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Written Statement by the Southern Poverty Law Center

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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”

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Introduction

On behalf of the Southern Poverty Law Center, we write to provide our insights on issues discussed during the U.S. House Committee on Education and Workforce Committee's Subcommittee on Higher Education and Workforce Development March 7, 2024, hearing entitled "Divisive, Excessive, Ineffective: The Real Impact of DEI on College Campuses." We appreciate the opportunity to share our expertise on the historic and ongoing importance of anti-discrimination policies and laws and our concerns with the erroneous framing of the hearing to discredit important non-discrimination efforts like Diversity, Equity, Inclusion, and Accessibility programs in higher education.

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 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, especially in the context of education and employment.

The Historic and Ongoing Importance of Anti-Discrimination Laws, Policies, and Programs like Diversity, Equity, Inclusion, and Accessibility (DEIA) in Education and Other Facets of Life

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. As a result, Congress, the courts, and the executive branch acknowledged the need to create specific interventions to tackle discrimination.

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 discrimination.¹ 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.²

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.³ Additionally, those policies evolved to include policies, programs, and services designed to increase Diversity, Equity, Inclusion, and Accessibility to help overcome patterns of discrimination and eliminate disparities in opportunities.⁴

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. For more than a decade, there has been a concerted effort by the extreme right, led by people like Edward Blum and Stephen Miller, to eliminate anti-discrimination policies and programs in both the private and public sectors through the federal courts and state legislatures throughout this country, and particularly in the South. The recent Supreme Court ruling ending Affirmative Action in higher education, the onslaught of anti-DEIA legislation across the deep South, 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, eliminate legal protections, policies and programs designed to root out and provide redress for racial and all other forms of discrimination that Black, Brown, and other people of color experience throughout their daily lives.

The Continued Need to Address Discrimination in Higher Education and Employment

Access to high-quality education opens doors to economic mobility and can reduce the racial wealth gap. Educational attainment leads to better jobs and higher wages, which, in turn, leads to

¹ 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>

² 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

³ 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

⁴ 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/>



stable housing and communities, and more educational opportunities. But people of color are more likely to attend systemically underfunded schools, face school closures, and be historically excluded from institutions of higher education.⁵ A recent study found that one in five Black students experience discrimination on college and university campuses, and Black students attending the least racially diverse schools and programs are even more likely to suffer discrimination.⁶ The U.S. Department of Education’s Office for Civil Rights logged a record number of discrimination complaints in Fiscal year 2022, most of which alleged discrimination based on race, sex, or disability.⁷ Research shows that all students benefit from interactions with classmates from diverse backgrounds and cultures.⁸ DEIA offices play a critical role in helping colleges and universities comply with civil rights laws and ensure students have recourse when they face discrimination or hostile environments.⁹ These programs can help improve student life, success, and retention for historically underrepresented and underserved students.

During the hearing, some of the attacks on DEIA efforts in higher education institutions inaccurately and offensively suggested that students from diverse backgrounds are not satisfying the “rigor” or “merits” of the institution. That false and racist viewpoint suggests that students from underrepresented communities cannot satisfy the school's academic demands and has been used to block Black and Brown people from opportunities and maintain the status quo of the white dominant power structure without any recognition of unearned admissions preferences such as legacy admissions.¹⁰ This viewpoint also ignores the fact that many of these students have already overcome incredible obstacles in their lived experiences, demonstrating grit, tenacity, and skills that bring significant value to an institution and that removing the constraints of discrimination and prejudice allows students to thrive.¹¹ DEIA programs are simply opening the door and providing opportunities for students who face historical barriers to access, and they help

⁵ Lombardo, C. (2019, February 26). *Why White School Districts Have So Much More Money*. NPR.org. <https://www.npr.org/2019/02/26/696794821/why-white-school-districts-have-so-much-more-money>; Karp, S. (2018, May 22). *Study: 2013 Chicago School Closings Failed to Help Students*. WBEZ.

<https://www.wbez.org/stories/study-2013-chicago-school-closings-failed-to-help-students/0eea4948-78dc-4fc9-9c45-0750584cb9f4>

⁶ Lloyd, C. and Brown, C. (2023, February 9). *One in Five Black Students Report Discrimination Experiences*. Gallup. <https://news.gallup.com/poll/469292/one-five-black-students-report-discrimination-experiences.aspx>

⁷ Pendharkar, E. (2023, May 8). *The Ed. Dept. Received the Most Civil Rights Complaints in History Last Year*. Education Week. <https://www.edweek.org/leadership/the-ed-dept-received-the-most-civil-rights-complaints-in-history-last-year/2023/05>

⁸ Stuart, A, Fox, L., & Cordova-Cobo, D. (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/>

⁹ 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>

¹⁰ Wong, A. (2023, July 4). *After Supreme Court’s rejection of affirmative action, complaint target legacy admissions*. <https://www.usatoday.com/story/news/education/2023/07/03/legacy-admissions-complaint-after-affirmative-action-ruling/70380084007/>

