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RE: STRONGLY OPPOSE HB 1788 – Impact on Special Education Compliance and Student Rights

Dear Esteemed Members,

I am writing to you as a parent of a student with disabilities and as a Non-Attorney Special Education Advocate to express grave concerns regarding **HB 1788** and its potential to undermine the delivery of a Free Appropriate Public Education (FAPE) for students with disabilities, thereby exposing New Hampshire school districts to significant legal liability and federal non-compliance.

While HB 1788 is framed as a measure to restrict "Diversity, Equity, and Inclusion" (DEI) initiatives, its broad language creates a direct conflict with federal and state special education mandates. In the context of disability rights, "Equity" and "Inclusion" are not ideological abstractions—they are legal requirements under the **Individuals with Disabilities Education Act (IDEA)** and **Section 504 of the Rehabilitation Act**.

1. Erosion of FAPE and the "Endrew F." Standard The U.S. Supreme Court ruled in *Endrew F. v. Douglas County School District* (2017) that an IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." For many students, particularly those from marginalized backgrounds or those with intersectional needs (e.g., a non-speaking student of color), DEI frameworks are essential for clinicians to assess "circumstances" accurately. By chilling the use of equity-based data and culturally responsive assessments, HB 1788 prevents IEP teams from creating the "individualized" programming required by law, effectively denying FAPE.

2. Conflict with NH Ed 1100 (Least Restrictive Environment) NH Rules Ed 1111.01 requires that students with disabilities be educated in the Least Restrictive Environment (LRE). Successful "Inclusion" requires systemic training for staff on neuroaffirming practices and anti-bias measures. HB 1788 threatens the professional development necessary to sustain inclusive environments. If teachers are restricted from discussing or implementing equitable support structures, students with disabilities will be increasingly segregated, violating both NH Ed 1100 and the American with Disabilities Act (ADA).

3. Neuroaffirming Practice is Evidence-Based Practice Modern clinical standards for autism and ADHD focus on **neuroaffirming care** - an approach that views neurodivergence as a natural form of human diversity rather than a deficit to be cured. This approach is inherently tied to DEI principles. Restricting these frameworks forces schools back toward outdated "compliance-based" models that have been shown to increase student trauma and school refusal. Evidence-based special education *requires* acknowledging the diverse ways humans process information, which is the cornerstone of the "Diversity" HB 1788 seeks to limit.

4. Risk of Disproportionate Impact (Significant Disproportionality) Under IDEA Part B, states are federally mandated to monitor and address "significant disproportionality" in the identification, placement, and discipline of students with disabilities based on race and ethnicity. By prohibiting DEI training and equity-based analysis, HB 1788 strips school districts of the tools needed to correct these disparities. This could result in the loss of federal funding for NH districts that fail to meet federal compliance standards regarding equitable outcomes for students with disabilities.

In conclusion, HB 1788 creates a paradox where New Hampshire educators are told to ignore the very factors - equity, diversity, and individualized inclusion - that they are legally mandated to prioritize under federal law. This bill invites litigation, increases administrative burden, and, most importantly, harms our most vulnerable students by delegitimizing their unique identities and support needs.

I urge you to protect the integrity of our special education system and vote **INEXPEDIENT TO LEGISLATE** on HB 1788.