

[draft] WARRANT ARTICLE 12

CTO&S “Starting Point” Language Before Potential Amendments

VOTED to amend the Town's General By-Laws, Article 3.14 as follows (language to be stricken appearing in ~~strikeout~~, language to be added appearing in underline):

ARTICLE 3.14

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS

SECTION 3.14.1 ESTABLISHMENT AND PURPOSE

This By-law establishes the Commission for Diversity, Inclusion, and Community Relations (“Commission” or “CDICR”) and the Office of Diversity, Inclusion, and Community Relations (“Office” or “ODICR”).

Valuing diversity, ~~and~~ inclusion, and equity in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (“Town”), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion and equity. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, “Brookline Protected Classes”).

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing. The Commission shall at all times hold all matters in confidence to the fullest extent allowed by law and shall respect and protect the rights of privacy and confidentiality of all to the fullest extent possible.

The Commission shall consist of fifteen (15) residents, who shall be called Commissioners.

Commissioners shall be appointed by the Select Board and shall hold office for a period of not more than three (3) years with terms of office expiring on August 31 of an appropriate year in a staggered manner so that approximately one-third (1/3) of the terms of the Commissioners will expire each year. A Commissioner whose term is expiring is expected to submit their renewal application to the Select Board not later than August 1 of the expiration year. The term of a Commissioner who does not submit a renewal application in a timely manner shall expire on August 31 of that year. The term of a Commissioner who submits a timely renewal application shall then be extended until notified by the Town Administrator that the renewal application has been acted upon. If the application is denied, the term of that Commissioner shall expire five (5) days after the date of the denial letter. If the application is approved, the term shall expire on August 31 of the year specified in the approval letter.

The Select Board may appoint additional non-voting associate members (in accordance with Section 3.1.5) as it determines to be necessary, which may include youth, i.e., persons under the age of 18, or persons who do not reside in Brookline but have a substantial connection to Brookline or to the Brookline Public Schools. The Select Board shall select one of its members to serve ex officio as a nonvoting member of the Commission. A quorum of the Commission shall consist of a majority of the serving members on the Commission, with a minimum of six.

The Select Board shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training necessary to enable the Commission to perform the duties assigned to it by this By-law. All Commissioners shall serve without compensation.

In the event of discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the Select Board candidates to fill such vacancies.

SECTION 3.14.2 APPOINTMENT, ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be an Office of Diversity, Inclusion and Community Relations ("Office"), which shall be a unit of the Select Board's Office, and led by a professional in the field of civil rights ~~human relations~~ or similar relevant field of knowledge, who shall be known as the Director of the Office of Diversity, Inclusion and Community Relations ("Director"), and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town. In the event of a vacancy in the position of Director, the Town Administrator, after consultation with the Commission, shall recommend to the Select Board a replacement with appropriate qualifications.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this By-law or any other By-law giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out the Director's duties. ~~The Office shall be physically situated in whatever department the Town Administrator determines would most easily provide the Director any such assistance.~~

The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator. The Director/CDO may bring a matter directly to the attention of the Select Board in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO works with the Human Resources Office to promote diversity and inclusion.

~~The CDO shall serve in the role of ombudsperson to provide information and guidance and manage the complaint process as described in Section 3.14.3 (B), dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, or in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.~~

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the Select Board of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion. The policy shall also describe ways in which to increase diversity and inclusion at public and private institutions.

~~The CDO shall respect the rights to privacy and confidentiality of all individuals and hold all matters in confidence to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO shall report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who comes in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after seeking the services of the CDO in said officer's role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see Section 3.14.3(A)(v)).~~

~~The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss with the Commission, in general terms, the problems or issues that such individual cases, provided, however, doing so does not violate any person's rights to privacy.~~

The CDO shall serve as an ombudsperson to provide information and guidance to all persons, including employees of the Town, if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such persons to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, the Police Department's Civilian Complaint Procedure, their union

representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall at all times hold all matters in confidence to the fullest extent allowed by law and shall respect and protect to the fullest extent possible the privacy rights of all individuals but may discuss with the Commission, only in general terms, and in specific terms only with the consent of all parties, the problems or issues that individual cases present, provided, however, that doing so does not violate any person's rights to privacy.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii) Work with the Select Board, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, and awareness of and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the Select Board, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto, and make recommendations ~~suggestions~~ through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity and inclusion policy;

