

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

SCR 89 (Smallwood-Cuevas)

Version: June 25, 2025

Hearing Date: July 8, 2025

Fiscal: No

Urgency: No

AWM

**SUBJECT**

Diversity, Equity, and Inclusion

**DIGEST**

This resolution affirms the Legislature's commitment to Diversity, Equity, and Inclusion (DEI) principles at a time when DEI efforts and programs are under attack.

This resolution is sponsored by the author. The Committee has not received timely opposition to this resolution.

**SUMMARY**

Existing law:

- 1) Provides that no state shall deny to any person within its jurisdiction the equal protection of the laws. (U.S. Const., 14th Amend., § 1.)
- 2) Provides that a person may not be denied the equal protection of the laws, and that a citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. (Cal. Const., art. I, § 7.)
- 3) Provides that Congress shall make no law abridging the freedom of speech. (U.S. Const., 1st amend.)

This resolution:

- 1) Declares that:
  - a) The American Dream has been a beacon of hope for generations.
  - b) The American Dream embodies the ideals of opportunity, prosperity, and upward mobility, promising that every person should have the chance to

- achieve what they themselves define as success and fulfillment through hard work and determination.
- c) Many today feel that their American Dream is unattainable.
  - d) The American Dream belongs to all of us.
  - e) Our highest accomplishments as a state and nation have been achieved when we harness the strengths of all people regardless of their identities to overcome our greatest challenges.
  - f) DEI is a centuries-old movement deeply rooted in America's founding principles and its subsequent legacy of civil rights and social justice efforts aimed at delivering the laws, policies, and initiatives that enable America to live up to our Constitution's promises.
  - g) DEI policies, from the Nineteenth Amendment to the United States Constitution to the Civil Rights Act of 1964 to the Americans with Disabilities Act of 1990, among others, reflect the corrective legislative and legal actions taken across our nation's history to expand and guarantee access to the educational, economic, and civic obligations and capacities of our nation.
  - h) California has been a leader in promoting diversity, equity, and inclusion within the California state service to achieve equitable work cultures.
  - i) Governor Newsom signed an executive order directing state agencies and departments to take additional actions to embed equity analysis and considerations in their mission, policies, and practices and establishing the Racial Equity Commission.
  - j) The California State Assembly passed a resolution to require the Assembly to explore methods to integrate equity more formally into its daily activities, including the potential adoption of an equity impact analysis into the existing committee and floor bill analysis process.
  - k) DEI principles and policies promote equal access to opportunities, foster an environment of respect and belonging, and ensure that every individual – regardless of background – can fully participate in all aspects of society.
  - l) DEI policies are intended not only to promote access, but to proactively dismantle systematic inequalities in education, employment, housing, health care, and civic participation that have disproportionately impacted communities of color, indigenous peoples, women, LGBTQ+ individuals, individuals with disabilities, and other historically excluded groups.
  - m) DEI initiatives often include targeted recruitment, culturally competent workplace training, equity-focused budgeting, inclusive curriculum development, and disaggregated data reporting to address measurable disparities in outcomes.
  - n) DEI is essential to creating a society where all individuals are valued, heard, and included.
  - o) DEI is based on removing barriers to opportunity so our merits can speak for themselves.

