



October 24, 2024

To: Fortune 1000 Executives

From: State Financial Officers

Subject: DEI Letter from Members of Congress

We the undersigned are state financial officials responsible for state investment vehicles that hold ownership positions in your companies. We write concerning recent calls from Congressional members that your companies reaffirm their commitments to Diversity, Equity, and Inclusion (DEI). They commend DEI to you, claiming it is “good for business” and “benefits employees, customers, and the bottom line.”

Significant evidence is mounting that precisely the opposite is true.

Recent scholarly studies published at *Econ Journal Watch* and *Harvard Law School Forum on Corporate Governance* debunk both the claim that DEI programs help the bottom line and the primary McKinsey studies on which it is based. The authors of the *Econ Journal Watch* article reported that they were “unable to quasi-replicate” the McKinsey studies’ results and admonished that “they should not be relied on to support the view that US publicly traded firms can expect to deliver

improved financial performance if they increase the racial/ethnic diversity of their executives.”<sup>1</sup>

The authors of the *Harvard* paper studied the increase in racial diversity on boards in the wake of the BLM movement and a California law requiring that companies headquartered in the state include racial/ethnic minorities on their boards. They concluded that “the forced increases in racial diversity driven by the California mandate and the BLM movement did not have a significant effect on firm performance, valuation, or risk.”<sup>2</sup>

DEI is also bad for the people it promises to help – whether employees, students, or others. The NY Times Magazine just published an article that confirms this.<sup>3</sup> The author studied the University of Michigan’s flagship DEI program, which the university has poured \$250 million into over the past ten years. The author noted the external DEI backlash from right-of-center politicians and civil society groups but was surprised to find “a different kind of backlash, one that emanated not from Washington or . . . think tanks but from inside the university’s own dorms and faculty lounges.”<sup>4</sup> Here are several key takeaways from the article:

- 1) *Students are fed up with DEI*: “On campus, I met students with a wide range of backgrounds and perspectives. Not one expressed any particular enthusiasm for Michigan’s D.E.I. initiative. Where some found it shallow, others found it stifling. They rolled their eyes at the profusion of course offerings that revolve around identity and oppression, the D.E.I.-themed emails they frequently received but rarely read.”<sup>5</sup>
- 2) *DEI creates a grievance culture*: “Michigan’s D.E.I. efforts have created a powerful conceptual framework for student and faculty grievances — and formidable bureaucratic mechanisms to pursue them. Everyday campus complaints and academic disagreements, professors and students told me,

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<sup>1</sup> Econ Watch Journal, “McKinsey’s Diversity Matters/Delivers/Wins Results Revisited,” Jeremiah Green and John R.M. Hand, March 2024, <https://econjwatch.org/articles/mckinsey-s-diversity-matters-delivers-wins-results-revisited>.

<sup>2</sup> Harvard Law School Forum on Corporate Governance, “Is There a Business Case for Racial Diversity on Corporate Boards?,” Attila Balogh and Scott E. Yonker, October 2, 2024, <https://corpgov.law.harvard.edu/2024/10/02/is-there-a-business-case-for-racial-diversity-on-corporate-boards/#more-168320>.

<sup>3</sup> The New York Times Magazine, “The University of Michigan Doubled Down on D.E.I. What Went Wrong?”

A decade and a quarter of a billion dollars later, students and faculty are more frustrated than ever,” Nicholas Confessore, October 16, 2024, [https://www.nytimes.com/2024/10/16/magazine/dei-university-michigan.html?campaign\\_id=9&emc=edit\\_nn\\_20241016&instance\\_id=136975&nl=the-morning&regi\\_id=197681865&segment\\_id=180550&user\\_id=7ff808fbfdafdcde3292ee61e753a7e5](https://www.nytimes.com/2024/10/16/magazine/dei-university-michigan.html?campaign_id=9&emc=edit_nn_20241016&instance_id=136975&nl=the-morning&regi_id=197681865&segment_id=180550&user_id=7ff808fbfdafdcde3292ee61e753a7e5).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

were now cast as crises of inclusion and harm, each demanding some further administrative intervention or expansion.”<sup>6</sup>

