

118TH CONGRESS  
1ST SESSION

# H. R. 2712

To enact into law the requirements of the Executive order issued on September 22, 2020, relating to Combating Race and Sex Stereotyping, to prohibit the use of Federal funds to carry out Executive Orders 13985, 14035, and 14091, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2023

Mr. HERN (for himself, Mr. BANKS, Mr. ELLZEY, Mr. VAN DREW, Mr. NORMAN, Mr. BABIN, Mr. DUNCAN, Mrs. HARSHBARGER, Mr. ROSENDALE, Mr. TIMMONS, Mr. OGLES, Mr. GROTHMAN, Mr. BISHOP of North Carolina, Mr. GOSAR, Mr. GOOD of Virginia, Mrs. MILLER of Illinois, Mr. NEHLS, Ms. GREENE of Georgia, Mrs. LESKO, Mr. ARRINGTON, Mr. WILSON of South Carolina, Mr. WALBERG, Mr. ROUZER, Mr. ALFORD, and Mr. FRY) introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committees on Armed Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To enact into law the requirements of the Executive order issued on September 22, 2020, relating to Combating Race and Sex Stereotyping, to prohibit the use of Federal funds to carry out Executive Orders 13985, 14035, and 14091, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Work Not Woke Act”.

3 **SEC. 2. DEFINITIONS.**

4 For the purposes of this Act:

5 (1) AGENCY.—The term “agency” means any  
6 department, agency, instrumentality, or establish-  
7 ment of the executive branch of Government.

8 (2) DIVISIVE CONCEPTS.—

9 (A) The term “divisive concepts” means  
10 the concepts that—

11 (i) one race or sex is inherently supe-  
12 rior to another race or sex;

13 (ii) the United States is fundamen-  
14 tally racist or sexist;

15 (iii) an individual, by virtue of his or  
16 her race or sex, is inherently racist, sexist,  
17 or oppressive, whether consciously or un-  
18 consciously;

19 (iv) an individual should be discrimi-  
20 nated against or receive adverse treatment  
21 solely or partly because of his or her race  
22 or sex;

23 (v) members of one race or sex cannot  
24 and should not attempt to treat others  
25 without respect to race or sex;

1 (vi) an individual's moral character is  
2 necessarily determined by his or her race  
3 or sex;

4 (vii) an individual, by virtue of his or  
5 her race or sex, bears responsibility for ac-  
6 tions committed in the past by other mem-  
7 bers of the same race or sex;

8 (viii) any individual should feel dis-  
9 comfort, guilt, anguish, or any other form  
10 of psychological distress on account of his  
11 or her race or sex; or

12 (ix) meritocracy or traits such as a  
13 hard work ethic are racist or sexist, or  
14 were created by a particular race to op-  
15 press another race.

16 (B) The term "divisive concepts" also in-  
17 cludes any other form of race or sex stereo-  
18 typing or any other form of race or sex  
19 scapegoating.

20 (3) OMB.—The term "OMB" means the Office  
21 of Management and Budget.

22 (4) OPM.—The term "OPM" means the Office  
23 of Personnel Management.

24 (5) RACE OR SEX STEREOTYPING.—The term  
25 "race or sex stereotyping" means ascribing character

1 traits, values, moral and ethical codes, privileges,  
2 status, or beliefs to a race or sex, or to an individual  
3 because of his or her race or sex.

4 (6) RACE OR SEX SCAPEGOATING.—The term  
5 “race or sex scapegoating” means assigning fault,  
6 blame, or bias to a race or sex, or to members of  
7 a race or sex because of their race or sex. It simi-  
8 larly encompasses any claim that, consciously or un-  
9 consciously, and by virtue of his or her race or sex,  
10 members of any race are inherently racist or are in-  
11 herently inclined to oppress others, or that members  
12 of a sex are inherently sexist or inclined to oppress  
13 others.

14 (7) SENIOR POLITICAL APPOINTEE.—The term  
15 “senior political appointee” means an individual ap-  
16 pointed by the President, or a non-career member of  
17 the Senior Executive Service (or agency-equivalent  
18 system).

