

March 6, 2024

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Mike Johnson
Speaker
568 Cannon House Office Building
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
2433 Rayburn House Office Building
Washington, D.C. 20515

Chair Kay Granger
U.S. House Appropriations Committee
1026 Longworth House Office Building
Washington, DC 20515

Ranking Member Rosa DeLauro
U.S. House Appropriations Committee
1036 Longworth House Office Building
Washington, DC 20515

Chair Patty Murray
U.S. Senate Appropriations Committee
154 Russell Senate Office Building
Washington, DC 20510

Vice Chair Susan Collins
U.S. Senate Appropriations Committee
413 Dirksen Senate Office Building
Washington, DC 20510

Dear Leader Schumer, Leader McConnell, Speaker Johnson, Leader Jeffries, Chair Granger, Ranking Member DeLauro, Chair Murray, and Vice Chair Collins:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (“LDF”) and the undersigned organizations, we urge you to remove all provisions in FY24 appropriations legislation which would impede the federal government’s ability to effectively serve all Americans and advance equal opportunity and civil rights. We all benefit when people from every background have equal access to educational, economic, and other opportunities. Federal programs that increase access to opportunity for Black, Latinx, Asian American, and Indigenous people; women; people with disabilities; LGBTQ+ people; and people from minority religious communities are necessary to strengthen our economy and secure our multi-racial democracy. However, as currently drafted, several House FY24 appropriations bills would prohibit federal agencies from funding diversity, equity, inclusion and accessibility (“DEIA”) programs; so-called “critical race theory,” a term which has erroneously been used to attack programs ranging from curricula that accurately discuss American history to programs that provide support to students and encourage inclusive learning environments; and the implementation of Executive Orders 13985,¹ 14035,²

¹ Exec. Order No. 13985, 86 FR 7009 (Jan. 20, 2021).

² Exec. Order No. 14035, 86 FR 34593 (Jun. 25, 2021).

and 14091,³ which seek to advance racial equity and support underserved communities. We urge Congress to reject these poison-pill riders.

The country as a whole benefits when we break down barriers that unfairly exclude people of color, women, LGBTQ+ people, people with disabilities, and other underrepresented groups. Our national security, our ability to solve complex problems like climate change, and our capacity to compete in a global economy depend on scientific and technological innovation. Research has shown that teams that bring together people with different backgrounds and experiences engage in more rigorous and thoughtful decision-making, making them better equipped to find innovative solutions, even during recessions.⁴ Remediating discrimination will also help grow the economy. A 2020 study by Citi estimates that the United States' aggregate economic output would have been \$16 trillion higher since 2000 if we had closed racial gaps in wages, access to higher education, lending, and mortgage access.⁵ Researchers at McKinsey estimated that the racial wealth gap alone will cost the U.S. economy between \$1 trillion and \$1.5 trillion between 2019 and 2028—4 to 6 percent of the projected gross domestic product in 2028.⁶

Unfortunately, unfair barriers continue to limit student success, exclude talented individuals from employment, and prevent underrepresented groups from accessing federal programs. The need to eliminate racial disparities and address other discriminatory outcomes in our nation's schools remains critical, underscoring the need to defend against attacks on racially inclusive curricula and DEIA funding. One recent study found that one in five Black students experience discrimination on college and university campuses, and that Black students attending the least racially diverse schools experience discrimination most frequently.⁷ And in Fiscal Year 2022, the U.S. Department of Education's Office for Civil Rights logged a record number of discrimination complaints in the past year, most of which allege discrimination based on race, sex, or disability.⁸ Moreover, even as the number of Black people with college degrees has increased in the last 20 years, the level of 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.⁹ While the federal government has made some progress in supporting ensuring that its workforce reflects the full range of talent in America, in FY 2021, women and Latinx employees were underrepresented compared to the civilian workforce.¹⁰

³ Exec. Order No. 14091, 88 FR 10825 (Feb. 16, 2023).