¹¹ See Seymour, S. & Ray, J. (2015, October 27). *Grads of Historically Black Colleges Have Well-Being Edge*. Gallup. <https://news.gallup.com/poll/186362/grads-historically-black-colleges-edge.aspx>



ensure students from all backgrounds have resources and support to succeed and thrive on campus. A 2023 study found that 75% of college students are supportive of DEI on college campuses and a majority support critical discussions about race, gender, and sexuality.¹²

DEIA programs and offices are also crucial to the workforce—they enhance employee experiences, strengthen organizational health, lead to more thoughtful decision-making and outcomes, and break down barriers that exclude qualified employees.¹³ In many sectors, improving DEIA has notable benefits. 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.¹⁴

Attacks on DEIA and Honest History in the Deep South

Across the country, we are seeing radical and sweeping attacks on our education system, including banning discussions of systemic racism, LGBTQ+ issues, Black history, and DEIA initiatives.¹⁵ Public schools are becoming the political battleground between those who support teaching honest, accurate history and inclusivity and those wishing to erase and rewrite our nation’s uncomfortable history. Some schools in the Deep South have already taken expansive and unnecessary actions to end DEIA programs and closed supportive programs for Black and Brown students in response to the narrowly limited SCOTUS decision on race-conscious admissions in higher education.

In Florida, the legislature passed a law last year that banned the state’s public colleges and universities from spending money on DEIA programs.¹⁶ Despite significant protests by students and faculty, the University of Florida recently terminated all positions associated with DEIA in response to the new legislation.¹⁷ The vagueness of this law has created a climate of confusion, anxiety and fear among students, faculty, and administrators and block the ability to address the

¹² Bryant, J. (2023, March 27). *Only 1 in 4 Students Support Legislative Efforts to Limit DEI on College Campuses*. Best Colleges. <https://www.bestcolleges.com/research/diversity-equity-inclusion-stop-woke-survey/>

¹³ U.S. Office of Personnel Management (2024) *Diversity, Equity, Inclusion, and Accessibility*. <https://www.opm.gov/policy-data-oversight/diversity-equity-inclusion-and-accessibility/>

¹⁴ Zephyrin, L., Rodriguez, J. & Rosenbaum, S. (2023, July 20) *The Case for Diversity in the Health Professions Remains Powerful*. The Commonwealth Fund. <https://www.commonwealthfund.org/blog/2023/case-diversity-health-professions-remains-powerful>

¹⁵ Bryant, J. & Appleby, C. (2024, February 26). *These States’ Anti-DEI Legislation May Impact Higher Education*. BestColleges. <https://www.bestcolleges.com/news/anti-dei-legislation-tracker/>

¹⁶ The Florida Senate (2023) *CS/SB 266: Higher Education*. <https://www.flsenate.gov/Session/Bill/2023/266/?Tab=BillText>

¹⁷ United Faculty of Florida (2024, March 5). *An open letter from UF faculty and graduate assistants, the United Faculty of Florida, and FEA regarding the recent removal of DEI positions on behalf of UF Faculty and Graduate Assistants*. <https://myuff.org/an-open-letter-regarding-the-recent-removal-of-dei-positions-on-behalf-of-uf-faculty-and-graduate-assistants/>; Betts, A. (2024, March 2) *University of Florida Eliminates All D.E.I.- related positions*. The New York Times. <https://www.nytimes.com/2024/03/02/us/university-florida-dei.html>



needs of an increasingly diverse campus.¹⁸ Additionally, last year, Florida legislators also passed a “Stop WOKE” Act, which limited Florida employers’ ability to discuss diversity, equity, and inclusion in trainings and seminars; the 11th Circuit court just found part of the law infringes on the free speech rights of employers.¹⁹ The Florida Department of Education also rejected the College Board Advanced Placement Course for African American History and decided to make changes to the curriculum to erase, misinterpret, and misrepresent the ugly history of slavery to the detriment of Black students.

In Alabama, the legislature just passed a bill that prohibits local education boards, institutions of higher learning, and state agencies from promoting or engaging in diversity, equity, and inclusion programs and activities.²⁰ Despite hundreds of college students rallying to oppose the bill and highlighting the importance and impact of these programs and activities on their experiences on campus and their ability to feel safe and supported, the Alabama legislature ignored the will of the people and passed this bill.²¹

SPLC’s Local and National Efforts to Advance DEIA and Push Back Against Rollbacks

In our work to dismantle white supremacy, strengthen intersectional movements, and advance a multiracial democracy, SPLC has been working to promote education and engagement in DEIA efforts. For example, SPLC’s Learning for Justice program provides training, resources, and advocacy to help educators and caregivers promote a more inclusive and just public education system that supports all students.²² Given the prevalence of anti-DEIA state legislation in the South, SPLC has been partnering with local communities in our Deep South states – Alabama, Florida, Georgia, Louisiana, and Mississippi – to oppose legislation and raise concerns about the harm to institutions of higher learning and other sectors.