(v) Receive complaints of discrimination against individuals based on their membership in a Brookline Protected Class as described in 3.14.3 (B);

~~(v) Receive Complaints Against the Town, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see Section 3.14.2), and after notifying the Town Administrator, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board, Library Trustees or Moderator as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies. This By-law does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Civilian Complaint Procedure or the Human Resources Office's procedures;~~

~~(vi) Receive Complaints Against the Public Schools of Brookline, directly or through the CDO, against the Public Schools of Brookline, its employees, agencies, or officials concerning~~

~~allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Superintendent and/or School Committee as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition provide the complainant with information on complainant's options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.~~

~~(vii) Receive Other Complaints from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. After receiving such a complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board within 90 days of receipt of the complaint. The Commission/CDO may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies.~~

~~(vii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v), (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the annual report filed with the Board pursuant to Section 3.14.6 of this By-law.~~

~~(viii) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt of such complaints and follow-up by the Commission to the extent not inconsistent with the procedures set forth in paragraphs (v) and (vi);~~

~~(ixvi) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this By-law in relation to its Fair Housing responsibilities, as authorized by law, under Bylaw 5.5;~~

~~(x) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson, to facilitate changes that will reduce and eliminate violations of rights;~~

~~(xivii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;~~

~~(xiiiviii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity, and inclusion, and equity, and encourage public and private agencies to respond to those youth needs.~~

(B) To carry out the responsibilities under Section 3.14.3(A)(v), a Complaint Committee (CC) will be established and charged with investigating and receiving complaints, directly or through

the Chief Diversity Officer (CDO). Complaints involving allegations of discrimination may be made by a person claiming to be aggrieved, by a duly authorized representative of such person, or by an organization whose members include those persons claiming to be aggrieved, against the Town, its employees, agencies, or officials or against another adult person or organization concerning incidents of discrimination occurring in Brookline. These complaints may involve incidents, if illegal under federal or State law, regarding, but not limited to, employment, public accommodations, housing, policing, education, and provision of services, health care, or credit. Furthermore, this Bylaw shall be applicable to students, faculty and staff of the School Department to the extent permitted by State and federal law (including, but not limited to, Title IX).

(i) The CC shall work with the CDO to provide reasonable accommodations and translators if needed for individuals with limited English proficiency, disability or other communication or access issues.

(ii) The CC shall consist of not more than 7 persons appointed at a public meeting by the Select Board in consultation with the Commission and Town Counsel. The CC members shall be appointed for three-year renewable terms following the same process as Commissioners, described in Section 3.14.1. The CC shall include attorneys with applicable civil rights experience or other individuals with applicable professional civil rights experience (together, “civil rights professionals”) as well as members of historically marginalized communities, i.e., individuals in groups historically excluded due to their membership in a protected class. Members of the CC must be residents of Brookline with the ability necessary to perform the duties assigned to the CC under this By-law, including fair and equitable performance of the CC’s quasi-judicial responsibilities, including adherence to laws and procedures. At least one shall be a member of the Commission. The CC shall choose its Chair for one-year renewable terms. The CDO and its staff shall be the staff for the CC.

Members of the CC shall receive training approved by the Office of Town Counsel. The CC shall at all times hold all matters in confidence to the fullest extent allowed by law and shall respect and protect the privacy rights of all to the fullest extent possible but may discuss with the Commission, only in general terms, and in specific terms only with the consent of all parties, the problems or issues that individual cases present, provided, however, that doing so does not violate any person’s rights to privacy.

(iii) The CC shall create a complaint form which must be signed and contain a sworn statement certifying the truth of the allegations contained therein, but the CC may receive initial complaints in any written form or orally. The CC shall take steps to publicize its procedures. Complaints may be received by any member of the Commission, the CC, the CDO, or the staff member within the ODICR, but shall be delivered to the CDO for logging in and review pursuant to Section 3.14.3(B)(iv). If an initial oral or other complaint is received in a form other than the CC complaint form, the complainant may edit the CC form and additional materials prepared by the person(s) receiving the complaint, but shall be required to sign and swear to the written CC complaint form as provided above. During the initial receipt of the complaint and at any point thereafter, the CDO shall advise the complainant, in writing, of the right to file a complaint with the Massachusetts Commission Against Discrimination (MCAD), other appropriate Town departments, and other appropriate federal, state or local agencies in lieu of pursuing rights under this Bylaw. A copy of the complaint shall also be promptly given to the respondent who shall