- p) DEI is committed to widening pathways to the American Dream for every community so that all people can reap the benefits of shared prosperity in our nation.
  - q) Freedom of speech and expression are fundamental constitutional rights, protecting the ability of individuals to voice their ideas and opinions without interference, punishment, or retaliation by the government.
  - r) Retaliatory actions such as terminating, silencing, or marginalizing qualified public servants, educators, and professionals based on their advocacy for equity or their identities – including race, gender, or LGBTQ+ status – represent a dangerous erosion of civil liberties and a threat to representative leadership in public life.
  - s) Attempts to prohibit DEI practices diminish the diversity of perspectives that strengthen our society, and conflict with antidiscrimination laws.
  - t) The federal government under the Trump Administration and ongoing political actors have sought to dismantle DEI frameworks, including banning DEI training in federal agencies, attempting to eliminate race-conscious admissions policies, and threatening funding for universities that incorporate equity-related content.
  - u) These efforts not only undermine civil rights progress but contradict core democratic values enshrined in the United States Constitution and upheld through decades of precedent, such as *Brown v. Board of Education* and *Griggs v. Duke Power Co.*
  - v) Efforts to attack DEI are harmful to our country.
- 2) Resolves, by the Senate of the State of California and with the Assembly concurring:
- a) The Legislature affirms its commitment to DEI as an essential foundation for achieving the American Dream and fostering environments where all individuals have the freedom to be healthy, prosperous, and safe and have the opportunity to realize their full potential.
  - b) The Legislature encourages local, state, and federal policymakers, educational institutions, workplaces, and other organizations to adopt and uphold DEI principles that promote inclusivity, protect freedom of expression, remove barriers, and provide equitable opportunities for all individuals to pursue their dreams.
  - c) The Secretary of the Senate shall transmit copies of this resolution to the author for appropriate distribution.

## COMMENTS

### 1. Author's comment

According to the author:

SCR 89 reaffirms California's commitment to Diversity, Equity, and Inclusion (DEI) as foundational to justice, opportunity, and good governance. It responds to growing national efforts to dismantle DEI by recognizing its roots in civil rights history and its role in advancing access to education, employment, housing, and healthcare.

The resolution highlights California's leadership – from the creation of the Racial Equity Commission to equity-focused legislative processes – and emphasizes that inclusive policies are essential for all individuals to reach their full potential. At a time of rising backlash, SCR 89 asserts that fairness, representation, and equal opportunity remain core to our state's values.

### 2. Background on DEI

"DEI" is a new-ish term used to describe centuries-old efforts to eliminate inequality and discrimination in the United States. Early DEI efforts include the Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments to the United States Constitution and the *Brown v. Board of Education* opinion that was the beginning of the end of America's centuries-old de jure racial segregation regime.<sup>1</sup>

Many date the beginning of modern DEI efforts to the 1960s. The federal government enacted measures like the Civil Rights Act of 1964,<sup>2</sup> the Voting Rights Act of 1965,<sup>3</sup> and the Equal Employment Act of 1972<sup>4</sup> to eliminate the legal foundations of discrimination. Every piece of antidiscrimination legislation was a fight to get introduced, a fight to pass, and then a fight in the courts to uphold.<sup>5</sup> And as the courts kept upholding antidiscrimination laws, persons who wanted to preserve inequality developed more subtle tools to maintain the status quo. So, for example, when employers could no longer facially discriminate on the basis of race or gender – no more "whites only" job postings – many turned to ostensibly neutral criteria that were, in fact, tailored to achieve the same discriminatory effect. The landmark Supreme Court case *Griggs v. Duke Power Co.* rejected this approach, holding that Title VII of the Civil Rights Act of 1964 requires an examination of whether a particular employment practice has a

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<sup>1</sup> See *Brown v. Board of Education* (1954) 347 U.S. 483.

<sup>2</sup> Pub. L. No. 88-352 (Jul. 2, 1964) 78 Stat. 241.

<sup>3</sup> Pub. L. No. 89-110 (Aug. 6, 1965) 75 Stat. 824.

<sup>4</sup> Pub. L. No. 92-261 (Mar. 24, 1972) 83 Stat. 103.

<sup>5</sup> See, e.g., *Heart of Atlanta Motel, Inc. v. U.S.* (1964) 379 U.S. 348; *South Carolina v. Katzenbach* (1966) 383 U.S. 301.

discriminatory impact, not merely whether the employers actually intended to discriminate.<sup>6</sup> As *Griggs* explained:

Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and sex become irrelevant. What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract.<sup>7</sup>

This is also a decent summary of DEI efforts. Many forms of legal discrimination are now illegal, thanks to bills like the Americans with Disabilities Act of 1990<sup>8</sup> and cases like *Obergefell v. Hodges*<sup>9</sup> and *Bostock v. Clayton County*.<sup>10</sup> But without efforts to eliminate the barriers—erected consciously or unconsciously—that prevent persons from truly being measured on their own merits, and to undo the lasting effects of centuries of invidious discrimination, the stain of legal discrimination will remain.

