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Written Statement by the Southern Poverty Law Center

Submitted to the U.S. House Oversight and Accountability Committee

In connection with its June 27, 2024, hearing entitled:

“Ending Illegal Racial Discrimination and Protecting Men and Women  
in U.S. Employment Practices”

Hearing June 27, 2024

Organizational Statement Submitted July 11, 2024



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## Introduction

On behalf of the Southern Poverty Law Center, we write to provide our insights on issues discussed during the June 27, 2024 U.S. House Committee on Oversight and Accountability hearing entitled “**Ending Illegal Racial Discrimination and Protecting Men and Women in U.S. Employment Practices.**” We appreciate the opportunity to share our expertise on the historic and ongoing importance of preserving anti-discrimination policies and laws that protect against racial and other forms of discrimination, and in particular, our concerns with the erroneous framing of the hearing to attack LGBTQ+ equality and attempt to discredit important non-discrimination efforts like Diversity, Equity, Inclusion, and Accessibility programs in the workplace and beyond.

Established in 1971, the Southern Poverty Law Center (SPLC) is a nonprofit organization founded in Montgomery, Alabama, to help ensure the promise of the Civil Rights Movement became a reality for all, particularly for Black communities in the South, who are all too often the victims of discriminatory policies and who experience targeted violence at the hands of white supremacists. We work in partnership with communities of color to dismantle white supremacy, strengthen intersectional movements through transformative policies and initiatives, and advance the human rights of all people.

The SPLC believes that all people in our country deserve to live free from discrimination and that the government must provide remedies and special interventions to protect communities that have been systematically and continually marginalized and discriminated against throughout the history of this country. Anti-discrimination policies and programs like Affirmative Action and Diversity, Equity, Inclusion, and Accessibility (DEIA) are critical to ensuring that the promise of and the rights bestowed by the Constitution are enjoyed by all.

## The Historic and Ongoing Need for Anti-Discrimination Laws, Policies, and Programs like Diversity, Equity, Inclusion, and Accessibility (DEIA)

People of color in the United States, especially Black people, have experienced systematic racial discrimination that was ingrained in the policies of private and public institutions across every aspect of life, from legal and policy barriers to voting and homeownership to accessing high-quality education and equal employment opportunities. The *Brown v. Board of Education* decision that overturned the “separate but equal” doctrine and the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 created significant rights to help remedy the racial subjugation of Black people, and by extension other communities of color in this country. Though transformational, it became clear that these anti-discrimination statutes and legal victories were not enough to overcome deeply entrenched patterns of racial segregation and



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discrimination.<sup>1</sup> As a result, the courts and the executive branch incorporated the concepts of “affirmative actions” to remedy violations of civil rights laws and establish positive policies of nondiscrimination to overcome obstacles to equal opportunities.<sup>2</sup>

Those policies were implemented and enforced for decades in higher education admission policy, employment, business enterprises, and other sectors as specific interventions created as part of anti-discrimination efforts designed to expand opportunities, address, and remedy both historic and persistent inequities, and prevent future discrimination.<sup>3</sup> Those policies evolved to include policies, programs, and services designed to increase DEIA to help overcome patterns of discrimination and eliminate disparities in opportunities.<sup>4</sup>

While the country has taken significant strides to address historic and persistent inequities and increase educational opportunity, through legal and policy victories, that progress has always been and continues to be threatened. Opponents of civil rights have continued to weaponize and misconstrue civil rights law to maintain the persistent inequalities stemming from our nation’s history with white supremacy and reverse the progress we have made in creating an America that lives up to its ideals of a multiracial democracy.<sup>5</sup> These extremist groups have attacked efforts to increase access to opportunity in every sector, including education, employment, government

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<sup>1</sup> See, Del Pilar, W. (2023, June 2023). *A Brief History of Affirmative Action and the Assault on Race-Conscious Admissions*. Ed Trust. <https://edtrust.org/resource/a-brief-history-of-affirmative-action-and-the-assault-on-race-conscious-admissions/>; National Archives (2024). *Affirmative Action History and Rationale*. Clinton White House. <https://clintonwhitehouse3.archives.gov/WH/EOP/OP/html/aa/aa02.html>

