



May 24, 2023

Elizabeth M. Cannon, Director
Roberta Steele, Regional Attorney
Federal Office Building
909 First Avenue
Seattle, WA 98104-1061

Re: Investigation Request/Alaska Air, Inc.

Dear Director Keenan:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans. We write pursuant to 29 C.F.R. § 1601.6(a),¹ providing that “Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination,” to request that the Equal Employment Opportunity Commission open an investigation into Alaska Air Group, Inc. (the “Company”) for engaging in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964.²

The Company is a publicly traded corporation that operates two airlines, Alaska and Horizon. The Company was incorporated in 1985 under the laws of the State of Delaware with its principal executive offices located at 19300 International Boulevard, Seattle, Washington, 98188. Its Form 10-K for the fiscal year ending December 31, 2022, states that it is “the fifth largest airline in the United States” and in 2022 “deliver[ed] record-breaking revenue for the year of \$9.6 billion *** [and] generated \$1.4 billion in operating cash flows for the year.”³ With 25,469 employees, the Company serves “100 nonstop destinations from the Seattle-Tacoma International Airport *** [and] provides [its] guests with global access to more than 900 destinations in 170 territories.”⁴

As you know, an unlawful employment practice is established when the evidence demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice.⁵ Here, the evidence is that the Company is knowingly

¹ Copies of this letter are also addressed to each Member of the Commission and AFL makes the same request of them pursuant to 29 C.F.R. § 1601.6(a).

² 42 U.S.C. § 2000e-2.1.

³ Alaska Air Group, Inc., Form 10-K at 4, bit.ly/43pwwf7, (last visited May 24, 2023).

⁴ *Id.* at 4, 13.

⁵ 42 U.S.C. § 2000e-2(m).

and intentionally discriminating with respect to compensation, terms, conditions, or privileges of employment because of race and sex in violation of 42 U.S.C. § 2000e-2(a)(1).

On February 18, 2021, the Company announced on its website a commitment to “a more inclusive workforce by 2025.”⁶ In that announcement, the Company stated that it had “30%+ racial diversity within [its] frontline and manager levels compared to 16% racial diversity within our leadership levels.”⁷ The Company further stated that by 2025 it would “increase [the] Company’s ‘Inclusion Index Score’ by 10 points, and it would “increase racial diversity at all levels to at least 30%” by:

- Using recruiting strategies focused on immutable characteristics to “diversify our talent pool.”
- Providing support for race-based and national origin-based programs to “[enable] career pathways for diverse [sic] talent within aviation.”
- Providing leadership development and sponsorship programs limited to persons of a specified race, national origin, or sex.⁸

The Company also forced employees to sit through equity training with outside Consultant “Courageous Conversations,” it launched “racial equity training” for all employees, it “[e]mbedded Diversity, Equity, and Inclusion into [its] new Talent Acquisition system, and “[r]equired 50% diverse candidate slates and interview panels for senior leadership roles.”⁹

On April 23, 2021, the Company provided the following updates on its website:

- The Company increased its “Inclusion Index Score” by 9 points.
- The Company completed “racial equity training” for all its employees and “conducted workplace equity workshops for all leaders and intervention training for frontline employees.”¹⁰

On February 15, 2022, the Company shared further information on its “progress.”¹¹ It admitted to “[c]reating and embedding DEI concepts and education across learning programs (e.g., Inflight training).”¹² Also, it provided several graphs showing that its efforts had increased the workforce representation of Asian, Hispanic, and Pacific

⁶ *Alaska Air Group commits to a more inclusive workforce by 2025*, ALASKA AIRLINES (last visited May 24, 2023), <https://bit.ly/3ODbLfB>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Diversity, Equity & Inclusion progress on our journey to a more inclusive workforce*, ALASKA AIRLINES (last visited May 24, 2023), <https://bit.ly/423tPCP>.

¹¹ *What’s the latest on our DEI commitments?* ALASKA AIRLINES (last visited May 24, 2023), <https://bit.ly/3BPTjcl>.

¹² *Id.*

Islanders, *while concurrently decreasing the workforce representation of white employees*.¹³ This suggests that the Company is not only unlawfully discriminating based on race, national origin, or sex in hiring and promotions, but also that it is unlawfully and proactively terminating (or purging) white workers.

