

**Statement before the Employee Benefits Security Administration
Advisory Council on Employee Welfare and Pension Benefit Plans**

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“Gaps in Retirement Savings Based on Race, Ethnicity and Gender.”

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Thank you Issue Chair Harney and Vice Chair Sellars and the rest of the Advisory Council for the opportunity to testify today about disparities in retirement savings for marginalized communities.

My name is Deva Kyle, and I am Of Counsel with the law firm of Bredhoff & Kaiser, P.L.L.C. In my practice, I represent pension plans and labor organizations advocating and providing advice on federal and state compliance as it relates to 401(k) and other defined-contribution, defined-benefit, and health and welfare plans.

Before joining Bredhoff & Kaiser, I spent 15 years in government. After graduating from Georgetown University Law Center in 2004, I worked at the Pension Benefit Guaranty Corporation, serving first as a staff attorney and Assistant Chief Counsel before moving into retirement policy in the role of Staff Director of Policy and External Affairs. In 2015, I went on detail to assist the Treasury Department with what was then a new pension program under the Multiemployer Pension Reform Act of 2014. Later, I served on detail in the House of Representatives as Tax Counsel with the Ways and Means Committee, advising on a broad range of tax and retirement issues. I have dedicated my career to retirement policy development, implementation, and execution.

In my testimony today, I will be discussing the retirement landscape for people of color in America. I will also discuss the ways in which the Department of Labor and the Council can work to alleviate racialized retirement disparities.

The Racial Gap in Retirement Security

My grandfather was a bus driver and, like many other African Americans who have retirement savings, he has been able to maintain a middle-class life after work because he had a defined benefit pension plan secured through a good government job. And even though he divorced my grandmother more than four decades ago, both he and she can have financial security well into their second decade of retirement because of that pension.

My father was an entrepreneur. He lived the American Dream and started two different businesses before leaving the business world to serve the public through nonprofits. His small businesses never employed more than 10 people. While his businesses did well enough for our family to pay the bills for much of my childhood, he did not have a retirement plan. He has some savings but, like most Americans without retirement plans offered through work, Social Security will be a significant portion of his retirement income.

I bring up my family history because my family is not much different from other people of color who retire in this country. Most African Americans will rely in large part on social security in retirement like my father will. Those Black people, like my grandfather, who do have retirement savings are more likely than White people to have defined benefit pension plans secured through union participation and government employment. My grandmother was lucky to retain her pension benefits through retirement because of the protections afforded to spouses, but many women are not so lucky. Defined benefit pension plans, social security, and protections for spouses are all key to retirement security for all.

On average, retirement outcomes for people of color in this country are far worse than they are for most White Americans.¹ The average African American household is not saving any money

¹ Mark Miller, *America's Retirement Race Gap, and Ideas for Closing It*, N.Y. Times (Aug. 14, 2020), <https://www.nytimes.com/2020/08/14/business/retirement-inequality-racism.html> (last visited August 26, 2021).

for retirement.² For those that are saving for retirement, 54% are at risk for having inadequate income in retirement, compared to 48% of White Americans.³

Significantly, in recent years the retirement gap between Black and White Americans has grown. In the 12 years between 2007 and 2019, the percentage of Black families with retirement savings has dropped from 47% to 44%.⁴ Meanwhile, in 2019, 65% of White families had retirement savings. This number is only slightly less than it was in 2007. When looking solely at 401(k) plans, we see equally stark disparities: 50% of White families participate in 401(k) plans while 37% of Black families do.⁵

Hispanic households also have significant deficits when it comes to retirement savings. Most, 61%, of Hispanic Americans do not have adequate retirement savings.⁶ In 2019, only 32% of Hispanic households had any retirement savings at all and only 26% participated in 401(k) or similar savings plans.⁷

The average White family with retirement savings has over \$150,000 in retirement savings while the average Black family has just over \$25,000 in savings.⁸ In total dollars, this disparity has increased more than fivefold over the past twenty-five years.⁹

² Monique Morrissey, *The State of American Retirement Savings, How the shift to 401(k)s has increased gaps in retirement preparedness based on income, race, ethnicity, education, and marital status*, Economic Policy Institute (Dec. 10, 2019), at 14, *available at* <https://files.epi.org/pdf/136219.pdf> (last visited May 10, 2021), updated by the author.

