

115TH CONGRESS
2D SESSION

H. R. 5195

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2018

Ms. ROS-LEHTINEN (for herself and Mr. CONNOLLY) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, Intelligence (Permanent Select), the Judiciary, Homeland Security, Agriculture, and Financial Services, 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

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 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The greatest national asset of the United
2 States in protecting the homeland and advancing the
3 interests of the United States abroad is the talent
4 and diversity of the national security workforce.

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

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

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

20 (5) Although African Americans, Latinos or
21 Hispanics, Native Americans, and Asians represent
22 34 percent of the workforce of the United States, in
23 2016, only 10 and 13 percent, respectively, of the
24 senior positions in the civil service and the Foreign

1 Service at the Department of State were occupied by
2 members of these groups.

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

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

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

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

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

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

1 including gender specific, racial, and ethnic popu-
2 lations.”.

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

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

22 **SEC. 3. STATEMENT OF POLICY.**

23 It is the policy of the United States that—

24 (1) in order to protect the homeland and ad-
25 vance the interests of the United States abroad, na-

1 tional security agencies of the Federal Government
2 must have a workforce that reflects the rich com-
3 position and talent of its citizenry;

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

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

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

21 **SEC. 4. DEFINITIONS.**

22 In this Act:

23 (1) **APPLICANT FLOW DATA.**—The term “appli-
24 cant flow data” means data that tracks the rate of

1 applications for job positions among demographic
2 categories.

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

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

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

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

23 (4) FOREIGN SERVICE.—The term “Foreign
24 Service” has the meaning given that term in section

1 102 of the Foreign Service Act of 1980 (22 U.S.C.
2 3902).

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

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

9 (A) the Department of State;

10 (B) the United States Agency for Inter-
11 national Development;

12 (C) the Department of Defense;

13 (D) the Armed Forces;

14 (E) each element of the intelligence com-
15 munity;

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

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

22 (H) the Department of Homeland Secu-
23 rity;

24 (I) the Foreign Agricultural Service of the
25 Department of Agriculture; and

1 (J) any other Federal agency that is pri-
 2 marily engaged in diplomacy, development, de-
 3 fense, intelligence, law enforcement, or home-
 4 land security.

5 (7) MEMBER OF THE FOREIGN SERVICE.—The
 6 term “member of the Foreign Service” means a
 7 member of the Foreign Service described in section
 8 103 of the Foreign Service Act of 1980 (22 U.S.C.
 9 3903).

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

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

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

15 (C) as an officer or enlisted member of an
 16 armed force.

17 **SEC. 5. COLLECTION, ANALYSIS, AND DISSEMINATION OF**
 18 **WORKFORCE DATA.**

19 (a) INITIAL REPORTING.—

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

1 includes aggregate demographic data and other infor-
2 mation regarding the diversity and inclusion efforts
3 of the workforce of the national security agency.

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

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

9 (B) shall include aggregate demographic
10 data—

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

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

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

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

24 (C) shall include an analysis of applicant
25 flow data, including the percentage and level of

positions for which data are collected, and a discussion of any resulting policy changes or recommendations;

(D) shall include demographic data relating to participants in professional development programs of the national security agency and the rate of placement into senior positions for participants in such programs;

(E) shall include any voluntarily collected demographic data relating to the membership of any external advisory committee or board to which individuals in senior positions in the national security agency appoint members; and

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

(3) INTELLIGENCE COMMUNITY.—The elements of the intelligence community may make available a single report with respect to the diversity and inclusion efforts of the workforce of the elements of the intelligence community under this subsection.

(b) UPDATES.—After making available a report under subsection (a), the head of each national security agency shall annually provide a report (which may be provided as part of an annual report required under another

1 provision of law) to the workforce of the national security
2 agency (including senior leadership), the public, and the
3 appropriate congressional committees that includes—

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

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

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

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

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

24 (2) PHASED IMPLEMENTATION.—The collection
25 of applicant flow data may be implemented by the

1 head of a national security agency in a phased ap-
2 proach commensurate with the resources available to
3 the national security agency.

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

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

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

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

(B) ensure that there is clear communication with the workforce of the national security agency—

(i) to explain the purpose of the potential collection of such data; and

(ii) regarding legal protections relating to any anticipated use of such data; and

(C) ensure adherence to relevant standards and guidance issued by the Federal Government.

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

(a) CONDUCT STAY AND EXIT INTERVIEWS OR SURVEYS.—

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

(A) understand the reasons of the members for remaining in a position in the national security agency; and

(B) receive feedback on workplace policies, professional development opportunities, and

1 other issues affecting the decision of the mem-
2 bers to remain.

3 (2) DEPARTING MEMBERS.—Each national se-
4 curity agency shall provide an opportunity for an
5 exit interview or survey to each member of the work-
6 force of the national security agency who separates
7 from service with the national security agency, to
8 understand better the reasons of the member for
9 leaving.

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

15 (A) if and how the results of the interviews
16 differ by gender, race, national origin, sexual
17 orientation, gender identity, disability status,
18 and other demographic categories; and

19 (B) whether to implement any policy
20 changes or make any recommendations as part
21 of a report required under section 5.

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

24 (1) IN GENERAL.—Each national security agen-
25 cy is authorized to expand professional development

opportunities that support the mission needs of the national security agency, such as—

(A) academic programs;

(B) private-public exchanges; and

(C) detail assignments to relevant positions

in—

(i) private or international organizations;

(ii) State, local, and tribal governments;

(iii) other branches of the Federal Government; or

(iv) professional schools of international affairs.

