



November 1, 2023

Mr. Travis Nicholson  
Director, Dallas District Office  
U.S. Equal Employment Opportunity Commission  
207 S. Houston Street  
Dallas, TX 75202

**Re: Request for Investigation of American Airlines**

Dear Director Nicholson,

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 American Airlines Group, Inc. (“American Airlines”) 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.

American Airlines is a publicly traded corporation under your jurisdiction, having its headquarters at 1 Skyview Drive, Fort Worth, Texas. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2 prohibits American 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, American Airlines openly acknowledges—even touts—its racial, sexual, and gender discrimination in its recruitment and hiring programs.

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<sup>1</sup> 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).

## I. Evidence of Unlawful Employment Practices

American Airlines states on its website that “[d]iversity, equity, and inclusion (DEI) are foundational to the American Airlines culture and are embedded into the fabric of who we are as a company. We are the global leader in commercial aviation, and therefore must carry the banner around the world for DEI.”<sup>2</sup> To achieve that goal, American Airlines seeks to ensure that “the diversity of [its] team reflects the diversity of [its] global customer base.”<sup>3</sup> To that end, on July 18, 2020, in a since-deleted press release, American Airlines stated that it would enhance its recruitment and development of black professionals in its senior leadership and would “assist black youth in developing job skills and expanding access to we-paying careers as part of [its] overall strategy to expand opportunities in [its] hub cities and Tulsa.”<sup>4</sup> In other words, American Airlines implemented overtly discriminatory hiring practices based on the race or color of the individuals involved.

On January 13, 2022, American Airlines stated that it had “become more intentional in [its] Diversity, Equity, and Inclusion efforts” and reported on the progress of its intentional goals to unlawfully discriminate in its hiring and development practices and made the following representations:

- By December of 2021, American Airlines “[i]ncreased Black representation at the director and above level by 50% versus 2020; retained 90% of these leaders.”<sup>5</sup>
- It “[i]ncreased L5/L6 Black representation by 20% versus 2020; retained at least 75% of Black management and support staff.”<sup>6</sup>
- American Airlines “[l]aunched the Executive Sponsorship Program (ESP) for Black D+ leaders and will broaden ESP’s reach in 2022. [It] also partnered with McKinsey to offer our Black, Hispanic, and Asian leaders the opportunity to participate in their Leadership Academies.”<sup>7</sup>

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<sup>2</sup> *Diversity, Equity and Inclusion*, AMERICAN AIRLINES, <https://tinyurl.com/48b9836m> (last visited Oct. 26, 2023).

<sup>3</sup> *Id.*

<sup>4</sup> *Charting a Course to Create and Sustain Meaningful Change*, AMERICAN AIRLINES, <https://tinyurl.com/yjp2xyan> (last visited Oct. 26, 2023).

<sup>5</sup> *Progress on Our Diversity, Equity and Inclusion Journey*, AMERICAN AIRLINES, <https://tinyurl.com/tz8b8ccw> (last visited Oct. 26, 2023).

<sup>6</sup> *Id.*

<sup>7</sup> 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, American Airlines 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,

- It focused on “expanding [its] Cadet Academy to ensure prospective pilots, particularly people of color and women, have access to the support needed to enter the profession.”<sup>8</sup> American Airlines also noted that, since the launch of the Cadet Academy in 2018 “[w]omen and people of color constitute 51% of the students” and that “women alone account for 32% and 12% of students identify as Black.”<sup>9</sup>
- American Airlines “made progress” in 2022 as 6% of its pilots hired were women, 6% self-identified as Black and 25% identified as people of color.<sup>10</sup>

## II. The Commission Should Investigate American Airlines

American 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 42 U.S.C. § 2000e-2(a)(2). 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).

American 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.”<sup>11</sup> More broadly, the discrimination highlighted in this case necessarily foments contention and resentment, it is “odious and destructive.”<sup>12</sup> It truly “is a sordid business, this divvying us up” by race, color, national origin, or sex.<sup>13</sup>

[Signature page follows]

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American Airlines boasts that in 2022, its “total spend with Tier 1 diverse suppliers increased by 42% over 2021, the second consecutive year American Airlines has increased [its] total spend with diverse suppliers.” *Progress on Our Diversity, Equity and Inclusion Journey*, *supra* note 5; AMERICAN AIRLINES, 2022 SUSTAINABILITY REPORT at 39 (July 13, 2023) (<https://tinyurl.com/48bx7th6>) (last visited Oct. 26, 2023).

