

# Civil Rights Violations in Buncombe County/ City of Asheville Policies and Expenditures

The violation of civil rights in pursuit of “equity”

# 14<sup>th</sup> Amendment, US Constitution

- **Section 1**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

# NC Constitution Article I, Section 19

- No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; **nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.**
- - applies to city/ county govt. *Piedmont Firefighters' Retirement Fund v. City of Winston-Salem*, 280 N.C. 541 (1972); *Stephenson v. Bartlett*, 355 N.C. 354 (2002)

# 1964 Civil Rights Act, Title VI

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”



# Affirmative action

- US v. Paradise, 480 U.S. 149 (1987) AA allowed only when agency has specific hx of intentional racial discrimination. Must be remedial to that same agency's actions, narrowly tailored and temporary.
  - Adarand Constructors, Inc. v. Peña (1995): AA but must pass strict scrutiny: compelling govt interest and narrowly tailored to meet that interest. Remedying general or societal discrimination does not qualify
  - Grutter v. Bollinger, 539 U.S. 306 (2003): allowed race as a plus factor. But no use of stereotypes, no racial quotas, no negative action upon nonfavored groups, must sunset.
- 
- SFFA v. UNC/ Harvard (2023): "Eliminating racial discrimination means eliminating all of it". Can no longer consider race as a plus factor.
  - Since *Paradise*, no case of affirmative action has been upheld except in college admissions. *SFFA* ended it in college admissions.

USSCT: Prohibition against discrimination applies to all races. Right to be free from racial discrimination is an individual's right, not a "group" right

- *Hernandez v. Texas*, 347 U.S. 475 (1954): 14<sup>th</sup> Amend. applies to other races.
- *Regents of Univ. of Ca. v. Bakke*, 438 U.S. 265 (1978): "The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal."
- *SFFA v. Harvard/ UNC*, 2023, 600 U.S. 181 (2023): "Eliminating racial discrimination means eliminating all of it."
- *Ames v. Ohio Dept of Youth Services* (2025). Title VII (employment) applies to individuals equally, w/o regard to whether they belong to a specific racial group. When law says "person" or "individual" shall be free from discrimination, it means person, not a group of people.



“Equality” v.  
“Equity”



# Equity Re-Defined

- Equity (original): legal concept to allow remediation where money damages were not sufficient. (allows for injunctions, specific performance in contract, cancellation of contract)
- Equity re-defined: “recognizes that each person has different circumstances and allocates the exact resources and opportunities needed to reach equal outcome”. -Univ of Washington





**EQUALITY**



**EQUITY**

# Equality v. Equity in Government

- **Equality:** The government entity treats each person the same, regardless of race, sex, sexual orientation, etc.. The entity does not account for immutable characteristics in assigning advantages and disadvantages to persons. In effect, the entity is “blind” to race, sex, religion, etc.

- **Equity:** The acting government, in an effort to eliminate disparities between groups of people, “sees” immutable characteristics and categorizes groups of people according to these characteristics. It then assigns advantages or disadvantages based on these characteristics. In other words, it is discrimination in an effort to achieve parity between groups.

# Law Requires Equality and Prohibits “Equity”



*Loving v. Va.*, 338 U.S. 1 (1967)

*Graham v. Richardson*, 403 U.S. 365 (1971)

*Regents v. Bakke*, 438 U.S. 265 (1978)

*Wygant v. Jackson BOE*, 476 U.S. 267 (1986)

*City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989)

*Adarand Constructors, Inc. v Peña* 515 U.S. 200 (1995)

*Gratz v. Bollinger*, 539 U.S. 244 (2003)

*Parents Involved v. Seattle School Dist.* 551 U.S. 701 (2007)

*Ricci v. DeStefano*, 557 U.S. 557 (2008)

*Students for Fair Admissions v. UNC* (2023)

# Buncombe County



- Allocating resources based on race
- Accounting for race in hiring/retention
- Accounting for race in contracts/third party vendors

-[www.buncombecounty.org](http://www.buncombecounty.org)

# City of Asheville



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## City of Asheville advances equity through multiple interconnected initiatives

Posted on October 28, 2020 by Web Editors - CAPE





## City and County

- Full time equity and inclusion director with support staff
- Apply “equity lens” to all operations, policies and services including hiring and retention of employees
- Official city and county strategic plans focus on equity



