



**Testimony of Daniel P. Lennington<sup>1</sup>**  
**Wisconsin Institute for Law & Liberty Inc.**  
**Before the U.S. House Committee on Oversight and Government Reform**  
**Subcommittee on Health and Financial Services**

**June 25, 2025**

Chairman Grothman, Ranking Member Krishnamoorthi, and Members of the Subcommittee on Health Care and Financial Services:

Earlier this month, the U.S. Supreme Court held that federal civil rights laws protect all individuals, without any preference for certain groups over others.<sup>2</sup> In this unanimous decision authored by Justice Jackson, the Court explained that federal law applies equally to whites, blacks, and all other races. The law of the land is colorblind.<sup>3</sup>

“Diversity, equity, and inclusion,” or DEI, stands in direct contrast to these principles. DEI treats individuals as members of racial groups and then endeavors to “even out” the results through a process of racial balancing—an initiative the Supreme Court has repeatedly confirmed as “patently” unlawful.<sup>4</sup> For example, DEI may require a company to interview two minorities for every open job, regardless of qualifications.<sup>5</sup> DEI may force schools to balance out discipline enforcement so that black students are punished less than whites, regardless of individual behavior.<sup>6</sup>

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<sup>2</sup> *Ames v. Ohio Dep’t of Youth Servs.*, No. 23-1039, 2025 WL 1583264, at \*4 (U.S. June 5, 2025) (“By establishing the same protections for every ‘individual’—without regard to that individual’s membership in a minority or majority group—Congress left no room for courts to impose special requirements on majority-group plaintiffs alone.”); *id.* (“Title VII bars discrimination against whites on the same terms as racial discrimination against nonwhites.”) (citation and quotation omitted).

<sup>3</sup> See, e.g., *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.* (“*SFFA*”), 600 U.S. 181, 206 (2023) (the principles of equal protection “appl[y] without regard to any differences of race, of color, or of nationality—it is universal in its application. For the guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color”) (citations, internal brackets, and quotation marks omitted); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 239 (1995) (Scalia, J. concurring) (“[T]here can be no such thing as either a creditor or a debtor race.”)

<sup>4</sup> *SFFA*, 600 U.S. at 223, 226.

<sup>5</sup> NFL, *The Rooney Rule*, available [here](#).

<sup>6</sup> USDOJ, *Discipline Guidance to Promote Safe, Inclusive Schools*, available [here](#).

Or DEI may require an elementary school or a hospital to hire more teachers, doctors, and medical professionals that “look like the community they serve.”<sup>7</sup>

DEI negatively impacts real Americans every day. At the Wisconsin Institute for Law & Liberty (WILL), we have represented over 80 clients from 25 states who have been harmed by discriminatory DEI policies. We have brought multiple lawsuits, including six against the Biden Administration and dozens more other legal actions around the country, to protect Americans from harmful and discriminatory DEI policies. In our work, we have heard directly from countless individuals who have lost their jobs, been denied benefits, or faced other forms of racial harassment all due to DEI. Here are just a few examples:

- Colbey Decker, a mom from Green Bay, Wisconsin, was told that her son could not get the help he needed for dyslexia because he was not black, Hispanic, or Native American.<sup>8</sup>
- Antonio Vitolo, a restaurant owner from Tennessee, was put at the back of the line to get much-needed restaurant-relief funds from the Biden Administration because he was not a racial minority.<sup>9</sup>
- Adam Faust, a disabled dairy farmer from Chilton, Wisconsin, was denied loan forgiveness simply because of his white skin.<sup>10</sup>
- Christian Bruckner, a disabled immigrant from Romania living in Florida, was deemed ineligible for business services from the Minority Business Development Agency because he was not black.<sup>11</sup>
- Richard Fisher, a retired investor from Texas, was denied an opportunity to invest in a new Bally’s casino in Chicago—simply because Mr. Fisher is white.<sup>12</sup>

Many more individuals have contacted us who have suffered discrimination

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<sup>7</sup> WILL, *Cincinnati Children’s Complaint*, available [here](#); see also *Beloit Schools Complaint*, available [here](#), and *Johns Hopkins University Hospital Complaint*, available [here](#). In each of these cases, schools and hospitals attempted to hire certain racial groups that they thought would be preferable based on racial stereotypes of how employees should look.

<sup>8</sup> WILL, *Colbey Decker v. GBAPS*, <https://will-law.org/decker-v-gbasd/>.

<sup>9</sup> WILL, *Vitolo v. Guzman*, <https://will-law.org/vitolo-v-guzman-2/>.

