

115TH CONGRESS  
1ST SESSION

# S. 924

To improve diversity and inclusion in the workforce of national security agencies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 24, 2017

Mr. CARDIN (for himself, Mr. MENENDEZ, Mr. REED, Mr. COONS, Mrs. SHAHEEN, Mr. BOOKER, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To improve diversity and inclusion in the workforce of national security agencies, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Security Di-  
5 versity and Inclusion Workforce Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The greatest national asset of the United  
9 States in protecting the homeland and advancing the

1 interests of the United States abroad is the talent  
2 and diversity of the national security workforce.

3 (2) The United States has made important  
4 progress toward harnessing the extraordinary range  
5 of backgrounds, cultures, perspectives, skills, and ex-  
6 periences of the population of the United States to-  
7 ward keeping the United States safe and strong.

8 (3) The 2015 National Security Strategy recog-  
9 nized that the diversity of the national security  
10 workforce of the United States is a strategic asset  
11 that enhances the ability of the United States to  
12 lead on the global stage.

13 (4) In March 2011, the Military Leadership Di-  
14 versity Commission demonstrated that minorities  
15 and women are still underrepresented among the top  
16 leadership of the Armed Forces, as compared with  
17 the members they lead.

18 (5) Although African-Americans, Latinos or  
19 Hispanics, Native Americans, and Asians represent  
20 34 percent of the workforce of the United States, in  
21 2016, only 10 and 13 percent, respectively, of the  
22 senior positions in the civil service and the Foreign  
23 Service at the Department of State were occupied by  
24 members of these groups.

1           (6) As of 2015, African-Americans, Latinos or  
2           Hispanics, Native Americans, and Asians rep-  
3           resented only 22 percent of the officer corps of the  
4           Armed Forces, far less than the enlisted forces they  
5           lead, 40 percent of the members of which are from  
6           these groups.

7           (7) In the intelligence community, African-  
8           Americans, Latinos or Hispanics, Native Americans,  
9           and Asians represented 24 percent of the employees,  
10          but only 11 percent of the senior positions.

11          (8) The percentages of Latinos or Hispanics as  
12          part of the overall Federal workforce and in senior  
13          positions in the Federal workforce are even lower, at  
14          8 percent and 4 percent, respectively, as compared  
15          to the general population of the United States,  
16          which is 17 percent Latino or Hispanic.

17          (9) Latinos or Hispanics represented only a  
18          fraction of the senior positions at the Department of  
19          State, 3 percent and 5 percent, respectively, for posi-  
20          tions in the civil service and Foreign Service, only 1  
21          percent for the officer corps of the Armed Forces,  
22          and 3 percent for senior positions in the intelligence  
23          community.

24          (10) With regard to gender diversity, of the in-  
25          dividuals in senior positions in the civil service or the

1 Foreign Service at the Department of State 39 per-  
2 cent and 31 percent are female, respectively. For the  
3 Department of Defense, 24 percent of the individ-  
4 uals in senior civilian positions are female, of the  
5 senior grades of the Armed Forces, 8 percent of the  
6 officers are female, and 12 percent of enlisted mem-  
7 bers of the Armed Forces are females. Of the indi-  
8 viduals in senior positions in the intelligence commu-  
9 nity, 29 percent are female, compared to the overall  
10 Federal workforce, which is 33.7 percent female.

11 (11) In concert with the findings of the Military  
12 Leadership Diversity Commission, the amendments  
13 made by section 519 of the National Defense Au-  
14 thorization Act for Fiscal Year 2013 (Public Law  
15 112–239; 126 Stat. 1721) mandated that the Armed  
16 Forces develop and implement a plan to accurately  
17 measure the efforts of the Department of Defense  
18 and Coast Guard to “achieve a dynamic, sustainable  
19 level of members of the armed forces (including re-  
20 serve components) that, among both commissioned  
21 officers and senior enlisted personnel of each armed  
22 force, will reflect the diverse population of the  
23 United States eligible to serve in the armed forces,  
24 including gender specific, racial, and ethnic popu-  
25 lations.”.

