



**In re: Establishment of the Office of Racial Equity and
Social Justice
(Bill S.1359-Kennedy/A.4187-Peoples-Stokes)
Memorandum of Opposition**

Bill S.1359-Kennedy/ A.4187-Peoples-Stokes provides for the establishment of an Office of Racial Equity and Social Justice within the executive branch of New York government. This bill is deeply misguided and should not become law.

The proposed Office of Racial Equity and Social Justice (the “Office”) would be charged with a series of far-reaching responsibilities. Among other things, the office would coordinate changes in policy and state resource allocation to prevent “race or social justice constructs” from “predict[ing] an individual’s success.” In addition, the Office would oversee the establishment and implementation of a racial equity and social justice action plan that would “incorporate and embed racial equity and social justice principles and strategies” into state programs and operations and “eliminate inequity, institutional racism and individual racism...” The Office would also provide racial equity and social justice training for all state workers and would conduct racial equity and social justice reviews.

One issue with this bill is its assumption that New York government is plagued by major racial equity and social justice-related problems. (Absent such problems, why would the state need to create an Office of Racial Equity and Social Justice?) It may be true that New York government is rife with such problems; however, the bill’s sponsors have not identified or discussed them in the bill or the bill memorandum. Absent an explanation, policymakers and voters are left to wonder whether far-reaching legislation like this is actually needed.

Another issue with the bill is its vagueness and loose language. For example, the bill defines the term “social justice” as follows:

“Social justice” means every individual deserves to benefit from the same economic, political and social rights and opportunities, free from health

disparities, regardless of race; socioeconomic status; age; sex, including on the basis of gender identity or orientation; religion; disability; or other characteristics.

This definition of a key term leaves many questions unanswered. What, exactly, are “economic, political and social rights and opportunities?” What are the “health disparities” from which every individual should be free? And what are the “other characteristics” mentioned at the end of the list?

The bill’s definition of “race” is equally confusing:

“Race” means a social construct that artificially divides people into distinct groups based on characteristics such as physical appearance, including color; ancestral heritage; cultural affiliation; cultural history; ethnic classification; and the social, economic and political needs of a society at a given period.

The bill would also give the Office an inappropriate and unconstitutional level of authority in the areas of budgeting and policymaking. The bill purports to allow the Office to “act as the official state planning and coordinating office for changes in...allocation of state resources” based on social justice concerns. The only entity with the authority to make changes to the “allocation of state resources” is the New York State Legislature, acting through the budget process. Similarly, the bill would empower the Office to establish a racial equity and social justice action plan. The only entity with the authority to establish a racial equity and social justice action plan for the state of New York is the New York State Legislature.

Furthermore, the bill’s provisions regarding the relationship between the Office and other government departments and agencies are murky. The bill makes the Office responsible for implementing a racial equity and social justice action plan that “embed[s] racial equity and social justice principles and strategies” into state programs and operations. If the Office identifies racial equity and social justice concerns in another government department, does this legislation give the Office authority to direct that department to make changes to its practices?

This bill’s vagueness and loose language would give government appointees nearly unfettered discretion to call for policy changes and fiscal changes based on broad, subjective notions of social justice. While New Yorkers for Constitutional Freedoms fully supports efforts to root out injustice, we are constrained to oppose this legislation.