United States Senate
WASHINGTON, DC 20510

October 27, 2020

The Honorable Eric D. Hargan
Deputy Secretary
U.S. Department of Health and Human Services
200 Independence Ave, S.W.
Washington, D.C.

Dear Deputy Secretary Hargan:

We write with deep concern about your recent memorandum to halt all diversity and inclusion trainings for employees and grantees of the U.S. Department of Health and Human Services (HHS) until they have been "approved by designated HHS officials and the Office of Personnel Management."[1] Your memorandum furthers the reach of a damaging executive order issued by President Trump[2] in September that sought to prohibit such training across the Federal government and for Federal contractors. At a time when the COVID-19 pandemic has exacerbated health inequities among communities of color in this country, it is unconscionable for HHS to systematically dismantle evidenced-based programs that seek to eliminate bias in order to advance President Trump's divisive political agenda. We urge you to immediately rescind this damaging guidance, restore these important training programs, and put forth solutions to work toward eliminating racial and ethnic health disparities and promote diversity and inclusion at HHS and beyond.

On September 22, 2020, President Trump issued Executive Order 13950,[3] which sought to broadly prohibit any training that addresses bias on the basis of race or sex for Federal employees and contractors.[4] Subsequently, your office issued a memorandum on October 7, 2020[5] that directed HHS Operating and Staff Division Heads to halt diversity and inclusion training until they have been approved by "the designated HHS official(s) and by the Office of

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[1] Implementation of Executive Order 13950 on *Combatting Race and Sex Ste Stereotyping and Office of Management,* the Office of Management and Budget's Memorandum, M-20-37: *Ending Employee Training that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All*
[2] Executive Order 13950 on *Combatting Race and Sex Stereotyping*
[3] https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/
[4] Ibid.
[5] "Implementation of Executive Order 13950 on Combatting Race and Sex Stereotyping and Office of Management and Budget's Memorandum, M-20-37; *Ending Employee Training that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All."*

Personnel Management."[6] Both the executive order and your subsequent memo expressly designate political appointees to approve diversity and inclusion training, which is concerning given the disturbing pattern of politically appointed HHS officials interfering in evidence-based practices of career professionals during the COVID-19 pandemic.

Simply put, President Trump's executive order, your office's subsequent memorandum, and related guidance from the Office of Personnel Management run counter to established medical and scientific literatures that have found bias contributes to health disparities experienced by communities of color. While the executive order describes such training as "divisive" and seeking to "scapegoat" certain groups of employees, the Association of American Medical Colleges notes that the "central purpose of diversity and inclusion training is, in fact, to bring the country together, not to further divide it."[7] Studies have found[8] that diversity and inclusion training, as well as training on implicit and explicit bias, is a key part of addressing disparities in health outcomes.

Furthermore, we fear the Trump Administration's actions will hinder the work of HHS agencies and entities dedicated to promoting and supporting programs to increase diversity and inclusion and addressing different types of bias. For example, the HHS Office of Human Resources supports a Diversity and Inclusion Division that, since 2014, has published quarterly newsletters highlighting efforts to promote diversity and inclusion across HHS.[9] The National Institute on Aging provides implicit bias training resources for researchers as a part of the Alzheimer's & Dementia Outreach, Recruitment & Engagement repository of information.[10] These programs are embedded in the fabric of HHS programs and have been developed by experts. To order an abrupt halt of these and other trainings undermines the efficacy of HHS programs.

Racial and ethnic disparities in the health care system are well-documented and pervasive. The COVID-19 pandemic has only underscored and deepened health inequities in the United States. In general, people of color are more likely to be underinsured or uninsured,[11] experience higher

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[6] Implementation of Executive Order 13950 on *Combatting Race and Sex Ste Stereotyping and Office of Management,* the Office of Management and Budget's Memorandum, M-20-37: *Ending Employee Training that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All*

[7] https://www.aamc.org/news-insights/press-releases/aamc-statement-executive-order-combating-race-and-sex-stereotyping

[8] Bezrukova, K., Spell, C. S., Perry, J. L., & Jehn, K. A. (2016). A meta-analytical integration of over 40 years of research on diversity training evaluation. Psychological Bulletin, 142(11), 1227-1274; Hall, W. J., Chapman, M. V., Lee, K. M., Merino, Y. M., Thomas, T. W., Payne, B. K., Eng, E., Hay, S.D. & Coyne-Beasley, T. (2015). Implicit racial/ethnic bias among health care professionals and its influence on health care outcomes: A systematic review. *American Journal of Public Health, 105*(12), 60-76; Maina, I. W., Belton, T. D., Ginzberg, S., Singh, A., & Johnson, T. J. (2018). A decade of studying implicit racial/ethnic bias in healthcare providers using the implicit association test. Social Science & Medicine, 199, 219-229.