On the Federal level, SPLC has been working to support DEIA efforts and eliminate harmful policy provisions that undermine DEIA efforts. We recently submitted an amicus brief in support

¹⁸ Acevedo, N. (2023, May 25). *DeSantis’ anti-DEI law is sparking ‘confusion, anxiety and fear’ among Florida faculty*. NBC News. <https://www.nbcnews.com/news/latino/desantis-anti-dei-education-law-chilling-effect-florida-rcna85646>

¹⁹ Nottingham, S. (2024, March 5). *Florida’s ‘Stop WOKE Act’ commits a ‘First Amendment sin,’ appeals court says in a ruling that blocks part of the bill*. CNN Politics. <https://www.cnn.com/2024/03/05/politics/florida-anti-woke-act-blocked-businesses/index.html>

²⁰ Morthland, A. (2024, March 7). *Students rally against SB 129 at Montgomery State House*. Crimson White Online. <https://thecrimsonwhite.com/113694/top-stories/students-rally-against-sb-129-at-montgomery-state-house/>

²¹ SPLC Action Fund (2024, March 7) *SPLC Action Fund Condemns Passage of Harmful Anti-Inclusion Bill in Alabama*. <https://www.splcactionfund.org/press-center/splc-action-fund-condemns-passage-harmful-anti-inclusion-bill-alabama>

²² SPLC Learning for Justices (2024). *What Districts Can Do to Support Educators in Teaching Honest History*, <https://www.learningforjustice.org/magazine/publications/advocating-for-teaching-honest-history-what-educators-can-do/what-districts-can-do-to-support-educators-in-teaching-honest-history>



of a grant program for Black-owned small businesses.²³ We also worked in coalition to fight dangerous provisions in the Fiscal Year 2024 National Defense Authorization Act, including helping to lead a letter to raise concerns and emphasize the importance of these programs in the military as they enhance equity and cohesion, and force readiness.²⁴ Notably, investments in DEIA initiatives are critical in the military, given that a majority of minority servicemembers have witnessed racism in the ranks, an estimated 80% of LGBTQ+ servicemembers have faced sexual harassment or assault during their service, and by 2027 the majority of adults eligible for military service will identify as a person of color.²⁵ We also recently joined a coalition letter that opposed policy riders in the FY 24 appropriations bills that would prohibit funding for federal agency DEIA programs and racial equity efforts and highlighted the significant barriers people from underrepresented groups face in accessing educational opportunities, employment, and housing.²⁶

Conclusion

Black and Brown people, women, LGBTQIA+ 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.²⁷ 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.

²³ SPLC (2023, December 21) *Lawyers' Committee for Civil Rights, SPLC File Brief in Support of Grant Program for Black-Owned Businesses*. <https://www.splcenter.org/presscenter/lawyers-committee-civil-rights-splc-file-brief-support-grant-program-black-owned>

²⁴ Human Rights First (2023, October 4). *Letter to Senate and House Leadership re: NDAA*. https://humanrightsfirst.org/wp-content/uploads/2023/10/Ltr.-Congress-re-NDAA-DEI-Extremism_Final35.pdf

²⁵ Blue Star Families Racial Equity & Inclusion (2021). *The Diverse Experiences of Military & Veteran Families of Color*. bluestarfam.org/wp-content/uploads/2022/02/BSF_MFC_REI_FullReport2021-final.pdf; Shane, L. (2020, February 6). *Signs of white supremacy, extremism up again in poll of active-duty troops*. Military Times. <https://www.militarytimes.com/news/pentagon-congress/2020/02/06/signs-of-white-supremacy-extremism-up-again-in-poll-of-active-duty-troops/>; Lang, N. (2020, May 13). *Over 80 Percent of LGBTQ+ Service Members Report Sexual Harassment in Military*. Them. <https://www.them.us/story/over-80-percent-of-lgbtq-service-members-report-sexual-harassment-in-military>

²⁶ Letter from Legal Defense Fund and coalition partners to Leader Schumer, Leader McConnell, Speaker Johnson, Leader Jeffries, Chair Grander, Ranking Member DeLauro, Chair Murray, and Vice Chair Collins opposing Anti-DEI Riders. (2024, March 6)

²⁷ 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/>



DEIA programs in higher education serve a crucial role in supporting underrepresented students and ensuring these students are free from harassment and discrimination. Addressing the recent surge of antisemitism, Islamophobia, and Anti-Arab Hate on campus requires more, not less, attention and support for DEIA programs. Eliminating these crucial offices will only exacerbate these issues. Instead, more support and resources are needed to ensure these programs better support all students, including more funding for the Department of Education Office of Civil Rights to ensure students are free from discrimination.²⁸

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 provide important resources for underrepresented students on campus to ensure they have both the tools 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 in the Deep South, please contact Theresa Lau, Senior Policy Counsel, Eradicating Poverty, Theresa.Lau@splcenter.org. We stand ready to work with subcommittee members to protect and advance anti-discrimination laws, policies, and programs, including DEIA throughout the federal government.

²⁸ 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/>