19 **SEC. 3. REQUIREMENTS FOR THE UNITED STATES UNI-**  
20 **FORMED SERVICES.**

21 The United States Uniformed Services, including the  
22 United States Armed Forces, shall not teach, instruct, or  
23 train any member of the United States Uniformed Serv-  
24 ices, whether serving on active duty, serving on reserve  
25 duty, attending a military service academy, or attending

1 courses conducted by a military department pursuant to  
2 a Reserve Officer Corps Training program, to believe any  
3 divisive concepts. No member of the United States Uni-  
4 formed Services shall face any penalty or discrimination  
5 on account of his or her refusal to support, believe, en-  
6 dorse, embrace, confess, act upon, or otherwise assent to  
7 such concepts.

8 **SEC. 4. REQUIREMENTS FOR GOVERNMENT CONTRACTORS.**

9 (a) IN GENERAL.—Except in contracts exempted in  
10 the manner provided by section 204 of Executive Order  
11 11246 of September 24, 1965 (Equal Employment Oppor-  
12 tunity), all Government contracting agencies shall include  
13 in every Government contract hereafter entered into the  
14 following provisions: “During the performance of this con-  
15 tract, the contractor agrees as follows:

16 “(1) The contractor shall not use any workplace  
17 training that inculcates in its employees any form of  
18 race or sex stereotyping or any form of race or sex  
19 scapegoating, including the concepts that—

20 “(A) one race or sex is inherently superior  
21 to another race or sex;

22 “(B) an individual, by virtue of his or her  
23 race or sex, is inherently racist, sexist, or op-  
24 pressive, whether consciously or unconsciously;

1           “(C) an individual should be discriminated  
2           against or receive adverse treatment solely or  
3           partly because of his or her race or sex;

4           “(D) members of one race or sex cannot  
5           and should not attempt to treat others without  
6           respect to race or sex;

7           “(E) an individual’s moral character is  
8           necessarily determined by his or her race or sex;

9           “(F) an individual, by virtue of his or her  
10          race or sex, bears responsibility for actions com-  
11          mitted in the past by other members of the  
12          same race or sex;

13          “(G) any individual should feel discomfort,  
14          guilt, anguish, or any other form of psycho-  
15          logical distress on account of his or her race or  
16          sex; or

17          “(H) meritocracy or traits such as a hard  
18          work ethic are racist or sexist, or were created  
19          by a particular race to oppress another race.

20          The term ‘race or sex stereotyping’ means ascribing  
21          character traits, values, moral and ethical codes,  
22          privileges, status, or beliefs to a race or sex, or to  
23          an individual because of his or her race or sex, and  
24          the term ‘race or sex scapegoating’ means assigning

1 fault, blame, or bias to a race or sex, or to members  
2 of a race or sex because of their race or sex.

3 “(2) The contractor will send to each labor  
4 union or representative of workers with which he has  
5 a collective bargaining agreement or other contract  
6 or understanding, a notice, to be provided by the  
7 agency contracting officer, advising the labor union  
8 or workers’ representative of the contractor’s com-  
9 mitments under the Work Not Woke Act, and shall  
10 post copies of the notice in conspicuous places avail-  
11 able to employees and applicants for employment.

12 “(3) In the event of the contractor’s noncompli-  
13 ance with the requirements of paragraphs (1), (2),  
14 and (4), or with any rules, regulations, or orders  
15 that may be promulgated in accordance with the  
16 Work Not Woke Act, this contract may be canceled,  
17 terminated, or suspended in whole or in part and the  
18 contractor may be declared ineligible for further  
19 Government contracts in accordance with procedures  
20 authorized in Executive Order 11246, and such  
21 other sanctions may be imposed and remedies in-  
22 voked as provided by any rules, regulations, or or-  
23 ders the Secretary of Labor has issued or adopted  
24 pursuant to Executive Order 11246, including sub-  
25 part D of that order.

1           “(4) The contractor will include the provisions  
2           of paragraphs (1) through (4) in every subcontract  
3           or purchase order unless exempted by rules, regula-  
4           tions, or orders of the Secretary of Labor, so that  
5           such provisions will be binding upon each subcon-  
6           tractor or vendor. The contractor will take such ac-  
7           tion with respect to any subcontract or purchase  
8           order as may be directed by the Secretary of Labor  
9           as a means of enforcing such provisions including  
10          sanctions for noncompliance: Provided, however, that  
11          in the event the contractor becomes involved in, or  
12          is threatened with, litigation with a subcontractor or  
13          vendor as a result of such direction, the contractor  
14          may request the United States to enter into such  
15          litigation to protect the interests of the United  
16          States.”.