<sup>2</sup> See The American Association for Access, Equity and Diversity (AAAED) (2024). *What is Affirmative Action?* [https://www.aaaed.org/aaaed/About\\_Affirmative\\_Action\\_Diversity\\_and\\_Inclusion.asp](https://www.aaaed.org/aaaed/About_Affirmative_Action_Diversity_and_Inclusion.asp)

<sup>3</sup> See The American Association for Access, Equity and Diversity (AAAED) (2024). *Affirmative Action Policies Throughout History*. [https://www.aaaed.org/aaaed/History\\_of\\_Affirmative\\_Action.asp](https://www.aaaed.org/aaaed/History_of_Affirmative_Action.asp)

<sup>4</sup> See Golden, H. (2024, January 1). *History of DEI: The Evolution of Diversity Training Programs*. Notre Dame University. <https://www.ndnu.edu/history-of-dei-the-evolution-of-diversity-training-programs/>; see also, White House (2021, June 25). *Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Workforce*. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/25/executive-order-on-diversity-equity-inclusion-and-accessibility-in-the-federal-workforce/>

<sup>5</sup> Southern Poverty Law Center. (2024, March 19) *Written Statement to the U.S. House Committee on Education and the Workforce, Subcommittee on Higher Education and Workforce Development, In connection with its March 7, 2024 hearing entitled: “Divisive, Excessive, Ineffective: The Real Impact of DEI on College Campuses.”* <https://www.splcenter.org/sites/default/files/splc-statement-re-dei-hearing-03072024.pdf>; See Golden, H. (2024, January 1). *History of DEI: The Evolution of Diversity Training Programs*. Notre Dame University. <https://www.ndnu.edu/history-of-dei-the-evolution-of-diversity-training-programs/>; see also, White House.(2021, June 25). *Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Workforce*. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/25/executive-order-on-diversity-equityinclusion-and-accessibility-in-the-federal-workforce/>



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contracting, health care, housing, and financial services.<sup>6</sup> Those who advocate against DEIA frequently spread misinformation to weaken support for these vital programs.

Indeed, witnesses and several Committee members cited a July 19, 2023, letter from twenty-one Democratic state attorneys general that criticized a July 13, 2023 letter from 13 Republican state attorneys general to Fortune 100 CEOs for a “tone of intimidation” that “purposefully seeks to undermine efforts to reduce racial inequities in corporate America.”<sup>7</sup> The Democratic state attorneys general letter pointedly criticized the Republican state attorneys general letter’s erroneously-broad reading of the June 2023 Supreme Court cases limiting university affirmative action programs: “It is irresponsible and misleading to suggest that *SFFA* imposes additional prohibitions on the diversity, equity, and inclusion initiatives of private employers.”<sup>8</sup>

That recent Supreme Court ruling restricting affirmative action in higher education, the onslaught of anti-DEIA legislation across the country, and the wave of cases challenging programs and services that support minority-owned businesses are the most recent examples of their attempts to rewrite history by erasing the existence of historic and present discrimination and eliminating legal protections, policies and programs designed to root out and redress discrimination that people of color and other underserved communities experience throughout their daily lives.<sup>9</sup>

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<sup>6</sup> See, i.e. D’Innocenzio and Olson, A. (2024, January 14) *DEI opponents are using a 1866 Civil Rights law to challenge equity policies in the workplace*. APNews. <https://apnews.com/article/dei-corporatediversity-supreme-court-affirmative-action-a4ddf354423feee9697310366248f646>; *Students for Fair Admissions (SFFA) v. University of North Carolina (UNC)/Harvard College*, 600 U.S. 181 (2023).

<sup>7</sup> State of Nevada Office of Attorney General. (2023, July 19). *Letter from twenty-one Democratic state attorneys general to Fortune 100 CEOs*. <https://oag.dc.gov/sites/default/files/2023-07/Fortune%20100%20Letter%20-%20FINAL.pdf>; State of Arkansas Attorney General and State of Tennessee Office of the Attorney General. (2023, July 13). *Letter from thirteen Republican state attorneys general to Fortune 100 CEO*. <https://s.wsj.net/public/resources/documents/AGLetterFortune100713.pdf>.