1           (12) The amendments made by section 1011 of  
2 the Intelligence Reform and Terrorism Prevention  
3 Act of 2004 (Public Law 108–458; 118 Stat. 3643)  
4 called on the intelligence community to prescribe  
5 personnel policies and programs that ensure its per-  
6 sonnel “are sufficiently diverse for purposes of the  
7 collection and analysis of intelligence through the re-  
8 cruitment and training of women, minorities, and in-  
9 dividuals with diverse ethnic, cultural, and linguistic  
10 backgrounds”.

11           (13) The Department of State Authorities Act,  
12 Fiscal Year 2017 (Public Law 114–323), urges the  
13 State Department to promote a diverse representa-  
14 tion among mid- and senior-level career professionals  
15 and section 101 of the Foreign Service Act of 1980  
16 (22 U.S.C. 3901) urges the Department of State to  
17 develop policies to encourage the entry into and ad-  
18 vancement in the Foreign Service by persons from  
19 all segments of American society.

20 **SEC. 3. STATEMENT OF POLICY.**

21 It is the policy of the United States that—

22           (1) in order to protect the homeland and ad-  
23 vance the interests of the United States abroad, na-  
24 tional security agencies of the Federal Government

1 must have a workforce that reflects the rich com-  
2 position and talent of its citizenry;

3 (2) the skills, knowledge, perspectives, ideas,  
4 and experiences of all of the members of the work-  
5 force of national security agencies contribute to the  
6 vitality and success of their national security mis-  
7 sion;

8 (3) promoting diversity and inclusion within the  
9 national security workforce must be a joint effort  
10 and requires engagement by senior leadership, man-  
11 agers, and the entire workforce, as well as effective  
12 collaboration among those responsible for human re-  
13 sources, equal employment opportunity, and diver-  
14 sity and inclusion issues; and

15 (4) as the United States becomes more diverse  
16 and the challenges it faces more complex, the United  
17 States must continue to invest in policies to recruit,  
18 retain, and develop the best and brightest from all  
19 segments of the population of the United States.

20 **SEC. 4. DEFINITIONS.**

21 In this Act:

22 (1) **APPLICANT FLOW DATA.**—The term “appli-  
23 cant flow data” means data that tracks the rate of  
24 applications for job positions among demographic  
25 categories.

1           (2) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Foreign Relations,  
5                   the Committee on Armed Services, the Com-  
6                   mittee on Homeland Security and Govern-  
7                   mental Affairs, the Select Committee on Intel-  
8                   ligence, and the Committee on Appropriations  
9                   of the Senate; and

10                   (B) the Committee on Foreign Affairs, the  
11                   Committee on Armed Services, the Committee  
12                   on Homeland Security, the Permanent Select  
13                   Committee on Intelligence, and the Committee  
14                   on Appropriations of the House of Representa-  
15                   tives.

16           (3) DIVERSITY.—The term “diversity” means  
17           diversity of persons based on gender, race, ethnicity,  
18           disability status, veteran status, sexual orientation,  
19           gender identity, national origin, and other demo-  
20           graphic categories.

21           (4) FOREIGN SERVICE.—The term “Foreign  
22           Service” has the meaning given that term in section  
23           102 of the Foreign Service Act of 1980 (22 U.S.C.  
24           3902).

1           (5) INTELLIGENCE COMMUNITY.—The term  
2 “intelligence community” has the meaning given  
3 that term in section 3 of the National Security Act  
4 of 1947 (50 U.S.C. 3003).

5           (6) NATIONAL SECURITY AGENCY.—The term  
6 “national security agency” means—

7                   (A) the Department of State;

8                   (B) the United States Agency for Inter-  
9 national Development;

10                   (C) the Department of Defense;

11                   (D) the Armed Forces;

12                   (E) each element of the intelligence com-  
13 munity;

14                   (F) the Office of International Affairs and  
15 the Office of Critical Infrastructure Protection  
16 of the Department of the Treasury;

17                   (G) the National Security Division of the  
18 Department of Justice and the Federal Bureau  
19 of Investigation;

20                   (H) the Department of Homeland Secu-  
21 rity;

22                   (I) the Foreign Agricultural Service of the  
23 Department of Agriculture; and

24                   (J) any other Federal agency that is pri-  
25 marily engaged in diplomacy, development, de-



1 fense, intelligence, law enforcement, or home-  
2 land security.

