

7-18

AMENDMENT NO. _____ Calendar No. _____

Purpose: To restrict executive agencies from acting in contravention of Executive Order 13950.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

AMENDMENT N^o 2389

By _____

Cruz

s, highway safety
other purposes.

To: _____

Amdt. No. 2137

_____ and

9
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Mr. CRUZ to the
amendment (No. 2137) proposed by Ms. SINEMA (for
herself and Mr. PORTMAN)

Viz:

- 1 At the appropriate place, insert the following:
- 2 **SEC. ____ . PROHIBITION ON EXECUTIVE AGENCIES ACT-**
- 3 **ING IN CONTRAVENTION OF EXECUTIVE**
- 4 **ORDER 13950.**
- 5 (a) DEFINITIONS.—
- 6 (1) EO 13950.—The term “EO 13950” means
- 7 Executive Order 13950 (5 U.S.C. 4103 note; relat-
- 8 ing to combating race and sex stereotyping).
- 9 (2) EXECUTIVE AGENCY.—The term “Executive
- 10 agency” has the meaning given the term in section
- 11 105 of title 5, United States Code.

1 (b) FINDINGS.—Congress finds the following:

2 (1) On September 22, 2020, President Trump
3 issued EO 13950.

4 (2) EO 13950 was designed “to promote econ-
5 omy and efficiency in Federal contracting, to pro-
6 mote unity in the Federal workforce, and to combat
7 offensive and anti-American race and sex stereo-
8 typing and scapegoating”.

9 (3) Specifically, EO 13950, among other things,
10 prohibited Federal agencies from teaching, adv-
11 eating, acting upon, or promoting in any training to
12 agency employees certain divisive concepts, such as
13 concepts that include a teaching or belief that “(1)
14 one race or sex is inherently superior to another race
15 or sex; (2) the United States is fundamentally racist
16 or sexist; (3) an individual, by virtue of his or her
17 race or sex, is inherently racist, sexist, or oppressive,
18 whether consciously or unconsciously; (4) an indi-
19 vidual should be discriminated against or receive ad-
20 verse treatment solely or partly because of his or her
21 race or sex; (5) members of one race or sex cannot
22 and should not attempt to treat others without re-
23 spect to race or sex; (6) an individual’s moral char-
24 acter is necessarily determined by his or her race or
25 sex; (7) an individual, by virtue of his or her race

1 or sex, bears responsibility for actions committed in
2 the past by other members of the same race or sex;
3 (8) any individual should feel discomfort, guilt, an-
4 guish, or any other form of psychological distress on
5 account of his or her race or sex; or (9) meritocracy
6 or traits such as a hard work ethic are racist or sex-
7 ist, or were created by a particular race to oppress
8 another race”.

9 (4) EO 13950 further required that diversity
10 and inclusion efforts of Federal agencies must “first
11 and foremost, encourage agency employees not to
12 judge each other by their color, race, ethnicity, sex,
13 or any other characteristic protected by Federal
14 law”.

15 (5) EO 13950 was issued soon after the Direc-
16 tor of the Office of Management and Budget, Rus-
17 sell Vought, issued a September 4, 2020, memo-
18 randum (referred to in this section as the “Sep-
19 tember 4, 2020, memorandum”) in which he ex-
20 plained that—

21 (A) millions of taxpayer dollars have been
22 spent on training Federal employees to “believe
23 divisive, anti-American propaganda”;

1 (B) training sessions have taught that
2 “virtually all White people contribute [or ben-
3 efit from] to racism”; and

4 (C) training sessions have claimed that
5 “there is racism embedded in the belief that
6 America is the land of opportunity or the belief
7 that the most qualified person should receive a
8 job”.

9 (6) In the September 4, 2020, memorandum,
10 Director Vought further explained that the trainings
11 described in paragraph (5) “not only run counter to
12 the fundamental beliefs for which our Nation has
13 stood since its inception, but they also engender divi-
14 sion and resentment within the Federal workforce”.

15 (7) EO 13950 and the September 4, 2020,
16 memorandum stood as a direct rebuke of so-called
17 “critical race theory”.

18 (8) Critical race theory, according to Heritage
19 Foundation visiting fellow Chris Rufo (referred to in
20 this section as “Rufo”), is “the idea that the United
21 States is a fundamentally racist country and that all
22 of the institutions, including the law, culture, busi-
23 ness, the economy are all designed to maintain white
24 supremacy”.

1 (9) Critical race theory is, at its core, anti-
2 American, discriminatory, and based on Marxist ide-
3 ology.