17          (b) HOTLINE.—The Department of Labor shall,  
18          through the Office of Federal Contract Compliance Pro-  
19          grams, establish a hotline and investigate complaints re-  
20          ceived under both this Act as well as Executive Order  
21          11246 alleging that a Federal contractor is utilizing such  
22          training programs in violation of the contractor’s obliga-  
23          tions under those orders. The Department shall take ap-  
24          propriate enforcement action and provide remedial relief,  
25          as appropriate.



1           (c) REQUEST FOR INFORMATION.—Not later than 30  
2 days after the date of enactment of this Act, the Director  
3 of such Office shall publish in the Federal Register a re-  
4 quest for information seeking information from Federal  
5 contractors, Federal subcontractors, and employees of  
6 Federal contractors and subcontractors regarding the  
7 training, workshops, or similar programming provided to  
8 employees. The request for information should request  
9 copies of any training, workshop, or similar programing  
10 having to do with diversity and inclusion as well as infor-  
11 mation about the duration, frequency, and expense of such  
12 activities.

13 **SEC. 5. REQUIREMENTS FOR FEDERAL GRANTS.**

14           (a) IN GENERAL.—The heads of all agencies shall re-  
15 view their respective grant programs and identify pro-  
16 grams for which the agency may, as a condition of receiv-  
17 ing such a grant, require the recipient to certify that it  
18 will not use Federal funds to promote the concepts that—

19                   (1) one race or sex is inherently superior to an-  
20 other race or sex;

21                   (2) an individual, by virtue of his or her race  
22 or sex, is inherently racist, sexist, or oppressive,  
23 whether consciously or unconsciously;

1           (3) an individual should be discriminated  
2           against or receive adverse treatment solely or partly  
3           because of his or her race or sex;

4           (4) members of one race or sex cannot and  
5           should not attempt to treat others without respect to  
6           race or sex;

7           (5) an individual's moral character is nec-  
8           essarily determined by his or her race or sex;

9           (6) an individual, by virtue of his or her race  
10          or sex, bears responsibility for actions committed in  
11          the past by other members of the same race or sex;

12          (7) any individual should feel discomfort, guilt,  
13          anguish, or any other form of psychological distress  
14          on account of his or her race or sex; or

15          (8) meritocracy or traits such as a hard work  
16          ethic are racist or sexist, or were created by a par-  
17          ticular race to oppress another race.

18          (b) SUBMISSION OF LIST.—Not later than 60 days  
19          after the date of enactment of this Act, the heads of agen-  
20          cies shall each submit a report to the Director of the Of-  
21          fice of Management and Budget that lists all grant pro-  
22          grams so identified.

23          **SEC. 6. REQUIREMENTS FOR AGENCIES.**

24          (a) IN GENERAL.—The fair and equal treatment of  
25          individuals is an inviolable principle that must be main-

1 tained in the Federal workplace. Agencies shall continue  
2 all training that will foster a workplace that is respectful  
3 of all employees. Such training shall include the following:

4           (1) The head of each agency shall use his or  
5 her authority under sections 301, 302, and 4103 of  
6 title 5, United States Code, to ensure that the agen-  
7 cy, agency employees while on duty status, and any  
8 contractors hired by the agency to provide training,  
9 workshops, forums, or similar programming to agen-  
10 cy employees do not teach, advocate, act upon, or  
11 promote in any training to agency employees any di-  
12 visive concepts. Agencies may consult with OPM,  
13 pursuant to section 4116 of title 5, United States  
14 Code, in carrying out this provision.

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

20           (b) OPM REGULATIONS.—The Director of OPM  
21 shall propose regulations providing that agency officials  
22 with supervisory authority over a supervisor or an em-  
23 ployee with responsibility for promoting diversity and in-  
24 clusion, if such supervisor or employee either authorizes  
25 or approves training that promotes divisive concepts, shall

1 take appropriate steps to pursue a performance-based ad-  
2 verse action proceeding against such supervisor or em-  
3 ployee under chapter 43 or 75 of title 5, United States  
4 Code.