<sup>8</sup> State of Nevada Office of Attorney General. (2023, July 19). *Letter from twenty-one Democratic state attorneys general to Fortune 100 CEOs*. <https://oag.dc.gov/sites/default/files/2023-07/Fortune%20100%20Letter%20-%20FINAL.pdf>. Indeed, this letter further stated: “Such efforts are not only legal but constitute an appropriate moral and ethical response to the ongoing problem of racial inequity in our society.”

<sup>9</sup> *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, Case Nos. 20-1199, 21-707 (June 29, 2023); Morgan Lewis (2024, June) *Report: DEI and Best Practices in Corporate America: Harvard/UNC One Year Later*. <https://www.morganlewis.com/pubs/2024/06/dei-and-best-practices-in-corporate-america-harvard-unc-one-year-later>.



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## The Continued Importance of Addressing Discrimination in Employment and Advancing Economic Opportunities

In the U.S., the racial wealth gap remains a persistent problem because of past and ongoing discriminatory policies and institutional and systemic racism that has blocked access to economic opportunities and the creation of intergenerational wealth, especially for Black and Brown families. In 2019, the median white family had \$184,000 in wealth compared to \$38,000 and \$23,000 for the median Latinx or Black family, respectively.<sup>10</sup> The typical white family has nearly eight times the wealth of the median Black family.<sup>11</sup> Key contributors to the racial wealth gap include lower Black homeownership because of the legacies of slavery, Jim Crow segregation, redlining, and other policies that targeted Black people and neighborhoods.<sup>12</sup> Often these barriers to economic opportunities are interrelated, for example, schools in predominately communities of color are often underfunded and more likely to face school closures.<sup>13</sup> While higher education can help narrow the gap, it is not enough to close it, in part because Black people oftentimes have limited family wealth, more student debt, and face structural barriers to the labor market, like occupational segregation and discrimination. Slavery, Jim Crow, and the New Deal caused workers of color to be concentrated in chronically underpaid and undervalued occupations.<sup>14</sup> Workers of color are more likely to face workplace violations like wage theft, hold jobs that lack workplace protections, have jobs that are lower pay or provide fewer benefits, and experience higher unemployment rates and lower unemployment insurance payments.<sup>15</sup> Similar studies have found persistent wage gaps for women, LGBTQ+ workers, and workers with disabilities, and these disparities are compounded for those with multiply-marginalized

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<sup>10</sup> See *i.e.* Harris, B and Schreiner Wertz, S. (2022, September 15). *Racial Differences in Economic Security: The Racial Wealth Gap*. <https://home.treasury.gov/news/featured-stories/racial-differences-economic-security-racial-wealth-gap>

<sup>11</sup> Joint Economic Committee Democrats. *Education Can Help Narrow the Racial Wealth Gap, but Structural Solutions are Needed to Close It*. [https://www.jec.senate.gov/public/\\_cache/files/1d07cb0d-6ec2-4f49-9fa7-6ee5c771fbe3/education-and-racial-wealth-gap.pdf](https://www.jec.senate.gov/public/_cache/files/1d07cb0d-6ec2-4f49-9fa7-6ee5c771fbe3/education-and-racial-wealth-gap.pdf)

<sup>12</sup> Ray, R. Perry, A., Harshbarger, D, Elizondo, S. and Gibbons, A. (2021, September 1). Brookings Institute. *Homeownership, racial segregation, and policy solutions to racial wealth gap*. <https://www.brookings.edu/articles/homeownership-racial-segregation-and-policies-for-racial-wealth-equity/>