3 (7) MEMBER OF THE FOREIGN SERVICE.—The  
4 term “member of the Foreign Service” means a  
5 member of the Foreign Service described in section  
6 103 of the Foreign Service Act of 1980 (22 U.S.C.  
7 3903).

8 (8) WORKFORCE.—The term “workforce”  
9 means an individual serving in a position—

10 (A) in the civil service (as defined in sec-  
11 tion 2101 of title 5, United States Code);

12 (B) as a member of the Foreign Service; or

13 (C) as an officer or enlisted member of an  
14 armed force.

15 **SEC. 5. COLLECTION, ANALYSIS, AND DISSEMINATION OF**  
16 **WORKFORCE DATA.**

17 (a) INITIAL REPORTING.—

18 (1) IN GENERAL.—Not later than 180 days  
19 after the date of enactment of this Act, and subject  
20 to paragraph (3), the head of each national security  
21 agency shall make available to the public, the appro-  
22 priate congressional committees, and the workforce  
23 of the national security agency a report which in-  
24 cludes aggregate demographic data and other infor-

1 mation regarding the diversity and inclusion efforts  
2 of the workforce of the national security agency.

3 (2) CONTENTS.—A report made available under  
4 paragraph (1)—

5 (A) shall include unclassified reports and  
6 barrier analyses relating to diversity and inclu-  
7 sion efforts;

8 (B) shall include aggregate demographic  
9 data—

10 (i) by segment of the workforce of the  
11 national security agency and grade or  
12 rank;

13 (ii) relating to attrition and promotion  
14 rates;

15 (iii) that addresses the compliance of  
16 the national security agency with validated  
17 inclusion metrics, such as the New Inclu-  
18 sion Quotient index score; and

19 (iv) that provides demographic com-  
20 parisons to the relevant nongovernmental  
21 labor force and the relevant civilian labor  
22 force;

23 (C) shall include an analysis of applicant  
24 flow data, including the percentage and level of  
25 positions for which data are collected, and a

1 discussion of any resulting policy changes or  
2 recommendations;

3 (D) shall include demographic data relat-  
4 ing to participants in professional development  
5 programs of the national security agency and  
6 the rate of placement into senior positions for  
7 participants in such programs;

8 (E) shall include any voluntarily collected  
9 demographic data relating to the membership of  
10 any external advisory committee or board to  
11 which individuals in senior positions in the na-  
12 tional security agency appoint members; and

13 (F) may include data in proportions or  
14 percentages to account for concerns relating to  
15 the protection of classified information.

16 (3) INTELLIGENCE COMMUNITY.—The elements  
17 of the intelligence community may make available a  
18 single report with respect to the diversity and inclu-  
19 sion efforts of the workforce of the elements of the  
20 intelligence community under this subsection.

21 (b) UPDATES.—After making available a report  
22 under subsection (a), the head of each national security  
23 agency shall annually provide a report (which may be pro-  
24 vided as part of an annual report required under another  
25 provision of law) to the workforce of the national security

1 agency (including senior leadership), the public, and the  
2 appropriate congressional committees that includes—

3 (1) demographic data and information on the  
4 status of diversity and inclusion efforts of the na-  
5 tional security agency;

6 (2) an analysis of applicant flow data, including  
7 the percentage and level of positions for which data  
8 are collected, and a discussion of any resulting policy  
9 changes or recommendations; and

10 (3) demographic data relating to participants in  
11 professional development programs of the national  
12 security agency and the rate of placement into sen-  
13 ior positions for participants in such programs.

14 (c) EXPAND THE COLLECTION AND ANALYSIS OF  
15 VOLUNTARY APPLICANT FLOW DATA.—

16 (1) IN GENERAL.—The head of each national  
17 security agency shall develop a system to collect and  
18 analyze applicant flow data for as many positions  
19 within the national security agency as practicable, in  
20 order to identify areas for improvement in attracting  
21 diverse talent, with particular attention to senior  
22 and management positions.