[9] https://www.hhs.gov/about/agencies/asa/ohr/about-ohr/diversity-inclusion-division/index.html

[10] https://www.nia.nih.gov/research/alzheimers-dementia-outreach-recruitment-engagement-resources/implicit-bias-resources

[11] https://avalere.com/press-releases/covid-19-projected-to-worsen-racial-disparities-in-health-coverage

rates of chronic illness,[12] have poorer access to care,[13] and receive lower quality care.[14] Black and Hispanic Americans are three times more likely to contract COVID-19 than their white peers.[15] Some majority-Black counties report mortality rates almost six times those of predominantly white counties. Tribal communities also have been disproportionately affected by COVID-19, with one analysis determining the incidence rate of COVID-19 cases is 3.5 times higher among American Indian and Alaskan Natives compared to white individuals.[16] This stark impact is also demonstrated in the case of the Warm Springs tribe in Oregon. If Warm Springs were its own county, it would rank in the top 5 percent of counties in the nation with the highest incidence of new cases of COVID-19.[17]

These existing racial and ethnic disparities are caused by a variety of factors, including implicit and explicit bias and the lack of diversity among health care providers. The Federal government has recommended that a key piece of addressing these disparities is training providers on the importance of diversity, inclusion, and bias -- both implicit and explicit. Educating HHS employees and their grantees, including health care providers, about the importance of diversity and inclusion and the existence and perpetuation of racial, ethnic, other biases is critical to eliminating disparities and promoting better outcomes in HHS programs.

A long line of federal reports has underscored the importance of addressing these issues head on with targeted approaches. For example, under President Reagan, the HHS Secretary's Task Force report on Black and Minority Health, also known as the Heckler Report, identified efforts, including provider training, that HHS could take to eliminate health and health care disparities.[18] In 2002, the Institute of Medicine found that "bias, stereotyping and prejudice" contribute to racial and ethnic disparities.[19] The report continued by stating "the real challenge lies not in debating whether disparities exist, but in developing and implementing strategies to reduce and eliminate them," and found that provider bias was a contributing factor to health disparities. As a solution, the report recommends "cross-cultural curricula should be integrated early into the training of future healthcare providers, and practical, case-based, rigorously evaluated training should persist through practitioner continuing education programs." In 2011, the HHS Office of Minority Health issued a *National Stakeholder Strategy for Achieving Health Equity.*[20] Among its key recommendations were to "develop and support the health workforce and related industry

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[12] https://www.cdc.gov/nchs/hus/spotlight/HeartDiseaseSpotlight_2019_0404.pdf
[13] Riley W. J. (2012). Health disparities: gaps in access, quality and affordability of medical care. Transactions of the American Clinical and Climatological Association, 123, 167–174.
[14] https://www.ahrq.gov/research/findings/nhqrdr/nhqdr18/index.html
[15] https://www.healthaffairs.org/do/10.1377/hblog20200716.620294/full/
[16] Hatcher SM, Agnew-Brune C, Anderson M, et al. COVID-19 Among American Indian and Alaska Native Persons — 23 States, January 31–July 3, 2020. MMWR Morb Mortal Wkly Rep 2020;69:1166–1169. DOI: http://dx.doi.org/10.15585/mmwr.mm6934e1
[17] https://www.bendbulletin.com/coronavirus/warm-springs-community-covid-19-cases-rise-at-record-rates/article_9b9f419a-d5d1-11ea-97be-938d377ab81a.html
[18] https://thinkculturalhealth.hhs.gov/clas/health-equity-timeline
[19] https://www.nap.edu/read/12875/chapter/1
[20] https://minorityhealth.hhs.gov/npa/files/Plans/NSS/completenss.pdf

workforces to promote the availability of cultural and linguistic competency training." Clearly, HHS has long promoted these kinds of efforts.

Major medical and scientific organizations also recommend diversity, inclusion and bias training. The American Public Health Association recommends "interventions targeting implicit attitudes among health care professionals are needed because implicit bias may contribute to health disparities for people of color."[21] The American Hospital Association states that "eliminating health inequities, including COVID-related inequities, requires addressing unconscious bias."[22] The American Medical Association "actively support(s) the development and implementation of training implicit bias, diversity and inclusion in all medical schools and residency programs,"[23] as well as promoting "effective strategies for educating residents in all specialties about disparities in their fields related to race, ethnicity and all populations at increased risk."[24] The Accreditation Council for Graduate Medical Education, which accredits physician training programs in the United States, requires diversity training as part of the curriculum for board certification.[25] President Trump's executive order, and your memorandum, will stand in the way of what medical and public health experts recommend to reduce health disparities and improve health outcomes.

Given these serious concerns, we seek additional information about the policy that HHS is implementing. Please respond to these questions no later than November 10, 2020:

1. Please provide a list of all programs, trainings, grants, contracts and other departmental activities that are subject to the October 7 memorandum.
2. Please provide a list of all political appointees who will be assigned to make decisions about whether programs, trainings, grants, contracts and other departmental activities comply with the October 7 memorandum.
3. The October 7 memorandum states that additional directives and guidance will be issued by the Assistant Secretary for Administration. Please provide all such directives and guidance.
4. Has HHS conducted an analysis of the impact of the October 7 memorandum? Has the Office of General Counsel provided an opinion about the legality of the memorandum? Please provide all such analyses or opinions.
5. Please provide all emails that have been sent to the account established in the October 7 memorandum.

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[21] https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2015.302903?journalCode=ajph
[22] https://www.politico.com/newsletters/politico-pulse/2020/10/20/trumps-inexplicable-focus-on-fauci-791080
[23] https://www.ama-assn.org/house-delegates/ama-policies/actions-taken-protect-clerkship-spots-address-bias
[24] Ibid.
[25] https://www.acgme.org/Portals/0/PFAssets/ProgramRequirements/CPRResidency2020.pdf

Thank you for your attention to this matter. We urge you to immediately rescind your memorandum, and allow diversity and inclusion training throughout HHS programs and among grantees to resume.

Sincerely,

Ron Wyden
United States Senator

Patty Murray
United States Senator