

Department of State Inclusivity Act

The Department of State Inclusivity Act provides a comprehensive plan to assess, enhance, and clarify the State Department's approach to diversity and inclusion. The Department of State Inclusivity Act mandates the collection of data on the Department's diversity, the expansion of programs to recruit individuals from diverse backgrounds, and the improvement of diversity initiatives within senior leadership. In addition, the bill apologizes for the State Department's and Congress' involvement in the "Lavender Scare" and establishes a Reconciliation Board to collect and review grievances of former employees who were discriminated against and fired due to their alleged sexual orientation and gender identity. Finally, the bill directs the State Department to rigorously report, document, and investigate sexual assault and harassment victim claims made by State Department employees.

Sec 1. Short Title; Table of Contents

TITLE I: A DIVERSE WORKFORCE: RECRUITMENT, RETENTION, AND PROMOTION

Subtitle A—

Sec. 101. Definitions

Identifies relevant definitions included in this act including "applicant flow data," "appropriate congressional committees," "demographic data," "department," "diversity," "secretary" and "workforce."

Sec. 102. Office of the Chief Diversity and Inclusion Officer

Establishes an Office of the Chief Diversity and Inclusion Officer with two additional staff members within the Department of State to implement diversity practices and integrate these practices into State's overall strategic plan for diversity and inclusion. The head of the Office of the Chief Diversity and Inclusion Officer will report directly to the Secretary. The Office also will assess the Department's need for relevant diversity training initiatives and monitor its compliance with relevant diversity laws and regulations.

Sec. 103. Collection, analysis, and dissemination of workforce data.

Directs the Secretary of State to submit within 180 days of this Act, a publicly available report that includes information regarding demographic data and diversity in the State Department, State's compliance with the Equal Employment Opportunity Commission Management Directive, and Department diversity and inclusion efforts. For the next five years the Secretary must work with the Director of OPM and the Director of OMB to provide an additional annual report.

Sec. 104. Workforce Interviews

Requests that the Director General of the Foreign Service and the Director of Human Resources of the Department hold evaluative interviews with a diverse cross-section of the State Department for feedback on policies and retention. Both Directors will also provide an opportunity for exit interviews to evaluate the impact of diversity—if any—on the participants' decisions. Participation in professional development programs will be tracked and evaluated for improvements.

Sec. 105. Recruitment and retention.

Recommends that the Secretary of State seek diverse and talented applicants and instructs the Director General of the Foreign Service and the Director of the Bureau of Global Talent Management of the Department to develop a recruitment plan. Describes the scope for State Department recruitment, as well as calls for an expansion of anti-harassment and anti-discrimination trainings through the Foreign Service Institute and other education opportunities.

Sec. 106. Sense of Congress on support for equal employment opportunity and criteria.

Sense of Congress that it is critical for the Department of State to develop mechanisms for promotions that reflect the diverse workforce of the Foreign Service and establish criteria, including within the Foreign Service Employee Evaluation Report, that include evaluating the support of Foreign and Civil Service officers for equal employment opportunities.

Sec. 107. Leadership engagement and accountability.

Directs the Secretary of State to implement advancement requirements for senior positions that reward and recognize efforts to promote an inclusive environment and hold diverse hiring outreach events. Encourages external advisory committees and boards be represented by diverse and qualified teams.

Sec. 108. Professional development opportunities and tools.

Authorizes the Secretary to expand professional opportunities that support the needs of the Department and training for senior positions.

Sec. 109. Examination and oral assessment for the Foreign Service.

Directs the Board of Examiners to offer the Foreign Service oral assessment in cities chosen on a rotational basis in at least three different time zones throughout the United States, and that those examinations give sufficient weight to a candidate's commitment to inclusion and diversity.

Sec. 110. Sense of Congress on veterans' recruitment for the Foreign Service.

Sense of Congress that the Foreign Service exam should be offered in multiple diverse locations in at least three different time zones in a calendar year to encourage test accessibility, particularly for veterans and members of the U.S. Armed Forces transitioning to civilian life.

Sec. 111. Department of State and USAID Fellowships and Programs.

