

Presidential Executive Orders Concerning Critical Race Theory

***Editor's Note:** On September 22 of 2020 President Donald Trump issued executive order 13950 banning race and sex stereotyping or scapegoating in employee training programs and other materials for the federal workforce and for federal contractors and grant recipients. The impetus for this order was the expanding use of “diversity, equity, inclusion, and anti-racism” employee training programs grounded in the concepts of Critical Race Theory. This theory teaches that society’s institutions, beliefs, customs, language, and economic and social relationships are governed by a racial hierarchy dominated by whites to ensure their power over other racial groups.*

On January 20, 2021, his first day in office, President Joseph Biden rescinded the Trump administration’s executive order prohibiting CRT training for federal agencies and federal contractors. This action was followed by another executive order (no. 14035) signed on June 25, 2021 titled “Diversity, Equity, Inclusion and Accessibility in the Federal Workforce (DEIA),” directing all federal agencies to develop strategic plans, establish chief diversity officers, and expand DEIA “training throughout the Federal workforce.”

The two executive orders, edited for brevity, are presented sequentially in the following pages, crystallizing the stark contrast between two quite different views of American life now competing for primacy in our educational institutions.

Executive Order on Combating Race and Sex Stereotyping

Issued on: September 22, 2020

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 et seq., and in order to promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating, it is hereby ordered as follows:

Section 1. Purpose. From the battlefield of Gettysburg to the bus boycott in Montgomery and the Selma-to-Montgomery marches, heroic Americans have valiantly risked their lives to ensure that their children would grow up in a

Nation living out its creed, expressed in the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal.” It was this belief in the inherent equality of every individual that inspired the Founding generation to risk their lives, their fortunes, and their sacred honor to establish a new Nation, unique among the countries of the world. President Abraham Lincoln understood that this belief is “the electric cord” that “links the hearts of patriotic and liberty-loving” people, no matter their race or country of origin. It is the belief that inspired the heroic black soldiers of the 54th Massachusetts Infantry Regiment to defend that same Union at great cost in the Civil War. And it is what inspired Dr. Martin Luther King, Jr., to dream that his children would one day “not be judged by the color of their skin but by the content of their character.”

Thanks to the courage and sacrifice of our forebears, America has made significant progress toward realization of our national creed, particularly in the 57 years since Dr. King shared his dream with the country.

Today, however, many people are pushing a different vision of America that is grounded in hierarchies based on collective social and political identities rather than in the inherent and equal dignity of every person as an individual. This ideology is rooted in the pernicious and false belief that America is an irredeemably racist and sexist country; that some people, simply on account of their race or sex, are oppressors; and that racial and sexual identities are more important than our common status as human beings and Americans.

This destructive ideology is grounded in misrepresentations of our country’s history and its role in the world. Although presented as new and revolutionary, they resurrect the discredited notions of the nineteenth century’s apologists for slavery who, like President Lincoln’s rival Stephen A. Douglas, maintained that our government “was made on the white basis” “by white men, for the benefit of white men.” Our Founding documents rejected these racialized views of America, which were soundly defeated on the blood-stained battlefields of the Civil War. Yet they are now being repackaged and sold as cutting-edge insights. They are designed to divide us and to prevent us from uniting as one people in pursuit of one common destiny for our great country.

Unfortunately, this malign ideology is now migrating from the fringes of American society and threatens to infect core institutions of our country. Instructors and materials teaching that men and members of certain races, as well as our most venerable institutions, are inherently sexist and racist are

appearing in workplace diversity trainings across the country, even in components of the Federal Government and among Federal contractors. For example, the Department of the Treasury recently held a seminar that promoted arguments that “virtually all White people, regardless of how ‘woke’ they are, contribute to racism,” and that instructed small group leaders to encourage employees to avoid “narratives” that Americans should “be more color-blind” or “let people’s skills and personalities be what differentiates them.”

Training materials from Argonne National Laboratories, a Federal entity, stated that racism “is interwoven into every fabric of America” and described statements like “color blindness” and the “meritocracy” as “actions of bias.”

Materials from Sandia National Laboratories, also a Federal entity, for non-minority males stated that an emphasis on “rationality over emotionality” was a characteristic of “white male[s],” and asked those present to “acknowledge” their “privilege” to each other.