³ Margarida Correia, *Plans Tackle Problem of Racial Disparity in Savings*, Pensions & Investments (Nov. 16, 2020), *available at* <https://www.pionline.com/defined-contribution/plans-tackle-problem-racial-disparity-savings> (last visited August 26, 2021).

⁴ Morrissey, *supra* note 2, updated by the author.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Urban Inst., *Nine Charts About Wealth Inequality in America (Updated)*, (last updated Oct. 5, 2017), *available at* <https://apps.urban.org/features/wealth-inequality-charts/> [hereinafter *Nine Charts About Wealth Inequality*] (last visited August 25, 2021).

⁹ *Id.*

The retirement savings disparities are, in part, correlated with the racial wage gaps. Black workers earn an average of 73 cents on every dollar earned by White workers.¹⁰ Black-White wage gaps persist at every level of education and throughout the wage distribution. The minimum wage creates a floor that prevents Black people at the bottom of the wage distribution from earning lower wages than their White counterparts, but at the top of the income scale, the disparities are substantial. Black people at the top of the wage distribution make about 65% of the average wage of similarly situated White workers.¹¹ Among the highest-paid jobs, Black people are underrepresented and are overrepresented in lower-wage jobs.

Not only do people of color make less than White people, but also people of color are less likely to inherit money from family. Inheritance serves as a significant source of retirement income for White Americans. Almost half of White families have gotten or expect to get a large financial gift or inheritance from family members compared to only 13% of Black families and 11% of Hispanic families.¹² When looked at in real dollars, the amount given to White families is also substantially more than what is given to Black or Hispanic families before retirement. White households got almost \$300,000 in inheritance, on average, as they near retirement.¹³ For the minority of Black households that did receive an inheritance, the amount received was, on average, less than half of that at about \$100,000, and almost \$200,000 for Hispanic households.¹⁴

Recommendations

Racial gaps in retirement savings relate largely to two systemic wage and labor issues for people of color in this country: African Americans by and large do not have sufficient income or family

¹⁰ Gould, E., & Wilson, V., *Black workers face two of the most lethal preexisting conditions for coronavirus—Racism and economic inequality*, Economic Policy Institute (June 1, 2020), available at <https://www.epi.org/publication/black-workers-covid/> (last visited August 25, 2021).

¹¹ *Id.*

¹² Dania V Francis, PhD, Christian E Weller, PhD, *Retirement Inequality by Race and Ethnicity*, Public Policy & Aging Report, Volume 31, Issue 3, 83-88 (August 12, 2021), available at <https://doi.org/10.1093/ppar/prab009>, (last visited August 25, 2021).

¹³ *Id.*

¹⁴ *Id.*

wealth to save for retirement and lack access to workplace retirement plans. I recommend the Department of Labor, with guidance from the Council, take five actions to help address the retirement racial gap:

1. Coordinate retirement security across the federal government,
2. Support labor unions,
3. Remove barriers to retirement vehicles,
4. Help workers retain their savings, and
5. Expand outreach to community organizations.

I will discuss each in kind.

1. Coordinate Retirement Security across the Federal Government

The federal government has six agencies that are responsible for various aspects of America's retirement security system. The Social Security Administration is responsible for administering Social Security. The Department of Labor (DOL) is responsible for overseeing the maintenance of private retirement, health, and welfare plans. The Pension Benefit Guaranty Corporation provides insurance for and can terminate private-sector defined benefit pension plans. The Treasury Department and the IRS determines what is and is not a private-sector retirement plan and monitors tax compliance issues. The Office of Personnel Management oversees and administers federal government public sector retirement plans. Lastly, the US Department of Veterans' Affairs/Defense Finance and Accounting Services oversee and provide services relates to veteran retirement benefits. This does not even consider the number of federal agencies that have within their missions overseeing care for the aging, issues of financial insecurity, and discrimination against minority populations.

