



November 1, 2023

Ms. Diane Smason
Acting Director, Chicago District Office
U.S. Equal Employment Opportunity Commission
230 South Dearborn St. (Suite 1866)
Chicago, IL 60604

Re: Request for Investigation of United Airlines

Dear Acting Director Smason,

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 according to 29 C.F.R. § 1601.6(a), which provides that, “[a]ny person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination.” AFL hereby requests the Equal Employment Opportunity Commission (“EEOC”) open an investigation into United Airlines Holdings, Inc. (“United”) for engaging in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2.1.¹

I. Evidence of Unlawful Employment Practices

United is a publicly traded corporation under your jurisdiction, headquartered at 233 South Wacker Drive, Chicago, Illinois. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, prohibits United from discriminating against an employee or an applicant for employment because of race, color, religion, sex, or national origin; to limit, segregate, or classify employees or applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of race, color, religion, sex, or national origin; or to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training. However, United openly acknowledges—even touts—its unlawful employment practices.

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

In its 2022 Corporate Responsibility Report,² United admitted to unlawful benchmarks, classifications, and quotas, including:

- “Include a diverse makeup of candidates in 90% of new hire interview slates for management and administrative roles.”
- And “Continue to meet United Aviate Academy diversity goal: 50% of enrolled students who are women and/or people of color.”
- A “3% increase in representation of women and 6% increase in representation of underrepresented racial and ethnic groups when comparing December 2020 to December 2022.”
- “Representation of women and traditionally underrepresented racial and ethnic groups in our new hire management and administrative population is higher in January 2022: 5% higher for women and 9% higher for people from underrepresented racial and ethnic groups.”
- “In 2022, almost half of all promotions at the Senior Professional and Senior Leader level were of those belonging to underrepresented racial and ethnic groups. *Growing diversity in our leadership will continue to be an essential focus in 2023 and beyond.*” (Emphasis added.)
- “[W]e have *committed to increase the number of women in senior positions and underrepresented areas by a minimum of 25% by 2025.*” (Emphasis added.)
- “In 2022, we welcomed 200 students to the Academy and celebrated the graduation of our inaugural class of pilots, that included 51 students – with nearly 80% being women or people of color.”
- “We partnered with i.c. Stars, a Chicago-based nonprofit dedicated to providing underrepresented individuals the opportunity to expand their horizons through technology internship programs, representing a new source of talent for Digital Technology.”
- “[L]aunched Innovate to create a new digital technology talent pool from diverse and non-traditional backgrounds, with plans to identify, reskill and place more than 500 technology candidates in the next five years and a goal of 50% being women and/or people of color.”
- “200 team members from underrepresented racial and ethnic groups attended these [McKinsey Connected Leadership Academies] in 2022, which equip

² UNITED AIRLINES, *Inclusion Among Our Workforce*, 2022 CORPORATE RESPONSIBILITY REPORT, <https://tinyurl.com/3y22u6mz> (last visited October 26, 2023).

future leaders with a peer network that will help them achieve their aspirations and assist them in developing new capabilities, mindsets and behaviors for growth. These programs are implemented in identity-based communities and provide a unique lens on leadership from the perspective of diverse leaders.”³

II. The Commission Should Investigate United Airlines

United Airlines “Diversity, Equity and Inclusion” hiring and promotion practices facially violate 42 U.S.C. § 2000e-2(a)(2), which prohibits hiring practices that limit, segregate, or classify applicants for employment because of race, color, sex, or national origin in violation of the statute. Decades of case law have held that — no matter how well-intentioned — quotas and employment practices aimed to achieve such “balancing” are strictly prohibited. *Students for Fair Admissions*, 143 S. Ct. 2141 (2023); *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020); see also *United Steelworkers of America v. Weber*, 443 U.S. 193, 208 (1979); *Johnson v. Transp. Agency*, 480 U.S. 616, 621, 632 (1987).

United Airlines’ unlawful employment practices are also deeply harmful. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.”⁴ More broadly, the discrimination highlighted in this case necessarily foments contention and resentment, it is “odious and destructive.”⁵ It truly “is a sordid business, this divvying us up” by race, color, national origin, or sex.⁶

Thank you in advance for your consideration. Please feel free to contact me if you have any questions.