A Smithsonian Institution museum graphic recently claimed that concepts like “[o]bjective, rational linear thinking,” “[h]ard work” being “the key to success,” the “nuclear family,” and belief in a single god are not values that unite Americans of all races but are instead “aspects and assumptions of whiteness.” The museum also stated that “[f]acing your whiteness is hard and can result in feelings of guilt, sadness, confusion, defensiveness, or fear.”

All of this is contrary to the fundamental premises underpinning our Republic: that all individuals are created equal and should be allowed an equal opportunity under the law to pursue happiness and prosper based on individual merit.

Executive departments and agencies (agencies), our Uniformed Services, Federal contractors, and Federal grant recipients should, of course, continue to foster environments devoid of hostility grounded in race, sex, and other federally protected characteristics. Training employees to create an inclusive workplace is appropriate and beneficial. The Federal Government is, and must always be, committed to the fair and equal treatment of all individuals before the law.

But training like that discussed above perpetuates racial stereotypes and division and can use subtle coercive pressure to ensure conformity of viewpoint. Such ideas may be fashionable in the academy, but they have no place in programs and activities supported by Federal taxpayer dollars. Research also

suggests that blame-focused diversity training reinforces biases and decreases opportunities for minorities.

Our Federal civil service system is based on merit principles. These principles, codified at 5 U.S.C. 2301, call for all employees to “receive fair and equitable treatment in all aspects of personnel management without regard to” race or sex “and with proper regard for their . . . constitutional rights.” Instructing Federal employees that treating individuals on the basis of individual merit is racist or sexist directly undermines our Merit System Principles and impairs the efficiency of the Federal service. Similarly, our Uniformed Services should not teach our heroic men and women in uniform the lie that the country for which they are willing to die is fundamentally racist. Such teachings could directly threaten the cohesion and effectiveness of our Uniformed Services.

Such activities also promote division and inefficiency when carried out by Federal contractors. The Federal Government has long prohibited Federal contractors from engaging in race or sex discrimination and required contractors to take affirmative action to ensure that such discrimination does not occur. The participation of contractors’ employees in training that promotes race or sex stereotyping or scapegoating similarly undermines efficiency in Federal contracting. Such requirements promote divisiveness in the workplace and distract from the pursuit of excellence and collaborative achievements in public administration.

Therefore, it shall be the policy of the United States not to promote race or sex stereotyping or scapegoating in the Federal workforce or in the Uniformed Services, and not to allow grant funds to be used for these purposes. In addition, Federal contractors will not be permitted to inculcate such views in their employees.

Sec. 2. Definitions. For the purposes of this order, the phrase:

(a) “Divisive concepts” means the concepts that (1) one race or sex is inherently superior to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (4) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (5) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (6) an individual’s moral character is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or sex, bears responsibility for actions

committed in the past by other members of the same race or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term “divisive concepts” also includes any other form of race or sex stereotyping or any other form of race or sex scapegoating.

(b) “Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

(c) “Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex. It similarly encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others. . . .

Sec. 3. Requirements for the United States Uniformed Services. The United States Uniformed Services, including the United States Armed Forces, shall not teach, instruct, or train any member of the United States Uniformed Services, whether serving on active duty, serving on reserve duty, attending a military service academy, or attending courses conducted by a military department pursuant to a Reserve Officer Corps Training program, to believe any of the divisive concepts set forth in section 2(a) of this order. No member of the United States Uniformed Services shall face any penalty or discrimination on account of his or her refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to these concepts.

Sec. 4. Requirements for Government Contractors. (a) Except in contracts exempted in the manner provided by section 204 of Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity), as amended, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

“During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term "race or sex stereotyping" means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex, and the term "race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

2. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under the Executive Order of September 22, 2020, entitled Combating Race and Sex Stereotyping, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3. In the event of the contractor's noncompliance with the requirements of paragraphs (1), (2), and (4), or with any rules, regulations, or orders that may be promulgated in accordance with the Executive Order of September 22, 2020, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided by any rules, regulations, or orders the Secretary of Labor has issued or adopted pursuant to Executive Order 11246, including subpart D of that order.

4. The contractor will include the provisions of paragraphs (1) through (4) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor . . .

(b) The Department of Labor is directed, through the Office of Federal Contract Compliance Programs (OFCCP), to establish a hotline and investigate

complaints received under both this order as well as Executive Order 11246 alleging that a Federal contractor is utilizing such training programs in violation of the contractor's obligations under those orders. The Department shall take appropriate enforcement action and provide remedial relief, as appropriate.

(c) Within 30 days of the date of this order, the Director of OFCCP shall publish in the Federal Register a request for information seeking information from Federal contractors, Federal subcontractors, and employees of Federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees . . .

Sec. 5. Requirements for Federal Grants. The heads of all agencies shall review their respective grant programs and identify programs for which the agency may, as a condition of receiving such a grant, require the recipient to certify that it will not use Federal funds to promote the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. Within 60 days of the date of this order, the heads of agencies shall each submit a report to the Director of the Office of Management and Budget (OMB) that lists all grant programs so identified.

Sec. 6. Requirements for Agencies. (a) The fair and equal treatment of individuals is an inviolable principle that must be maintained in the Federal workplace. Agencies should continue all training that will foster a workplace that is respectful of all employees. Accordingly:

(i) The head of each agency shall use his or her authority under 5 U.S.C. 301, 302, and 4103 to ensure that the agency, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops,

forums, or similar programming (for purposes of this section, “training”) to agency employees do not teach, advocate, act upon, or promote in any training to agency employees any of the divisive concepts listed in section 2(a) of this order . . .

(ii) Agency diversity and inclusion efforts shall, first and foremost, encourage agency employees not to judge each other by their color, race, ethnicity, sex, or any other characteristic protected by Federal law.

(b) The Director of OPM shall propose regulations providing that agency officials with supervisory authority over a supervisor or an employee with responsibility for promoting diversity and inclusion, if such supervisor or employee either authorizes or approves training that promotes the divisive concepts set forth in section 2(a) of this order, shall take appropriate steps to pursue a performance-based adverse action proceeding against such supervisor or employee under chapter 43 or 75 of title 5, United States Code.

(c) Each agency head shall:

(i) issue an order incorporating the requirements of this order into agency operations, including by making compliance with this order a provision in all agency contracts for diversity training;

(ii) request that the agency inspector general thoroughly review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to OMB; and

(iii) assign at least one senior political appointee responsibility for ensuring compliance with the requirements of this order.

Sec. 7. OMB and OPM Review of Agency Training. (a) Consistent with OPM’s authority under 5 U.S.C. 4115-4118, all training programs for agency employees relating to diversity or inclusion shall, before being used, be reviewed by OPM for compliance with the requirements of section 6 of this order.

(b) If a contractor provides a training for agency employees relating to diversity or inclusion that teaches, advocates, or promotes the divisive concepts set forth in section 2(a) of this order, and such action is in violation of the applicable contract, the agency that contracted for such training shall evaluate whether to pursue debarment of that contractor, consistent with applicable law and regulations, and in consultation with the Interagency Suspension and Debarment Committee.

(c) Within 90 days of the date of this order, each agency shall report to OMB all spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors. Such report shall, in addition to providing aggregate totals, delineate awards to each individual contractor . . .

Sec. 8. Title VII Guidance. The Attorney General should continue to assess the extent to which workplace training that teaches the divisive concepts set forth in section 2(a) of this order may contribute to a hostile work environment and give rise to potential liability under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. If appropriate, the Attorney General and the Equal Employment Opportunity Commission shall issue publicly available guidance to assist employers in better promoting diversity and inclusive workplaces consistent with Title VII.

Sec. 9. Effective Date. This order is effective immediately . . .

DONALD J. TRUMP
THE WHITE HOUSE,
September 22, 2020

Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce

JUNE 25, 2021

PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 1104, 3301, and 3302 of title 5, United States Code, and in order to strengthen the Federal workforce by promoting diversity, equity, inclusion, and accessibility, it is hereby ordered as follows:

Section 1. Policy. On my first day in office, I signed Executive Order 13985 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government), which established that affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. To further advance equity within the Federal Government, this order establishes that it is the policy of my Administration to cultivate a workforce that draws from the full diversity of the Nation.

