



January 17, 2024

Ronald Sullivan, Regional Director
Southwest and Rocky Mountain Region
U.S. Department of Labor
Office of Federal Contract Compliance Programs
525 S Griffin St
Room 840
Dallas, TX 75202

Investigation Request: American Airlines, Inc.

Dear Mr. Sullivan:

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. Your office is charged with responsibility for achieving the aims of parts II, III, and IV of Executive Order 11246 for the promotion and insuring of equal opportunity for all persons, without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, employed or seeking employment with Government contractors. *See* 41 C.F.R. § 60-1. We write, pursuant to 41 C.F.R. § 60-1.21, seeking a complaint investigation into alleged violations of Executive Order 11246 by American Airlines, Inc. (“American Airlines”).

American Airlines is a subsidiary of American Airlines Group Inc., a publicly traded corporation under your jurisdiction, headquartered at 1 Skyview Drive, Fort Worth, Texas.¹ Since 2008, United has received more than \$140,000,000 from federal government contracts—primarily with respect to transportation services for the Department of Defense and the Department of Transportation.² Federal law requires all federal government contracts to include an equal opportunity clause prohibiting the contractor from discriminating against an employee or an applicant for employment because of race, color, religion, sex, or national origin. The law provides:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

¹ American Airlines Group Inc., Form 10-K at 4 (Feb. 22, 2023), <http://tinyurl.com/4bdbff5>.

² *American Airlines Inc.*, USASPENDING, <http://tinyurl.com/mpr8sz4u> (last visited Jan. 16, 2024).

employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship ... The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

41 C.F.R. §§ 60-1.4(a)(1), (2). This clause is a part of every federal contract and subcontract, whether or not it is physically incorporated and whether or not the contract between the agency and the contractor is written. 41 C.F.R. § 60-1.4(e). If the contractor violates this provision, then the Secretary of Labor may cancel, terminate, or suspend its contracts, and the contractor may be declared ineligible for further federal government contracts and subject to other sanctions. 41 C.F.R. §§ 60-1.26–27.

American Airlines openly acknowledges—even touts—its racial, sexual, and gender discrimination in its recruitment and hiring programs. 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.”³ To achieve that goal, American Airlines seeks to ensure that “the diversity of [its] team reflects the diversity of [its] global customer base.”⁴ 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 well-paying careers as part of [its] overall strategy to expand opportunities in [its] hub cities and Tulsa.”⁵ In other words, American Airlines implemented overtly discriminatory hiring practices based on the race or color of the individuals involved.

Additionally, AFL is concerned⁶ with discriminatory commitments made by American that describe unlawful benchmarks, classifications, and quotas for potential and current employees. On January 13, 2022, American Airlines stated that it had “become more intentional in [its] Diversity, Equity, and Inclusion efforts” and

³ *Diversity, Equity and Inclusion*, AMERICAN AIRLINES, <https://tinyurl.com/48b9836m> (last visited Jan. 16, 2024).

⁴ *Id.*

⁵ *Charting a Course to Create and Sustain Meaningful Change*, AMERICAN AIRLINES, <https://tinyurl.com/yjp2xyan> (last visited Jan. 16, 2024).

⁶ AMERICA FIRST LEGAL, *America First Legal Files Civil Rights Complaints Against American, United, and Southwest Airlines for Illegal Racial and Sex Discrimination* (Nov. 1, 2023), <http://tinyurl.com/2k9ws2mf>.

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.”⁷
- It “[i]ncreased L5/L6 Black representation by 20% versus 2020; retained at least 75% of Black management and support staff.”⁸
- 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.”⁹
- 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.”¹⁰ 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.”¹¹
- 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.¹²
- Through its Diversity Supplier Program, “American Airlines is committed to working with a diverse group of suppliers” such as minorities, women, and LGBTQ.¹³

⁷ *Progress on Our Diversity, Equity and Inclusion Journey*, AMERICAN AIRLINES, <https://tinyurl.com/tz8b8ccw> (last visited Jan. 16, 2024).

⁸ *Id.*

⁹ 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, 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>.

¹⁰ *Progress on Our Diversity, Equity and Inclusion Journey*, *supra* note 5.

¹¹ AMERICAN AIRLINES, 2022 SUSTAINABILITY REPORT at 41–42 (July 13, 2023), <https://tinyurl.com/48bx7th6>.

¹² *Id.* at 40.

¹³ *Supplier Diversity*, AMERICAN AIRLINES, <http://tinyurl.com/y3mvdzfm> (last visited Jan. 16, 2024).