<sup>13</sup> *Id.* See, Advancement Project and the Southern Poverty Law Center (2024, May 30) *Letter to Catherine Lhamon, Department of Education Office for Civil Rights re: Urgent Need for Federal Civil Rights Guidance on Closing Neighborhood Public Schools*. [https://advancementproject.org/wp-content/uploads/2024/05/2024.05.30-Recommendations-for-OCR-Guidance-on-School-Closures\\_FINAL.-to-pdf.pdf](https://advancementproject.org/wp-content/uploads/2024/05/2024.05.30-Recommendations-for-OCR-Guidance-on-School-Closures_FINAL.-to-pdf.pdf)

<sup>14</sup> Soloman, D. (2019, August 7) *Systemic Inequality and Economic Opportunity*. CAP. <https://www.americanprogress.org/article/systemic-inequality-economic-opportunity/>

<sup>15</sup> Dixon, R. and Traub, A. (2024, May 13). *Desegregating Opportunity: Why Uprooting Occupational Segregation is Critical to Building A Good-Jobs Economy*. National Employment Law Project. <https://www.nelp.org/insights-research/desegregating-opportunity-why-uprooting-occupational-segregation-is-critical-to-building-a-good-jobs-economy/>



identities.<sup>16</sup> Eliminating the structural barriers that prevent underserved communities from gaining the same economic opportunities requires proactive efforts, such as DEIA.

Landmark civil rights legislation like Title VII of the Civil Rights Act, the Equal Pay Act, the Americans with Disabilities Act, and the enforcement of these anti-discrimination laws helped increase workplace integration and narrowed the wage gap.<sup>17</sup> Title VII of the Civil Rights Act prohibits employers from discriminating against employees and job applicants based on race, color, religion, sex, and national origin. The Equal Employment Opportunities Commission is tasked with enforcing employment discrimination laws including Title VII.

Despite five decades of federal legislation protecting workers against discrimination, workplace discrimination remains a pervasive problem. A 2017 EEOC report found that of the complaints, 30% were sex-based, 34% race-based, and 22% age-related.<sup>18</sup> A recent report found that the prevalence of workplace discrimination was highest for Black women (25%) and lowest for white men (11%); Black people reported a 60% higher rate of discrimination compared to whites; women reported a 53% higher prevalence of discrimination, compared to men.<sup>19</sup> A 2021 report found that nearly half of LGBTQ+ workers have experienced unfair treatment at work at some point in their lives, and LGBTQ+ employees of color were more likely to report being denied jobs and faced verbal harassment.<sup>20</sup> The EEOC reported a 10% increase in the number of charges filed in fiscal year 2022 and a general increase in demand for services from the public.<sup>21</sup> Discrimination, harassment, stereotypes, and bias about race, gender, sexual orientation and

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<sup>16</sup> See, Kochhar, R. (2023, March 1) *The Enduring Grip of the Gender PayGap*. Pew Research, <https://www.pewresearch.org/social-trends/2023/03/01/the-enduring-grip-of-the-gender-pay-gap>; Carnegie, M. (2022, June 22) *The biggest LGBTQ+ wage gap problem*. BBC. <https://www.bbc.com/worklife/article/20220603-the-big-lgbtq-wage-gap-problem>; CAP (2024, February 22). *Disabled Workers Saw Record Employment Gains in 2023, But Gaps Remain*. <https://www.americanprogress.org/article/disabled-workers-saw-record-employment-gains-in-2023-but-gaps-remain>.

<sup>17</sup> Sanchez Cumming, C. (2021) *The importance of anti-discrimination enforcement for a fair and equitable U.S. labor market and broadly shared economic growth*. Washington Center for Equitable Growth. <https://equitablegrowth.org/the-importance-of-anti-discrimination-enforcement-for-a-fair-and-equitable-u-s-labor-market-and-broadly-shared-economic-growth/>.