23 (2) PHASED IMPLEMENTATION.—The collection  
24 of applicant flow data may be implemented by the  
25 head of a national security agency in a phased ap-

1 proach commensurate with the resources available to  
2 the national security agency.

3 (d) IDENTIFY ADDITIONAL CATEGORIES FOR VOL-  
4 UNTARY DATA COLLECTION OF CURRENT EMPLOYEES.—

5 (1) IN GENERAL.—The head of each national  
6 security agency may submit to the Office of Manage-  
7 ment and Budget and to the appropriate congress-  
8 sional committees the recommendation of the head  
9 regarding whether the national security agency  
10 should voluntarily collect more detailed data on de-  
11 mographic categories in addition to the race and eth-  
12 nicity categories specified in the statistical policy di-  
13 rective issued by the Office of Management and  
14 Budget entitled “Standards for Maintaining, Col-  
15 lecting, and Presenting Federal Data on Race and  
16 Ethnicity”.

17 (2) PROCESS.—In making a recommendation  
18 under paragraph (1), the head of a national security  
19 agency shall—

20 (A) engage in close consultation with inter-  
21 nal stakeholders, such as employee resource or  
22 affinity groups;

23 (B) ensure that there is clear communica-  
24 tion with the workforce of the national security  
25 agency—

1 (i) to explain the purpose of the po-  
2 tential collection of such data; and

3 (ii) regarding legal protections relat-  
4 ing to any anticipated use of such data;  
5 and

6 (C) ensure adherence to relevant standards  
7 and guidance issued by the Federal Govern-  
8 ment.

9 **SEC. 6. PROFESSIONAL DEVELOPMENT OPPORTUNITIES**  
10 **AND TOOLS.**

11 (a) CONDUCT STAY AND EXIT INTERVIEWS OR SUR-  
12 VEYS.—

13 (1) RETAINED MEMBERS.—Each national secu-  
14 rity agency shall conduct periodic interviews with a  
15 representative cross-section of the members of the  
16 workforce of the national security agency to—

17 (A) understand the reasons of the mem-  
18 bers for remaining in a position in the national  
19 security agency; and

20 (B) receive feedback on workplace policies,  
21 professional development opportunities, and  
22 other issues affecting the decision of the mem-  
23 bers to remain.

24 (2) DEPARTING MEMBERS.—Each national se-  
25 curity agency shall provide an opportunity for an

1 exit interview or survey to each member of the work-  
2 force of the national security agency who separates  
3 from service with the national security agency, to  
4 understand better the reasons of the member for  
5 leaving.

6 (3) USE OF ANALYSIS FROM INTERVIEWS AND  
7 SURVEYS.—Each national security agency shall ana-  
8 lyze and use information obtained through interviews  
9 and surveys under paragraphs (1) and (2), including  
10 to evaluate—

11 (A) if and how the results of the interviews  
12 differ by gender, race, national origin, sexual  
13 orientation, gender identity, disability status,  
14 and other demographic categories; and

15 (B) whether to implement any policy  
16 changes or make any recommendations as part  
17 of a report required under section 5.

18 (b) EXPAND PROVISION OF PROFESSIONAL DEVEL-  
19 OPMENT AND CAREER ADVANCEMENT OPPORTUNITIES.—

20 (1) IN GENERAL.—Each national security agen-  
21 cy is authorized to expand professional development  
22 opportunities that support the mission needs of the  
23 national security agency, such as—

24 (A) academic programs;

25 (B) private-public exchanges; and

- 1 (C) detail assignments to relevant positions  
2 in—
- 3 (i) private or international organiza-  
4 tions;
  - 5 (ii) State, local, and tribal govern-  
6 ments;
  - 7 (iii) other branches of the Federal  
8 Government; or
  - 9 (iv) professional schools of inter-  
10 national affairs.