As the Nation's largest employer, the Federal Government must be a model for diversity, equity, inclusion, and accessibility, where all employees are treated with dignity and respect. Accordingly, the Federal Government must strengthen its ability to recruit, hire, develop, promote, and retain our Nation's talent and remove barriers to equal opportunity. It must also provide resources and opportunities to strengthen and advance diversity, equity, inclusion, and accessibility across the Federal Government. The Federal Government should have a workforce that reflects the diversity of the American people. A growing body of evidence demonstrates that diverse, equitable, inclusive, and accessible workplaces yield higher-performing organizations.

Federal merit system principles include that the Federal Government's recruitment policies should "endeavor to achieve a work force from all segments of society" and that "[a]ll employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management" (5 U.S.C. 2301(b)(1), (2)). As set forth in Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce), the Presidential Memorandum of October 5, 2016 (Promoting Diversity and Inclusion in the National Security Workforce), Executive Order 13988 of January 20, 2021

(Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation), the National Security Memorandum of February 4, 2021 (Revitalizing America's Foreign Policy and National Security Workforce, Institutions, and Partnerships), and Executive Order 14020 of March 8, 2021 (Establishment of the White House Gender Policy Council), the Federal Government is at its best when drawing upon all parts of society, our greatest accomplishments are achieved when diverse perspectives are brought to bear to overcome our greatest challenges, and all persons should receive equal treatment under the law. This order reaffirms support for, and builds upon, the procedures established by Executive Orders 13583, 13988, and 14020, the Presidential Memorandum on Promoting Diversity and Inclusion in the National Security Workforce, and the National Security Memorandum on Revitalizing America's Foreign Policy and National Security Workforce, Institutions, and Partnerships. This order establishes that diversity, equity, inclusion, and accessibility are priorities for my Administration and benefit the entire Federal Government and the Nation, and establishes additional procedures to advance these priorities across the Federal workforce.

Sec. 2. Definitions. For purposes of this order, in the context of the Federal workforce:

(a) The term "underserved communities" refers to populations sharing a particular characteristic, as well as geographic communities, who have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. In the context of the Federal workforce, this term includes individuals who belong to communities of color, such as Black and African American, Hispanic and Latino, Native American, Alaska Native and Indigenous, Asian American, Native Hawaiian and Pacific Islander, Middle Eastern, and North African persons. It also includes individuals who belong to communities that face discrimination based on sex, sexual orientation, and gender identity (including lesbian, gay, bisexual, transgender, queer, gender non-conforming, and non-binary (LGBTQ+) persons); persons who face discrimination based on pregnancy or pregnancy-related conditions; parents; and caregivers. It also includes individuals who belong to communities that face discrimination based on their religion or disability; first-generation professionals or first-generation college students; individuals with limited English proficiency; immigrants; individuals who belong to communities that may face employment barriers based on older age or former incarceration; persons who live in rural areas; veterans

and military spouses; and persons otherwise adversely affected by persistent poverty, discrimination, or inequality. Individuals may belong to more than one underserved community and face intersecting barriers.

(b) The term “diversity” means the practice of including the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities.

(c) The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.

(d) The term “inclusion” means the recognition, appreciation, and use of the talents and skills of employees of all backgrounds.

(e) The term “accessibility” means the design, construction, development, and maintenance of facilities, information and communication technology, programs, and services so that all people, including people with disabilities, can fully and independently use them. Accessibility includes the provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design. . . .

Sec. 3. Government-Wide Diversity, Equity, Inclusion, and Accessibility Initiative and Strategic Plan. The Director of the Office of Personnel Management (OPM) and the Deputy Director for Management of the Office of Management and Budget (OMB)—in coordination with the Chair of the Equal Employment Opportunity Commission (EEOC) and in consultation with the Secretary of Labor, the Director of the Office of Science and Technology Policy, the Assistant to the President for National Security Affairs, the Assistant to the President for Domestic Policy (APDP), the Director of the National Economic Council, and the Co-Chairs of the Gender Policy Council—shall:

(a) reestablish a coordinated Government-wide initiative to promote diversity and inclusion in the Federal workforce, expand its scope to specifically include equity and accessibility, and coordinate its implementation with the provisions of Executive Order 13985 and the National Security Memorandum on Revitalizing America’s Foreign Policy and National Security Workforce, Institutions, and Partnerships;