Allows the Secretary of State to make grants for postsecondary educational institutions or students to increase knowledge of and interest in employment in the Civil Service. Provides permission for the Donald M. Payne International Development Fellowship Program to conduct outreach to attract students from diverse backgrounds that are interested in pursuing a career as a USAID Foreign Service officer. Directs the Secretary of State to review past programs designed for minority representation in international affairs positions.

Sec.112. Expansion of Diplomats in Residence program.

Directs the Secretary to double the number of Diplomats in Residence Programs no later than one year after the date of the enactment of this Act.

Sec.113. Use of gender neutral terms in employee evaluation forms.

Directs the Secretary to develop a pilot program to use gender neutral forms in employee evaluation forms.

Sec. 114. Voluntary participation.

Reiterates that any collected information will be given on a voluntary basis and this data will be subject to the relevant privacy protections for Federal employees.

Sec. 115. Sense of Congress on Diversity, Equity, and Inclusion in the Foreign Affairs Workforce.

Sense of Congress that the foreign affairs workforce, including USAID, BBG, the Peace Corps, DFC, and MCC, should make efforts to improve diversity, equity, and inclusion in the workforce, especially as it relates to recruitment, retention and promotion.

Sec. 116. Employee Assignment Restrictions and Preclusions.

Sense of Congress that the Department of State should expand the appeal process available to employees related to assignment preclusions and restrictions. Amends the Department of State Authorities Act by adding that employees subjected to an assignment restriction or preclusion shall have the same appeal rights as those regarding denial or revocation of a security clearance. Appeals must be resolved within 60 days of filing.

Sec. 117. Mentorship Program.

Amending Foreign Service Act of 1980 to establish a mentorship program for entry- and mid-level members of Foreign Service that includes information on employee affinity groups.

Sec. 118 Senior Executive Service Candidate Development Program.

Directs the Secretary of State to offer the Senior Executive Service (SES) Candidate Development Program every three years to members of the Civil Service at GS-14 and

GS-15 levels. The Secretary of State shall submit a report to SFRC and HFAC detailing the disaggregated demographic information of candidates referred by each bureau to interview for the SES.

TITLE II: LOVE ACT OF 2021

Subtitle B—

Sec. 201. Short title.

“Lavender Offense Victim Exoneration Act of 2021” or “LOVE Act of 2021”.

Sec. 202. Findings.

States findings that detail the State Department’s role in contributing to the “Lavender Scare” in the 1950s and 1960s and restates Secretary of State John Kerry’s apology to those who were negatively impacted by the Department’s actions.

Sec. 203. Director General Review.

Directs the Director General of the Foreign Service and the Director of the Bureau of Global Talent Management of the Department, in consultation with the Historian of the Department, to review employee terminations after January 1, 1950 to evaluate whether they were terminated based on sexual orientation. Directs a compilation of the findings in a publicly available report no later than 270 days after the passage of the Act.

Sec. 204. Reports on reviews.

Directs the Secretary to conduct reviews on the consistency and uniformity of the reports under Section 203 and submit to Congress a review based on the reports, with recommendations, annually for two years.

Sec. 205. Establishment of Reconciliation Board.

Directs the Secretary to establish an independent Reconciliation Board to comprehensively address the repercussions of State employees affected by the “Lavender Scare,” collect testimony of those who experienced discrimination and termination during this time period, and review claims of grievances from former employees. The Board shall terminate 5 years after the enactment of this Act.

Sec. 206. Issuance of apology.

Reiterates an apology from both Congress and the State Department to the members of the LBGBTQI+ community who have been affected by the “Lavender Scare.”

Sec. 207. Establishment of permanent exhibit on the Lavender Scare.

Directs the Secretary to establish a permanent exhibit on the “Lavender Scare” in the new United States Diplomacy Center, containing the reports under section 203(b) and testimony pursuant to section 205(b)(2).

Sec. 208. Guidance on issuing visas.

Directs the Secretary to submit a report to Congress on which countries are not providing spousal visas to Foreign Service personnel posted overseas due to sexual orientation.