have thirty (30) days from the date of receipt by respondent to file an answer with the CC. Complaints must be received within three hundred (300) days of the latest discriminatory act on which the complaint is based, provided that (a) where the unlawful conduct is of a continuing nature and part of an ongoing pattern of discrimination, the complaint may include actions outside the statutory filing period so long as the latest unlawful act occurred within the filing period; (b) the time for filing begins on the date on which the complainant knew or should have known about the allegedly unlawful conduct; (c) the time for filing may be extended by the pendency of collective bargaining mandated grievance processes and principles of equitable tolling, and (d) the CC may also extend the deadline for other good cause shown if requested before the deadline has passed; otherwise if the complainant can demonstrate excusable neglect.

(iv) The CDO shall, using written and published criteria developed with the CC, privately review each complaint to determine whether the facts as alleged by the complainant would plausibly suggest that the acts complained about would constitute discrimination under this Bylaw; if so, the complaint will be referred to the CC. This plausibility review shall be completed in thirty (30) days after receipt of the complaint unless the CDO determines an extension is necessary. The CDO shall notify the complainant and respondent of its case determination or if an extension is necessary.

(v) If the CDO determines that the complainant has not plausibly established a case of discrimination under this Bylaw, the complainant has forty-five (45) days to appeal the determination to the CC from the time of its receipt. This appeal will be heard in a private proceeding by one member of the CC who is a civil rights professional who is an attorney, and shall be completed within thirty (30) days of receipt of the appeal.

(vi) At any point, including prior to or after the filing of a complaint, the parties may agree to submit the matters in dispute to alternative dispute resolution, including but not limited to mediation, arbitration, and restorative justice. The alternative dispute resolution may be conducted informally by the CDO or its designee, or formally by an impartial arbitrator agreed to by the parties or appointed by the American Arbitration Association subject to their rules and procedures, and in the absence of agreement by the parties the CDO or its designee will designate which particular rule set shall apply. The results of the alternative dispute resolution shall be considered a binding agreement enforceable in a court proceeding, as may be permitted by law.

(vii) If the CDO's initial review or the complainant's appeal to the CC results in a determination that the case plausibly falls within the jurisdiction of the CC, the CDO or its designee and one member of the CC who was not previously involved in the proceedings shall conduct a private investigation of the complaint. The CC shall adopt and publish rules of procedure for its private investigations. The investigation may typically involve interviews of the parties and witnesses, review of pertinent documents and videos, and review of other relevant sources. The results of the investigation shall be reported to the parties, including notice of their right to appeal, and to the full CC. The complainant and respondent may elect to submit written documentation to also be submitted with the report to the CC. If the investigation concludes that no violation of this Bylaw has occurred, the CC shall dismiss the complaint, with notice to the complainant of their appeal rights. If the investigation concludes that the respondent has violated this Bylaw and no appeal is filed, the CC shall seek relief as set forth in Section 3.14.3(B)(x).

(viii) The complainant or respondent may appeal the results of the investigation within forty-five (45) days of receiving the investigation report. If appealed by either party, there will be an appeal hearing before a panel of three (3) members of the CC chosen by its Chair, including at least two civil rights professionals, at least one of whom is an attorney, other than the CC member or members involved in prior stages of the procedure, and the hearing shall be held within thirty (30) days of the appeal filing date, or as soon thereafter as practicable after completion of any discovery and process as set forth in Section 3.14.3(B)(ix). Based upon all of the evidence and information presented on appeal, the panel shall affirm or overturn the results of the investigation and report its decision to the parties and the full CC. If the panel reports to the CC that no violation of this Bylaw has occurred, the CC shall dismiss the complaint. If the panel reports to the CC that the respondent has violated this Bylaw, the CC shall seek relief as set forth in Section 3.14.3(B)(x). The CC shall adopt and publish rules of procedure for its appeal hearings.

(ix) The CC shall have the power to subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before it, provided that such process shall be utilized at the reasonable request of either complainant or respondent. Witnesses shall be summoned in the same manner and be paid the same fees as witnesses in civil cases before the courts. Town departments and agencies shall cooperate as described in Section 3.14.5.

(x) If, upon all the evidence, the CC shall find that a respondent has engaged in any violation of this Bylaw, the CC shall seek relief within thirty (30) days of the panel's report, through one or more of the following actions:

(a) If the respondent is an employee, agent or official of the Town or the Town itself, the CC shall provide written findings of fact and recommendations to the Select Board. If the respondent is an employee, agent or official of the School Department, the CC shall provide written findings of fact and recommendations to the Superintendent of Schools and, in the case of the Superintendent, to the School Committee.