(b) develop and issue a Government-wide Diversity, Equity, Inclusion, and Accessibility Strategic Plan (Government-wide DEIA Plan) within 150 days of the date of this order that updates the Government-wide plan required by section 2(b)(i) of Executive Order 13583. The Government-wide DEIA Plan shall be updated as appropriate and at a minimum every 4 years. The Government-wide DEIA Plan shall:

(i) define standards of success for diversity, equity, inclusion, and accessibility efforts based on leading policies and practices in the public and private sectors;

(ii) consistent with merit system principles, identify strategies to advance diversity, equity, inclusion, and accessibility, and eliminate, where applicable, barriers to equity, in Federal workforce functions, including: recruitment; hiring; background investigation; promotion; retention; performance evaluations and awards; professional development programs; mentoring programs or sponsorship initiatives; internship, fellowship, and apprenticeship programs; employee resource group and affinity group programs; temporary employee details and assignments; pay and compensation policies; benefits, including health benefits, retirement benefits, and employee services and work life programs; disciplinary or adverse actions; reasonable accommodations for employees and applicants with disabilities; workplace policies to prevent gender-based violence (including domestic violence, stalking, and sexual violence); reasonable accommodations for employees who are members of religious minorities; and training, learning, and onboarding programs;

(iii) include a comprehensive framework to address workplace harassment, including sexual harassment, which clearly defines the term “harassment”; outlines policies and practices to prevent, report, respond to, and investigate harassment; promotes mechanisms for employees to report misconduct; encourages bystander intervention; and addresses training, education, and monitoring to create a culture that does not tolerate harassment or other forms of discrimination or retaliation; and

(iv) promote a data-driven approach to increase transparency and accountability, which would build upon, as appropriate, the EEOC’s Management Directive 715 reporting process;

(c) establish an updated system for agencies to report regularly on progress in implementing Agency DEIA Strategic Plans (as described in section 4(b) of this order) and in meeting the objectives of this order . . . The Director of

OPM and the Deputy Director for Management of OMB shall support agencies in developing workforce policies and practices designed to advance diversity, equity, inclusion, and accessibility throughout agencies by, for example, providing updated guidance and technical assistance to ensure that agencies consistently improve, evaluate, and learn from their workforce practices . . .

(e) support, coordinate, and encourage agency efforts to conduct research, evaluation, and other evidence-building activities to identify leading practices, and other promising practices, for broadening participation and opportunities for advancement in Federal employment, and to assess and promote the benefits of diversity, equity, inclusion, and accessibility for Federal performance and operations and barriers to achieving these goals . . .

Sec. 4. Responsibilities of Executive Departments and Agencies. The head of each agency shall make advancing diversity, equity, inclusion, and accessibility a priority component of the agency's management agenda and agency strategic planning. The head of each agency shall implement the Government-wide DEIA Plan prepared pursuant to section 3 of this order and such other related guidance as issued from time to time by the Director of OPM or the Deputy Director for Management of OMB. In addition, the head of each agency shall:

(a) within 100 days of the date of this order, submit to the APDP, the Director of OPM, and the Deputy Director for Management of OMB a preliminary assessment of the current state of diversity, equity, inclusion, and accessibility in the agency's human resources practices and workforce composition. In conducting such assessment, the head of each agency should:

(i) assess whether agency recruitment, hiring, promotion, retention, professional development, performance evaluations, pay and compensation policies, reasonable accommodations access, and training policies and practices are equitable;

(ii) take an evidence-based and data-driven approach to determine whether and to what extent agency practices result in inequitable employment outcomes, and whether agency actions may help to overcome systemic societal and organizational barriers;

(iii) assess the status and effects of existing diversity, equity, inclusion, and accessibility initiatives or programs, and review the amount of institutional resources available to support human resources activities that advance the objectives outlined in section 1 of this order; and

(iv) identify areas where evidence is lacking and propose opportunities to build evidence to advance diversity, equity, inclusion, and accessibility and address those gaps identified;

(b) within 120 days of the issuance of the Government-wide DEIA Plan, and annually thereafter, develop and submit to the APDP, the Director of OPM, and the Deputy Director for Management of OMB an Agency Diversity, Equity, Inclusion, and Accessibility Strategic Plan (Agency DEIA Strategic Plan), as described by section 3(b) of Executive Order 13583 and as modified by this order

...

