

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-16-22

WHEREAS California is the largest and most diverse state in the nation, shaped by the contributions of all its residents, including California Native Americans, communities of color, immigrants, and descendants of immigrants who call our golden state home, and welcomes all people to pursue bold dreams and renews the California dream for every new generation; and

WHEREAS California has a strong history of fighting for freedom and civil rights for all people; and

WHEREAS California leads the nation in confronting the climate crisis and building community resilience through equity and opportunity, including supporting communities that experience the greatest social and health inequities from climate change; and

WHEREAS California continues to march towards equality and to address our nation's and our State's historical wrongs, including through recognition of gay marriage in San Francisco; placing a moratorium on the death penalty in California; advancing immigrant equity and inclusion; protecting access to reproductive health care; compensating survivors of state-sponsored sterilization; ending sub-minimum wage employment; and recently forming the Truth and Healing Council and the Reparations Task Force; and

WHEREAS California has also demonstrated a fundamental commitment to prosperity and opportunity for all, including, but not limited to, advancing policies around health care for all; historic financial investments to advance educational equity; age-friendly communities; actions to further gender equity with the leadership of the First Partner; and the creation of a State Chief Equity Officer to provide statewide leadership and consultation on diversity, equity, inclusion, and accessibility regarding state operations, procurement, information technology, and human resources; and

WHEREAS the State has invested to improve language access across the spectrum of health and human services programs, and to increase participation of Californians who are non-English or limited-English speakers in California's public hearings and meetings, and will continue to work with agencies and departments to improve the delivery of language access and accessibility; and

WHEREAS despite this progress, continued work remains to attain our shared goals of providing equal opportunity for all and addressing persistent disparities in outcomes; and

WHEREAS state government can take additional concrete steps to address existing disparities in opportunities and outcomes and advance equity by designing and delivering state services and programs, consistent with federal and state constitutional requirements, to address unequal starting points and drive equal outcomes so all Californians may reach their full potential and lead healthy and rewarding lives; and

WHEREAS agencies and departments within my Administration can and should take additional actions to embed explicit analysis of equity considerations in policies and practices, including by analyzing demographic

and geographic gaps in outcomes and access to funding and services, developing and consistently utilizing data analysis tools and practices to understand gaps in access to services and programs or outcomes from state programs, and reviewing community engagement strategies with a focus on Californians who reside in communities that have historically been underserved and marginalized; and

WHEREAS the Department of Finance is the State's chief advisor on fiscal policy and leads the annual budget process; and at my direction, the Department is requiring an analysis of equity considerations in budget change proposals through which all agencies and departments must obtain approval for changes in the level of service, and changes in funding sources for authorized activities or to propose new program activities not currently authorized, to improve the evaluation of any proposal's impact on Californians; and

WHEREAS a state workforce that reflects the diversity of the people of California is integral to our State's success in serving and responding to the needs of a diverse California population, and recent investments to ensure that positions in state government are attractive and available to Californians from all backgrounds will advance this goal; and

WHEREAS the Infrastructure Investment and Jobs Act, passed by Congress and signed into law in 2021, provides an opportunity for partnership with California small businesses, disadvantaged business enterprises, Tribal governments, community-based organizations, and nonprofit organizations to support more investment in economically and socially disadvantaged communities from this federal funding to modernize crucial infrastructure and accelerate our clean transportation progress; and

WHEREAS the State can improve outcomes and deliver better services by making its procurement policies simpler, faster, and more human-centered for buyers and vendor partners; and

WHEREAS the Targeted Area Contract Preference Act (TACPA) is a tool designed to stimulate economic growth and opportunities in disadvantaged zones throughout the State, and raising awareness of its benefits will increase opportunities for California-based companies to operate eligible worksites in these disadvantaged zones and employ Californians experiencing high unemployment or poverty; and

WHEREAS California's Civil Rights Department is the state agency charged with enforcing the Fair Employment and Housing Act; Unruh Civil Rights Act; Disabled Persons Act; Ralph Civil Rights Act, and other civil rights laws; adopting regulations to implement civil rights laws; providing dispute resolution services to people who believe they are the victim of discrimination; and providing community conflict resolution around discriminatory practices; and

WHEREAS California has advanced critical investments to respond to increased hate violence including establishing the Commission on the State of Hate in the Civil Rights Department to study hate in California, develop anti-hate resources for law enforcement and others, and make recommendations to better protect civil rights; to fund the "California versus Hate Resource Line and Network" to support survivors of hate incidents and crimes with culturally competent resources and services; and to improve the State's ability to understand and act to address economic and health impacts of hate, including through community engagement and sharing of anti-hate resources; and