While some of these agencies work together periodically there is no large-scale coordination that occurs among them. Because African Americans are more likely than other Americans to rely on Social Security and other public sector defined benefit pension plans, any one agency will necessarily get an incomplete picture of the retirement landscape for this marginalized group if it does not coordinate with others. Recently the Bipartisan Policy Center's Funding our Future Coalition made up of 31 financial institutions and policy organizations called for a similar effort. I share their concerns that this is sorely needed.

DOL, through the guidance of the Council, should encourage a standing interagency retirement security group dedicated to research, data collection and triaging retirement security concerns among agencies with an eye toward ending retirement insecurity for marginalized populations. This kind of focused coordination will help ensure the retirement needs of people of color who rely on a patchwork of largely public-sector retirement benefits will be best understood.

As a starting point, this group should provide regular reports on retirement security for marginalized people looking broadly at all retirement vehicles and access to both public and private-sector retirement benefits. One of the reasons I see this as the top priority is that many of the recommendations below, including outreach to community organizations can and should be taken up by this group.

2. Support Labor Unions

It should come as no surprise that unions improve wages (increasing the ability of members to save) and improve access to employer-provided retirement benefits. According to the U.S. Bureau of Labor Statistics, 91% of union workers had access to private-sector retirement benefits in 2019. This compares with 65% of nonunion workers.¹⁵ 79% of union members had access to defined-benefit plans while only 17% of nonunion workers did.¹⁶

Importantly, Black workers are more likely to participate in a union than White and other workers.¹⁷ Moreover, Black workers who are in unions have better retirement outlooks than those who are not. This is because they are more likely than their nonunion peers to have a traditional pension and are more able to contribute to a 401(k) because of their union-secured higher wages.

¹⁵ U.S. Bureau of Labor Statistics, *67 percent of private industry workers had access to retirement plans in 2020*, TED: The Economics Daily, (March 1, 2021), available at <https://www.bls.gov/opub/ted/2021/67-percent-of-private-industry-workers-had-access-to-retirement-plans-in-2020.htm#:~:text=Among%20union%20workers%2C%2091%20percent,to%20defined%20benefit%20retirement%20plans.&text=These%20data%20are%20from%20the%20National%20Compensation%20Survey%20%E2%80%94%20Benefits%20program> (last visited August 26, 2021).

¹⁶ *Id.*

¹⁷ U.S. Bureau of Labor Statistics, *Union Members Summary*, Economic News Release, (January 22, 2021), available at <https://www.bls.gov/news.release/union2.nr0.htm> (last visited August 26, 2021).

The Council should incorporate support for union participation into the EBSA mission to ensure the security of the retirement, health, and other workplace-related benefits of America's workers and their families. Retirement enforcement has largely been viewed as separate and independent of labor rights issue. This is a mistake.

3. Remove Barriers to Retirement Vehicles

The other major limitation to retirement opportunities for people of color is access. Black and Hispanic workers are more likely to be in lower wage jobs. Workers in the bottom income quartile are less than half (42%) as likely to be offered a workplace retirement plan than those in the top income quartile (88%).¹⁸ Only 28% of full-time workers without access to employer-sponsored retirement plans have acquired another retirement vehicle.

To improve retirement access for people of color, the Council should support DOL in taking steps to facilitate broader adoption and maintenance of retirement plans.

For example, in 2019, Congress passed, and the President signed into law, the Setting Every Community Up for Retirement Enhancement Act of 2019 (Secure Act), which included a number of provisions that can broaden access to retirement vehicles. Open Multiple Employer Plans (MEPs) were a centerpiece of the legislation, but EBSA has yet to offer regulations on how open MEPs will function. Swiftly issuing guidance with low burdens on new employers and following with a strong public relations campaign encouraging employers to adopt retirement plans, including open MEPs, can help.

4. Help Workers Retain their Retirement Savings

¹⁸ U.S. Bureau of Labor Statistics, *67 percent of private industry workers had access to retirement plans in 2020*, TED: The Economics Daily, (March 1, 2021), available at <https://www.bls.gov/opub/ted/2021/67-percent-of-private-industry-workers-had-access-to-retirement-plans-in-2020.htm#:~:text=Among%20union%20workers%2C%2091%20percent,to%20defined%20benefit%20retirement%20plans.&text=These%20data%20are%20from%20the%20National%20Compensation%20Survey%20E2%80%94%20Benefits%20program> (last visited August 26, 2021).