³ We note that 42 U.S.C. § 1981 prohibits racial discrimination in the making, performance, modification, and termination of contracts, and in the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship; the statute applies to all phases and incidents of the contractual relationship. *Comcast Corp. v. Nat’l Ass’n of Afr. Am.-Owned Media*, 140 S. Ct. 1009, 1020 (2020) (Ginsburg, J., concurring). Nevertheless, United admits entering into contractual agreements with McKinsey that benefits some of its employees based solely on their immutable characteristics and discriminating based on race, color, national origin, and ethnicity. Further, United stated that it intends to spend “at least \$1 billion annually with women-and-diverse-owned businesses by 2050,” and has advanced on that goal by spending \$151 million with such businesses in 2021-22. UNITED AIRLINES, *Inclusion Among Our Workforce*, 2022 CORPORATE RESPONSIBILITY REPORT, <https://tinyurl.com/3y22u6mz> (last visited October 26, 2023); UNITED AIRLINES, *Amplifying Progress Through Supplier Partnership*, 2022 CORPORATE RESPONSIBILITY REPORT, <https://tinyurl.com/399vcjhh> (last visited October 26, 2023).

⁴ *Brown v. Bd. of Education*, 347 U.S. 484, 494 (1954).

⁵ *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

⁶ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 510 (2006) (Roberts, C.J., concurring in part).

Sincerely,

/s/ Ian D. Prior

Senior Advisor

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
The Honorable Kalpana Kotagal, Commissioner

APPENDIX

INCLUSION AMONG OUR WORKFORCE

As we announced our growth plans last year, which included hiring 50,000 employees over the next five years—we created company-wide DEI goals for the first time in our history and tied them to specific metrics in our executive long-term incentive plan to ensure accountability for progress.

These goals focus on three key areas related to talent:

1. Increasing demographically diverse representation;	2. Creating new pathways to United careers; and	3. Assessing and refining HR policies and practices.
Goal	Progress	
1: Include a diverse makeup of candidates in 90% of new hire interview slates for management and administrative roles	We identified women and people of color in leadership roles as areas of opportunity and introduced this measure to bring more demographic diversity into our candidate funnel for consideration.	
2: Update 50% of job postings to appeal to a broader labor market and eliminate biased verbiage	We introduced a tool that checks for language that may be perceived as biased and/or may create feelings of exclusion in order to replace them with statements that are more inclusive and are expected to appeal to a broader audience of diverse job seekers.	
3. Continue to meet United Aviate Academy diversity goal: 50% of enrolled students who are women and/or people of color	To attract diverse candidates, we partnered with diverse professional organizations to amplify the United Aviate Academy and, in partnership with JPMorgan Chase & Co., established a scholarship fund to provide more than \$5 million in scholarships for prospective academy students.	

1. Increasing demographically diverse representation

We exceeded all three of our goals in these areas:

Goal	Progress
1: Include a diverse makeup of candidates in 90% of new hire interview slates for management and administrative roles	We identified women and people of color in leadership roles as areas of opportunity and introduced this measure to bring more demographic diversity into our candidate funnel for consideration.
2: Update 50% of job postings to appeal to a broader labor market and eliminate biased verbiage	We introduced a tool that checks for language that may be perceived as biased and/or may create feelings of exclusion in order to replace them with statements that are more inclusive and are expected to appeal to a broader audience of diverse job seekers.
3. Continue to meet United Aviate Academy diversity goal: 50% of enrolled students who are women and/or people of color	To attract diverse candidates, we partnered with diverse professional organizations to amplify the United Aviate Academy and, in partnership with JPMorgan Chase & Co., established a scholarship fund to provide more than \$5 million in scholarships for prospective academy students.

2. Creating new pathways to United careers

We met our primary goal in this area

Goal	Progress
1: Launch apprenticeship program for Maintenance Technicians with a focus on underrepresented groups	Calibrate, our new in-house apprenticeship program, was launched in November 2022, supporting our ambitious goal of hiring 7,000 maintenance technicians by 2026

In-house apprenticeship program

Calibrate, our new in-house apprenticeship program, launched in November 2022. It will be a key strategic component in ensuring that we achieve our ambitious goal of hiring 7,000 maintenance technicians by 2026. We plan to train more than 1,000 new technicians by 2026, with a goal that at least half will be students who identify as women and/or people of color.