The DEI movement gained real momentum in the last 10 years with movements like #MeToo and the nationwide protests after Derek Chauvin murdered George Floyd. In California, Governor Newsom issued an executive order advancing DEI efforts across the state government, including:

- Requiring all agencies and departments to develop or update strategic plans to respond to disparities within their mission, and to engage with and gather input from California communities that have been historically disadvantaged or underserved in developing those plans.
- Requiring the California Health and Human Services Agency and the Government Operations Agency to develop recommendations to improve language and communications access to state government services and programs.
- Establishing a Racial Equity Commission within the Governor’s Office of Planning and Research.<sup>11</sup>

Within the Senate, the Director of Diversity, Equity, and Inclusion is charged with developing, implementing, and leading strategies and initiatives aligned with the Senate’s commitment to DEI; ensuring that programs align with the goals of recruitment, retention, and professional development; and helping to foster a diverse, equitable, and inclusive environment where all individuals, regardless of race, ethnicity, gender, ability, or background are valued and empowered. And at the national level,

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<sup>6</sup> *Griggs v. Duke Power Co.* (1971) 401 U.S. 424, 432.

<sup>7</sup> *Id.* at p. 436.

<sup>8</sup> 42 U.S.C. ch. 126, §§ 12101 et seq.

<sup>9</sup> (2015) 576 U.S. 644.

<sup>10</sup> (2020) 590 U.S. 644.

<sup>11</sup> Exec. Order No. N-16-22 (Sept. 13, 2022).

President Biden signed multiple executive orders intended to promote DEI in the federal government, in the national workforce, and across the country.<sup>12</sup>

### 3. The anti-DEI movement and the federal efforts to end DEI

While the DEI movement has made progress this century, there have also been significant setbacks. The United States Supreme Court gutted major provisions of the Voting Rights Act of 1965 in 2013<sup>13</sup> and made it easier for states to racially gerrymander voting districts in 2024.<sup>14</sup> The Supreme Court also, in June of this year, held that states could overrule medical professionals and ban gender-affirming care for transgender minors, denying these young people the protections of the Equal Protection Clause.<sup>15</sup>

The rising anti-transgender movement, which seeks to deny that transgender people exist, is one component of a vitriolic backlash to the wider adoption of DEI programs and, on a broader level, the very concepts of diversity, equity, and inclusion. Proponents of this backlash found their champion in Donald Trump, who as a candidate, and now as the 47th president of the United States, used “DEI” as a slur to describe someone who did not fit his conception of what merit looks like—for example, by referring to Kamala Harris, who had served as Vice President for four years, a U.S. Senator for four years, and the Attorney General of California for six years, as a “DEI candidate” and then picking JD Vance, who had then served as a U.S. Senator for about 18 months, as his vice presidential candidate.<sup>16</sup>

When President Trump took office, one of his first executive orders, “Ending Radical and Wasteful Government DEI Programs and Preferencing [*sic*],” both misunderstood the nature of DEI and attempted to prohibit legitimate DEI programs across federally funded entities.<sup>17</sup> President Trump also used the DEI-as-discrimination theory as a

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<sup>12</sup> E.g., Exec. Order No. 14025 (Apr. 26, 2021) 86 Fed. Reg. 22829 (“Worker Organizing and Empowerment”); Exec. Order No. 14020 (Mar. 8, 2021) 86 Fed. Reg. 13797 (“Establishment of the White House Gender Policy Council”), *rescinded by* Exec. Order No. 14168 (Jan. 20, 2025) 90 Fed. Reg. 8615; Exec. Order No. 13985 (Jan. 20, 2021) 86 Fed. Reg. 13985 (“Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”), *rescinded by* Exec. Order No. 14148 (Jan. 20, 2025) 90 Fed. Reg. 8237.

