaret McKenna, Chair of the Human Rights Commission participated on behalf of the Administration. Ivan Espinoza-Madrigal from the Lawyers for Civil Rights; Darlene Lombos from the Greater Boston Labor Council; and Jeffrey Lopes from MAMLEO also participated.

The Committee discussed the specific language of the proposal, reviewed changes, and addressed the following matters: the Chief Diversity Officer (CDO) already exists but it is not codified; and the language around nepotism conforms with state legislation on conflict of interest. Chief Solis Cervera expressed support stating that this ordinance is a piece in putting equity into the daily practices of the City. The Administration explained that the CDO position should be housed under the Office of Human Resources (OHR) and not determined by ordinance because OHR manages hiring and complaints. The Administration explained that the nepotism language should be consistent with state legislation relating to conflict of interest. The Administration stated that the CDO coordinates with new personnel in charge of diversity or existing personnel. The Committee discussed the change to the “nepotism” definition to bring it in conformity with state law. Language was added in Section 15-10.3 to allow for more flexibility regarding who is in charge of diversity and bringing the position to a cabinet level. Chief Solis Cervera requested that the appointment of the CDO be changed from 60 days to 120 days in Section 15-10.3 *Creation of Position of a Chief Diversity Officer*, Subsection A. Ms. Lombos suggested making changes to the preamble and expressed support for efforts to strengthen the City’s workforce. Ms. Lombos also expressed support for consulting with the unions when the City is implementing policies. The Committee discussed and the Chair reiterated that the provisions of this ordinance would not override provisions under collective bargaining agreements. The Chair explained that collective bargaining agreements would supersede the provisions of this proposal. Councilor Bok suggested that language be added in Section 15-10.4, B, that the plans be filed with the City Clerk. Councilor Flynn requested that in Section 15-10.4, G, that the Office of Veteran Services be included.

Chair McKenna inquired if the proposal applies to all protected classes and whether there is an enforcement mechanism. Chair McKenna stated that the CDO should have more enforcement powers. Councilor Mejia discussed the importance of accountability and suggested having quarterly check-ins. The Committee discussed the removal of the WMBE procurement plan section because it is out of date and needs to be restructured. In 15-10.5, c, the Committee discussed including the words “evaluates or oversees” after the word “supervises.” The Committee discussed adding in Section 15-10.6 evaluation of all supervisors in all agencies including Cabinet head. In 15-10.6, C, the Committee discussed the meaning of the phrase “reasonable amount of time”. The committee discussed that the proposal would apply to all protected classes and that enforcement would be under OHR. The Committee discussed that current employees should have enough time to apply for positions/promotions. The Committee discussed how postings are received by employees and that there should be notice about the process to employees.

**Summary of Amendments:**

- In subsection b, Section 15-10.1, Declaration of Policy is amended by striking out the words “implicit biases” and replacing it with “discrimination”;
- Change to the nepotism definition to ensure consistency with state law;
- The definition of “Covered Employee” is amended to add a provision that clarifies that collective bargaining procedures govern;
- The CDO position will be housed in OHR;
- The appointment of the CDO is changed from 60 days to 120 days in Subsection A under Section 15-10.3 *Creation of Position of a Chief Diversity Officer*;
- Language is added in Section 15-10.3 to allow for more flexibility regarding who is in charge of diversity and making it a Cabinet level position which will ensure that the CDO coordinates with new personnel in charge of diversity or existing personnel;
- Add the City Clerk to Section 15-10.4-B;
- A provision is added in Section 15-10.4-E that allows for a complainant to appeal to the Boston Human Rights Commission if the complainant is not satisfied with the actions taken by the CDO;
- Adding the Office of Veterans Services in Section 15-10.4-G;
- In 15-10.4 H, the reporting requirements are changed from three to six months; language is added that the reports update the progress in administering Diversity Equity inclusion Plans; and language is also added that the reports be filed with the City Clerk and placed on the next City Council meeting agenda;
- In 15-10.4 H, a provision is added that the CDO consults with the City’s Office of Human Resources, payroll, benefits, and departments to ensure success in meeting diversity equity inclusion plans goals;
- In 15-10.4 I, language is added to ensure that the personnel system is using the goals in the Diversity Equity Inclusion Plans as standards;
- In Section 15-10.5 A the words “applies for employment” is stricken and replaces with the words “receives a conditional offer of employment”;
- In Section 15-10.5 B the words “or holding decisionsmaking authority” is added after the word “process”;
- In Section 15-10.5 C the words “evaluates or directly manages” is added after the word “supervises”;
- In Section 15-10.6 A the words “and transparent” are added after the word “fair”;
- In Section 15-10.6 B is amended by striking out the section as originally filed and replacing it with the following: Provide opportunities upon request for employees to assess and review career ladders and other opportunities for advancement within the City;
- In Section 15-10.6 C language is added that a reasonable amount of time is at the discretion of the CDO;
- In Section 15-10.6 D the words “written feedback explaining the reasons” are stricken and replaced with “a statement of specific reasons”;
- Any reference to “Affirmative Action Officer” is changed to “Diversity Officer”;
- Any reference to “Affirmative Action Plan” is changed to “Diversity Equity Inclusion Plan”;
- The term “grievance procedure” is changed to “complaint procedure” in order to distinguish from union practices;
- Language is added that complainants may appeal to the Human Rights Commission.

**Rationale and Recommended Action:**

Docket #0259 will establish a Chief Diversity Officer (CDO), who will provide oversight over the City's non-discrimination, equal opportunity, and diversity equity inclusion plan policies. Based upon information gathered at the hearing and the working session, the docket is amended to include consistent language as well as jurisdiction and coordination under OHR. The amended docket allows for more flexibility regarding who is in charge of diversity and brings the position to a cabinet level. This ordinance would also require regular updates on progress made regarding diverse hiring and promotions, and require that the CDO work with offices to make sure there are fair hiring policies in place for family members of current employees. This ordinance does not supersede collective bargaining agreements. However, the ordinance establishes procedures for developing processes and plans through the CDO and the OHR to implement fair recruitment and employment practices as well as a uniform complaint procedure. The ordinance also provides for a transparent hiring process where disclosures, notifications, and recusal practices are required when family relationships exist. The ordinance will eliminate conflicts of interest in hiring and promotional practices of the City and will establish standards to ensure fairness and opportunity in the hiring and promotional practices of the City.

By the Chair of the Committee on Government Operations, to which the following was referred:

*Docket #0259, Ordinance Amending City of Boston Code, Ordinances, Chapter XV, Section X and Establishing the Boston Fair Chance Act,*

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:



Ricardo Arroyo, Chair  
Committee on Government Operations