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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. HERN introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. DEFINITIONS.**

6 For the purposes of this Act:

1           (1) AGENCY.—The term “agency” means any  
2           department, agency, instrumentality, or establish-  
3           ment of the Executive branch of Government.

4           (2) DIVISIVE CONCEPTS.—

5           (A) The term “divisive concepts” means  
6           the concepts that—

7                   (i) one race or sex is inherently supe-  
8                   rior to another race or sex;

9                   (ii) the United States is fundamen-  
10                  tally racist or sexist;

11                  (iii) an individual, by virtue of his or  
12                  her race or sex, is inherently racist, sexist,  
13                  or oppressive, whether consciously or un-  
14                  consciously;

15                  (iv) an individual should be discrimi-  
16                  nated against or receive adverse treatment  
17                  solely or partly because of his or her race  
18                  or sex;

19                  (v) members of one race or sex cannot  
20                  and should not attempt to treat others  
21                  without respect to race or sex;

22                  (vi) an individual’s moral character is  
23                  necessarily determined by his or her race  
24                  or sex;

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

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

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

13 (B) The term “divisive concepts” also in-  
14 cludes any other form of race or sex stereo-  
15 typing or any other form of race or sex  
16 scapegoating.

17 (3) OMB.—The term “OMB” means the Office  
18 of Management and Budget.

19 (4) OPM.—The term “OPM” means the Office  
20 of Personnel Management.

21 (5) RACE OR SEX STEREOTYPING.—The term  
22 “race or sex stereotyping” means ascribing character  
23 traits, values, moral and ethical codes, privileges,  
24 status, or beliefs to a race or sex, or to an individual  
25 because of his or her race or sex.

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

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

16 **SEC. 3. REQUIREMENTS FOR THE UNITED STATES UNI-**  
17 **FORMED SERVICES.**

18          The United States Uniformed Services, including the  
19          United States Armed Forces, shall not teach, instruct, or  
20          train any member of the United States Uniformed Serv-  
21          ices, whether serving on active duty, serving on reserve  
22          duty, attending a military service academy, or attending  
23          courses conducted by a military department pursuant to  
24          a Reserve Officer Corps Training program, to believe any  
25          divisive concepts. No member of the United States Uni-

1 formed Services shall face any penalty or discrimination  
2 on account of his or her refusal to support, believe, en-  
3 dorse, embrace, confess, act upon, or otherwise assent to  
4 such concepts.

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

6 (a) IN GENERAL.—Except in contracts exempted in  
7 the manner provided by section 204 of Executive Order  
8 11246 of September 24, 1965 (Equal Employment Oppor-  
9 tunity), all Government contracting agencies shall include  
10 in every Government contract hereafter entered into the  
11 following provisions: “During the performance of this con-  
12 tract, the contractor agrees as follows:

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

17 “(A) one race or sex is inherently superior  
18 to another race or sex;

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

22 “(C) an individual should be discriminated  
23 against or receive adverse treatment solely or  
24 partly because of his or her race or sex;

1           “(D) members of one race or sex cannot  
2           and should not attempt to treat others without  
3           respect to race or sex;

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

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

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

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

17          The term ‘race or sex stereotyping’ means ascribing  
18          character traits, values, moral and ethical codes,  
19          privileges, status, or beliefs to a race or sex, or to  
20          an individual because of his or her race or sex, and  
21          the term ‘race or sex scapegoating’ means assigning  
22          fault, blame, or bias to a race or sex, or to members  
23          of a race or sex because of their race or sex.

24          “(2) The contractor will send to each labor  
25          union or representative of workers with which he has

1 a collective bargaining agreement or other contract  
2 or understanding, a notice, to be provided by the  
3 agency contracting officer, advising the labor union  
4 or workers' representative of the contractor's com-  
5 mitments under the Work Not Woke Act, and shall  
6 post copies of the notice in conspicuous places avail-  
7 able to employees and applicants for employment.

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

22 “(4) The contractor will include the provisions  
23 of paragraphs (1) through (4) in every subcontract  
24 or purchase order unless exempted by rules, regula-  
25 tions, or orders of the Secretary of Labor, so that

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

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

22      (c) **REQUEST FOR INFORMATION.**—Not later than 30  
23      days after the date of enactment of this Act, the Director  
24      of such Office shall publish in the Federal Register a re-  
25      quest for information seeking information from Federal



1 contractors, Federal subcontractors, and employees of  
2 Federal contractors and subcontractors regarding the  
3 training, workshops, or similar programming provided to  
4 employees. The request for information should request  
5 copies of any training, workshop, or similar programing  
6 having to do with diversity and inclusion as well as infor-  
7 mation about the duration, frequency, and expense of such  
8 activities.

