



**LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS  
U N D E R L A W**

**STATEMENT OF DAMON T. HEWITT  
PRESIDENT AND EXECUTIVE DIRECTOR  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY  
HEARING ON  
“STANDING UP FOR THE RULE OF LAW: ENDING ILLEGAL  
RACIAL DISCRIMINATION AND PROTECTING MEN AND WOMEN  
IN U.S. EMPLOYMENT PRACTICES”**

**JUNE 27, 2024**

Dear Chair Comer, Ranking Member Raskin, and Members of the Committee:

I submit this written testimony in support of the continued advancement of diversity, equity, inclusion, and accessibility (“DEIA”) efforts in employment practices through federal legislation. Historically, advancements in our society for Black people and other people and communities of color have only been made possible due to the efforts of this legislative body as a means of righting historic and systemic wrongs. Since our founding, the Lawyers’ Committee for Civil Rights Under Law has remained steadfast in our commitment to ensuring that those hard-fought and hard-won rights remain intact.

The Lawyers’ Committee is a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy to enlist the private bar’s leadership and resources in combating racial discrimination and the resulting inequality of opportunity—work that continues to be vital today. The Lawyers’ Committee uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have voice, opportunity, and power to make the promises of our democracy real. For more than 60 years, the Lawyers’ Committee has been at the forefront of many of the most significant cases combatting racial discrimination and advancing civil rights. Based on this experience, we know that efforts designed to advance DEIA are critical tools to help companies prevent and correct intentional discrimination and unconscious bias, identify and break down systemic barriers, integrate occupations, and increase access to opportunity.

Increasingly, after the Supreme Court’s ruling in the *Students for Fair Admissions (SFFA) v. University of North Carolina (UNC)/Harvard College*, there has been a coordinated effort to retreat from the progress that has been made in recent years toward addressing and remedying racial inequities and creating a more diverse, equitable, inclusive, and accessible workforce. In 2020 after George Floyd’s murder and nationwide Black Lives Matter protests, corporations made unprecedented commitments to advancing racial equity. Recent analysis shows that in 2021, among 88 companies in the S&P 500, 94% of the increase in headcount went to people of color.<sup>1</sup>

As Maya Wiley, President and CEO of The Leadership Conference on Civil and Human Rights, explained in her thoughtful testimony in the hearing of this Committee, DEIA efforts are wholly legal under Title VII of the Civil Rights Act of 1964.<sup>2</sup> Indeed, DEIA efforts are a necessary tool to help employers fulfill their legal obligations under Title VII by identifying and remedying harassment, discrimination and other systemic barriers to opportunity that negatively affect certain groups. This more practical understanding of DEIA under the proper legal standard was also reflected in the statement issued by U.S. Equal Employment Opportunity Commission Chair Charlotte Burrows in response to the Supreme Court’s decision in the UNC and Harvard affirmative action cases<sup>3</sup> when she made clear that “it remains lawful for employers to implement

---

<sup>1</sup> Bloomberg: Equality + Corporate, *America Promised to Hire a Lot More People of Color. It Actually Did.*, BLOOMBERG (Sept. 25, 2023), <https://www.bloomberg.com/graphics/2023-black-lives-matter-equal-opportunity-corporate-diversity/>.

<sup>2</sup> *Ending Illegal Racial Discrimination and Protecting Men and Women in U.S. Employment Practices: Hearing Before the H. Comm. on Oversight and Accountability*, 118th Cong. 3 (2024) (statement of Maya Wiley, President and CEO, The Leadership Conference on Civil and Human Rights)

<sup>3</sup> 143 S. Ct. 2141 (2023).

diversity, equity, inclusion, and accessibility programs that seek to ensure workers of all backgrounds are afforded equal opportunity in the workplace.”<sup>4</sup>

