


S.L.C.

115TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

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 Federal Bureau of
19 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 non-Governmental
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;

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 (e) 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

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.