**BUNCOMBE COUNTY**  
NORTH CAROLINA

# Equity Programs in Buncombe County/ Asheville

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# Hurricane Helene Relief

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# Buncombe County Helene Small Business Relief

- County repurposed \$2.9M ARPA funds for Helene Relief:
- Offered grants up to \$25K to small businesses impacted by Hurricane Helene
- Prioritized applicants according to race and sex

## **Eligibility:**

- Small businesses impacted by Hurricane Helene (less than 25 em
- Ability to demonstrate retention or rehire of employees.
- Ability to retain employees for 6 months from grant award.
- All industries eligible to apply, no specific focus for the grant.

## **Focus Areas:**

- BIPOC-owned businesses
- Woman-owned businesses
- Sole Proprietorships

- [www.buncombecounty.gov](http://www.buncombecounty.gov)

# The National Institute of Minority Economic Development (hereinafter referred to as “The Institute”) Helene Business Grants

## Western NC Hurricane Helene Small Business Grant Relief Fund

A partnership with US Lenovo and Institute Capital

The Lenovo logo, consisting of the word "Lenovo" in white text on a red rectangular background.

- Private nonprofit, but recipient of \$3M in NC public funds (HB 434-2023-2024) and federal grants
- Provided small business grants to businesses impacted by Helene.
- Preferences based on race and sex.

### Program Overview

Provide financial relief to minority and women-owned businesses in Western North Carolina impacted by Hurricane Helene.

### Eligibility Criteria

**Grants range:** \$5,000–\$10,000

### Business Operation preferences:

- Be minority- or women-owned
- Registered and operational for at least one year before Hurricane Helene (verified through NC Secretary of State status)

# City of Asheville HUD funding



- Reallocate \$225 M in HUD Community Block to Helene relief
- Would prioritize recipients based on race
- Rejected by HUD
- Redrafted w/o racial priorities and approved. May 2025

In education

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# MAHEC Medical Mentoring Program

- Mountain Area Health Education Center (UNC associated) offers internship to Buncombe/ Asheville high school seniors
- Buncombe County and Asheville School systems provide semester of honors credit. Provide selection, supervision, attendance, counseling, grading.
- White and Asian students excluded.
- 2024-2025: BCS/ ACS still representing limited by race, all participants met racial criteria



# Buncombe County Justice Partners

- Summer Internship Program for Buncombe Co. high school students
- Funded by Buncombe Co. Bar (state agency)/ City of Asheville
- Organized/ Founded by Buncombe Dist. Ct. Judge and Superior Ct. Judge
- Internships take place in Buncombe County court house and with state employees
- Judges, DA, Public Defender, Sheriff, Probation Office all participated
- White and Asian students excluded



## Eligibility



Black, Indigenous or Person of Color, Experiencing Poverty, or First Generation College Student

# City of Asheville Black Scholarship Fund:

- Reallocated \$500K from class action related to illegal water fees to establish scholarships for high school students and teachers
- Fund provided to 3<sup>rd</sup> party, Asheville Schools Foundation, to administer programs.
- Black students/ teachers exclusively allowed to participate
- Redrafted after lawsuit as to high school students. Black teacher scholarship remains.



# Other Programs

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- COA redirected \$500K from same water fee class action to CoThinkk, organization associated with Councilmember Shanika Smith
- Funds limited to BIPOC only

**CoThinkk committed to fund 25 systems level initiatives in 2021 that are led by BIPOC in Asheville and Western North Carolina. This commitment consists of \$3,500 grants and \$500 self-care stipend, resulting in a total commitment of \$100,000. Please note that CoThinkk often will commit additional dollars for projects beyond the original**

- CoThinkk report to City of Asheville

# Asheville Human Relations Commission

- Civil Board advising the city on funding priorities, initiatives to improve relations between city residents
- White members excluded unless they could demonstrate a “plus” factor.
- Lawsuit filed, resolved via consent decree last month and City agreed to remove racial requirements. Litigation lasted 2 years.



# Grants (aka discrimination by proxy)



ignite transform heal

WELCOME TO SOUTHSIDE  
COMMUNITY FARM

Growing Black food sovereignty in Asheville's Southside neighborhood since 2014



# Buncombe County Isaac Coleman Grants

Named for local social justice champion Isaac Coleman, the purpose of this grant program is to improve outcomes in education.