- 3) *DEI delivers a culture of division rather than one of inclusion and belonging*: “Michigan’s own data suggests that in striving to become more diverse and equitable, the school has also become less inclusive: In a survey released in late 2022, students and faculty members reported a less positive campus climate than at the program’s start and less of a sense of belonging. Students were less likely to interact with people of a different race or religion or with different politics — the exact kind of engagement D.E.I. programs, in theory, are meant to foster.”<sup>7</sup>

Surveys have shown that employees have the same negative attitudes toward DEI programs. For example, the Freedom at Work Survey conducted by Ipsos and released by Viewpoint Diversity Score found that a plurality (40 percent) of employees say DEI divides, rather than unites, colleagues.<sup>8</sup> A similar number say they are less likely to trust others or feel included at work if they are told in a company-sponsored training that they are complicit in racism or oppression based on their skin color, religion, or sex, a hallmark of many DEI programs.<sup>9</sup>

DEI policies and programs also pose significant legal risk to corporations, especially after the U.S. Supreme Court struck down policies that relied on prospective students’ race to make college admissions decisions in *Students for Fair Admissions, Inc. v. Harvard*.<sup>10</sup> EEOC Commissioner Andrea Lucas and others have stated that this ruling calls into question many company’s DEI programs.<sup>11</sup> Indeed, at their core DEI programs are rooted in Ibram X. Kendi’s disturbing outlook that “[t]he only remedy to past discrimination is present discrimination.”<sup>12</sup> But the laws of this country require the inverse. As Chief Justice Roberts once wrote, “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”<sup>13</sup> The race-based ideology and classifications at the heart of many DEI

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

<sup>7</sup> *Id.*

<sup>8</sup> Alliance Defending Freedom, “Survey: 3 in 5 American workers fear sharing religious, political views in workplace,” ADF Press Release, March 14, 2023, <https://adflegal.org/press-release/survey-3-5-american-workers-fear-sharing-religious-political-views-workplace>.

<sup>9</sup> *Id.*

<sup>10</sup> *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).

<sup>11</sup> Reuters, “With Supreme Court Ruling, It's Time for Companies to Take a Hard Look at Their Corporate Diversity Programs,” Andrea R. Lucas, June 29, 2023, <https://www.reuters.com/legal/legalindustry/with-supreme-court-affirmative-action-ruling-its-time-companies-take-hard-look-2023-06-29/>.

<sup>12</sup> Ibram X. Kendi, *How to Be an Antiracist*, New York; Random House, (2019).

<sup>13</sup> *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007).

programs “fly in the face of our colorblind Constitution and our Nation’s equality ideal.”<sup>14</sup>

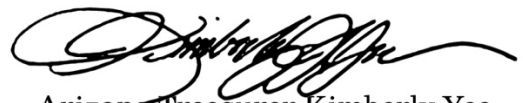
Unlike the Congressional members who signed the DEI letter, we represent treasurers, state pensioners and beneficiaries of other state investment vehicles that care about how your company performs. It is our considered judgment that DEI policies and practices threaten your company’s financial health, its reputation with customers, our nation’s economy, and the civil liberties of everyday Americans. You have a fiduciary duty to your shareholders to avoid policies and practices that pose risk to firm performance. DEI programs are clearly such a risk. We encourage you to follow the lead of numerous large companies like Tractor Supply, Lowes, Home Depot, Ford, and Toyota that are jettisoning their DEI programs.

Thank you for your attention to this important matter.

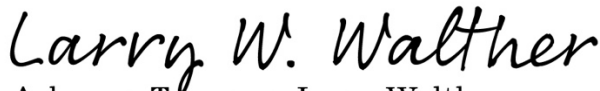
Sincerely,



Alaska Commissioner of Revenue Adam Crum



Arizona Treasurer Kimberly Yee



Arkansas Treasurer Larry Walther



Idaho Treasurer Julie Ellsworth



Kansas Treasurer Steven Johnson



Kentucky Auditor Allison Ball



Louisiana Treasurer John Fleming



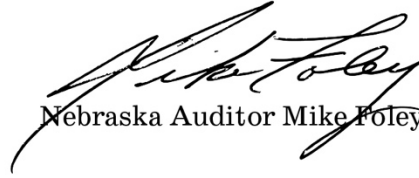
Mississippi Auditor Shad White

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<sup>14</sup> *Students for Fair Admissions*, 600 U.S. at 287 (Thomas, J., concurring).



Mississippi Treasurer David McRae



Nebraska Auditor Mike Foley



Nebraska Treasurer Tom Briese



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