On March 6, 2023, the Company released its most recent update on its “progress” towards “a more inclusive workforce by 2025.”¹⁴ In that update, the Company highlighted that frontline and manager-level employees’ racial “diversity” increased from 34.3% in February of 2022 to 38% on December 31, 2022, and that the racial “diversity” of leadership increased from 17.5% to 18% during that same time.¹⁵ The Company also highlighted that its new leadership pilot mentoring program “boasts 45% diversity!” and that of its new hires in 2022, “56% identify as Black, Indigenous or People of Color (BIPOC), and 61% identify as women.”¹⁶ The Company noted that its workforce representation increase during 2022 for 8.7% to 9.3% for Asian employees, 5.8% to 6.6% for black employees, 10.8% to 12.1% for Hispanic employees, 3.9% to 4.4% for Islander employees, and that the workforce representation decreased from 66.5% to 62.6% for white employees.¹⁷ The Company also pointed out that the female representation in its workforce grew from 53.6% to 55.4% during that time, while the male representation dropped from 46.4% to 44.6%.¹⁸

Alaska Air Group repeatedly admits to using preferential hiring and training programs to ensure its workers meet management’s approved race, color, national origin, and sex ratios. However, racial, color, national origin, and sex-based “balancing” in hiring, training, compensation, and promotion is patently illegal.¹⁹ Decades of case law holds that — no matter how well-intentioned — such policies are prohibited.²⁰ If Alaska Air Group is engaged in such conduct, then it is knowingly and intentionally violating federal civil rights laws. If Alaska Air Group is not engaged in such conduct, but merely pretending to do so, then it is cynically and intentionally misleading consumers, workers, investors, and its ESG “stakeholders.” There is no third alternative.

Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority” in its victims “that may affect their hearts and minds in a way unlikely to ever be undone.”²¹ More broadly, the

¹³ *Id.*

¹⁴ *It’s the halfway point for our 2025 DEI commitments – how are we doing?* ALASKA AIRLINES, (last visited May 24, 2023), <https://bit.ly/426ROkL>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 42 U.S.C. §§ 2000e-2(a), (d).

²⁰ See, e.g., *United Steelworkers of Am. v. Weber*, 443 U.S. 193, 208 (1979); *Johnson v. Transp. Agency*, 480 U.S. 616, 621-641 (1987). See Also *Bostock v. Clayton Cnty., Ga.*, 140 S. Ct. 1731, 1743 (2020).

²¹ *Brown v. Board of Education*, 347 U.S. 483, 494 (1954).

discrimination here necessarily foments contention and resentment. It is “odious and destructive.”²² It truly “is a sordid business, this divvying us up” by race, color, national origin, or sex.²³ It always has been, and it always will be. Alaska Air Group’s admissions, as described above, provide a compelling reason for the Commission to open a comprehensive investigation of the company’s hiring, training, retention, compensation, and promotion practices.

Sincerely,

/s/ Gene P. Hamilton

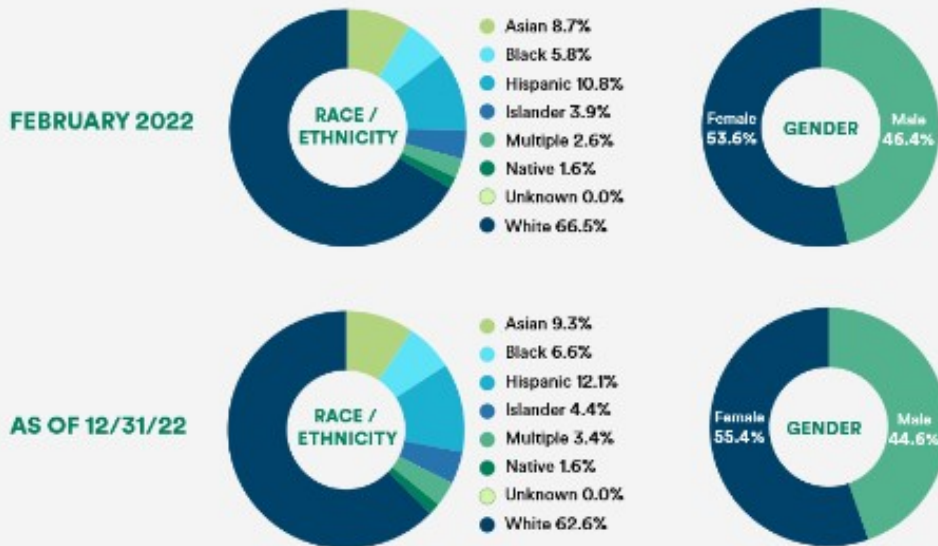
Vice President and General Counsel
America First Legal Foundation