(b) If the respondent is a person or organization not described in subparagraph (a) above the CC may (through the Chief Diversity Officer) issue a notice of violation to the respondent and provide written findings of fact and recommendations to the Select Board or, in the case of a student in the Brookline Public Schools, to the Superintendent of Schools.

(xi) A person may not retaliate against another person who, in good faith, filed a complaint, testified, participated, or assisted in any way in a proceeding under this bylaw, nor may they retaliate against any associates of said person. A person may not intimidate a witness, complainant, or respondent in a proceeding before the Commission. Administrative or judicial claims for sanctions, compensation or equitable or other relief shall not constitute a violation of this Section 3.14.3(B)(xi).

(xii) The CDICR shall work with the CDO to facilitate changes, including taking appropriate corrective actions, that will reduce or eliminate violations of this by-law and the civil or human rights of persons or organizations who come into contact with the Town as reflected in the complaints or pattern of complaints filed with the CC.

(xiii) The CDO shall develop a log for complaints filed with the CC and render to the Select Board a written report of the activities and recommendations of its office and the Committee under this Bylaw quarterly. This report shall be made available to the public as may be required by the Massachusetts public records law. Such log and report shall respect and protect the rights of privacy and confidentiality of all to the fullest extent possible and provide information regarding complaints only in general terms, and in specific terms only with the consent of all parties, provided, however, that doing so does not violate any person's rights to privacy.

(BC) To carry out the foregoing responsibilities, the Commission is also authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(i) Conduct or receive research in the field of employment discrimination, human rights, and human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after ~~approval by the Select Board~~ and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;

(i) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;

(ii) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(CD) At least every two years, the Commission shall prepare written organizational goals ~~for the Commission~~ ("Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) designated as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the Select Board at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the Select Board at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission, with the approval of the Select Board, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners, shall include procedural rules and regulations approved by Town Counsel for

receiving and processing complaints under Section 3.14.3(B), including all stages from complaint receipt through final disposition, and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues. The Commission may also establish procedures and rules and regulations to carry out its responsibilities with respect to applicable civil rights laws and Fair Housing (see Town Fair Housing By-law, Section 5.5), with the approval of the Select Board, after review by Town Counsel. Such rules and regulations may further provide for the governance of the Commission with respect to matters such as the appointments of committees as necessary to deal with specific community issues or concerns.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Commission shall notify the Town Administrator of all complaints it records. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All such notifications shall respect and protect to the fullest extent possible the right to privacy and confidentiality of all, discussing the complaints and problems presented only in general terms, or in specific terms only with the consent of all parties, provided, however, that doing so does not violate any person's rights to privacy. All departments and agencies ~~in~~ of the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on ~~them~~ respond to questions and provide information and feedback. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form. The Police Chief shall annually present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission's reasonable requests for information, as it reasonably requests.

SECTION 3.14.6 REPORT

With the assistance of the Director, the Commission shall submit an annual report to the Select Board, the School Committee, and the Board of Library Trustees detailing its activities and the results thereof. This report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the implementation and achievement of the Commission's Goals and its diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. Such report shall respect and protect the rights of privacy and confidentiality of all to the fullest extent possible and provide information regarding complaints only in general terms, and in specific

terms only with the consent of all parties, provided, however, that doing so does not violate any person's rights to privacy. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five (5) years thereafter, the Commission shall review this By-law and any other related Town by-laws, in consultation with other pertinent departments, and propose changes if necessary, by preparation of appropriate Warrant Articles for consideration by Town Meeting.

~~SECTION 3.14.8 EFFECTIVE DATE OF DECEMBER 12, 2019 AMENDMENTS~~

~~The amendments, as indicated in strikethrough, bold and underlined, adopted on December 12, 2019, become effective July 1, 2021.~~

SECTION 3.14.8 EFFECTIVE DATE OF SPRING 2022 ANNUAL TOWN MEETING AMENDMENTS

The amendments, as indicated in strikethrough, bold and underlined, adopted at the Spring 2022 Annual Town Meeting, become effective upon compliance with G.L. c.40, §32, and the later of (a) six months after compliance with G.L. c.40, §32; or (b) the completion of the required initial training and adoption of regulations and rules of procedure as provided herein.