<sup>13</sup> See *Shelby County v. Holder* (2013) 570 U.S. 529. Writing in dissent, Justice Ginsburg noted that “[t]hrowing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.” (*Id.* at p. 591 (dis. opn. of Ginsburg, J).)

<sup>14</sup> See *Alexander v. South Carolina State Conference of the NAACP* (2024) 602 U.S. 1.

<sup>15</sup> *United States v. Skrmetti* (Jun. 18, 2025) 605 U.S. —, — S.Ct. —, 2025 WL 1698785.

<sup>16</sup> E.g., Terkel, ‘Dumb’ and a ‘DEI’ candidate: Trump and allies attack Kamala Harris based on her race, gender (Jul. 24, 2024) NBC News, <https://www.nbcnews.com/politics/2024-election/republican-attacks-kamala-harris-center-race-gender-dumb-dei-candidate-rcna162570>; Congress.gov, “Senator J. D. Vance,” <https://www.congress.gov/member/j-vance/V000137>. All links in this analysis are current as of July 3, 2025.

<sup>17</sup> Exec. Order No. 14151, 90 Fed. Reg. 8339 (Jan. 20, 2025); *see also* Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025) (“Ending Illegal Discrimination and Restoring Merit-Based Opportunity”).

pretext to retaliate against law firms which he felt had wronged him personally,<sup>18</sup> and to threaten funding for institutions of higher education.<sup>19</sup> The courts have enjoined portions of the anti-DEI orders and directives—including “Ending Radical and Wasteful Government DEI Programs and Preferencing [sic]” —on various constitutional grounds, including the First Amendment and Equal Protection.<sup>20</sup> Nevertheless, federal anti-DEI efforts are ongoing.

Many federal employees and appointees, left with sweeping but vague directions about how to eliminate “DEI” from the federal government, have gone to extremes in trying to comply with President Trump’s wishes. Federal websites and databases have been scrubbed of research relating to, and even mentions of, people of color, women, and LGBTQ individuals.<sup>21</sup> One now-disappeared website was the United States Army’s page discussing the 100th Infantry Battalion and the 442nd Infantry Regiment.<sup>22</sup> The “Remember Pearl Harbor” 100th Infantry Battalion and the “Go for Broke” 442nd Infantry Regiment fought in World War II and were comprised of Americans of Japanese descent at a time when the military was racially segregated and many of the soldiers’ family members were interned in concentration camps in the United States because of their race.<sup>23</sup> The 442nd Infantry Regiment liberated the Dachau concentration camp and remains the most decorated unit of its size in the U.S. Army.<sup>24</sup> Under the Trump Administration, however, recognizing the 442nd Infantry Regiment’s accomplishments—or even acknowledging their existence—is forbidden as “DEI.”

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<sup>18</sup> See Exec. Order No. 14263, 90 Fed. Reg. 15615 (Apr. 9, 2025); Exec. Order No. 14237, 90 Fed. Reg. 13039 (Mar. 14, 2025), *superseded by* Exec. Order No. 14244, 90 Fed. Reg. 13685 (Mar. 21, 2025); Exec. Order No. 14230, 90 Fed. Reg. 11781 (Mar. 6, 2025).

<sup>19</sup> Kim, *Over 50 universities are under investigation as part of Trump’s anti-DEI crackdown* (Mar. 14, 2025) NPR, <https://www.npr.org/2025/03/14/g-s1-53831/dei-universities-education-department-investigation>.

<sup>20</sup> See, e.g., *San Francisco A.I.D.S. Foundation v. Trump* (N.D. Cal. Jun. 9, 2025) — F.Supp.3d —, 2025 WL 1621636; *Perkins Coie LLP v. U.S. Dept. of Justice* (D.D.C. May 2, 2025) — F.Supp.3d —, 2025 WL 1276857; *Susman Godfrey LLP v. Executive Office of the President* (D.D.C. Apr. 15, 2025) — F.Supp.3d —, 2025 WL 1113408; *Chicago Women in Trades v. Trump* (ND. Ill. Apr. 14, 2025) — F.Supp.3d —, 2025 WL 1114466; *New York v. Trump* (D.R.I. Mar. 6, 2025) — F.Supp.3d —, 2025 WL 715621; *National Association of Diversity Officers in Higher Education v. Trump* (D. Md. Feb. 21, 2025) 767 F.Supp.243.

