



## The Executive Council of the State of New Hampshire

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State House, 107 North Main Street, Concord, NH 03301

ANDRU VOLINSKY  
EXECUTIVE COUNCILOR  
DISTRICT TWO

May 3, 2019

The Honorable Christopher Sununu,  
Governor,  
State of New Hampshire  
Suite 201  
State House  
107 North Main Street  
Concord, NH 03301  
VIA PDF AND ELECTRONICALLY  
([chris.sununu@nh.gov](mailto:chris.sununu@nh.gov))

Re: Duty to Consult with respect to Veto Power

Dear Governor:

Today you issued a veto of legislation that would have repealed capital punishment in New Hampshire. You issued the veto with some fanfare in Manchester that, I suspect, required some advance planning. You did not consult with the Executive Council prior to issuing the veto as I believe you should have done.

I respectfully request that before you issue further vetoes of legislation duly adopted by our Legislature, if that is your intention, that you consult with the Executive Council as a body. It is the Council's duty to provide its advice to you with respect to vetoes even though the act of approving or vetoing legislation appears to be a responsibility committed to your sole discretion.

A majority of three justices of the New Hampshire Supreme Court issued an Opinion of the Justices in a case that you submitted last year concerning HB 1264, a bill that made it more difficult for students to vote in New Hampshire. The three-member majority wrote:

Although we remain sensitive to the importance of confining our advisory opinions to solemn occasions, we are satisfied that the request here comports with the requirements of Part II, Article 74. The Governor has the constitutional responsibility to approve or veto HB 1264 or allow it to become law without his signature. He has expressed concerns as to its constitutionality and, with the concurrence of the Council, whose role, *inter alia*, is to serve as advisor to the Governor, has sought our guidance to aid \*134 him in making his decision. Under these circumstances, we believe it is our duty to answer the questions submitted.

Opinion of the Justices, 171 N.H. 128, 133–34, 191 A.3d 1245, 1250 (2018) (emphasis added).



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The Council cannot provide its advice to you unless you consult the Council. With respect to capital punishment, I have extensive experience, having litigated death penalty cases in Tennessee, Georgia, Mississippi, and before the United States Supreme Court. I am sure that all of the members of the Executive Councilors had advice to offer with respect to the death penalty.

I look forward to your more courteously accepting the Council's role with respect to future legislation.

Please let me know if you have any questions or concerns.

I remain,

Yours sincerely,

Andru Volinsky,  
Executive Councilor for District Two

cc Councilors Cryans, Prescott, Gatsas, Pignatelli and assistant Meagan Rose