

Sen. Morse, Dist 22
Sen. Bradley, Dist 3
Sen. Avar, Dist 12
May 26, 2021
2021-1770s
11/04

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 330 with the following:

2

3 330 New Subdivision; State Commission on Human Rights; Right to Freedom From
4 Discrimination in Public Workplaces and Education. Amend RSA 354-A by inserting after section 28
5 the following new subdivision:

6 Right to Freedom from Discrimination in Public Workplaces and Education

7 354-A:29 Right to Freedom from Discrimination in Public Workplaces and Education.

8 I. The general court hereby finds and declares that practices of discrimination against any
9 New Hampshire inhabitants because of age, sex, gender identity, sexual orientation, race, creed,
10 color, marital status, familial status, mental or physical disability, religion, or national origin are a
11 matter of state concern, that discrimination based on these characteristics not only threatens the
12 rights and proper privileges of New Hampshire inhabitants but menaces the institutions and
13 foundation of a free democratic state and threatens the peace, order, health, safety and general
14 welfare of the state and its inhabitants.

15 II. Nothing in this subdivision shall be construed to prohibit racial, sexual, religious, or
16 other workplace sensitivity training based on the inherent humanity and equality of all persons and
17 the ideal that all persons are entitled to be treated with equality, dignity, and respect.

18 III. Nothing in this subdivision shall be construed to limit the academic freedom of faculty
19 members of the university system of New Hampshire and the community college system of New
20 Hampshire to conduct research, publish, lecture, or teach in the academic setting.

21 354-A:30 Definitions. In this subdivision:

22 I. "Government program" means any activity undertaken by a public employer, both as an
23 employer and in performance of its government function.

24 II. "Public employee" means any person working on a full-time or part-time basis for the
25 state, or any subdivision thereof, including, but not limited to counties, cities, towns, precincts,
26 water districts, school districts, school administrative units, or quasi-public entities.

27 III. "Public employer" includes the state or any subdivision thereof, including, but not
28 limited to counties, cities, towns, precincts, water districts, school districts, school administrative
29 units, or quasi-public entities.

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1 354-A:31 Prohibition on Public Employers. No public employer, either directly or through the
2 use of an outside contractor, shall teach, advocate, instruct, or train any employee, student, service
3 recipient, contractor, staff member, inmate, or any other individual or group, any one or more of the
4 following:

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

9 II. That an individual, by virtue of his or her age, sex, gender identity, sexual orientation,
10 race, creed, color, marital status, familial status, mental or physical disability, religion, or national
11 origin is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

12 III. That an individual should be discriminated against or receive adverse treatment solely
13 or partly because of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital
14 status, familial status, mental or physical disability, religion, or national origin; or

15 IV. That people of one age, sex, gender identity, sexual orientation, race, creed, color,
16 marital status, familial status, mental or physical disability, religion, or national origin cannot and
17 should not attempt to treat others equally and/or without regard to age, sex, gender identity, sexual
18 orientation, race, creed, color, marital status, familial status, mental or physical disability, religion,
19 or national origin.

20 354-A:32 Prohibition on the Content of Government Programs and Speech. No government
21 program shall teach, advocate, or advance any one or more of the following:

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

26 II. That an individual, by virtue of his or her age, sex, gender identity, sexual orientation,
27 race, creed, color, marital status, familial status, mental or physical disability, religion, or national
28 origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

29 III. That an individual should be discriminated against or receive adverse treatment solely
30 or partly because of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital
31 status, familial status, mental or physical disability, religion, or national origin; or

32 IV. That people of one age, sex, gender identity, sexual orientation, race, creed, color,
33 marital status, familial status, mental or physical disability, religion, or national origin cannot and
34 should not attempt to treat others equally and/or without regard to age, sex, gender identity, sexual
35 orientation, race, creed, color, marital status, familial status, mental or physical disability, religion,
36 or national origin.