<sup>18</sup> Equal Employment Opportunity Commission (EEOC) (2018). *EEOC releases fiscal year 2017 enforcement and litigation data*. <https://www.eeoc.gov/eeoc/newsroom/release/1-25-18.cfm>

<sup>19</sup> Fekedulegn, D, Alterman, T. et al (2019, July 2). *Prevalence of workplace discrimination and mistreatment in a national sample of older U.S. workers: The REGARDs cohort study*. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6612926/#>

<sup>20</sup> Sears, B and Mallory, C. (2021, September). *LGBT People's Experiences of Workplace Discrimination and Harassment*. <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>

<sup>21</sup> Equal Employment Opportunity Commission. (2024, February 23). *2023 Annual Performance Report*. <https://www.eeoc.gov/2023-annual-performance-report>



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gender identity, and disability status can significantly limit an individual’s occupational choice and create barriers to equal opportunities in the workplace.<sup>22</sup>

### The Lawfulness of Programs to Improve Diversity, Equity, Inclusion, and Accessibility

DEIA programs remain a lawful and necessary tool to remove barriers, create inclusive workplaces, and remedy past and ongoing discrimination based on race, sex, disability, age, national origin, and other protected classes.<sup>23</sup> The deeply disappointing SCOTUS decision that undermined colleges and universities’ ability to diversify campuses had no bearing on employers’ abilities to promote DEIA in their workforces.<sup>24</sup> And the U.S. Supreme Court’s recent decision in *Muldrow v. City of St. Louis*, which found that an employee challenging a job transfer under Title VII need not show that a job transfer brought about “significant” harm, maintains the principle that employers cannot decide on transfers based on protected characteristics and would not limit the viability of DEIA programs as these efforts are designed to expand opportunities and equalize terms and conditions of employment.<sup>25</sup> There are longstanding precedents and guidelines on how private employers can take race into account in making employment decisions in compliance with Title VII or other employment discrimination laws.<sup>26</sup> For example, Title VII bars disparate impact discrimination, where practices are facially neutral but disproportionately exclude certain populations.<sup>27</sup> DEIA workplace efforts are key to breaking down barriers to equal employment opportunity, reducing the prevalence of harassment, and preventing discrimination, especially actions that could have a disparate impact on underserved groups.<sup>28</sup>

The EEOC regulations require employers to evaluate the impact on their selection procedures to ensure that these processes and procedures do not have an exclusionary effect.<sup>29</sup> The EEOC regulations require certain employers and other covered entities to report workforce demographic

<sup>22</sup> Zhavoronkova, M, Khattar, R, Brady, M. (2022, March 29) *Occupational Segregation in America*. CAP. <https://www.americanprogress.org/article/occupational-segregation-in-america/>

<sup>23</sup> Leadership Conference (2024, June 18). *Letter to President Biden in Support of DEIA*, <https://civilrights.org/resource/leadership-conference-letter-to-president-biden-in-support-of-deia/>

<sup>24</sup> Samuels, J and Shirazi, Z. (2023, July 11). *The High Court Didn’t Kill DEI at Work. Employers Shouldn’t Waver*. Bloomberg. <https://news.bloomberglaw.com/us-law-week/the-high-court-didnt-kill-dei-at-work-employers-shouldnt-waver?context=search&index=8>

<sup>25</sup> *Muldrow v. City of St. Louis*, 144 S. Ct. 967 (2024); Chu, M. (2024, April 18) *DEI critics were hoping that the Supreme Court’s Muldrow decision would undermine corporate diversity programs. It does no such thing*. Fortune. <https://fortune.com/2024/04/18/dei-critics-supreme-courts-muldrow-decision-corporate-diversity-programs-politics/>

<sup>26</sup> Equal Employment Opportunities Commission, (accessed 2024, July 1). EEOC Hiring Initiative to Reimagine Equity (HIRE), <https://www.eeoc.gov/hiring-initiative-reimagine-equity-hire>

<sup>27</sup> see Department of Justice, *Civil Rights Division, Section VII- Proving Discrimination- Disparate Impact*, <https://www.justice.gov/crt/fcs/T6Manual7>

<sup>28</sup> Kotagal, K. (2024, June 10) *Workplace DEI Breaks Down Barriers With Flexible Benchmarks*. Bloomberg Law. <https://news.bloomberglaw.com/us-law-week/workplace-dei-breaks-down-barriers-with-flexible-benchmarks>

<sup>29</sup> 29 CFR Subtitle B Chapter XIV Part 1607, Uniform Guidelines on Employee Selection Procedures (2024, June 27). <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XIV/part-1607>