⁴ David Rock & Heidi Grant, *Why Diverse Teams are Smarter*, HARV. BUS. REV. (Nov. 4, 2016). See William J. Holstein, *Diversity is Even More Important in Hard Times*, N.Y. TIMES (Feb. 13, 2009) (“[I]t’s difficult, if not impossible, for [a] homogenous board[] to challenge and offer different perspectives, unique experiences and the broad-based wisdom that makes the board, and therefore the company, as effective as they can be.”).

⁵ DANA M. PETERSON & CATHERINE L. MANN, CITI GPS, CLOSING THE RACIAL INEQUALITY GAPS: THE ECONOMIC COST OF BLACK INEQUALITY IN THE U.S. 7 (2020).

⁶ Nick Noel, et al., *The economic impact of closing the racial wealth gap*, MCKINSEY & CO. (Aug. 13, 2019), <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap>.

⁷ Camille Lloyd and Courtney Brown, *One in Five Black Students Report Discrimination*, GALLUP (Feb. 9, 2023), available at <https://news.gallup.com/poll/469292/one-five-black-students-report-discrimination-experiences.aspx>

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

⁹ 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>.

¹⁰ U.S. GOV’T ACCOUNTABILITY OFF., FEDERAL WORKFORCE: DATA REVEAL MINOR DEMOGRAPHIC CHANGES FROM 2011-2021 (2023), <https://www.gao.gov/assets/d24105924.pdf>.

Similarly, the Black-white homeownership rate gap is wider now than it was in 1968, when Congress passed the Fair Housing Act,¹¹ and the racial wealth gap continues to grow.¹² Finally, underrepresented groups remain disproportionately excluded from some federal programs.¹³

As a nation, we cannot afford to forfeit the benefits of the talents and gifts of every student and worker in our country. The United States will be majority people of color by 2043, and people under 18 are already approaching this threshold.¹⁴ More than 1 in 4 people under the age of 30 identify as LGBTQ+, and our electorate will soon contain more people in that age group than any other.¹⁵ Programs that help recruit, retain, and support talented individuals of all backgrounds and ensure that federal programs are open to all are both lawful and necessary. For example, dedicated DEIA teams,¹⁶ mentoring programs,¹⁷ and other efforts can break down barriers that often exclude qualified employees. Similarly, studies have shown that DEIA initiatives in K-12 and postsecondary education are essential to creating an equitable environment for all students. For example, DEIA initiatives have improved academic outcomes in postsecondary education like re-enrollment in classes and graduation rates.¹⁸ Researchers have also found that educator diversity resulted in improved reading and math skills, as well as lowered absenteeism and suspension rates for students of color.¹⁹ These programs may also play an essential role in mitigating the risk of future discrimination and harassment in the federal workforce and federally-funded programs.

In order to fully realize our nation's multiracial democracy, we must ensure that pathways to opportunity are open to all, especially for communities that have historically faced barriers. We are aware that some members of Congress continue to advocate for riders that prohibit federal

¹¹ BRAD BLOWER ET AL., NAT'L CMTY. REINVESTMENT COAL., ADDING ROBUST CONSIDERATION OF RACE TO COMMUNITY REINVESTMENT ACT REGULATIONS: AN ESSENTIAL AND CONSTITUTIONAL PROPOSAL (2021), <https://ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/#ftnref7>.

¹² TOM SHAPIRO ET AL., LDF THURGOOD MARSHALL INST. & INST. ON ASSETS AND SOC. POL'Y AT BRANDEIS UNIV. THE BLACK-WHITE RACIAL WEALTH GAP 5 (2019), <https://tminstituteldf.org/wp-content/uploads/2019/11/FINAL-RWG-Brief-v1.pdf>.

¹³ A Politico analysis found that, in 2020, the U.S. Department of Agriculture provided assistance to 71% of white applicants applying for loans helping farmers pay for land but just 37% of Black applicants. Ximena Bustillo, *Rampant issues: Black farmers are still left out at USDA*, POLITICO (July 5, 2021, 7:00 AM ET), <https://www.politico.com/news/2021/07/05/black-farmers-left-out-usda-497876>. That same year, the number of direct federal loans to Black farmers fell from a peak of 945 in 2015 to 460. Elisha Brown, *Stalled U.S. debt relief is the latest broken promise to Black farmers*, FACING SOUTH (Aug. 12, 2021), <https://www.facingsouth.org/2021/08/stalled-us-debt-relief-latest-broken-promise-black-farmers>. Farmers of color received less than 1% of the 2020 COVID-19 relief for farmers even though they make up 5% of all farmers nationwide. Bustillo, *supra*.

