



February 21, 2024

Submitted via email

Administrator Michael Whitaker
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Administrator Whitaker:

We are troubled by some recent reports regarding your agency's hiring practices and priorities. It seems that the FAA has placed "diversity" bean counting over safety and expertise, and we worry that such misordered priorities could be catastrophic for American travelers.

Safety has been the FAA's core mission since it was created, and it must remain that way. Millions of Americans place their lives and the lives of their loved ones in the hands of your agency. Each day, the FAA's Air Traffic Organization "provides services to more than 45,000 flights and 2.9 million airline passengers across more than 29 million square miles of airspace." FAA, *Air Traffic By The Numbers*.¹ Failure is not an option.

Since its creation, the FAA has depended on aviation experts to keep Americans safe. The Senate sponsor of the bill that created what is now the FAA believed that the Administrator would be advised by the country's top aviation experts: "We trust [the Administrator] will have a staff of the most competent persons in the United States in the field of aviation." 85 Cong. Rec. 13646 (July 14, 1958). This statement reflects Congress's intention that competence and the highest level of expertise must exist in all FAA personnel.

Unfortunately, the Biden FAA, under your administration, appears to prioritize virtue-signaling "diversity" efforts over aviation expertise. And this calls into question the agency's commitment to safety.

Under the Biden Administration, the FAA appears to no longer emphasize merit in its hiring decisions. Instead, you appear to be singlemindedly focused on hiring a "diverse" workforce. According to the agency, "The mission of the FAA involves securing the skies of a diverse

¹ https://www.faa.gov/air_traffic/by_the_numbers.

nation. It only makes sense that the workforce responsible for that mission reflects the nation that it serves.” FAA, *Diversity, Equity, Inclusion, and Accessibility (DEIA)*.² The FAA’s current five-year strategic plan reports that the “FAA will diversify its workforce by rethinking its hiring practices and capitalize on opportunities to hire people who will bring new and diverse skills to the agency and reflect the demographics of the U.S. labor force.” *FY22-26 Flight Plan 21: The FAA Strategic Plan for the 21st Century*, FAA (Oct. 4, 2022), 19.³

These efforts follow on work that reportedly started under the Obama Administration when the agency shockingly sought out applicants with “severe intellectual” and “psychiatric” disabilities to staff the agency responsible for air traffic control, aviation safety, major airports, commercial space regulation, and security and hazardous materials safety. FAA, *Diversity and Inclusion*, captured Feb. 26, 2013.⁴ The FAA has begun relying on a “Biographical Assessment” to screen employment candidates, Sean Nation, *FAA Should Rely on Ability, Not Race, in Hiring Air Traffic Controllers*, *The Daily Signal* (Aug. 16, 2023).⁵ This includes circulating buzzwords to racial-affinity groups that would help minority candidates rise to the top. *The FAA’s Hiring Scandal: A Quick Overview*, Substack (Jan. 29, 2024).⁶

Last year, the FAA declared 2023 the “Year of Inclusion”⁷ and held its third annual Diversity, Equity, Inclusion, and Accessibility symposium. *DEIA Symposium “Year of Inclusion 2023.”*⁸ During the three-day symposium, FAA employees received training on “Understanding the Impact of DEIA,” “Overcoming Biases Using Exponential Mindsets,” and “Unmasking Unconscious Bias.” *Id.* The FAA declared the final symposium day as the “Day of Inclusion.” Ironically, this was the same day that the Supreme Court of the United States struck down Harvard’s and the University of North Carolina’s race-based admissions policies and powerfully reinforced the principle that *all* racial discrimination, no matter the motivation, is invidious and unlawful: “Eliminating racial discrimination means eliminating all of it.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 206 (2023).

The FAA undertook these efforts even though it has acknowledged for more than a decade that “[t]here is a trade-off between diversity . . . and predicted job performance/outcomes.” @TracingWoodgrains, X, Jan. 30, 2024, 12:10 p.m.⁹ This trade-off raised an important question for leadership: “How much of a change in job performance is acceptable to achieve what diversity goals?” *Id.* The answer should have been none. But unfortunately, under your leadership the agency appears to be willing to sacrifice safety and job performance to meet race-based hiring targets.

² <https://www.faa.gov/deia>.

³ https://www.faa.gov/sites/faa.gov/files/Flight%20Plan%2021_2022_0.pdf.

⁴ https://web.archive.org/web/20130226035813/http://www.faa.gov/jobs/diversity_inclusion/.

⁵ <https://www.dailysignal.com/2023/08/16/faa-should-rely-on-ability-not-race-in-hiring-air-traffic-controllers/>.

⁶ <https://www.tracingwoodgrains.com/p/the-faas-hiring-scandal-a-quick-overview>.

⁷ <https://youtu.be/3-QxBmKcNew?si=cGaUbFuhqsO2aITE>.

⁸ [https://faapride.org/resources/Agenda%20for%20June%2027-29%202023confirmed2%20\(1\).pdf](https://faapride.org/resources/Agenda%20for%20June%2027-29%202023confirmed2%20(1).pdf).

⁹ <https://twitter.com/tracewoodgrains/status/1752378790846796038>.

At the same time that it was focused on DEIA, the FAA was not prioritizing ensuring that Americans safely arrive at their destinations. In January 2023, a FAA system failure canceled thousands of flights and delayed thousands more. Yaron Steinbuch *et al.*, *Thousands of Delays Across US After FAA System Failure Grounds Flights*, New York Post (Jan. 11, 2023).¹⁰ In August 2023, the New York Times reported that the number of near-collisions between aircraft was twice as high as it had been a decade earlier. Sydney Ember and Emily Steel, *Airline Close Calls Happen Far More Often than Previously Known*, The New York Times (Aug. 21, 2023).¹¹ Based on a review of FAA data, the New York Times reported that “[n]inety-nine percent of the nation’s air traffic control facilities—310 out of 313—had fewer fully certified controllers than . . . target levels.” *Id.* And in November 2023, the National Airspace System Safety Review Team issued a report that found there were “1,002 fewer fully certified air traffic controllers in August 2023 than in August 2012, despite increasing complexity of operations.” Yet, your agency has made only “limited efforts to ensure adequate air traffic controller staffing at critical air traffic control facilities.” National Airspace System Safety Review Team, *Discussion and Recommendations to Address Risk in the National Airspace System*, November 2023, 17.¹²

As one air traffic controller ominously warned in the New York Times article mentioned above, “It is only a matter of time before something catastrophic happens.” The FAA must return to prioritizing safety over diversity and virtue signaling. The FAA should once again hire based on merit so that only the most qualified aviation experts take care of America’s air travel. When it comes to air travel, safety must always come first. American lives depend on it.

Sincerely,



Kansas Attorney General



Alabama Attorney General



Alaska Attorney General

¹⁰ <https://nypost.com/2023/01/11/major-faa-system-failure-grounds-hundreds-of-us-flights/>.

¹¹ <https://www.nytimes.com/interactive/2023/08/21/business/airline-safety-close-calls.html>.

¹² https://www.faa.gov/NAS_safety_review_team_report.pdf.



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