

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

January 24, 2025

The Honorable James R. McHenry III
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington DC 20530

The Honorable Shalanda Young
The Director of the Office of Management and Budget
725 17th St NW
Washington, DC 20503

The Honorable Kiran Ahuja
Director of the Office of Personnel Management
1900 E Street NW
Washington, DC 20415-0001

Acting Attorney General McHenry, Director Young, and Director Ahuja:

I write in response to the executive orders from the Trump administration demanding that the Director of the Office of Management and Budget (OMB), the Attorney General and the Director of the Office of Personnel Management (OPM) work together to terminate Diversity, Equity, Inclusion, and Accessibility (DEIA) and environmental justice offices and positions, as well as eliminate any equity-related federal grants and contracts.

To be clear, an executive order cannot override or amend a law passed by Congress.¹ In this context, an executive order cannot repeal or negate the legal obligations of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which mandates that all Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) agencies establish an Office of Minority and Women Inclusion (OMWI).² The OMWI is legally required to promote diversity and inclusion within these agencies and their regulated entities.

The executive orders as well as OPM's communications with agencies also mischaracterize and misrepresent the purposes and impact of DEIA. First, they incorrectly state that all DEI efforts are discriminatory and unconstitutional. The Supreme Court's 2023 decision in *Students for Fair Admissions v. Harvard* regarding affirmative action in college admissions should not be used as pretext to undermine and eliminate diversity initiatives in the workplace. The court found that race-based admissions violate the Equal Protection Clause of the 14th amendment. However, workplace diversity initiatives are fundamentally different in several ways.

The majority of these initiatives do not focus on race-based hiring, instead they aim to foster a psychologically and physically safe environment by eliminating barriers, ensuring fair opportunities for all employees, and creating workplaces that reflect the diversity of our nation. The EO also suggests that DEIA initiatives drive division, but past research indicates that this is false.³ For example, Employee Resource Groups can help people to feel like they belong at their workplace, which leads to increased collaboration across the organization.

As workplaces became more integrated following enactment of Equal Employment and Civil Rights laws, DEIA trainings and programs emerged to help mitigate blatant sexism, homophobia, racism, and ableism in the workplace. It's not enough for employees to know their rights and reporting venues for discrimination as currently required under

¹ Congressional Research Service, [Can a President Amend Regulations by Executive Order?](#) (July 18, 2018).

² [Office of the Comptroller of Currency](#) (Last visited January 22, 2025).

³ McKinsey & Company, [Effective employee resource groups are key to inclusion at work. Here's how to get them right](#) (Dec. 7, 2022).

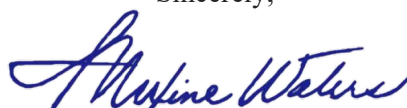
the law by the No FEAR Act. Employers should also take steps to mitigate discrimination by providing inclusive work environments and providing training to employees on how to avoid discrimination.

Second, DEIA efforts are not about marginalizing any group; they are about fostering environments where all employees have the same opportunities to succeed. By widening the talent pool and eliminating biases that overlook qualified candidates, DEIA initiatives help organizations secure the best employees for the job. For example, one DEIA practice is to expand the types of universities at which governments and companies recruit top talent. Instead of focusing on Ivy League schools or schools located in one geographic area, a DEIA best practice is to recruit at colleges and universities from across the country, which have students who are just as good, if not better than those at the Ivy League. This approach ensures access to a broader range of perspectives and skills by including recruitment at state schools, HBCUs, small private schools, and women's colleges. The impact of these executive orders on persons with disabilities cannot be overstated. Accessibility—and compliance with the Americans with Disabilities Act—is an integral component of DEIA practices, ensuring that people with disabilities are not only included but also empowered to contribute meaningfully in workplaces. The removal of DEIA policies undermines progress made through initiatives such as reasonable accommodations, inclusive hiring practices, and workplace accessibility standards. For instance, federal agencies and private industries have leveraged DEIA frameworks to eliminate barriers in recruitment, promotion, and retention for individuals with disabilities. This issue was explored in depth during a hearing I held in May 2022, entitled "Diversity Includes Disability: Exploring Inequities in Financial Services for Persons with Disabilities, Including Those Newly Disabled Due to Long-Term COVID." Abandoning these practices risks marginalizing persons with disabilities, leaving millions of Americans with disabilities excluded from the workforce or confined to lower-paying, unstable jobs with limited advancement opportunities.

While the executive order seeks to dismantle DEIA programs, it cannot override the requirements of the Dodd-Frank Act, Federal anti-discrimination laws or the constitutional rights of employees. Employees still have the ability to report all instances of discrimination to the Equal Employment Opportunity Commission⁴ or the U.S. Office of Special Counsel.⁵ In addition, agencies must comply with federal anti-discrimination laws, including the Civil Rights Act of 1964 (Title VII), the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967 (ADEA), Whistleblower Protection Act of 1989, the Pregnant Workers Fairness Act, and the other laws, regulations, and legal precedents which protect workers.

Agencies must comply with these statutes, which continue to serve as the bedrock of workplace protections for federal employees.

Sincerely,



Representative Maxine Waters
Ranking Member

CC: Mr. David Warrington, White House Counsel

Mr. Rohit Chopra, Director, Consumer Financial Protection Bureau
Mr. Travis Hill, Acting Chairman, Federal Deposit Insurance Corporation Board of Directors
Ms. Naa Awaa Tagoe, Acting Director, Federal Housing Finance Agency
Mr. Jerome Powell, Chair, Board of Governors, Federal Reserve System
Mr. Phillip Jefferson, Vice Chair, Board of Governors, Federal Reserve System
Mr. Michael S. Barr, Vice Chair for Supervision, Board of Governors, Federal Reserve System
Ms. Michelle W. Bowman, Board of Governors, Federal Reserve System
Ms. Lisa D. Cook, Board of Governors, Federal Reserve System

⁴ <https://www.eeoc.gov/filing-charge-discrimination>

⁵ <https://osc.gov/Pages/File-Complaint-Portal.aspx>

Ms. Adriana D. Kugler, Board of Governors, Federal Reserve System
Mr. Christopher J. Waller, Board of Governors, Federal Reserve System
Mr. Kyle S. Hauptman, Chairman, National Credit Union Administration
Mr. Todd M. Harper, Board Member, National Credit Union Administration
Ms. Tanya Otsuka, Board Member, National Credit Union Administration
Mr. Rodney Hood, Chairman, Office of the Comptroller of the Currency
Mr. Mark T. Uyeda, Acting Chairman, Security Exchange Commission
Ms. Caroline Crenshaw, Commissioner, Security Exchange Commission
Ms. Hester M. Peirce, Commissioner, Security Exchange Commission
Representative French Hill, Chair, Committee on Financial Services, US House of Representatives