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

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

15 (1) one race or sex is inherently superior to an-  
16 other race or sex;

17 (2) an individual, by virtue of his or her race  
18 or sex, is inherently racist, sexist, or oppressive,  
19 whether consciously or unconsciously;

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

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

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

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

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

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

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

17          **SEC. 6. REQUIREMENTS FOR AGENCIES.**

18          (a) IN GENERAL.—The fair and equal treatment of  
19          individuals is an inviolable principle that must be main-  
20          tained in the Federal workplace. Agencies shall continue  
21          all training that will foster a workplace that is respectful  
22          of all employees. Such training shall include the following:

23                  (1) The head of each agency shall use his or  
24                  her authority under sections 301, 302, and 4103 of  
25                  title 5, United States Code, to ensure that the agen-

1 cy, agency employees while on duty status, and any  
2 contractors hired by the agency to provide training,  
3 workshops, forums, or similar programming to agen-  
4 cy employees do not teach, advocate, act upon, or  
5 promote in any training to agency employees any di-  
6 visive concepts. Agencies may consult with OPM,  
7 pursuant to section 4116 of title 5, United States  
8 Code, in carrying out this provision.

9 (2) Agency diversity and inclusion efforts shall,  
10 first and foremost, encourage agency employees not  
11 to judge each other by their color, race, ethnicity,  
12 sex, or any other characteristic protected by Federal  
13 law.

14 (b) OPM REGULATIONS.—The Director of OPM  
15 shall propose regulations providing that agency officials  
16 with supervisory authority over a supervisor or an em-  
17 ployee with responsibility for promoting diversity and in-  
18 clusion, if such supervisor or employee either authorizes  
19 or approves training that promotes divisive concepts, shall  
20 take appropriate steps to pursue a performance-based ad-  
21 verse action proceeding against such supervisor or em-  
22 ployee under chapter 43 or 75 of title 5, United States  
23 Code.

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

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

5           (2) request that the agency inspector general  
6           thoroughly review and assess by the end of the cal-  
7           endar year, and not less than annually thereafter,  
8           agency compliance with the requirements of this Act  
9           in the form of a report submitted to OMB; and

10          (3) assign at least one senior political appointee  
11          responsibility for ensuring compliance with the re-  
12          quirements of this Act.

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

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

20          (b) CONTRACTOR VIOLATION.—If a contractor pro-  
21          vides a training for agency employees relating to diversity  
22          or inclusion that teaches, advocates, or promotes divisive  
23          concepts, and such action is in violation of the applicable  
24          contract, the agency that contracted for such training  
25          shall evaluate whether to pursue debarment of that con-

1 tractor, consistent with applicable law and regulations,  
2 and in consultation with the Interagency Suspension and  
3 Debarment Committee.

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

11 (d) IMPLEMENTATION.—The Directors of OMB and  
12 OPM may jointly issue guidance and directives pertaining  
13 to agency obligations under, and ensuring compliance  
14 with, this Act.

15 **SEC. 8. TITLE VII GUIDANCE.**

16 The Attorney General should continue to assess the  
17 extent to which workplace training that teaches divisive  
18 concepts may contribute to a hostile work environment  
19 and give rise to potential liability under title VII of the  
20 Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.). If  
21 appropriate, the Attorney General and the Equal Employ-  
22 ment Opportunity Commission shall issue publicly avail-  
23 able guidance to assist employers in better promoting di-  
24 versity and inclusive workplaces consistent with such title  
25 VII.

1 **SEC. 9. EFFECTIVE DATE.**

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

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

7 No Federal funds may be obligated or expended to  
8 carry out the following Executive orders (or any successor  
9 Executive orders):

10 (1) Executive Order 13985 (relating to Advanc-  
11 ing Racial Equity and Support for Underserved  
12 Communities Through the Federal Government).

13 (2) Executive Order 14035 (relating to Diver-  
14 sity, Equity, Inclusion, and Accessibility in the Fed-  
15 eral Workforce).

16 (3) Executive Order 14091 (relating to Further  
17 Advancing Racial Equity and Support for Under-  
18 served Communities Through the Federal Govern-  
19 ment).

20 **SEC. 11. GENERAL PROVISIONS.**

21 (a) APPLICATION.—This Act does not prevent agen-  
22 cies, the United States Uniformed Services, or contractors  
23 from promoting racial, cultural, or ethnic diversity or in-  
24 clusiveness, provided such efforts are consistent with the  
25 requirements of this Act.

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

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

8           (d) SEVERABILITY.—If any provision of this Act, or  
9 the application of any provision to any person or cir-  
10 cumstance, is held to be invalid, the remainder of this Act  
11 and the application of its provisions to any other persons  
12 or circumstances shall not be affected thereby.