<sup>21</sup> Jingnan & Lawrence, *Here are all the ways people are disappearing from government websites* (Mar. 19 2025) NPR, <https://www.npr.org/2025/03/19/nx-s1-5317567/federal-websites-lgbtq-diversity-erased>; Cole, *Workers at NASA Told to ‘Drop Everything’ to Scrub Mentions of Indigenous People, Women from Its Websites* (Feb. 4, 2025) 404 Media, <https://www.404media.co/nasa-dei-drop-everything-executive-order/>.

<sup>22</sup> See <https://www.army.mil/asianpacificamericans/442>, which redirects to <https://www.army.mil/> with a statement that “We have deliberately taken some of our webpages offline in order to comply with Executive Orders and OSD Policy. The intent is to preserve our history, and we are working to re-publish content as soon as possible.”

<sup>23</sup> Shenkle, *Patriots Under Fire: Japanese Americans in World War II*, <https://web.archive.org/web/20130623035411/http://www.history.army.mil/html/topics/apam/patriots.html>.

<sup>24</sup> 100th Battalion, 442nd Infantry, <https://www.globalsecurity.org/military/agency/army/100-442in.htm>.

In the private sector, the 2024 presidential election accelerated the pace at which companies pulled back from, or eliminated, DEI efforts adopted in 2020 and 2021. Companies including Ford Motor Company, Walmart, Meta, Target, and Pepsi dropped DEI policies and programs.<sup>25</sup> Other companies were more coy about whether they were really dropping DEI or making superficial changes to appease the President; Major League Baseball, for example, “told the AP it removed references to diversity from its careers site to ensure it complies with federal law, but said the organization’s ‘values on diversity remain unchanged.’ ”<sup>26</sup> A few companies – including Costco, Apple, John Deere, and Levi’s – have retained DEI programs even in the face of anti-DEI shareholder proposals.<sup>27</sup>

#### 4. This resolution affirms the Legislature’s commitment to DEI

In the face of ongoing attacks on DEI and the dismantling of DEI programs, this resolution reaffirms the Legislature’s commitment to DEI as a necessary foundation for ensuring that all persons have the opportunity to realize their full potential. The resolution recites the history and purpose of DEI and California’s leading role in promoting diversity, equity, and inclusion within state government and across the state. The resolution also recognizes that attempts to prohibit DEI practices and programs diminish the diversity of perspectives, which weakens, rather than strengthens, our society. The resolution states that these anti-DEI efforts are harmful to our country. Finally, the resolution states that the Legislature encourages local, state, and federal policymakers, educational institutions, workplaces, and other institutions to adopt and uphold DEI principles that promote inclusivity, protect freedom of expression, remove barriers, and provide equitable opportunities for all individuals to pursue their dreams.

#### SUPPORT

None received

#### OPPOSITION

None received

#### RELATED LEGISLATION

Pending legislation: SJR 4 (Laird, 2025) urges the administration of President Donald J. Trump and the Congress of the United States to rescind the National Institutes of Health funding cuts, including cuts to research that was DEI-related. SJR 4 is pending in the Assembly.

Prior legislation: None known.

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<sup>25</sup> Murra & Bohannon, *IBM Reportedly Walks Back Diversity Policies, Citing ‘Inherent Tensions’: Here Are All The Companies Rolling Back DEI Programs* (Apr. 11, 2025) Forbes, <https://www.forbes.com/sites/conormurray/2025/04/11/ibm-reportedly-walks-back-diversity-policies-citing-inherent-tensions-here-are-all-the-companies-rolling-back-dei-programs/>.

<sup>26</sup> *Ibid.*

<sup>27</sup> Meyersohn, *DEI is winning with Costco, Apple, and Levi’s shareholders* (May 2, 2025) CNN, <https://www.cnn.com/2025/05/02/business/costco-apple-levi-shareholders-dei>.