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1 354-A:33 Protection for Public Employees. No public employee shall be subject to any adverse
2 employment action, warning, or discipline of any kind for refusing to participate in any training,
3 program, or other activity at which a public employer or government program advocates, trains,
4 teaches, instructs, or compels participants to express belief in, or support for, any one or more of the
5 following:

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

10 II. That an individual, by virtue of his or her age, sex, gender identity, sexual orientation,
11 race, creed, color, marital status, familial status, mental or physical disability, religion, or national
12 origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

13 III. That an individual should be discriminated against or receive adverse treatment solely
14 or partly because of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital
15 status, familial status, mental or physical disability, religion, or national origin; or

16 IV. That people of one age, sex, gender identity, sexual orientation, race, creed, color,
17 marital status, familial status, mental or physical disability, religion, or national origin cannot and
18 should not attempt to treat others equally and/or without regard to age, sex, gender identity, sexual
19 orientation, race, creed, color, marital status, familial status, mental or physical disability, religion,
20 or national origin.

21 354-A:34 Remedies. Any person aggrieved by an act made unlawful under this subdivision may
22 pursue all of the remedies available under RSA 354-A, RSA 491, RSA 275-E, or RSA 98-E, or any
23 other applicable common law or statutory cause of action.

24 330-a New Section; Prohibition on Teaching Discrimination. Amend RSA 193 by inserting after
25 section 39 the following new section:

26 193:40 Prohibition on Teaching Discrimination.

27 I. No pupil in any public school in this state shall be taught, instructed, inculcated or
28 compelled to express belief in, or support for, any one or more of the following:

29 (a) That one's age, sex, gender identity, sexual orientation, race, creed, color, marital
30 status, familial status, mental or physical disability, religion or national origin is inherently superior
31 to people of another age, sex, gender identity, sexual orientation, race, creed, color, marital status,
32 familial status, mental or physical disability, religion, or national origin;

33 (b) That an individual, by virtue of his or her age, sex, gender identity, sexual
34 orientation, race, creed, color, marital status, familial status, mental or physical disability, religion,
35 or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

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1 (c) That an individual should be discriminated against or receive adverse treatment
2 solely or partly because of his or her age, sex, gender identity, sexual orientation, race, creed, color,
3 marital status, familial status, mental or physical disability, religion, or national origin; or

4 (d) That people of one age, sex, gender identity, sexual orientation, race, creed, color,
5 marital status, familial status, mental or physical disability, religion, or national origin cannot and
6 should not attempt to treat others without regard to age, sex, gender identity, sexual orientation,
7 race, creed, color, marital status, familial status, mental or physical disability, religion, or national
8 origin.

9 II. Nothing in this section shall be construed to prohibit discussing, as part of a larger
10 course of academic instruction, the historical existence of ideas and subjects identified in this
11 section.

12 III. Any person claiming to be aggrieved by a violation of this section, including the attorney
13 general, may initiate a civil action against a school or school district in superior court for legal or
14 equitable relief, or with the New Hampshire commission for human rights as provided in RSA 354-
15 A:34.

16 IV. Violation of this section by an educator shall be considered a violation of the educator
17 code of conduct that justifies disciplinary sanction by the state board of education.

18 V. For the purposes of this section, “educator” means a professional employee of any school
19 district whose position requires certification by the state board pursuant to RSA 189:39.
20 Administrators, specialists, and teachers are included within the definition of this term.

21 330-b Severability. If any provision of sections 330 through 330-a, or the application of any
22 provision to any person or circumstance is held to be invalid, the remainder of such sections, and
23 their application to any other persons or circumstances shall not be affected thereby.

24
25 Amend the bill by replacing section 331 with the following:

26
27 331 Effective Date. Sections 330 - 330-b of this act shall take effect upon passage.

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AMENDED ANALYSIS

Replace:

76. Establishes and describes a right to freedom from certain types of discrimination based on age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin in public workplaces and education.

UNAPPROVED