(c) on an annual basis, report to the President on the status of the agency's efforts to advance diversity, equity, inclusion, and accessibility within the agency, and the agency's success in implementing the Agency DEIA Strategic Plan...

(e) enhance diversity, equity, inclusion, and accessibility within the agency, in collaboration with the agency's senior officials and consistent with applicable law and merit system principles;

(f) seek opportunities to establish a position of chief diversity officer or diversity and inclusion officer (as distinct from an equal employment opportunity officer), with sufficient seniority to coordinate efforts to promote diversity, equity, inclusion, and accessibility within the agency;

(g) strongly consider for employment, to the extent permitted by applicable law, qualified applicants of any background who have advanced diversity, equity, inclusion, and accessibility in the workplace...

Sec. 5. Data Collection.

(a) The head of each agency shall take a data-driven approach to advancing policies that promote diversity, equity, inclusion, and accessibility within the agency's workforce, while protecting the privacy of employees and safeguarding all personally identifiable information and protected health information.

(b) Using Federal standards governing the collection, use, and analysis of demographic data (such as OMB Directive No. 15 (Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity) and OMB Memorandum M-14-06 (Guidance for Providing and Using Administrative Data for Statistical Purposes)), the head of each agency shall measure demographic representation and trends related to diversity in the agency's overall workforce composition, senior workforce composition, employment applications, hiring

decisions, promotions, pay and compensation, professional development programs, and attrition rates.

(c) The Director of OPM, the Chair of the EEOC, and the Deputy Director for Management of OMB shall review existing guidance, regulations, policies, and practices (for purposes of this section, “guidance”) that govern agency collection of demographic data about Federal employees, and consider issuing, modifying, or revoking such guidance in order to expand the collection of such voluntarily self-reported data and more effectively measure the representation of underserved communities in the Federal workforce. In revisiting or issuing any such guidance, the Director of OPM, the Chair of the EEOC, and the Deputy Director for Management of OMB shall take steps to promote the protection of privacy and to safeguard personally identifiable information; facilitate inter-sectional analysis; and reduce duplicative reporting requirements . . .

(d) The head of each agency shall implement any such revised guidance issued pursuant to subsection (c) of this section to expand the collection of voluntarily self-reported demographic data. The head of each agency shall also take steps to ensure that data collection and analysis practices allow for the capture or presence of multiple attributes and identities to ensure an inter-sectional analysis.

(e) The head of each agency shall collect and analyze voluntarily self-reported demographic data regarding the membership of advisory committees, commissions, and boards in a manner consistent with applicable law, including privacy and confidentiality protections, and with statistical standards where applicable. For agencies that have external advisory committees, commissions, or boards to which agencies appoint members, agency heads shall pursue opportunities to increase diversity, equity, inclusion, and accessibility on such committees, commissions, and boards.

Sec. 6. Promoting Paid Internships.

(a) The Director of OPM and the Deputy Director for Management of OMB shall issue guidance to agencies and the Executive Office of the President with respect to internships and similar programs within the Federal Government, including guidance on how to:

(i) increase the availability of paid internships, fellowships, and apprenticeships, and reduce the practice of hiring interns, fellows, and apprentices who are unpaid;

(ii) ensure that internships, fellowships, and apprenticeships serve as a supplement to, and not a substitute for, the competitive hiring process;

(iii) ensure that internships, fellowships, and apprenticeships serve to develop individuals' talent, knowledge, and skills for careers in government service;

(iv) improve outreach to and recruitment of individuals from underserved communities for internship, fellowship, and apprenticeship programs; and

(v) ensure all interns, fellows, and apprentices with disabilities, including applicants and candidates, have a process for requesting and obtaining reasonable accommodations to support their work in the Federal Government, without regard to whether such individuals are covered by the Rehabilitation Act of 1973, Public Law 93-112.

(b) The head of each agency shall, as part of the annual reporting process described in section 4(c) of this order, measure and report on the agency's progress with respect to the matters described in subsection (a) of this section.

Sec. 7. Partnerships and Recruitment.