WHEREAS California's Civil Rights Department is charged with publishing an annual report of pay data provided by private employers of 100 or more employees with at least one employee in California, to encourage employers to self-assess and voluntarily address pay disparities among demographic groups and to allow the Department to effectively enforce equal pay and anti-discrimination laws; and

WHEREAS the Office of Data and Innovation was recently reorganized to empower all state agencies and departments to drive better services, decisions, and outcomes through the use of data, user-centered design, and technology; and

WHEREAS data-driven goals and indicators are vital for state agencies and departments to measure opportunities and outcomes for all communities and to support public engagement and accountability in an efficient, effective, secure, and responsible manner; and

WHEREAS accelerating these actions and investments, including many achieved in partnership with the Legislature, and ensuring that agencies and departments explicitly consider equity and adoption of inclusive practices when developing strategic plans will strengthen the State's service to Californians and further collective efforts to improve opportunity by addressing disparities for underserved and marginalized communities; and

WHEREAS state agencies and departments and other governmental entities can benefit from having access to expertise, data tools, methodologies, and practices as they review programs and practices to further racial equity and achieve more equitable outcomes.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. All agencies and departments subject to my authority shall, for any strategic plans applicable during the 2023-24, 2024-25, and/or 2025-26 fiscal years:
 - a. develop or update the strategic plan to reflect the use of data analysis and inclusive practices to more effectively advance equity and to respond to identified disparities with changes to the organization's mission, vision, goals, data tools, policies, programs, operations, community engagement, tribal consultation policies and practices, and other actions as necessary to serve all Californians; and
 - b. as part of the development or updating of the strategic plans, engage and gather input from California communities that have been historically disadvantaged and underserved within the scope of policies or programs administered or implemented by the agency or department, and make the plans publicly available.
2. The Department of Human Resources (CalHR) shall undertake the following actions:
 - a. by July 1, 2023, report and analyze existing detailed state employee data and collect new data including race/ethnicity, gender identity, sexual orientation, age, and number of employees with a disability; and

- b. by December 31, 2023, design, develop, test, and maintain an anonymous hiring system in the Examination and Certification Online System (ECOS) for job applicants; and
 - c. by December 31, 2023, collect hiring and vacancy data from agencies and departments subject to my authority, to identify critical hard-to-fill positions, and create new pathways and/or apprenticeship opportunities for new and existing employees to qualify for these positions.
3. By November 15, 2022, all agencies and departments subject to my authority shall, to the extent that they apply for federal Infrastructure Investment and Jobs Act (IIJA):
 - a. develop and submit to the State's Infrastructure Coordinator action plans to increase access to the grant or contract selection process for small business and disadvantaged business enterprises for all federal IIJA funded contracts; and
 - b. develop and submit to the State's Infrastructure Coordinator action plans to meaningfully engage with tribal governments, nonprofits, and other community organizations to increase access to IIJA funding opportunities.
4. With respect to the Target Area Contract Preference Act (TACPA):
 - a. by September 30, 2022, the Department of General Services shall develop a training module for all agencies, departments, boards, and offices on the effective implementation of TACPA; and
 - b. by December 31, 2022, relevant contracting and programmatic staff at all agencies and departments subject to my authority shall complete the training described in subparagraph a.
5. By September 30, 2023, the California Health and Human Services Agency and the Government Operations Agency shall develop recommendations to improve language and communications access to state government services and programs.
6. The Civil Rights Department shall:
 - a. by September 1, 2023, increase utilization of dispute resolution services by 20% and analyze available data of complaints making use of dispute resolution services; and
 - b. by January 1, 2023, implement a robust anti-hate strategy by:
 - i. launching community conflict resolution services funded by the 2022-2023 Budget Act; and
 - ii. establishing the CA v. Hate Resource Line and Network; and
 - iii. launching the Commission on the State of Hate; and
 - c. by February 1, 2023, review existing regulations implementing non-discrimination protections in state programs and activities and initiate rulemaking as appropriate based on that review; and
 - d. by June 1, 2023, expand upon its existing efforts to collect, analyze, disseminate, and enforce pay data reporting requirements by providing employers, when feasible, a graphical report of their pay data to facilitate self-assessment and correction of unjustified pay disparities, and conducting new analyses of collected pay data to identify disparities by job category, region, and industry.
7. By June 30, 2023, the Office of Data and Innovation, in consultation with agencies subject to my authority, shall develop a set of statewide data and service standards and practices to support agencies and departments to identify and address disparities in government operations and services, including but not limited to, standards for collecting and managing race and

ethnicity data, metrics for measuring and tracking equity in state services and programs, and service delivery standards to support equity. This will include best practices to address sensitivities around data collection.