This community investment supports Buncombe County Strategic Plan Goal: "Work with community partners towards parity in the public-school graduation gap with a 50% reduction amongst at risk populations by 2030." According to data from the NC Department of Public Instruction, the subgroups graduating at lower rates than the average for all students in Asheville City and Buncombe County Schools are those with the following designations:

- Black
- Hispanic
- Two or More Races
- Economically Disadvantaged
- English Learners
- Foster Care
- Homeless
- Students with Disabilities.



# Community Reparations Commission

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# Community Reparations Commission (CRC)

- 2022: City and County pass dual resolutions supporting reparations for “Black Asheville/ Black persons in Buncombe”
- Dedicated joint \$4.2M to process initially, add \$2M additional in 2022, \$1.5M added from 2023-2025. (\$7.7M total)
- \$4.7M spent (project managers, speakers, outreach, payment to commission members, trauma consultants, videographers, etc.)
- Minimum \$500K yearly ongoing commitment

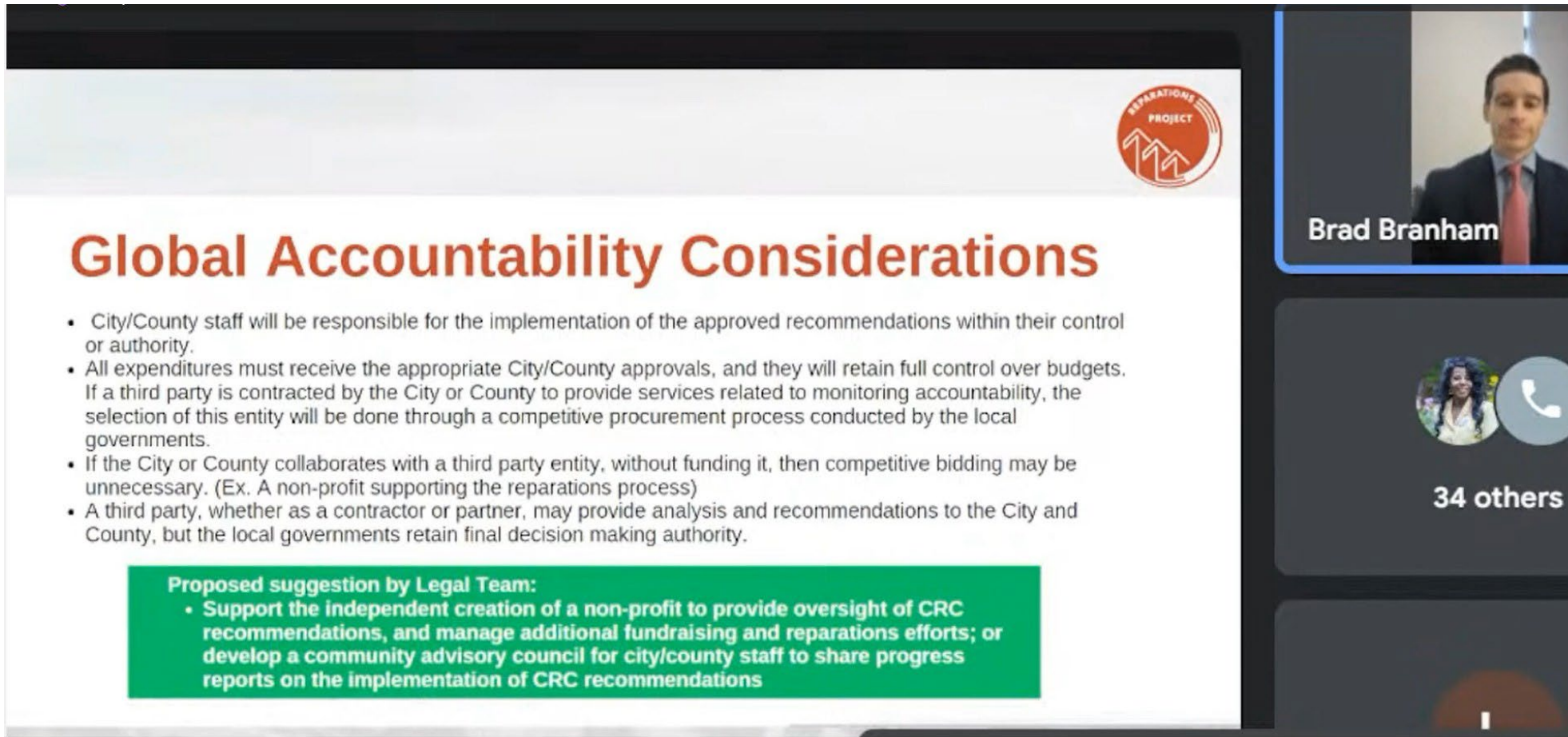



# City Attorney Instructing CRC How to Avoid “Challenges” of civil rights law

- “that’s why we’re here”.
- “language means everything”



City/ county encourage creation of 501c3 to implement recommendations to evade civil rights of non-black residents







## Global Accountability Considerations

- City/County staff will be responsible for the implementation of the approved recommendations within their control or authority.
- All expenditures must receive the appropriate City/County approvals, and they will retain full control over budgets. If a third party is contracted by the City or County to provide services related to monitoring accountability, the selection of this entity will be done through a competitive procurement process conducted by the local governments.