(a) The Director of the Office of Science and Technology Policy (OSTP), the Director of OPM, and the Deputy Director for Management of OMB, in consultation with the Chair of the EEOC, shall coordinate a Government-wide initiative to strengthen partnerships (Partnerships Initiative) to facilitate recruitment for Federal employment opportunities of individuals who are members of underserved communities. To carry out the Partnerships Initiative, the Director of OSTP, the Director of OPM, and the Deputy Director for Management of OMB shall take steps to increase diversity in the Federal employment pipeline by supporting and guiding agencies in building or strengthening partnerships with Historically Black Colleges and Universities, including Historically Black Graduate Institutions; Hispanic-Serving Institutions; Tribal Colleges and Universities; Native American-serving, nontribal institutions; Asian American and Pacific Islander-serving institutions; Tribally controlled colleges and universities; Alaska Native-serving and Native Hawaiian-serving institutions; Predominantly Black Institutions; women's colleges and universities; State vocational rehabilitation agencies that serve individuals with disabilities; disability services offices at institutions of higher education; organizations dedicated to serving veterans; public and non-profit private universities serving a high percentage of economically disadvantaged students or first-generation college or graduate students; community colleges and technical schools; and

community-based organizations that are dedicated to serving and working with underserved communities, including return-to-work programs, programs that provide training and support for older adults seeking employment, programs serving formerly incarcerated individuals, centers for independent living, disability rights organizations, and organizations dedicated to serving LGBTQ+ individuals.

(b) The head of each agency shall work with the Director of OSTP, the Director of OPM, and the Deputy Director for Management of OMB to make employment, internship, fellowship, and apprenticeship opportunities available through the Partnerships Initiative . . .

Sec. 8. Professional Development and Advancement.

(a) The Director of OPM, in consultation with the Deputy Director for Management of OMB, shall issue detailed guidance to agencies for tracking demographic data relating to participation in leadership and professional development programs and development opportunities offered or sponsored by agencies and the rate of the placement of participating employees into senior positions in agencies, in a manner consistent with privacy and confidentiality protections and statistical limitations.

(b) The head of each agency shall implement the guidance issued pursuant to subsection (a) of this section . . .

Sec. 9. Training and Learning.

(a) The head of each agency shall take steps to implement or increase the availability and use of diversity, equity, inclusion, and accessibility training programs for employees, managers, and leadership. Such training programs should enable Federal employees, managers, and leaders to have knowledge of systemic and institutional racism and bias against underserved communities, be supported in building skillsets to promote respectful and inclusive workplaces and eliminate workplace harassment, have knowledge of agency accessibility practices, and have increased understanding of implicit and unconscious bias.

(b) The Director of OPM and the Chair of the EEOC shall issue guidance and serve as a resource and repository for best practices for agencies to develop or enhance existing diversity, equity, inclusion, and accessibility training programs.

Sec. 10. Advancing Equity for Employees with Disabilities.

(a) As established in Executive Order 13548 of July 26, 2010 (Increasing Federal Employment of Individuals with Disabilities), the Federal Government must become a model for the employment of individuals with disabilities. Because a workforce that includes people with disabilities is a stronger and more effective workforce, agencies must provide an equitable, accessible, and inclusive environment for employees with disabilities . . . To that end, the relevant agencies shall take the actions set forth in this section.

(b) The Secretary of Labor, the Director of OPM, the Chair of the EEOC, the Deputy Director for Management of OMB, and the Executive Director of the Architectural and Transportation Barriers Compliance Board (Access Board), in consultation with the Administrator of General Services, as appropriate, shall coordinate with agencies to:

(i) support the Federal Government's effort to provide people with disabilities equal employment opportunities and take affirmative actions within the Federal Government to ensure that agencies fully comply with applicable laws . . .

(ii) assess current practices in using Schedule A hiring authority to employ people with disabilities in the Federal Government, and evaluate opportunities to enhance equity . . .

Sec. 11. Advancing Equity for LGBTQ+ Employees.

(a) As established in Executive Order 13988, it is the policy of my Administration to prevent and combat discrimination on the basis of gender identity or sexual orientation. Each Federal employee should be able to openly express their sexual orientation, gender identity, and gender expression, and have these identities affirmed and respected, without fear of discrimination, retribution, or disadvantage. To that end, the relevant agencies shall take the actions set forth in this section.