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data.<sup>30</sup> Some witnesses at the hearing and several Republican Members of the committee urged that this EEOC data collection be reduced or eliminated. We strongly oppose limiting existing data collection by the Commission. This data provides critical information to help identify and fight discrimination, especially since sex and race discrimination can be subtle and it can be difficult to detect bias about pay discrimination because companies are not transparent about pay.<sup>31</sup> In fact, the collection of data is crucial to ensure agencies comply with civil rights laws and better understand the impact of actions and decisions on protected groups to help consider strategies that eliminate disparities.<sup>32</sup>

DEIA programs and offices are important to the workforce's well-being -- they enhance employee experiences, strengthen organizational health, lead to more thoughtful decision-making and outcomes, and break down barriers that exclude qualified employees.<sup>33</sup> In many sectors, improving DEIA has notable benefits to employees and employers.<sup>34</sup> This is especially true in the medical field, where health equity and disparities are significant for communities of color, and a diverse and representative healthcare workforce improves patients' access to care, their perceptions of the care they receive, and their health outcomes.<sup>35</sup> DEIA can bring benefits like innovation, creativity, customer satisfaction, and employee engagement in addition to enhancing the organization's competitive position, agility, innovation, and brand perception.<sup>36</sup> Not having a diverse organization can create risks to business performance, stifle creativity, and limit learning and growth opportunities. Recent polling found that a majority of Americans support diversity, equity, inclusion, and accessibility in the workplace and support programs that

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<sup>30</sup> *see also*, Equal Employment Opportunities Commission, What You Should Know: The National Academies' Evaluation of Compensation Data Collected Through the EEO-1 Form, <https://www.eeoc.gov/wysk/what-you-should-know-national-academies-evaluation-compensation-data-collected-through-eeo-1>

<sup>31</sup> National Academies. (2023). *Evaluation of Compensation Data Collected through the EEO-1 Form*. <https://nap.nationalacademies.org/catalog/26581/evaluation-of-compensation-data-collected-through-the-eeo-1-form>

<sup>32</sup> *See*, Department of Justice, *Civil Rights Division, Section VII- Proving Discrimination- Disparate Impact*. <https://www.justice.gov/crt/fcs/T6Manual7>

<sup>33</sup> U.S. Office of Personnel Management (2024) *Diversity, Equity, Inclusion, and Accessibility*. <https://www.opm.gov/policy-data-oversight/diversity-equity-inclusion-and-accessibility/>

<sup>34</sup> [Why diversity matters | McKinsey](#); [How diversity, equity, and inclusion \(DE&I\) matter | McKinsey](#)

<sup>35</sup> Zephyrin, L., Rodriguez, J. & Rosenbaum, S. (2023, July 20) *The Case for Diversity in the Health Professionals Remains Powerful*. The Commonwealth Fund. <https://www.commonwealthfund.org/blog/2023/case-diversity-health-professions-remains-powerful>

<sup>36</sup> Milanese, C. (2023, April 20). *The Business Impact of Diversity, Equity, and Inclusion*. Forbes. <https://www.forbes.com/sites/carolinamilanesi/2023/04/20/the-business-impact-of-diversity-equity-and-inclusion/>; DeMattia, A. (2023, March) *A Mature Approach to Diversity, Equity, and Inclusion Delivers Real Results*. AWS. <https://aws.amazon.com/executive-insights/content/a-mature-approach-to-diversity-equity-and-inclusion-delivers-real-results/>





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hire more employees from groups that are underrepresented in their workforce and promote equity in the workplace.<sup>37</sup>