4 (10) Critical race theory relies on a Marxist an-
5 alytical framework, viewing society in terms of the
6 oppressed and the oppressor, and instills a defeatist
7 mentality in the individuals that critical race theory
8 casts as the oppressed.

9 (11) Critical race theory's objective is the de-
10 struction and replacement of Western Enlighten-
11 ment Liberalism with a Marxist-influenced govern-
12 ment.

13 (12) Critical race theory intentionally seeks to
14 undermine capitalism and western values, such as
15 property rights, free speech, and the very concept of
16 Lockean natural rights.

17 (13) At the Department of Homeland Security,
18 Rufo explained, trainers "insisted that statements
19 such as 'America is the land of opportunity,' 'Every-
20 body can succeed in this society, if they work hard
21 enough,' and 'I believe the most qualified person
22 should get the job' are racist and harmful".

23 (14) At a training session at the National Cred-
24 it Union Administration, diversity trainer Howard
25 Ross taught that "It is irrefutable that [American

1 society] is a system based on racism” and “good and
2 decent [White] people . . . support the status quo
3 [of] a system of systematized racism”.

4 (15) According to Rufo, employees of the De-
5 partment of the Treasury and Federal financial
6 agencies attended a series of events at which diver-
7 sity trainer Howard Ross taught employees that all
8 White individuals in the United States are complicit
9 in White supremacy “by automatic response to the
10 ways we’re taught Whiteness includes White privi-
11 lege and White supremacy”.

12 (16) Martin Luther King, Jr., in his “I have a
13 dream speech” said, “I look to a day when people
14 will not be judged by the color of their skin, but by
15 the content of their character”.

16 (17) By teaching that certain individuals, by
17 virtue of inherent characteristics, are inherently
18 flawed, critical race theory contradicts the basic
19 principle upon which the United States was founded
20 that all men and women are created equal.

21 (18) The teachings of critical race theory stand
22 in contrast to the overarching goal of the Civil
23 Rights Act of 1964 (42 U.S.C. 2000A et seq.) to
24 prevent discrimination on the basis of race, color, or
25 national origin in the United States.

1 (19) Critical race theory seeks to portray the
2 United States not as a united Nation of individuals,
3 families, and communities striving for a common
4 purpose, but rather a Nation of many victimized
5 groups based on sex, race, national origin, and gen-
6 der.

7 (20) Critical race theory, and its emphasis on
8 predetermining the thoughts, beliefs, and actions of
9 an individual, flouts the guarantee of Constitution of
10 the United States of equal protection under the law
11 to all men and women.

12 (21) On January 20, 2021, President Joe
13 Biden issued Executive Order 13985 (86 Fed. Reg.
14 7009; relating to advancing racial equity and sup-
15 port for underserved communities through the Fed-
16 eral Government) (referred to in this section as “EO
17 13985”), which revoked EO 13950.

18 (22) The people of the United States should de-
19 fend the civil rights of all people and seek to elimi-
20 nate racism wherever it exists. Critical race theory
21 and its propagation within the Federal Government
22 through EO 13985 desecrates this paramount pur-
23 suit to eliminate racism.

1 (c) PROHIBITION.—No Executive agency may act in
2 contravention of EO 13950, except as EO 13950 relates
3 to contractors and grant recipients.

4 (d) LIMITATION ON FUNDS.—An Executive agency or
5 any other recipient of Federal funds may not use Federal
6 funds to teach or advance the idea, or otherwise award
7 any grant or subgrant using Federal funds to any Execu-
8 tive agency, entity, or individual that teaches or otherwise
9 advances the idea, that—

10 (1) one race is inherently superior or inferior to
11 another race;

12 (2) an individual or a group of individuals, by
13 virtue of the race of the individual or group of indi-
14 viduals—

15 (A) is superior or inferior to another indi-
16 vidual, or a group of individuals, who is of a
17 different race;

18 (B) bears responsibility or moral culpa-
19 bility for the actions committed by other indi-
20 viduals who are of the same race as the indi-
21 vidual or group of individuals; or

22 (C) is inherently racist or oppressive,
23 whether consciously or unconsciously;

1 (3) the race of an individual or a group of indi-
2 viduals is determinative of the moral worth of the in-
3 dividual or group of individuals;

4 (4) the United States is a fundamentally racist
5 country; or

6 (5) the founding documents of the United
7 States, including the Declaration of Independence
8 and the Constitution of the United States, are fun-
9 damentally racist documents.