

ARTICLE 19

**REPORT OF THE COMMITTEE ON TOWN ORGANIZATION & STRUCTURE
(CTO&S) ON WARRANT ARTICLE 19**

Article 19 would amend the Town By-Laws to create a Brookline Black and Brown Commission. The purpose of the Commission would be to “[a]ct as a centralizing force” to address “all Black and Brown issues”; to provide “information, referral, guidance and coordination” to other public agencies, community organizations, and individuals engaged in “activities and programs intended to eliminate systemic racism, prejudice, and discrimination” based on racial status as Black or Brown; and to take appropriate actions to advance the aims of Art. 1 of the Declaration of Rights in the Massachusetts Constitution, the Commonwealth’s equal protection clause.

The Town By-Laws provide for other Commissions similarly focused on other groups, such as the Commission for Women (Art. 3.9), the Commission on Disability (Art. 3.23), and the Council on Aging (Art. 3.10). Petitioners have modeled the powers and duties of the proposed Black and Brown Commission to largely track those of the Commission for Women. *See* By-law Article 3.9.3. Brookline would not be alone in the Commonwealth in establishing such a commission. In 2021, the City of Boston adopted a City Ordinance creating a Black Men and Boys Commission consisting of 21 members appointed by the Mayor, with one youth member.

Working with an *ad hoc* subcommittee of the Advisory Committee, the Petitioners have agreed to revisions that address, to CTOS’s satisfaction, the organizational and structural concerns raised by the original article. In particular, the definitions of “Black” and “Brown” have been revised to be more inclusive of residents who may experience direct or indirect discrimination due to the color of their skin. The appointment of members to the Commission will be made by the Select Board, which will consult with the Office of Diversity, Inclusion and Community Relations and will receive input from the general public, including the Black and Brown community.

The Petitioners have expressed a view, and CTOS agrees, that the Commission is most likely to be successful if its composition includes members of the community that it is intended to serve. The composition of other town Commissions appears to reflect a similar belief. For example, the Town By-Laws require that the Commission on Disability have a majority of its members be persons with disabilities, and one member must be a person who is an immediate family member of a person with a disability. *See* By-Law Article 3.23.4. This composition is, in fact, required by state law. *See* G.L. ch. 40, Sec. 8J. Similarly, the Council on Aging, which the Select Board appoints after receiving recommendations from “public and private agencies concerned with the welfare of older persons,” must have 51% be 60 years old or older. *See* By-Law Article 3.10.2. The Council on Aging is also a creature of state law, but the enabling statute does not specify the make-up of the Council. *See* G.L. ch. 40, Sec. 8B. The Housing Advisory Board must have three members who are low- or moderate-income tenants who reside in subsidized housing and

one must be a resident of a Brookline Housing Authority apartment or receive BHA-administered rent subsidies. *See* By-Law Article 3.13.2.

However, the original Article 19 proposed a process for appointing members to the Commission that would have used racial classifications. That process would have been subject to strict scrutiny review by courts, which it would not have likely survived. The revised Article 19 moved by the Advisory Committee contains no explicit or implicit requirements about the race of the Commission members or of anyone who participates in the selection of the members. Composition of the Commission rests in the discretion of the Select Board, with appropriate inputs from others.

In support of Article 19, the Petitioners spoke to CTOS about the need to increase the participation of Black and Brown residents in Town government. CTOS agrees. The Town’s recent Updated Disparity Report (March 2022) provides support for this view. *See* Updated Disparity Report (March 2022) at 88 (“there are numerous systemic barriers that limit participation from Brookline’s BIPOC communities”; “As a Town, we need to find better ways to engage those most impacted by the disparities contained in this report in the design and leadership of this work”; “It is necessary to provide meaningful and accessible opportunities to increase public participation within the Town”; “It is imperative to empower the diverse and often underrepresented residents of our community to participate civically in Brookline.”).

CTO&S Recommendation

By a vote of 4-0-2, the Committee on Town Organization & Structure recommends “FAVORABLE ACTION” on the Advisory Committee’s motion under Article 19.