5 (c) REQUIREMENTS.—Each agency head shall—

6 (1) issue an order incorporating the require-  
7 ments of this Act into agency operations, including  
8 by making compliance with this Act a provision in  
9 all agency contracts for diversity training;

10 (2) request that the agency inspector general  
11 thoroughly review and assess by the end of the cal-  
12 endar year, and not less than annually thereafter,  
13 agency compliance with the requirements of this Act  
14 in the form of a report submitted to OMB; and

15 (3) assign at least one senior political appointee  
16 responsibility for ensuring compliance with the re-  
17 quirements of this Act.

18 **SEC. 7. OMB AND OPM REVIEW OF AGENCY TRAINING.**

19 (a) OPM REVIEW.—Consistent with OPM’s author-  
20 ity under sections 4115 through 4118 of title 5, United  
21 States Code, all training programs for agency employees  
22 relating to diversity or inclusion shall, before being used,  
23 be reviewed by OPM for compliance with the requirements  
24 of section 6 of this Act.

1 (b) CONTRACTOR VIOLATION.—If a contractor pro-  
2 vides a training for agency employees relating to diversity  
3 or inclusion that teaches, advocates, or promotes divisive  
4 concepts, and such action is in violation of the applicable  
5 contract, the agency that contracted for such training  
6 shall evaluate whether to pursue debarment of that con-  
7 tractor, consistent with applicable law and regulations,  
8 and in consultation with the Interagency Suspension and  
9 Debarment Committee.

10 (c) REPORTS.—Not later than 90 days after the date  
11 of enactment of this Act, each agency shall report to OMB  
12 all spending in fiscal year 2022 on Federal employee train-  
13 ing programs relating to diversity or inclusion, whether  
14 conducted internally or by contractors. Such report shall,  
15 in addition to providing aggregate totals, delineate awards  
16 to each individual contractor.

17 (d) IMPLEMENTATION.—The Directors of OMB and  
18 OPM may jointly issue guidance and directives pertaining  
19 to agency obligations under, and ensuring compliance  
20 with, this Act.

21 **SEC. 8. TITLE VII GUIDANCE.**

22 The Attorney General should continue to assess the  
23 extent to which workplace training that teaches divisive  
24 concepts may contribute to a hostile work environment  
25 and give rise to potential liability under title VII of the

1 Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.). If  
2 appropriate, the Attorney General and the Equal Employ-  
3 ment Opportunity Commission shall issue publicly avail-  
4 able guidance to assist employers in better promoting di-  
5 versity and inclusive workplaces consistent with such title  
6 VII.

7 **SEC. 9. EFFECTIVE DATE.**

8 This Act shall take effect immediately, except that  
9 the requirements of section 4 of this Act shall apply to  
10 contracts entered into 60 days after the date of this Act.

11 **SEC. 10. PROHIBITION ON USE OF FEDERAL FUNDS TO**  
12 **CARRY OUT CERTAIN EXECUTIVE ORDERS.**

13 No Federal funds may be obligated or expended to  
14 carry out the following Executive orders (or any successor  
15 Executive orders):

16 (1) Executive Order 13985 (relating to Advanc-  
17 ing Racial Equity and Support for Underserved  
18 Communities Through the Federal Government).

19 (2) Executive Order 14035 (relating to Diver-  
20 sity, Equity, Inclusion, and Accessibility in the Fed-  
21 eral Workforce).

22 (3) Executive Order 14091 (relating to Further  
23 Advancing Racial Equity and Support for Under-  
24 served Communities Through the Federal Govern-  
25 ment).

1 **SEC. 11. GENERAL PROVISIONS.**

2 (a) APPLICATION.—This Act does not prevent agen-  
3 cies, the United States Uniformed Services, or contractors  
4 from promoting racial, cultural, or ethnic diversity or in-  
5 clusiveness, provided such efforts are consistent with the  
6 requirements of this Act.

7 (b) OBJECT DISCUSSION PERMITTED.—Nothing in  
8 this Act shall be construed to prohibit discussing, as part  
9 of a larger course of academic instruction, divisive con-  
10 cepts in an objective manner and without endorsement.

11 (c) EXPRESSIVE ASSOCIATION.—This Act shall be  
12 construed and applied consistent with First Amendment  
13 protections of the right of expressive association.

14 (d) SEVERABILITY.—If any provision of this Act, or  
15 the application of any provision to any person or cir-  
16 cumstance, is held to be invalid, the remainder of this Act  
17 and the application of its provisions to any other persons  
18 or circumstances shall not be affected thereby.

○