8. The Governor's Office of Planning and Research (OPR) shall create a Racial Equity Commission (commission), as follows:
 - a. The commission shall consist of eleven members who are California residents. My Administration shall appoint seven of the commission members. Additionally, OPR shall request that the Senate Committee on Rules appoint two members and that the Speaker of the Assembly appoint two members; and
 - b. Members will be appointed for a term of two years. Vacancies shall be filled in the same manner that provided for the original appointment; and
 - c. My Administration shall appoint, and the other appointing authorities are requested to appoint, individuals who have demonstrated expertise and meet criteria in at least one of the following areas:
 - i. analyzing, implementing, or developing public policies that impact racial equity as it relates to at least one of the following areas: broadband, climate change, disability rights, education, food insecurity, housing, immigration, land use, employment, environment, economic security, public health, health care, wealth, policing, criminal justice, transportation, youth leadership, agriculture, the wealth gap, entrepreneurship, arts and culture, voting rights, and public safety that may have an impact on racial equity or racial disparities; and
 - ii. developing or using data or budget equity assessment tools; and
 - iii. providing technical assistance in developing and implementing strategies for racial equity, including, but not limited to, guidance on employee training and support, development of racial equity programming, and assistance to organizations and departments on changing policies and practices to improve racial equity outcomes; and/or
 - iv. being a member of or representing an equity-focused organization that works with an impacted community whose lived experience will inform the work of the commission, including, but not limited to, members of the disability, immigrant, women's, and LGBTQ communities; and
 - d. My Administration also shall consider, and the other appointing authorities are also requested to consider, the expertise of the other members of the commission and make appointments that reflect the cultural, ethnic, racial, linguistic, sexual orientation, gender identity, immigrant experience, socioeconomic, age, disability, and geographical diversity of California; and
 - e. Commission members shall serve without compensation, but they may be reimbursed for necessary, pre-approved expenses incurred in connection with their duties, consistent with Government Code section 11009; and
 - f. The commission shall be staffed by OPR; and
 - g. The commission shall have the authority to:
 - i. hold hearings and perform acts that may be necessary to carry out the commission's duties; and
 - ii. engage with advisers or advisory committees when the commission determines that the experience or expertise of advisers or advisory committees is needed for commission work; and

- h. Relying upon publicly available information and data, the commission shall develop resources, best practices, and tools for advancing racial equity as follows:
- i. in consultation with private and public stakeholders, as appropriate, develop a statewide Racial Equity Framework. The Racial Equity Framework shall be approved by the commission, submitted to the Governor and the Legislature on or after December 1, 2024, but no later than April 1, 2025, and posted to the commission's internet website. The Racial Equity Framework shall set forth the following:
 1. methodologies and tools that can be employed in California to advance racial equity and address structural racism; and
 2. budget methodologies, including equity assessment tools, that entities can use to analyze how budget allocations benefit or burden communities of color; and
 3. processes for collecting and analyzing data effectively and safely, as appropriate and practicable, including disaggregation by race, ethnicity, sexual orientation and gender identity, disability, income, veteran status, or other key demographic variables and the use of proxies; and
 4. summaries of input and feedback from stakeholder engagements; and
 - ii. upon request by a state agency, provide technical assistance on implementing strategies for racial equity consistent with the Racial Equity Framework; and
 - iii. engage stakeholders and community members, including by holding quarterly stakeholder meetings, to seek input on the commission's work, as described; and
 - iv. engage, collaborate, and consult with policy experts to conduct analyses and develop tools, including by building on and collaborating with existing bodies, as appropriate; and
 - v. promote the ongoing, equitable delivery of benefits and opportunities by:
 1. providing technical assistance to local government entities engaging in racial equity programming, upon request from the local government; and
 2. encouraging the formation and implementation of racial equity initiatives by local government entities, including cities and counties; and
- i. The commission shall prepare an annual report that summarizes feedback from public engagement with communities of color, provides data on racial inequities and disparities in the State, and recommends best practices on tools, methodologies, and opportunities to advance racial equity. The report shall be submitted to the Governor and the Legislature and shall be posted publicly on the commission's internet website. The first annual report shall be completed on or after December 1, 2025, but no later than April 1, 2026, and annually thereafter.

IT IS FURTHER ORDERED that, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 13th day of September 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State