11 (2) TRAINING FOR SENIOR POSITIONS.—

12 (A) IN GENERAL.—Each national security  
13 agency shall offer, or sponsor members of the  
14 workforce of the national security agency to  
15 participate in, a Senior Executive Service can-  
16 didate development program or other program  
17 that trains members of the workforce of the na-  
18 tional security agency on the skills required for  
19 appointment to senior positions in the national  
20 security agency.

21 (B) REQUIREMENTS.—In determining  
22 which members of the workforce of the national  
23 security agency are granted professional devel-  
24 opment or career advancement opportunities, a  
25 national security agency shall—



1 (i) ensure any program offered or  
2 sponsored by the national security agency  
3 under subparagraph (A) comports with the  
4 requirements of subpart C of part 412 of  
5 title 5, Code of Federal Regulations, or  
6 any successor thereto, including merit  
7 staffing and assessment requirements;

8 (ii) consider the number of expected  
9 vacancies in senior positions as a factor in  
10 determining the number of candidates to  
11 select for such programs;

12 (iii) understand how participation in  
13 any program offered or sponsored by the  
14 national security agency under subpara-  
15 graph (A) differs by gender, race, national  
16 origin, sexual orientation, gender identity,  
17 disability status, and other demographic  
18 categories; and

19 (iv) actively encourage participation  
20 from a range of demographic categories,  
21 especially from categories with consistently  
22 low participation.

23 (3) TRACKING DATA.—Each national security  
24 agency shall—

1 (A) track demographic data relating to  
2 participants in professional development pro-  
3 grams and the rate of placement into senior po-  
4 sitions for participants in such programs; and

5 (B) evaluate such data on an annual basis  
6 to look for ways to improve outreach and re-  
7 cruitment for such programs consistent with  
8 merit system principles.

9 (c) ASSIGNMENT RESTRICTIONS.—

10 (1) IN GENERAL.—Each national security agen-  
11 cy that places assignment restrictions on members of  
12 the workforce of the national security agency or oth-  
13 erwise prohibits certain geographic assignments due  
14 to a security determination shall ensure a review  
15 process exists for such a restriction or prohibition  
16 that is consistent with part 147 of title 32, Code of  
17 Federal Regulations (relating to adjudicative guide-  
18 lines for determining eligibility for access to classi-  
19 fied information), or any successor thereto, and any  
20 applicable counterintelligence considerations.

21 (2) NOTICE.—Each national security agency  
22 shall ensure that members of the workforce of the  
23 national security agency affected by a restriction or  
24 prohibition described in paragraph (1) are informed

1 of the right to seek review and the process for doing  
2 so.

3 **SEC. 7. LEADERSHIP ENGAGEMENT AND ACCOUNTABILITY.**

4 (a) REWARD AND RECOGNIZE EFFORTS TO PRO-  
5 MOTE DIVERSITY AND INCLUSION.—

6 (1) IN GENERAL.—Each national security agen-  
7 cy shall implement performance and advancement  
8 requirements that reward and recognize the efforts  
9 of individuals in senior positions and supervisors in  
10 the national security agency in fostering an inclusive  
11 environment and cultivating talent consistent with  
12 merit system principles, such as through participa-  
13 tion in mentoring programs or sponsorship initia-  
14 tives, recruitment events, and other similar opportu-  
15 nities.

16 (2) OUTREACH EVENTS.—Each national secu-  
17 rity agency shall create opportunities for individuals  
18 in senior positions and supervisors in the national  
19 security agency to participate in outreach events and  
20 to discuss issues relating to diversity and inclusion  
21 with the workforce on a regular basis, including with  
22 employee resource groups.

23 (b) COLLECT AND DISSEMINATE VOLUNTARY DEMO-  
24 GRAPHIC DATA OF EXTERNAL ADVISORY COMMITTEES  
25 AND BOARDS.—Each national security agency that has an

1 external advisory committee or board to which individuals  
2 in senior positions in the national security agency appoint  
3 members is strongly encouraged by Congress to—

4 (1) collect voluntary demographic data from the  
5 members of committee or board; and

6 (2) ensure the external advisory committee or  
7 board is developed, reviewed, and carried out by  
8 teams that represent the diversity of the organiza-  
9 tion.