DEIA programs also help employers avoid leaving talent at the door and have wide-ranging positive effects for businesses. As the majority of Americans recognize, diversity initiatives in the workplace make companies more profitable and innovative,<sup>5</sup> and the data bears this out. A recent study reported striking findings that gender and ethnic diversity on executive teams and boards strongly correlate with better business outcomes.<sup>6</sup> In an increasingly competitive global economy, geographical openness and cultural diversity and tolerance have been identified as “key drivers of economic progress.”<sup>7</sup>

The degree of pervasive and deeply entrenched racial disparities in employment underscores the ongoing need for employers to continue investing in robust DEIA programs. For example, although the number of Black people with college degrees has increased in the last 20 years, occupational segregation has worsened, and Black people remain relegated to lower wage jobs and less lucrative industries compared to white people with similar levels of education.<sup>8</sup> On average, Black workers “are not being hired, promoted or paid according to what would signal their level of productivity based on their experience or their education.”<sup>9</sup>

Furthermore, Black workers and other workers of color continue to experience discrimination and harassment in the workplace. In a 2021 Gallup survey, about 1 in 4 Black and Hispanic employees reported having experienced workplace discrimination in the prior year.<sup>10</sup> Within the last decade, EEOC charge statistics indicate that race discrimination claims comprise between 28% and 35% of charges filed with the agency.<sup>11</sup>

---

<sup>4</sup> Press Release, Charlotte A. Burrows, Chair, U.S. Equal Employment Opportunity Commission, Statement from EEOC Chair Charlotte A. Burrows on Supreme Court Ruling on College Affirmative Action Programs (June 29, 2023), <https://www.eeoc.gov/newsroom/statement-eeoc-chair-charlotte-burrows-supreme-court-ruling-college-affirmative-action>.

<sup>5</sup> See *New Poll by the Black Economic Alliance Foundation/The Harris Poll: Corporate Diversity Initiatives Overwhelmingly Supported Across Racial, Ideological, and Generational Lines*, BLACK ECONOMIC ALLIANCE FOUNDATION (Aug. 28, 2023), <https://foundation.blackeconomicalliance.org/press-release/new-poll-by-the-black-economic-alliance-foundation-the-harris-poll-corporate-diversity-initiatives-overwhelmingly-supported-across-racial-ideological-and-generational-lines/>.

<sup>6</sup> MCKINSEY & CO., *Diversity Matters Even More: The case for holistic impact*, 11-13 (Dec. 5, 2023), <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-matters-even-more-the-case-for-holistic-impact>.

<sup>7</sup> Vanessa Cárdenas, Ctr. for Am. Progress, & Sarah Treuhft, PolicyLink, *All-In Nation: An America that Works for All*, (July 24, 2013), <https://www.americanprogress.org/wp-content/uploads/sites/2/2013/07/AllInNation.pdf>.

<sup>8</sup> Ashley Jardina, et al., *The Limits of Educational Attainment in Mitigating Occupational Segregation Between Black and White Workers*, NAT’L BUREAU OF ECON. RESEARCH (Aug. 2023), <https://doi.org/10.3386/w31641>.

<sup>9</sup> Quote from Valerie Wilson, Director of the Economic Policy Institute’s program on race, ethnicity and the economy. Courtney Connley, *Why Black workers still face a promotion and wage gap that’s costing the economy trillions*, CNBC (Apr. 16, 2021), <https://tinyurl.com/3jux5phm>.

<sup>10</sup> Camille Lloyd, *One in Four Black Workers Report Discrimination at Work*, GALLUP (Jan. 12, 2021), <https://news.gallup.com/poll/328394/one-four-black-workers-report-discrimination-work.aspx>.