### Debunking Attacks on LGBTQ+ Equality

During the hearing, Republican witnesses and several Republican members of the committee attempted to advance the false notion that outlawing federal nondiscrimination protections against trans, nonbinary, and intersex people was somehow a violation of Title VII. This is in direct contradiction to the landmark *Bostock v. Clayton County* decision which made clear that the prohibition against sex discrimination in Title VII of the Civil Rights Act includes discrimination against an individual based on sexual orientation or transgender status, and subsequent EEOC guidance on the issue confirmed this position.<sup>38</sup> The Federal courts are currently grappling with the issue. For example, the SPLC along with co-counsel the Southern Legal Counsel and Altshuler Berzon challenged a Florida law that prohibits public and charter schoolteachers from using titles and pronouns that do not “correspond” to their sex assigned at birth on behalf of two transgender teachers and a nonbinary teacher who were barred from using their preferred title and pronoun at work.<sup>39</sup> The Northern District of Florida granted a preliminary injunction based on the First Amendment that allowed our lead plaintiff to continue using her title and pronouns until the case was decided.<sup>40</sup>

Furthermore, in December 2023, the SPLC released a report that details how pseudoscience has become a tool of the far right to manipulate public opinion and advance legislation and legal action targeting the LGBTQ+ community.<sup>41</sup> That report highlighted the life-threatening

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<sup>37</sup> Telford, T, Felton, E & Guskin, E. (2024, June 18). *Most Americans approve of DEI, according to Post-Ipsos poll*. The Washington Post. <https://www.washingtonpost.com/nation/2024/06/18/affirmative-action-dei-attitudes-poll/>; See Pew Research Center (2016, June 27) *Discrimination and Racial Inequality*, <https://www.pewresearch.org/social-trends/2023/05/17/diversity-equity-and-inclusion-in-the-workplace/>

<sup>38</sup> Equal Employment Opportunities Commission. (2021, June 21). *Guidance: protections against employment discrimination based on sexual orientation or gender identity*. <https://www.eeoc.gov/laws/guidance/protections-against-employment-discrimination-based-sexual-orientation-or-gender>.

<sup>39</sup> See Sonnenberg, R. (2024, June 28). *SPLC, Teacher Fights Florida Anti-LGBTQ+ Law, Says ‘State Can’t Deny My Existence’*. <https://www.splcenter.org/news/2024/06/28/teacher-fights-florida-anti-lgbtq-law>; Wood, et al. v. Florida Department of Education, et al, 4:23-cv-00526-MW-MAF, <https://www.splcenter.org/seeking-justice/case-docket/wood-et-al-v-florida-department-education-et-al>

<sup>40</sup> Order on Motions for Preliminary Injunction, *Wood, et al. v. Florida Department of Education et al.*, 4:23cv526-MW/MAF (April 9, 2024), <https://www.splcenter.org/sites/default/files/documents/wood-v-fde-order-motion-preliminary-injunction.pdf>. While the Court found that the Plaintiff did not sufficiently allege an adverse employment action under Title VII, but it left the door open to amend the complaint with further evidence to better support the claim.

<sup>41</sup> Southern Poverty Law Center (2023, December 12). *Combating Anti-LGBTQ+ Pseudoscience Through Accessible Informative Narratives (Project CAPTAIN)*, <https://www.splcenter.org/captain>. The report unpacks the proliferation of biased and misleading information used — under the guise of science — in state and federal legislation and litigation over the last decade and exposes the far right and far-reaching network behind it.



consequences for trans and nonbinary people when anti-LGBTQ+ pseudoscience is used to advance discriminatory policies. For example, policies that eliminate coverage for gender-affirming care, bar teachers from affirming students' identities without parental consent, or prohibit LGBTQ+ inclusive education isolate transgender people and increase threats of violence and self-harm.<sup>42</sup> We appreciated the fact that Rep. Alexandria Ocasio-Cortez introduced a copy of our report into the formal hearing record. The rise in legal and policy attacks on LGBTQ+ equality, including book bans, bathroom restrictions, and erasing LGBTQ+ identities, happening across the country, especially in the South, demonstrates the need for more anti-discrimination protections and DEIA efforts.

### Conclusion

Black and Brown people, women, LGBTQ+ people, people with disabilities, and other underrepresented groups, have historically experienced discrimination and continue to face discrimination in education, the workplace, healthcare, housing, and many other facets of American life.<sup>43</sup> Anti-discrimination laws were created to eliminate and redress historic and persistent inequities, and there continues to be a need for laws, policies, programs, and services, with a focus on DEIA to not only prohibit discrimination but also to provide specific remedies to overcome patterns of discrimination and eliminate disparities in opportunities.