- If the City or County collaborates with a third party entity, without funding it, then competitive bidding may be unnecessary. (Ex. A non-profit supporting the reparations process)
- A third party, whether as a contractor or partner, may provide analysis and recommendations to the City and County, but the local governments retain final decision making authority.

**Proposed suggestion by Legal Team:**

- **Support the independent creation of a non-profit to provide oversight of CRC recommendations, and manage additional fundraising and reparations efforts; or develop a community advisory council for city/county staff to share progress reports on the implementation of CRC recommendations**

**Brad Branham**

**34 others**

City Instructs CRC members to meet to discuss 501c3 details but keep under quorum to avoid public meeting laws



CRC creates 501c3 to administer reparations



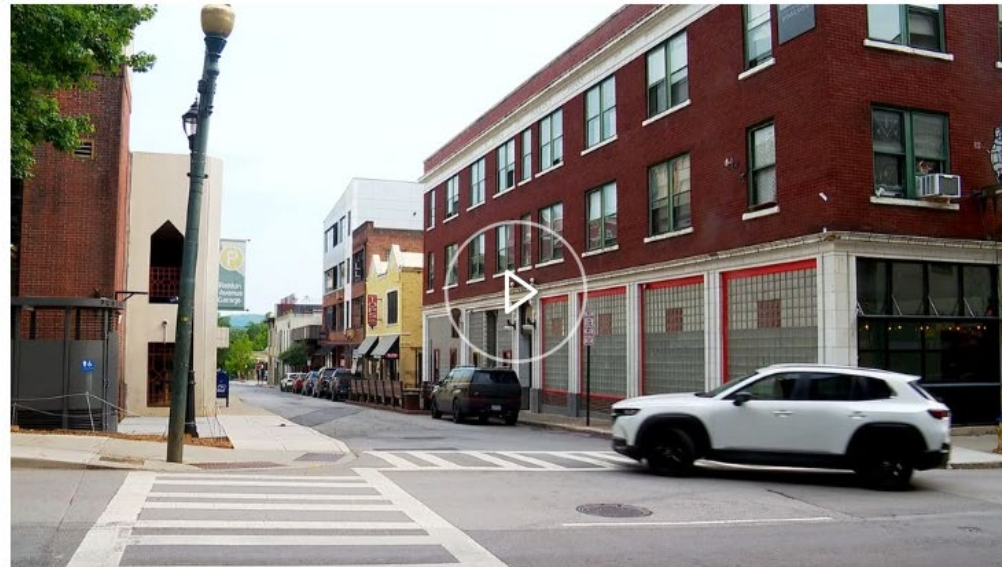
# Recommendations from CRC

- Create Economic Development Center, with commercial space and funding institution, exclusively for black residents
  - Create business corridor exclusive to black residents, only black persons allowed to operate.
  - Provide \$250K grants to black neighborhoods, with only black residents deciding how funds spent.
  - Health Center free for Black residents only.
  - Free tuition, room board, for black residents to any university in UNC system. Free tuition plus financial stipends for community college
  - Provide cost of black residents seeing black physicians only
- Grants to black-owned businesses
  - Direct cash payments to black persons experiencing discrimination.
  - Vocation and mentoring to black students.
  - Cash stipends paid to all black staff members of Buncombe/ Asheville school districts, higher pay than other race counterparts for black teachers.
  - Free childcare for black residents
  - Free savings bonds for black children.
  - <https://www.ashevillenc.gov/department/city-clerk/boards-and-commissions/reparations-commission/>