(2) TRAINING FOR SENIOR POSITIONS.—

(A) IN GENERAL.—Each national security agency shall offer, or sponsor members of the workforce of the national security agency to participate in, a Senior Executive Service candidate development program or other program that trains members of the workforce of the national security agency on the skills required for appointment to senior positions in the national security agency.

1 (B) REQUIREMENTS.—In determining
2 which members of the workforce of the national
3 security agency are granted professional devel-
4 opment or career advancement opportunities, a
5 national security agency shall—

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

13 (ii) consider the number of expected
14 vacancies in senior positions as a factor in
15 determining the number of candidates to
16 select for such programs;

17 (iii) understand how participation in
18 any program offered or sponsored by the
19 national security agency under subpara-
20 graph (A) differs by gender, race, national
21 origin, sexual orientation, gender identity,
22 disability status, and other demographic
23 categories; and

24 (iv) actively encourage participation
25 from a range of demographic categories,

1 especially from categories with consistently
2 low participation.

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

5 (A) track demographic data relating to
6 participants in professional development pro-
7 grams and the rate of placement into senior po-
8 sitions for participants in such programs; and

9 (B) evaluate such data on an annual basis
10 to look for ways to improve outreach and re-
11 cruitment for such programs consistent with
12 merit system principles.

13 (c) ASSIGNMENT RESTRICTIONS.—

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

1 (2) NOTICE.—Each national security agency
2 shall ensure that members of the workforce of the
3 national security agency affected by a restriction or
4 prohibition described in paragraph (1) are informed
5 of the right to seek review and the process for doing
6 so.

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

8 (a) REWARD AND RECOGNIZE EFFORTS TO PRO-
9 MOTE DIVERSITY AND INCLUSION.—

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

20 (2) OUTREACH EVENTS.—Each national secu-
21 rity agency shall create opportunities for individuals
22 in senior positions and supervisors in the national
23 security agency to participate in outreach events and
24 to discuss issues relating to diversity and inclusion

1 with the workforce on a regular basis, including with
2 employee resource groups.

3 (b) COLLECT AND DISSEMINATE VOLUNTARY DEMO-
4 GRAPHIC DATA OF EXTERNAL ADVISORY COMMITTEES
5 AND BOARDS.—Each national security agency that has an
6 external advisory committee or board to which individuals
7 in senior positions in the national security agency appoint
8 members is strongly encouraged by Congress to—

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

11 (2) ensure the external advisory committee or
12 board is developed, reviewed, and carried out by
13 teams that represent the diversity of the organiza-
14 tion.

15 (c) EXPAND TRAINING ON BIAS, INCLUSION, AND
16 FLEXIBLE WORK POLICIES.—

17 (1) IN GENERAL.—Each national security agen-
18 cy shall—

19 (A) expand the provision of training on
20 bias, including implicit or unconscious bias,
21 micro-inequities, inclusion, and flexible work
22 policies to the workforce of the national security
23 agency; and

1 (B) make micro-inequities and bias train-
2 ing, including on implicit or unconscious bias,
3 mandatory for—

4 (i) individuals in senior positions in
5 the national security agency;

6 (ii) other individuals holding manage-
7 ment positions in the national security
8 agency; and

9 (iii) individuals in positions at the na-
10 tional security agency having responsibil-
11 ities relating to outreach, recruitment, hir-
12 ing, career development, promotion, or se-
13 curity clearance adjudication.

14 (2) PHASED IMPLEMENTATION.—The provision
15 of training required under paragraph (1) may be im-
16 plemented in a phased approach commensurate with
17 the resources of the national security agency.

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

1 the average for the national security agency for a
2 period of 3 years or longer.

3 (4) BEST PRACTICES.—Each national security
4 agency shall give special attention to ensuring the
5 continuous incorporation of research-based best
6 practices in training provided under this subsection,
7 including best practices relating to addressing the
8 intersection between certain demographics and job
9 positions.

10 **SEC. 8. RECRUITMENT.**

11 (a) IN GENERAL.—Each national security agency
12 should—

13 (1) continue to seek a diverse and talented pool
14 of applicants;

15 (2) have diversity recruitment as a goal of the
16 human resources department or equivalent entity,
17 with outreach at appropriate colleges, universities,
18 and diversity organizations and professional associa-
19 tions; and

20 (3) intensify, identify, and build relationships
21 with qualified potential minority candidates.

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

24 (1) recruiting at historically Black colleges and
25 universities, Hispanic-serving institutions, women's

1 colleges, and colleges that typically serve majority
2 minority populations;

3 (2) sponsoring and recruiting at job fairs in
4 urban communities;

5 (3) placing job advertisements in newspapers,
6 magazines, and job sites oriented toward diverse
7 groups;

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

11 (5) cultivating partnerships with organizations
12 dedicated to the advancement of the profession of
13 international affairs and national security to advance
14 shared diversity goals.

15 **SEC. 9. GENERAL PROVISIONS.**

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

18 (1) the authority granted by law to an executive
19 department, agency, or the head thereof, or the sta-
20 tus of that executive department or agency within
21 the Federal Government; or

22 (2) the functions of the Director of the Office
23 of Management and Budget relating to budgetary,
24 administrative, or legislative proposals.

1 (b) IMPLEMENTATION.—This Act shall be imple-
2 mented consistent with applicable law.

3 (c) NO PRIVATE RIGHT OF ACTION.—This Act is not
4 intended to, and does not, create any right or benefit, sub-
5 stantive or procedural, enforceable at law or in equity by
6 any party against the United States, its departments,
7 agencies, or entities, its officers, employees, or agents, or
8 any other person.

○