Underserved communities have the most to lose when things go wrong with their retirement plans. Under the guidance of the Council, DOL should initiate a program similar to the Terminated Vested Participant Program for defined contribution plans to ensure that money owed to participants from small employers aren't going unpaid. Currently employers have an incentive to auto-enroll their employees, but the employees may not be aware these accounts are being created for them and are at risk for forfeiting the funds. One study found that, as of May 2021, 24.3 million 401(k)s holding approximately \$1.35 trillion in assets were left unclaimed. Leaving behind a 401(k) account can cost an individual up to an average of \$700,000 in foregone retirement savings. Since auto-enrollment, the number of missing participants has increased. People of color are more likely to change jobs more frequently which exacerbates the problem. A program focused on 401(k)s especially those offered by small businesses modeled after the Terminated Vested Pension Project could ensure that more of these participants get the money they are owed.

Leakage through loans and other emergency provisions are another way retirement plans, when they do exist, may not be able to serve their intended purpose. Over the last year, a third of Americans have taken money out of their retirement plans or borrowed from them.¹⁹ Over 60% of those people who took money out of retirement were doing so to cover their day-to-day living expenses.²⁰ People with no other source of income during lean times were permitted to withdraw additional funds from their retirement savings under the CARES Act and the American Rescue Plan. While it is good that these workers could use money that was rightfully theirs, it also means that their retirement savings will be even more inadequate.

At the same time, other, more direct sources of assistance are going unused.²¹ For example, the Consolidated Appropriations Act of 2021 provided \$25 billion for the Emergency Rental Assistance (ERA) program and the American Rescue Plan provided \$21.5 billion more. Many

¹⁹ Teresa Ghilarducci, *30% Of Workers Dipped into Retirement Funds During 2020*, Forbes (January 6, 2021), available at <https://www.forbes.com/sites/teresaghilarducci/2021/01/06/60-of-workers-dipped-into-retirement-funds-during-2020/?sh=5409dbfc7a64> (last visited May 11, 2021).

²⁰ *Id.*

²¹ The United States Interagency Council on Homelessness, *New Survey Shows Most Still Aren't Aware of Emergency Rental Assistance, 2021* available at <https://www.usich.gov/news/new-survey-shows-most-still-arent-aware-of-emergency-rental-assistance/> (last visited August 26, 2021).

did not know about the program and only 55% of renters who did know about the ERA, and had missed a rent payment, applied for it.²²

While rental assistance and other programs are not governed by DOL, DOL, through the guidance of the Council, can and should require plan sponsors to inform participants of these other sources before participants take money out of their retirement savings. The information should be clear and accessible (with links) and should also show the long-term exponential impacts of taking money out of their retirement plans years before expected (beyond any tax ramifications).

5. Outreach to the Community

Lastly, EBSA should expand its outreach to community organizations that are helping people of color with financial literacy and retirement planning when they do have the money to save. Churches, community organizations and minority owned banks have been working to increase financial literacy in communities of color.²³ Working in close partnership with these organizations which already have the trust of community will help improve what workers do when they have the money to save.

Conclusion

A worker's ability to save for retirement is highly correlated with whether they have disposable income. People of color by and large are disproportionately more likely not to have disposable income. Improving access to plans that are subsidized by employers and improving retirement information when people are able to save will help reduce the racial retirement gap.

Encouraging labor union participation, wage improvements, and policies that don't encourage people to raid their retirement will also help. Retirement insecurity is a financial problem that can only be solved by thinking broadly about the full financial health of Americans.

Thank you for your time and attention today.

²² *Id.*

²³ Jeanne Lee, *Churches, Banks Preach Financial Literacy in African American Communities*, Nerdwallet, (April 22, 2016), available at <https://www.nerdwallet.com/article/banking/preaching-african-american-financial-literacy> (last visited, August 25, 2021).