9.5.25:  
DOJ sends  
warning  
letter

## Asheville-Buncombe Reparations Committee report catches the attention of US DOJ

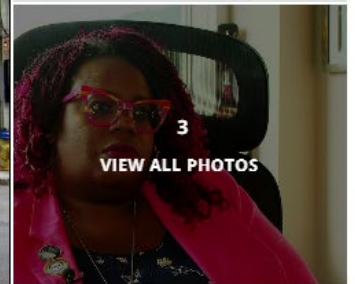
by [Jennifer Emert](#) | Fri, September 5, 2025 at 4:42 PM  
Updated Fri, September 5, 2025 at 9:00 PM



### Background

#### The Charge

- The City Council's July 14, 2025 Resolution, tasked the CRC with the h
- Issuing a report in a timely manner for consideration for incorporation into long-term, priorities and plans.
  - Providing budget and program priorities for the following to include but not be limited to:
    - Increasing minority home ownership and access to other affordable housing
    - Increasing minority business ownership and career opportunities
    - Developing strategies to grow equity and generational wealth
    - Closing gaps in healthcare, education, employment and pay, neighborhood and fairness within criminal justice.



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Board of County Commissioners  
County of Buncombe  
200 College Street, Suite 300  
Asheville, NC 28801  
commissioners@buncombecounty.org

**Re: Unlawful Race-Based Discrimination**

Dear Buncombe County Board of Commissioners:

The U.S. Department of Justice, Civil Rights Division has recently become aware of concerning recommendations presented to you by the Asheville-Buncombe County Community Reparations Commission. The final report, presented on September 2, 2025, includes 38 recommendations in five focus areas—criminal justice, economic development, education, health and wellness, and housing. I also understand that the Reparations Commission will present its recommendations to the City of Asheville on September 9, 2025. After our initial review, we are deeply concerned that many of the recommendations, if implemented, would violate federal civil rights laws, including, without limitation, the Fair Housing Act, Title VI, Title VII, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Although you have not formally adopted the recommendations, public reporting suggests that you intend to do so. According to media statements by the county's Chief Equity and Human Rights Officer, Dr. Noreal F. Armstrong, the county has already set aside more than \$2.9 million toward implementing the recommendations. My office will be closely monitoring your actions. To the extent these recommendations are formally adopted, you are now on notice that my office stands ready to investigate and enforce violations of federal civil rights laws to the fullest extent possible.

Regards,



Harmeet K. Dhillon  
Assistant Attorney General  
Civil Rights Division

# FLYING UNDER THE RADAR





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In late October, GAP Team met with County Commissioner Jennifer Horton and Al Whitesides, along with other local leaders to discuss the future of reparations in Asheville and Buncombe County. They shared that they saw no pathway to formal action on reparations because of the likelihood that this would trigger damaging retribution from the federal government. They said they hoped to move the issue forward more informally – “under the radar.”

All of them essentially said that staff was working its way through the recommendations and would be bringing them back for formal consideration soon. There was no timetable provided for that process, and there still isn’t one.

-[www.gapavl.org](http://www.gapavl.org)



Will Buncombe  
County/ Asheville  
City follow the law in  
the future and apply  
the law equally?

OR

Will Buncombe  
County/ Asheville  
City continue to  
pursue “equity”  
under the radar?

## Recommendations

- Pass state version of 1964 CRA Title VI. “No person shall, on the grounds of race, color, or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving public financial assistance from the state, or any county or municipal entity organized within the state”.
- Create an enforcement mechanism: “Any person residing in the county in which a violation is alleged to have occurred may bring an action within that county to enforce the provisions of this section.”
- Create an incentive (42 USC 1988(b)) “In any action or proceeding to enforce this section, the court, in its discretion, may allow the prevailing party a reasonable attorney’s fee as part of the costs”.

If you do not believe  
in freedom of  
speech for people  
you disagree with,  
you do not believe  
in freedom of  
speech

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Noam Chomsky