Sec. 209. Establishment of advancement board.

Directs the Secretary to establish a board of senior-level officials to address issues faced by LBGBTQI+ Foreign Service employees and families and provide an annual report of testimonies to only Members of Congress, their appropriate staff, and members of the Advancement Board for five years after the passage of this act.

TITLE III—SHAPE ACT OF 2021

Subtitle C—

Sec. 301. Short title; rule of construction

“State Harassment and Assault Prevention and Eradication Act of 2021” or “SHAPE Act of 2021.” Affirms that nothing in this title supersedes or affects the discrimination protections or related processes provided under section 717 of the Civil Rights Act of 1964.

Sec. 302. Department of State policy and procedures on prevention and response to harassment, discrimination, sexual assault, and related retaliation.

Directs the Secretary to develop a comprehensive plan to address the State Department’s policy on harassment and sexual assault for employees, contractors, and officials no later than a year after the enactment of this Act. The Secretary shall review the Department’s processes for victim reporting and this review will be included in the report in section 307.

Sec. 303. Reporting, documentation, and investigation procedures.

Directs the Secretary to establish, no later than a year after the enactment of the Act, an Office of Employee Advocacy to be headed by a full-time Chief Advocate for the purpose of addressing issues related to support and assistance for affected employees. Establishes an electronic reporting system, international hotline, and alternate means of reporting in overseas posts for complaints to be filed. Describes the procedure for the Office of Civil Rights following receiving a referral of a complaint from the Office of Employee Advocacy which includes investigation of complaints and reporting. Amends the Foreign Service Act of 1980 with regards to suspension and separation for cause.

Requires an annual report to Congress of case reviews of reports relating to harassment, discrimination, and sexual assault.

Sec. 304. Sexual assault protocol and victim care.

Directs the Secretary to develop and implement a comprehensive sexual assault protocol and guidelines no more than a year after the enactment of this Act. Requires the inclusion of services for employees who make allegations of sexual assault including confidentiality, provision of a victim's advocate, sexual assault forensic evidence kit, emergency health care, and comprehensive health services. Outlines the functional duties of the Victims' Resource Advocacy Program both in DC and at Post.

Sec. 305. Rights of employees harassed, discriminated against, retaliated against, or sexually assaulted.

Expands on the rights of affected employees to include rights to legal counsel, availability of mediation during harassment investigations, availability of alternate work or paid leave of absence, and exit interviews.

Sec. 306. Provision of climate surveys.

Requires the Office of Employee Advocacy within the Department of State to conduct an anonymous survey of covered employees regarding harassment, discrimination, sexual assault, and related retaliation in Department of State employment.

Sec. 307. Reports to Congress, the Department, and the public.

Directs the Secretary of State to submit no later than a year after the date of enactment to the Committee on Foreign Relations, Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Foreign Affairs, and Committee on Oversight and Reform of the House of Representatives a publicly available report and recommendation on allegations of harassment, discrimination, sexual assault, and related retaliation involving employees and officials of the Department of State during the preceding year.

Sec. 308. Required training for Department personnel.

Directs the Office of Civil Rights, no later than a year after the date of enactment, to provide covered employees of the Department of State whistleblower protection training, bystander intervention training, supervisor training, executive leadership training, Manager's toolkit, and Equal Employment Opportunity Counselor training.

Sec. 309. Hiring, vetting, and promotion.

Directs the Secretary of State to require that questions relating to harassment, discrimination, sexual assault, and related retaliation complaints are included in any background investigation with respect to a security clearance or access determination and vetting of any covered employee.

Sec. 310. Nondisclosure and nondisparagement agreements.

Outlines the unlawful practices and enforcement of nondisparagement clauses and nondisclosure clauses. Describes the enforcement powers and procedures, the remedies under these terms and the right to reporting, which is reserved for an employee.

Sec. 311. Sense of Congress on Sexual Harassment and Assault Prevention and Eradication in the Foreign Affairs Workforce.

Sense of Congress that the foreign affairs workforce should take significant steps to prevent and eradicate sexual harassment and assault.