<sup>10</sup> WILL, *Faust v. Vilsack*, <https://will-law.org/faust-v-vilsack/>. Mr. Faust has recently sued the Trump Administration for perpetuating this race and sex discrimination in three separate USDA programs. See WILL, *Faust v. USDA*, <https://will-law.org/faust-v-usda/>.

<sup>11</sup> WILL, *Nuziard v. MBDA*, <https://will-law.org/nuziard-et-al-v-minority-business-development-agency/>.

<sup>12</sup> WILL, *AAER v. City of Chicago*, <https://will-law.org/american-alliance-for-equal-rights-v-city-of-chicago/>.

in the workplace. DEI in the workplace is particularly virulent because victims typically suffer in silence fearing retaliation, unable to risk their jobs by standing up to DEI, or unwilling to be labeled as the person who sued their employer. Many DEI victims simply quit and find a new job or persist in a job knowing they will never be treated equally because of their race.

We recently heard from an experienced management-level employee at a Fortune 500 Company who received an email inviting him to apply for something called the “Connected Leaders Academy.” This program is run by McKinsey & Company, a nationwide consulting firm. The “Connected Leaders Academy” was promoted by the employer as the fast track to promotion. After the employee clicked on the link, he learned that the program was only open to “Black, Hispanic and Latino, and Asian employees.” This well-qualified employee is ineligible for this leadership opportunity and, therefore, at a disadvantage for a future promotion because he is white.

Another employee at a large nationwide company learned that his company has an express policy of increasing racial diversity through several specific race-based programs. Black employees are eligible for special training, mentorship, promotions, and education. Managers are required to consider a racially diverse slate of candidates for each job, hit certain race-based performance goals, and then specifically rewarded with salary increases and bonuses for hiring and retaining non-white employees. This company (which has tens of billions in annual revenue and is also a federal contractor) has express written internal documents explaining their policy is to hire and promote more women and minorities, and fewer white men.

In addition to workplace policies, corporations create discriminatory race-based programs for customers, suppliers, and contractors. WILL client Christopher Moses sued Comcast for its RISE program, which awarded business grants based on race.<sup>13</sup> WILL recently filed a civil-rights complaint against Amazon for operating a Black Business Accelerator, which is only open to black-owned businesses that sell on Amazon.<sup>14</sup> The bank BMO Harris offers special programs to “black-owned businesses.”<sup>15</sup> Lockheed Martin was recently accused of awarding bonuses based on

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<sup>13</sup> WILL, *Moses v. Comcast*, <https://will-law.org/moses-v-comcast/>.

<sup>14</sup> WILL, *Amazon’s Black Business Accelerator*, <https://will-law.org/amazon-retreats-from-black-only-business-program-after-will-calls-for-federal-investigation/>.

<sup>15</sup> BMO, *Black-Owned Businesses*, available [here](#) and archived [here](#) and [here](#). Banks offer special minority-only programs under a Biden-era memo related to “Special Purpose Credit Programs,”

race.<sup>16</sup> Numerous hospitals and health systems run “supplier diversity” programs, which priorities employment and contracting opportunities based on race.<sup>17</sup>

These are not just isolated anecdotes. In a 2023 study by Pew Research, over half of respondents indicated that they experience DEI-related training or policies at work.<sup>18</sup> According to a study from the London Business School and Cornell University, the number of DEI-related hires increased by 78.9% from the year before the death of George Floyd to the year after.<sup>19</sup> And overall, spending on “DEI-related efforts” will exceed \$15 billion by 2026, according to McKinsey & Company.<sup>20</sup>

DEI policies and programs are not only prevalent, but they are also illegal. Even slightly favoring one race and “tipping the scale” in their favor amounts to illegal race discrimination under Title VII of the Civil Rights Act of 1964. Telling an employee that they have “white privilege” or otherwise offering up training on “systemic racism” can result in racial harassment, which is also illegal under Title VII.<sup>21</sup> As the U.S. Equal Employment Opportunity Commission has recently explained, any action with a race-based motivation in the workplace violates Title VII.<sup>22</sup> These same legal principles apply to Title VI, which applies to recipients of

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which has never been revoked by the Trump Administration. See CFPB, “Advisory Opinion on Special Purpose Credit Programs,” available [here](#). This race-based program is ostensibly within this subcommittee’s jurisdiction.

