

# DRAFT 2<sup>ND</sup> EO

## Eliminating Discriminatory and Woke State AI Laws

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

### **Section 1. Purpose.**

Artificial intelligence (AI) powers American economic growth and provides invaluable information, guidance, and assistance to many Americans. Through Executive Order 14319 of July 23, 2025 (Preventing Woke AI in the Federal Government), my administration acted to promote unbiased, truth-seeking AI rather than systems that incorporate toxic “diversity, equity, and inclusion” (DEI) ideology. DEI displaces the commitment to truth in favor of predetermined, ideological outcomes fundamentally inconsistent with reliable AI.

American greatness has always been built on the simple but profound principle that every person deserves to be judged by merit, not by race, color, or any other immutable characteristic. Equal opportunity, not equal outcomes, will remain the foundation of the American Dream in the age of AI. My administration strengthened this foundation with Executive Order 14281 of April 23, 2025 (Restoring Equality of Opportunity and Meritocracy), which declared it the policy of the United States to eliminate the use of disparate-impact liability to the maximum degree possible. Disparate-impact liability encourages individuals and businesses to consider race and engage in racial balancing, thereby mandating discrimination rather than proscribing it.

Despite these clear statements of Federal policy, certain State governments are considering or have enacted laws that compel discrimination. Colorado Senate Bill 24-205 explicitly protects AI designed to “increase diversity or redress historical discrimination” while penalizing AI that produces “differential impact” across demographic groups, regardless of whether those outcomes are more meritocratic and fair. Under the Colorado bill, companies must conduct impact assessments, monitor their AI for statistical disparities, and “mitigate” any differences. The law all but requires woke AI while criminalizing neutral AI.

When State laws require AI systems to consider race to achieve demographic proportionality, they violate the Constitution's guarantee of equal protection and contravene the policy of the United States. The Department of Justice has the authority and the responsibility to challenge State laws that mandate discrimination and undermine constitutional principles. No State government may require private companies to incorporate woke design principles into AI systems to satisfy that government's preferred social policies.

## **Sec 2. Policy.**

It is the policy of the United States to oppose State laws that mandate differential treatment on the basis of race, sex, or other protected characteristics or that compel discrimination through disparate-impact requirements.

## **Sec 3. Identification of Unconstitutional State AI Laws.**

(a) Within 90 days of the date of this order, the Attorney General, in consultation with the Secretary of Commerce and the Director of the Office of Science and Technology Policy, shall publish a list of State and local laws, regulations, and enforcement actions that impose unconstitutional disparate-impact requirements on artificial intelligence systems. After this initial publication, the Attorney General shall update this list as necessary, but no less than annually.

(b) In compiling the list under subsection (a), the Attorney General shall identify State and local measures that:

(i) define algorithmic discrimination, bias, or similar concepts using metrics of differential outcomes across demographic groups without requiring evidence of discriminatory intent;

(ii) require or incentivize developers or deployers to modify AI systems to achieve demographic parity or reduce statistical disparities in outcomes;

(iii) impose penalties, enforcement actions, or liability on entities whose AI systems produce statistically different outcomes across demographic groups, absent evidence of intentional discrimination; or

(iv) otherwise compel consideration of race, sex, or other protected characteristics in the design, training, testing, or deployment of AI systems.

(c) Immediately following publication of the list under subsection (a), the Attorney General shall notify each affected State or local government regarding the constitutional deficiencies identified in its laws or enforcement actions.

## **Sec 4. Federal Response.**

(a) With respect to States and localities identified under section 3(a), the head of each executive department or agency, in coordination with the Director of the Office of Management and Budget and as permitted by law, shall review Federal funds provided to such jurisdictions and identify funds appropriate for suspension or termination, including grants and contracts related to technology, innovation, workforce development, or artificial intelligence.

(b) With respect to States and localities that, after notification under section 3(c), fail to repeal or cease enforcement of the identified measures within 180 days, the Attorney General shall pursue all appropriate legal remedies, which may include:

- (i) filing civil actions seeking declaratory and injunctive relief;
- (ii) intervening in, or filing statements of interest in, private litigation challenging such State laws;
- (iii) issuing guidance to clarify the constitutional limits on State regulation of artificial intelligence; and
- (iv) taking any other action authorized by law to vindicate the constitutional rights of American citizens and businesses.

## **Sec 5. Severability.**

If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

## **Sec 6. General Provisions.**

- (a) Nothing in this order shall be construed to impair or otherwise affect:
  - (i) the authority granted by law to an executive department or agency, or the head thereof; or
  - (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.
- (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
- (d) The Department of Justice shall provide funding for this order's publication in the Federal Register.