SECTION 3.14.89 SEVERABILITY

The provisions of this By-law shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

SECTION 3.14.910 RESOLUTION OF CONFLICTING PROVISIONS

In case of any conflict between this By-law and other By-laws, the Provision(s) last adopted by Town Meeting shall prevail.

SECTION 3.14.1011 APPLICATION OF THIS BY-LAW

Should any remedies in this By-law conflict with grievance or dispute resolution procedures in collective bargaining agreements with the Town's unions, the provisions of the collective bargaining agreements shall apply so long as all members of Brookline Protected Classes are protected.

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POTENTIAL AMENDMENTS UNDER ARTICLE 12

Potential Amendment to Petitioners' Language to Remove Fines

If Petitioners' language is used as the "starting point" for amendments, the following language would remove the ability of the Complaint Committee to issue fines:

To substitute the following for Section 3.14.3(B)(x)(b):

(b) If the respondent is a person or organization not described in subparagraph (a) above the CC may (through the Chief Diversity Officer) issue a notice of violation to the respondent and provide written findings of fact and recommendations to the Select Board or, in the case of a student in the Brookline Public Schools, to the Superintendent of Schools.

Potential Amendment to CTO&S Language to Add Fines

If the CTO&S language is used as the “starting point” for amendments, the following language would give the Complaint Committee the authority to issue fines:

MOVED:

To substitute the following for Section 3.14.3(B)(x)(b):

(b) If the respondent is a person or organization not described in subparagraph (a) above the CC may (through the Chief Diversity Officer) issue a notice of violation to the respondent and provide written findings of fact and recommendations to the Select Board or, in the case of a student in the Brookline Public Schools, to the Superintendent of Schools. To the extent the law allows, the CC may additionally levy a civil fine of three hundred dollars (\$300) for each such violation or other such sum as allowed by law. Each day or separate violation of this Bylaw shall constitute a separate offense. Any such penalty or penalties shall be enforced through non-criminal disposition as set forth in G.L. c.40 §21D.

Potential Amendment to CTO&S and Petitioners’ Language to Remove Subpoena Power

If Town Meeting does not wish to give the CC the authority to subpoena witnesses, compel testimony, and so on, the following would delete the subpoena authority without requiring the renumbering of paragraphs:

MOVED:

To delete the following Section 3.14.3(B)(ix):

(ix) The CC shall have the power to subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before it, provided that such process shall be utilized at the reasonable request of either complainant or respondent. Witnesses shall be summoned in the same manner and be paid the same fees as witnesses in civil cases before the courts. Town departments and agencies shall cooperate as described in Section 3.14.5.

and to substitute the following Section 3.14.3(B)(ix):

(ix) [Reserved]

and to remove the following language from Section 3.14.3(B)(vii):

or as soon thereafter as practicable after completion of any discovery and process as set forth in Section 3.14.3(B)(ix).

Potential Amendment to CTO&S and Petitioners' Language to Narrow Reach of Article 12 with Regard to Public School Students

If students (over the age of 17) are to be subject to Article 12, the following amendment attempts to make clear that Article 12 would not apply to on-campus conduct by students, where discipline appears to be solely within control of the Schools.

MOVED:

To add the words “for off-campus incidents” to the final sentence of By-Law Section 3.14.3(B) so that such sentence reads: “Furthermore, this Bylaw shall be applicable to students for off-campus incidents, faculty and staff of the School Department to the extent permitted by State and federal law (including, but not limited to, Title IX).”

WARRANT ARTICLE 13

If Warrant Article 12 (By-Law Article 3.14.3(B) complaint procedures) is passed with the CTO&S “starting point” language (or is passed with amendments deleting the subpoena power and amending the application to students) the following votes would be consistent:

1. “FAVORABLE ACTION” on the amendment to By-Law Article 5.5 (Fair Housing By-Law) proposed in Warrant Article 13 (incorporating the Article 3.14.3(B) complaint procedures)
2. “FAVORABLE ACTION” on the amendment to By-Law Article 10.2 proposed in Warrant Article 13 (CDICR prosecution and enforcement of By-Law Article 3.14)
3. “NO ACTION” on the amendment to By-Law Article 10.3 proposed in Warrant Article 13 (would have proved \$300 per day penalty for violations of By-Law Section 3.14.3(B), which CTO&S does not support).

If Warrant Article 12 is referred, Article 13 should also be referred.

If “no action” is voted on Article 12, “no action” on Article 13 would be consistent.