<sup>11</sup> U.S. EQUAL EMP. OPPORTUNITY COMM’N, *Charge Statistics (Charges filed with EEOC) FY 1997 Through FY 2022*, (last visited July 9, 2024), [https://www.eeoc.gov/sites/default/files/2024-05/Table%20E1a.%20Charge%20Receipts%20by%20Basis%20or%20Statute%20%28All%20Statutes%29%20FY%201997%20-%20FY%202023\\_0.csv](https://www.eeoc.gov/sites/default/files/2024-05/Table%20E1a.%20Charge%20Receipts%20by%20Basis%20or%20Statute%20%28All%20Statutes%29%20FY%201997%20-%20FY%202023_0.csv).

Federal government intervention by the EEOC and the Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) has proven to be mission-critical in protecting private workers from racial discrimination and harassment in the workplace and must be adequately resourced. For example, in September 2023, the EEOC filed a lawsuit against Tesla Inc. alleging that the company violated Title VII by not addressing systemic racial harassment of its Black employees and by retaliating against workers who complained. According to the EEOC’s lawsuit, “[racial] [s]lurs were used casually and openly in high-traffic areas and at worker hubs [and] Black employees regularly encountered graffiti, including variations of the N-word, swastikas, threats, and nooses, on desks and other equipment,” and in other workplace locations.<sup>12</sup> On March 29, 2024 a federal district court judge denied Tesla’s motion to dismiss the suit finding that the alleged facts were enough to support a prima facie case that Tesla facilitated a work environment hostile to its Black employees.<sup>13</sup> That case continues to advance in the United States District Court for the Northern District of California.<sup>14</sup> And in June 2024, OFCCP entered into an agreement with Deere & Co. to resolve allegations of systemic hiring discrimination affecting Black and Hispanic applicants at facilities in Illinois and Iowa. Deere & Co. has agreed to pay more than \$1 million in back wages to the affected job applicants.<sup>15</sup>

Our country is increasingly becoming more diverse and Black workers and workers of color deserve the same opportunities to be as productive and prosperous as possible. Addressing racial inequality benefits communities where workers and their families live and work, where companies invest, and has substantial benefits to the economy as a whole. A recent study found that closing the Black wage gap could have added \$2.7 trillion in income available for consumption or investment over the past 20 years.<sup>16</sup> DEIA is a critical vehicle through which so many Americans are able to realize their dreams for themselves and their families.

For the reasons mentioned above, the Lawyers’ Committee calls on Congress and the House Committee on Oversight and Accountability to engage in an accurate, robust, and thorough review of the historic record, the legislative record, and the current trends concerning the lack of racial equality and equity in employment to best determine the way forward on this issue. When the private sector pursues racial equity and DEIA, we can all prosper.

---

<sup>12</sup> *EEOC Sues Tesla for Racial Harassment and Retaliation*, U.S. EQUAL EMP. OPPORTUNITY COMM’N (Sept. 28, 2023), <https://www.eeoc.gov/newsroom/eeoc-sues-tesla-racial-harassment-and-retaliation>.

<sup>13</sup> *Equal Emp. Opportunity Comm’n v. Tesla, Inc.*, No. 23-CV-04984-JSC, 2024 WL 1354530 (N.D. Cal. Mar. 29, 2024).

<sup>14</sup> *See id.*

<sup>15</sup> *See Federal contractor Deere & Co. resolves alleged hiring discrimination, pays \$1.1M in back wages, interest to affected Black, Hispanic jobseekers*, U.S. DEP’T OF LAB. (June 6, 2024), <https://www.dol.gov/newsroom/releases/ofccp/ofccp20240606>.

<sup>16</sup> Dana M. Peterson & Catherine L. Mann, *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, CITIGPS, 4 (Sept. 1, 2020), [https://ir.citi.com/NvIUklHPilz14Hwd3oxqZBLMn1\\_XPqo5FrxsZD0x6hhil84ZxaxEuJUWmak51UHvYk75VKeHCMI%3D](https://ir.citi.com/NvIUklHPilz14Hwd3oxqZBLMn1_XPqo5FrxsZD0x6hhil84ZxaxEuJUWmak51UHvYk75VKeHCMI%3D).