In the 36-month program, apprentices will gain the skills and knowledge they need to obtain their Airframe & Powerplant Certificate, including hands-on and classroom training and mentorship alongside United's experienced technicians.

Our first cohort was comprised of 80% people of color. The Calibrate program plans to expand to over a dozen locations in 2023 and will be open to United's global employee base and external candidates.



Our strategy

Our DEI strategy is centered around transforming the future of aviation. It is recognized as an essential driver of our growth and sustainable financial and operational success.

In 2022, we built on our progress to embed DEI throughout the business with a focus on leading the aviation industry by:

- Cultivating greater opportunities and access for underrepresented groups so they can build long, lucrative careers at United and enhance our uniquely inclusive culture;
- Offering a more accessible and culturally sensitive travel experience for all of our customers;
- Empowering and uplifting the communities we serve; and
- Demonstrating active leadership in building a strong pipeline for business diversity.

We are proud to share how we exceeded our DEI goals in 2022, made additional progress beyond these goals and established ongoing DEI commitments among our employees, customers, communities and commercial partners.

Communities	Support our DEI aims through engagement with community organizations	<ul style="list-style-type: none"> • Support United recruitment and workforce programs • Craft a public policy agenda that includes a DEI focus • Grow partnerships and engagement
Read about our performance against community goals		
Suppliers and commercial partners	Support women- and diverse-owned businesses through membership in the Billion Dollar Roundtable	<ul style="list-style-type: none"> • Direct \$1 billion+ of spending annually towards women- and diverse-owned businesses by 2025 • Implement business policy and practices to ensure program sustainability and diverse business growth and development.

The next stop on our journey: Billion Dollar Roundtable

In 2021, we announced our intention to become a member of the Billion Dollar Roundtable (BDR), a group of corporations recognized for:

- Spending at least \$1 billion¹ annually with women- and diverse-owned businesses by 2050.
- Implementing business policy and practices to ensure program sustainability and diverse business growth and development.

¹Spend is BDR-qualified only if the supplier is certified by one of five agencies: Disability:IN, the National LGBT Chamber of Commerce, the National Minority Supplier Development Council, the National Veteran's Business Development Council or the Women's Business Enterprise National Council (WBENC).

We are making significant progress:



Additional progress toward more diverse representation

We are building customized multi-year strategies for each functional area of our business in order to attract, develop and support diverse talent in the advancement of their careers at United. Our officers and HR teams monitor how hiring, promotion and attrition are impacting our progress using talent dashboards and develop ways to use that data to inform our strategies and programs.

Building on our commitment to increased transparency, we are sharing our [US workforce demographic data](#) for the third year in a row.

Measurable highlights from 2022 include:

1. Higher representation of women and underrepresented racial and ethnic groups

Our US workforce saw a 3% increase in representation of women and 6% increase in representation of underrepresented racial and ethnic groups when comparing December 2020 to December 2022.

2. New hires are improving diverse representation

Representation of women and traditionally underrepresented racial and ethnic groups in our new hire management and administrative population is higher than in January 2022: 5% higher for women and 9% higher for people from underrepresented racial and ethnic groups.

3. Voluntary turnover remains low

In a time period known by many as “the Great Resignation” when many employers experienced layoffs and a spike in voluntary exits, we actually grew, bringing in almost 2,000 new management and administrative employees. Our team members are staying with us to build careers, as evidenced by our voluntary turnover rate of only 7%. We remain a destination for lifelong careers, with an average tenure of 16 years of service for United employees.

4. Progress has been made at senior levels

We made progress in our efforts to have our leadership reflect the diversity of the communities we serve. In 2022, almost half of all promotions at the Senior Professional and Senior Leader level were of those belonging to underrepresented racial and ethnic groups. Growing diversity in our leadership will continue to be an essential focus in 2023 and beyond.