Programs that advance DEIA are lawful and remain a critical tool to ensure equal opportunities, reduce the prevalence of harassment, and prevent discrimination. Research shows that students and employees benefit from interactions with peers from diverse backgrounds and cultures.<sup>44</sup> DEIA staffers and programming play a critical role in helping education institutions and workplaces comply with civil rights laws, improve general institutional decision-making, and

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<sup>42</sup> Southern Poverty Law Center (2023, December 12). *Combating Anti-LGBTQ+ Pseudoscience Through Accessible Informative Narratives (Project CAPTAIN), Chapter 2: Merging Pseudoscience and Politics.*

<https://www.splcenter.org/captain>.

<sup>43</sup> See Pew Research Center (2016, June 27) *Discrimination and Racial Inequality.*

<https://www.pewresearch.org/social-trends/2016/06/27/3-discrimination-and-racial-inequality/>; Medina, C. & Mahowald, L. (2023, January 12). *Discrimination and Barriers to Well-Being: The State of the LGBTQI+ Community in 2022.* CAP. <https://www.americanprogress.org/article/discrimination-and-barriers-to-well-being-the-state-of-the-lgbtqi-community-in-2022/>; Parker, K. & Funk, C. (2017, December 14) *Gender Discrimination comes in many forms for today's working women.* Pew Research Center. <https://www.pewresearch.org/short-reads/2017/12/14/gender-discrimination-comes-in-many-forms-for-todays-working-women/>

<sup>44</sup> Stuart, A. (2016, February 9). *How Racially Diverse Schools and Classrooms Can Benefit All Students.* The Century Foundation, <https://tcf.org/content/report/how-racially-diverse-schools-and-classrooms-can-benefit-all-students/>; U.S. Office of Personnel Management (2024). *Diversity, Equity, Inclusion, and Accessibility.* <https://www.opm.gov/policy-data-oversight/diversity-equity-inclusion-and-accessibility/>; Zephyrin, L. (2023, July 20). *The Case for Diversity in the Health Professionals Remains Powerful.* The Commonwealth Fund. <https://www.commonwealthfund.org/blog/2023/case-diversity-health-professions-remains-powerful/>; Boyle, P. (2023, June 6). *Do Black patients fare better with Black doctors.* AAMC. <https://www.aamc.org/news/do-black-patients-fare-better-black-doctors>



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enhance student and employee experience, success, and retention for individuals from historically underrepresented and underserved communities.<sup>45</sup> To address the growing concerns around discrimination in the workplace, more support and resources should be provided to the EEOC, the Office of Federal Contract Compliance Programs, and other federal offices tasked with ensuring employees are free from discrimination.<sup>46</sup> Our country benefits tremendously when we celebrate, acknowledge, and protect the rich diversity and experiences of people across race, ethnicity, gender, sexual orientation, ability, religion, socioeconomic status, and other identities through our laws and policies. DEIA programs ensure employers, universities, and other decision-makers alike have the tools necessary to redress any harassment, discrimination, or harm and the necessary support to succeed and thrive on campus.

We appreciate the opportunity to submit this statement. For more information about SPLC's work protecting civil rights, please contact Theresa Lau, Senior Policy Counsel, Eradicating Poverty, [Theresa.Lau@splcenter.org](mailto:Theresa.Lau@splcenter.org). We stand ready to work with subcommittee members to protect and advance anti-discrimination laws, policies, and programs, including DEIA initiatives throughout the federal government, in federally-funded programs, and the private sector.

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<sup>45</sup> Department of Education (2023, January). *Factsheet: Diversity & Inclusion Activities Under Title VI*. <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tvi-dia-202301.pdf>

<sup>46</sup> Leadership Conference on Civil and Human Rights (2024, February 14) *90+ Civil Rights Groups Call for Robust Funding for Education Civil Rights Office to Protect Students*. <https://civilrights.org/2024/02/14/90-civil-rights-groups-call-for-robust-funding-for-education-civil-rights-office-to-protect-students/>