Cc: The Honorable Charlotte A. Burrows, Commission Chair
The Honorable Jocelyn Samuels, Commission Vice Chair
The Honorable Keith E. Sonderling, Commissioner
The Honorable Andrea R. Lucas, Commissioner

²² *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

²³ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

OUR WORKFORCE PROFILE FOR RACE / ETHNICITY AND GENDER



REPRESENTATION GOAL

Increase racial diversity of our leadership to reflect the racial diversity of our frontline workforce.



Racial diversity within our frontline and manager levels vs. senior leadership (including directors and above).

Our Goals.

Representation: By 2025, the racial diversity of our leadership will reflect the diversity of our frontline employees. Today we have 30%+ racial diversity within our frontline and manager levels compared to 16% racial diversity within our leadership levels. Our greatest opportunity is to increase the diversity of our leadership levels to reflect the diversity of our broader employee population.

We will increase racial diversity at all levels to at least 30% by:

- Updating our recruiting strategies to diversify our talent pool.
- Supporting the education pipeline that enables career pathways for diverse talent within aviation.
- Creating leadership development and sponsorship programs that help us attract and retain more diverse talent.

Culture: By 2025, we will increase our company's "Inclusion Index Score" in our employee engagement survey by 10 points, reflecting our commitment to cultivate a truly inclusive culture where everyone feels like they belong. Our work will involve our Business Resource Groups, who play a critical role in helping our leaders to better support our people. Through DEI training, we will create awareness, educate and reinforce policies that support equity and inclusion.



CULTURE GOAL

Increase our “Inclusion Index Score” in our employee engagement survey by 10 points by 2025.

+10pts



TODAY: +9

REPRESENTATION GOAL

Increase racial diversity of our leadership to reflect the racial diversity of our frontline workforce.

APRIL 2021

TODAY



FRONTLINE



LEADERSHIP



FRONTLINE

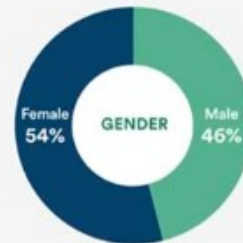
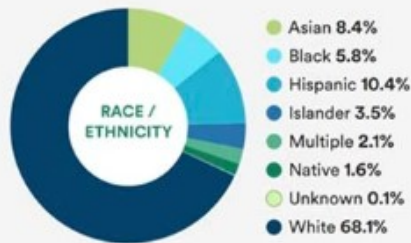


LEADERSHIP

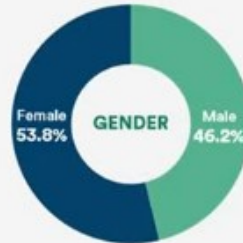
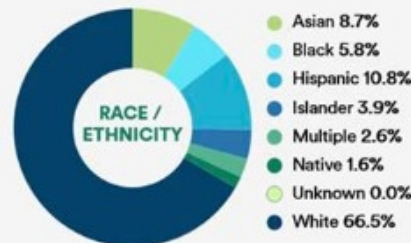
Racial diversity within our frontline and manager levels vs. senior leadership (including directors and above).

OUR WORKFORCE PROFILE FOR RACE / ETHNICITY AND GENDER

APRIL 2021



TODAY



DIVERSITY, EQUITY, AND INCLUSION

At Alaska and Horizon, we believe that every person deserves respect regardless of race, ethnicity, capability, age, gender, or sexual orientation. We are committed to advancing equity in all forms, and have set specific and measurable goals to deliver on our commitments to racial equity and diversity by 2025. Our primary goals in this arena are to increase racial diversity in our leadership team and build a culture of inclusion for all employees. As a reflection of the importance of these commitments, a portion of long-term executive compensation has been tied to achievement of these goals.

We are working with existing partners such as United Negro College Fund (UNCF) to create career pathways for at least 175,000 young people. Progress to this goal ramped in 2022, as we held in-person Aviation Days and career panels designed to educate young people on careers in the aviation industry. Also in 2022, we launched the Ascend Pilot Academy, in partnership with the Hillsboro Aero Academy, which will provide aspiring pilots a simpler and more financially accessible path to become a pilot at Horizon. This academy will help make careers in aviation possible for a broader and more diverse population of future pilots.