<sup>8</sup> *Progress on Our Diversity, Equity and Inclusion Journey*, *supra* note 5.

<sup>9</sup> AMERICAN AIRLINES, 2022 SUSTAINABILITY REPORT at 41–42 (July 13, 2023) (<https://tinyurl.com/48bx7th6>) (last visited Oct. 19, 2023).

<sup>10</sup> *Id.* at 40.

<sup>11</sup> *Brown v. Bd. of Education*, 347 U.S. 484, 494 (1954).

<sup>12</sup> *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

<sup>13</sup> *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 510 (2006) (Roberts, C.J., concurring in part).

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

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



## Our Momentum

Our goal is to build an open, inclusive culture where people from all backgrounds feel welcome. We know the work is never done, and over the past few years, we've made important progress aligning our efforts to three pillars.



**Listening  
& Relationships**

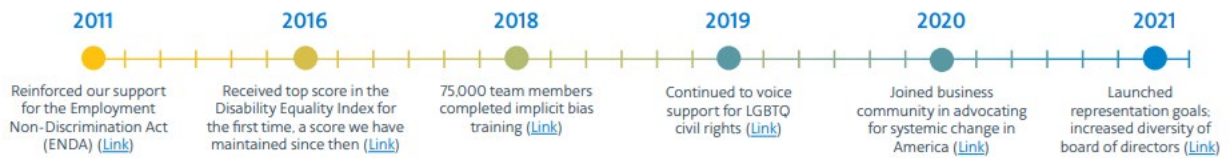


**Learning  
& Aligned Values**



**Recruitment  
& Advancement**

## A Decade of Milestones



## Recognition

For decades, American Airlines has been recognized as a leader in LGBTQ workplace policies. American has earned a perfect score in the Human Rights Campaign's U.S. Corporate Equality Index every year since 2002 and the HRC Igualdad Mexico since 2017. DisabilityIN and Seramount continue to recognize American for our inclusion efforts.



Learning is a critical part of our life-long journey and we're committed to providing our teams with the tools they need to take care of our customers. In 2021 alone we:

- Launched Inclusive Workplace training in January to underscore why diversity, equity and inclusion are core values at American; more than 90,000 team members have taken the course so far.
- Unveiled the Inclusion Education Series, a new web-based training series designed to help each of us become an upstander, in September. The first course focuses on how we can recognize when something is wrong, act to make it right and better understand microaggressions.

We recognize that representation matters, and we must be intentional about the recruitment, advancement and retention of diverse talent. We also recognize we have responsibility to identify and address opportunity gaps that exist for our team members.

- Increasing representation. We will continue to annually review representation data and identify multi-year companywide diversity goals for any underrepresented positions. In January, we set goals around Black representation and retention, and we met those goals by December:
  - Increased Black representation at the director and above level by 50% versus 2020; retained at least 90% of these leaders.
  - Increased L5/L6 Black representation by 20% versus 2020; retained at least 75% of Black management and support staff.
- Ensuring pay equity. American is one of six companies to receive Fair Pay Workplace's inaugural pay equity certification to ensure equitable pay regardless of gender or race. Nearly 85% of our team members are represented by unions and have built-in pay equity, so we have taken steps to review and ensure pay equity across our management and support staff teams.
- Developing future leaders. Last year, we launched the Executive Sponsorship Program (ESP) for Black D+ leaders and will broaden ESP's reach in 2022. We also partnered with McKinsey to offer our Black, Hispanic and Asian leaders the opportunity to participate in their Leadership Academies.
- Recruiting diverse talent. American joined Rep. Alma Adam's HBCU Partnership Challenge to create more opportunities for HBCU students and graduates entering in the workplace. We are focused on expanding our Cadet Academy to ensure prospective pilots, particularly people of color and women, have access to the support needed to enter the profession.