<sup>16</sup> Christopher Rufo, et al., *Whistleblower: Lockheed Martin Awarded Bonuses Based on Race*, City Journal (June 12, 2025), <https://www.city-journal.org/article/lockheed-martin-civil-rights-law-bonuses-race-merit>.

<sup>17</sup> Froedtert, *Supplier Diversity*, available [here](#) and archived [here](#); Allina Health, *Supplier Diversity*, available [here](#) and archived [here](#); Magellan Health, *Supplier Diversity*, available [here](#) and archived [here](#); CVS, *Health Supplier Diversity Program*, available [here](#) and archived [here](#). At least a few larger organizations have eliminated public-facing programs, including Cleveland Clinic and Cincinnati Children’s. These changes were made following WILL’s Title VI complaints regarding these organization’s *other* discriminatory programs.

<sup>18</sup> Pew Research, *DEI in the Workplace*, available [here](#).

<sup>19</sup> Aharon Mohliver & Grady Raines, *How Social Upheaval Shaped DEI Hiring Practices* (Aug. 01, 2024), available [here](#).

<sup>20</sup> McKinsey & Company, “*Show me that this is possible*”: Inspiring the journey to achieve inclusion in the workforce (Mar. 8, 2023), available [here](#).

<sup>21</sup> As an example, Lockheed Martin used DEI trainers who labeled white men as “old,” “racist,” “privileged,” “anti-women,” “angry,” “Aryan Nation,” and “KKK.” Christopher Rufo, *The Woke-Industrial Complex*, City Journal (May 26, 2021), <https://www.city-journal.org/article/the-woke-industrial-complex>.

<sup>22</sup> EEOC, “What to do if you experience discrimination related to DEI at work,” available [here](#); see also EEOC, “What you should know about DEI-related discrimination at work,” available [here](#).

federal financial assistance (like schools and universities), and other civil rights laws prohibiting race discrimination such as 42 U.S.C. § 1981.

Under the Supreme Court’s decision in *Students for Fair Admission v. Harvard*, race-based DEI programs are illegal under Title VI (and by extension Title VII) unless they can meet all five of the following tests. First, a race-based program cannot be used for purposes of “diversity” or “racial balancing,” but may only be used to remedy “specific, identified instances of past discrimination that violated the Constitution or a statute.”<sup>23</sup> Second, a race-based program must contain a “meaningful connection” between the means employed and the goals pursued, which means that a DEI program cannot rely on “imprecise” or “overbroad” racial categories like “Asian” or “Hispanic.”<sup>24</sup> Third, DEI programs can never use race as a “negative” because a “benefit provided to some applicants but not to others necessarily advantages the former group at the expense of the latter.”<sup>25</sup> Fourth, DEI programs cannot further “stereotypes that treat individuals as the product of their race.”<sup>26</sup> Fifth, and finally, DEI must have a “logical end point.”<sup>27</sup>

Although by some measures DEI appears on the retreat,<sup>28</sup> much more should be done. Congress has an important role because DEI remains enshrined in federal law. Dozens of federal laws establish programs preferring “socially disadvantaged” individuals over others, which is merely a proxy for race discrimination.<sup>29</sup> Congress should provide support to President Trump by funding efforts to root out discriminatory DEI, reform our federal laws, and establish a firm federal policy of equality for all Americans.

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<sup>23</sup> *SFFA*, 600 U.S. 181, 207 (2023); see also *Vitolo v. Guzman*, 999 F.3d 353, 361 (6th Cir. 2021).

<sup>24</sup> *SFFA*, 600 U.S. at 215–16.

<sup>25</sup> *Id.* at 218–19.

<sup>26</sup> *Id.* at 221.

<sup>27</sup> *Id.* Under *SFFA*, all affirmative action is illegal. Affirmative action started robustly under President Johnson’s executive order, which has now been revoked. Exec. Order No. 11246, 30 Fed. Reg. 12319 (Sept. 24, 1965), *repealed by* Exec. Order No. 14173, 90 Fed. Reg. 6777 (Jan. 21, 2025). Although such programs may have been properly labeled as “remedial” back in the 1960s, such a justification no longer exists. Therefore, it is likely that *United Steelworkers of Am. v. Weber*, 443 U.S. 193 (1979), will be overruled when presented at the Supreme Court.

<sup>28</sup> Eric Lau and Taylor Telford, ‘*DEI vanishing from corporate filings, mirroring business world’s retreat*’, Washington Post (Apr. 30, 2025), available [here](#).

<sup>29</sup> WILL, *Roadmap to Equality*, <https://will-law.org/roadmaptoequality/>.