10 (c) EXPAND TRAINING ON BIAS, INCLUSION, AND  
11 FLEXIBLE WORK POLICIES.—

12 (1) IN GENERAL.—Each national security agen-  
13 cy shall—

14 (A) expand the provision of training on  
15 bias, including implicit or unconscious bias,  
16 micro-inequities, inclusion, and flexible work  
17 policies to the workforce of the national security  
18 agency; and

19 (B) make micro-inequities and bias train-  
20 ing, including on implicit or unconscious bias,  
21 mandatory for—

22 (i) individuals in senior positions in  
23 the national security agency;

1 (ii) other individuals holding manage-  
2 ment positions in the national security  
3 agency; and

4 (iii) individuals in positions at the na-  
5 tional security agency having responsibil-  
6 ities relating to outreach, recruitment, hir-  
7 ing, career development, promotion, or se-  
8 curity clearance adjudication.

9 (2) PHASED IMPLEMENTATION.—The provision  
10 of training required under paragraph (1) may be im-  
11 plemented in a phased approach commensurate with  
12 the resources of the national security agency.

13 (3) LOW INCLUSION SCORES.—Each national  
14 security agency shall make available training on im-  
15 plicit or unconscious bias for members of the work-  
16 force of a bureau, directorate, division, office, or  
17 other component of the national security agency the  
18 inclusion scores of which, such as those measured by  
19 the New Inclusion Quotient index score, rank below  
20 the average for the national security agency for a  
21 period of 3 years or longer.

22 (4) BEST PRACTICES.—Each national security  
23 agency shall give special attention to ensuring the  
24 continuous incorporation of research-based best  
25 practices in training provided under this subsection,

1 including best practices relating to addressing the  
2 intersection between certain demographics and job  
3 positions.

4 **SEC. 8. RECRUITMENT.**

5 (a) IN GENERAL.—Each national security agency  
6 should—

7 (1) continue to seek a diverse and talented pool  
8 of applicants;

9 (2) have diversity recruitment as a goal of the  
10 human resources department or equivalent entity,  
11 with outreach at appropriate colleges, universities,  
12 and diversity organizations and professional associa-  
13 tions; and

14 (3) intensify, identify, and build relationships  
15 with qualified potential minority candidates.

16 (b) SCOPE.—The diversity recruitment initiatives de-  
17 scribed in subsection (a) should include—

18 (1) recruiting at historically black colleges and  
19 universities, Hispanic-serving institutions, women’s  
20 colleges, and colleges that typically serve majority  
21 minority populations;

22 (2) sponsoring and recruiting at job fairs in  
23 urban communities;

1           (3) placing job advertisements in newspapers,  
2           magazines, and job sites oriented toward diverse  
3           groups;

4           (4) providing opportunities through highly re-  
5           spected, international leadership programs, that  
6           focus on diversity recruitment and retention; and

7           (5) cultivating partnerships with organizations  
8           dedicated to the advancement of the profession of  
9           international affairs and national security to advance  
10          shared diversity goals.

11 **SEC. 9. GENERAL PROVISIONS.**

12          (a) **RULE OF CONSTRUCTION.**—Nothing in this Act  
13 shall be construed to impair or otherwise affect—

14           (1) the authority granted by law to an executive  
15           department, agency, or the head thereof, or the sta-  
16           tus of that executive department or agency within  
17           the Federal Government; or

18           (2) the functions of the Director of the Office  
19           of Management and Budget relating to budgetary,  
20           administrative, or legislative proposals.

21          (b) **IMPLEMENTATION.**—This Act shall be imple-  
22 mented consistent with applicable law.

23          (c) **NO PRIVATE RIGHT OF ACTION.**—This Act is not  
24 intended to, and does not, create any right or benefit, sub-  
25 stantive or procedural, enforceable at law or in equity by

- 1 any party against the United States, its departments,
- 2 agencies, or entities, its officers, employees, or agents, or
- 3 any other person.

○