(b) The head of each agency shall, in coordination with the Director of OPM, ensure that existing employee support services equitably serve LGBTQ+ employees, including, as appropriate, through the provision of supportive services for transgender and gender non-conforming and non-binary employees who wish to legally, medically, or socially transition.

(c) To ensure that LGBTQ+ employees (including their beneficiaries and their eligible dependents), as well as LGBTQ+ beneficiaries and LGBTQ+ eligible dependents of all Federal employees, have equitable access to healthcare and health insurance coverage:

(i) the Director of OPM shall take actions to promote equitable healthcare coverage and services for enrolled LGBTQ+ employees (including their beneficiaries and their eligible dependents), LGBTQ+ beneficiaries, and LGBTQ+ eligible dependents, including coverage of comprehensive gender-affirming care, through the Federal Employees Health Benefits Program; and

(ii) the Secretary of Defense shall take actions to promote equitable healthcare coverage and services for LGBTQ+ members of the uniformed services (including their beneficiaries and their eligible dependents), LGBTQ+ beneficiaries, and LGBTQ+ eligible dependents, including coverage of comprehensive gender-affirming care, through the Military Health System . . .

(e) To ensure that all Federal employees have their respective gender identities accurately reflected and identified in the workplace:

(i) the head of each agency shall, in coordination with the Director of OPM, take steps to foster an inclusive environment where all employees' gender identities are respected, such as by including, where applicable, non-binary gender marker and pronoun options in Federal hiring, employment, and benefits enrollment forms;

(ii) the Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall update, as appropriate and in consultation with any other relevant agencies, any relevant Federal employee identification standards to ensure that Federal systems for issuing employee identity credentials account for the needs of transgender and gender non-conforming and non-binary employees . . .

(iii) the head of each agency shall, in consultation with the Director of OPM, update Federal employee identification standards to include non-binary gender markers where gender markers are required in employee systems and profiles, and shall take steps to reduce any unnecessary administrative burden for transgender and gender non-conforming and non-binary employees to update their gender markers and pronouns in employee systems and profiles, where applicable.

(f) To support all Federal employees in accessing workplace facilities aligned with their gender identities, the head of each agency shall explore opportunities to expand the availability of gender non-binary facilities and restrooms in federally owned and leased workplaces.

(g) The Director of National Intelligence, in consultation with the Director of OPM and the heads of agencies, shall take steps to mitigate any barriers

in security clearance and background investigation processes for LGBTQ+ employees and applicants, in particular transgender and gender non-conforming and non-binary employees and applicants . . .

Sec. 12. Pay Equity. Many workers continue to face racial and gender pay gaps, and pay inequity disproportionately affects women of color. Accordingly:

(a) The Director of OPM shall review Government-wide regulations and guidance and, as appropriate and consistent with applicable law, in order to address any pay inequities and advance equal pay . . .

(i) work with agencies to review, and revise if necessary, job classification and compensation practices; and

(ii) prohibit agencies from seeking or relying on an applicant's salary history during the hiring process to set pay or when setting pay for a current employee, unless salary history is raised without prompting by the applicant or employee.

(b) The head of each agency that administers a pay system other than one established under title 5 of the United States Code shall review the agency's regulations and guidance and, as appropriate and consistent with applicable law, revise compensation practices in order to address any pay inequities and advance equal pay . . .

Sec. 13. Expanding Employment Opportunities for Formerly Incarcerated Individuals. To support equal opportunity for formerly incarcerated individuals who have served their terms of incarceration and to support their ability to fully reintegrate into society and make meaningful contributions to our Nation, the Director of OPM shall evaluate the existence of any barriers that formerly incarcerated individuals face in accessing Federal employment opportunities and any effect of those barriers on the civil service. As appropriate, the Director of OPM shall also evaluate possible actions to expand Federal employment opportunities for formerly incarcerated individuals, including the establishment of a new hiring authority, and shall submit a report to the President containing the results of OPM's evaluation within 120 days of the date of this order.

Sec. 14. Delegation of Authority. The Director of OPM is hereby delegated the authority of the President under sections 3301 and 3302 of title 5, United States Code, for purposes of carrying out the Director's responsibilities under this order.

Sec. 15. General Provisions . . .

JOSEPH R. BIDEN JR.
THE WHITE HOUSE,
June 25, 2021