Through explicit statements, American Airlines appears to have admitted to unlawfully considering sex, race, and color in its hiring practices. As a recipient of hundreds of federal contracts, it appears to have admitted to intentional violations of 41 C.F.R. §§ 60-1.4(a)(1), (2). Accordingly, your office should exercise its authority and undertake a compliance evaluation of American Airlines; on this record, failing to do so would be arbitrary and capricious, and an abuse of your discretion. AFL requests an investigation to uncover the extent to which United is engaging in unlawful activity.

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

Sincerely,

/s/ Will Scolinos

Will Scolinos

America First Legal Foundation

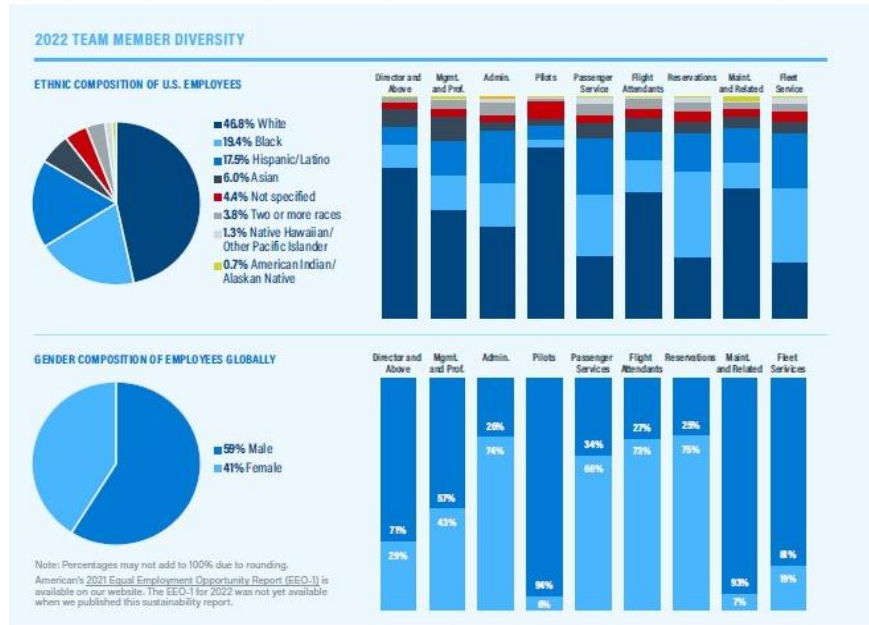
CC: The Hon. James Comer, Chair, House Committee on Oversight and Accountability

The Hon. Jamie Raskin, Ranking Member, House Committee on Oversight and Accountability

The Hon. Sam Graves, Chair, House Committee on Transportation and Infrastructure

The Hon. Rick Larsen, Ranking Member, House Committee on Transportation and Infrastructure

APPENDIX



Diversity, Equity and Inclusion

AT AMERICAN AIRLINES

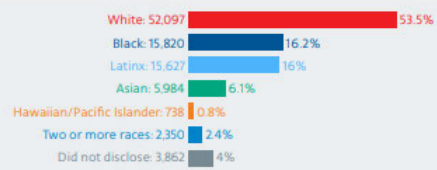
Diversity, equity, and inclusion are foundational to the American Airlines culture and are embedded into the fabric of who we are as a company. As the global leader in commercial aviation, we have an obligation to advance DEI within our company and around the world. We will lead the industry in DEI by:

- Hiring, engaging and retaining the best and brightest talent for growth
- Delivering excellence in our operations to serve and expand our global markets
- Ensuring the diversity of our team reflects the diversity of our global customer base
- Continually test and improve our DEI efforts to drive a competitive advantage for American

Our People

American employs nearly **97,000 team members** and serves over **50 countries and territories** around the world.

We celebrate the diversity of our team members and the backgrounds they represent.



*Team member self-disclosed demographics as of 4Q 2021

Employee Business Resource Groups

Our Employee Business Resource Groups (EBRGs) connect our team members to our customers, communities and mission to have a positive impact.

EBRGs operate under four pillars: advancing American's business, team member engagement, leadership development and community service.

20
EBRGs
183
Chapters
26,331
EBRG members



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**

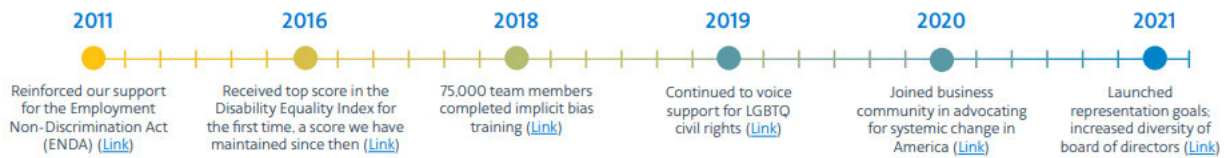


**Learning
& Aligned Values**



**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.