¹⁴ Press Release, U.S. Census Bureau, U.S. Census Bureau Projections Show a Slower Growing, Older, More Diverse Nation a Half Century from Now (Dec. 12, 2012), <https://www.census.gov/newsroom/releases/archives/population/cb12-243.html>.

¹⁵ Matt Lavietes, *Nearly 30% of Gen Z adults identify as LGBTQ, national survey finds*, NBC NEWS (Jan. 24, 2024), <https://www.nbcnews.com/nbc-out/out-news/nearly-30-gen-z-adults-identify-lgbtq-national-survey-finds-rcna135510>.

¹⁶ Alexandra Kalev, et al., *Best practices or best guesses? Diversity management and the remediation of inequality*, 71 AM. SOC. REV. 589 (2006).

¹⁷ Frank Dobbin, et al. *Diversity management in corporate America*, CONTEXTS vol. 6, no. 4, p. 21–28 (2007); Emilio Castilla, *Social networks and employee performance in a call center*, 110 AM. J. OF SOC. 1243 (2005).

¹⁸ Tammie Cumming, M. David Miller & Isana Leshchinskaya *DEI Institutionalization: Measuring Diversity, Equity, and Inclusion in Postsecondary Education, Change: The Magazine of Higher Learning*, 55:1, 31-38 (2023); Dudu Momoh Sekou, "Impact of Targeted Diversity, Equity, and Inclusion (DEI) Initiatives on the Retention and Graduation Rates of Students of Color at Community Colleges" (2023). *School of Business Student Theses and Dissertations*. 26.

funding for DEIA programs, so-called "critical race theory," and the implementation of Executive Orders 13985, 14035, and 14091.²⁰ These riders would further exacerbate longstanding inequalities and hinder the ability of the government to serve the needs of all people, provide equal educational opportunities, strengthen our economy, and ensure our place as a global leader. We urge Congress to reject these poison pill riders and redouble its commitment to equity for underserved communities.

Please reach out to Hamida Labi, Senior Policy Counsel, LDF (hlabi@naacpldf.org) and Amalea Smirniotopoulos, Senior Policy Counsel and Co-Manager of the Equal Protection Initiative, LDF (asmirniotopoulos@naacpldf.org), if you have any questions or would like additional information.

Thank you.

Sincerely,

NAACP Legal Defense and Educational Fund, Inc. (LDF)

American Association of University Women

American Civil Liberties Union

American Federation of Teachers

Asian Americans Advancing Justice--AAJC

Education Law Center Pennsylvania

Girls, Inc.

Japanese American Citizens League

LatinoJustice PRLDEF

National Association of Councils on Developmental Disabilities

National Black Justice Coalition

National Center for Transgender Equality

National Education Association

National Employment Lawyers Association

²⁰ Letter from Rep. Bob Good, et al. to Speaker of the House Mike Johnson (Feb. 21, 2024), *available at* <https://punchbowl.news/policy-riders-letter-2-21-2024/>.

40 Rector Street
5th Floor
New York, NY
10006

700 14th Street NW
Suite 600
Washington, DC
20005

260 Peachtree Street NW
Suite 2300
Atlanta, GA 30303

naacpldf.org
212-965-2200

National Employment Law Project

National Institute for Workers' Rights

National Partnership for Women and Families

National Women's Law Center

Poverty and Race Research Action Council

Sikh Coalition

Southern Poverty Law Center Action Fund

Transgender Legal Defense and Education Fund (TLDEF)

UnidosUS

Sarah C. von der Lippe, Pro Bono Counsel, Minority Business Enterprise Legal Defense and Education Fund