

Congress of the United States
Washington, DC 20515

December 15, 2023

The Honorable Julie A. Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Acting Secretary Su:

As members of the Congressional Black Caucus (CBC), we write to express our concerns with recent reports highlighting the impacts of widespread layoffs within the tech industry and its disproportionate impacts on the African American community and women. Since the beginning of the year, more than 240,000 tech workers in the U.S. have been laid off representing a more than 50% increase over 2022.¹ Recent findings have consistently shown that minorities and women are vastly overrepresented in industry layoffs.

Increasing diversity in tech and creating a space for the Black community in this industry has been a cornerstone element of the work done by the CBC. Through CBC tech initiatives, starting with TECH2020 and continuing with TECH2025, the CBC has highlighted the drastic lack of diversity, equity and inclusion in tech. The CBC, in partnership with many companies, has been able to make great strides in addressing tech representation nationwide, which is why we are increasingly concerned this progress may be dismantled.

At the center of this issue is the “last in, first out” approach to tech layoffs, which tends to target new, less senior, and so-called “non-essential” employees when determining who should be laid off. Laying off the most recent hires directly impacts groups of people who benefited from new diversity policies implemented in response to heightened race-based conversations in 2020. We must scrutinize past industry commitments to create a more diverse, equitable, and inclusive tech workforce – and ending the use of the “last in, first out” practice would be a good first step.

An American Sociological Association report found that racial minorities, and African Americans at a disproportionate rate, are the most vulnerable to layoffs during periods of slow growth and economic uncertainty.² Diversity, Equity, and Inclusion (DEI) roles and initiatives are historically also the first to experience budget cuts during periods of economic difficulty. Tech companies who previously agreed to address bias and discrimination and create greater opportunities in the workforce are now quietly defunding diversity pledges.³ The result has been an uphill battle for existing diverse employees, and a concerning outlook for new diverse hires given the negative

¹ TechCrunch, [A Comprehensive List of 2023 Tech Layoffs](#), (November 30, 2023).

² American Sociological Review, [How You Downsize Is Who You Downsize: Biased Formalization, and Managerial Diversity Accountability](#), (January 29, 2014)

impact that layoffs are also having on DEI initiatives and professionals. These developments run the risk of further institutionalizing unequal opportunity in tech.

We are deeply concerned about the short and long-term impact these layoffs will have on the industry's racial, ethnic, and gender diversity and would like to ensure women and members of the African American community are not disproportionately nor discriminatorily harmed by recent layoffs. To this end, we request you answer the following questions:

1. Under what authority is the Department of Labor currently monitoring tech industry layoff trends that may merit further investigation due to the disproportionate adverse impacts on African Americans and workers of color? What related enforcement actions is the Department taking?
2. Under the Worker Adjustment and Retraining Notification (WARN) Act, covered employees are entitled to notification 60 days in advance of mass layoffs among other protections. In what ways can the Department of Labor use its authorities to work with States to improve WARN Act tracking, reporting and enforcement?
3. What does aggregate WARN Act data currently tell the Department of Labor about the characteristics of workers affected by mass tech layoffs?
4. What is the Department of Labor doing to regulatorily disincentivize questionable business practices that disproportionately harm African American workers, such as discouraging the "last in, first out" approach?
5. What additional actions is the Department of Labor considering to further encourage tech companies to audit their hiring, performance, promotion, and compensation practices to ensure equity?
6. Can the Department of Labor, in collaboration with the U.S. Equal Employment Opportunity Commission, share a current breakdown of current gender, racial, and ethnic demographics in the tech industry disaggregated by job category and leadership role?
7. How is the Department of Labor working with the tech industry to address the substantial harm of recent mass layoffs and prevent future damage mass layoffs may have on diversity, equity and inclusion progress in the workplace?
8. What steps has the Department of Labor taken to ensure that Supreme Court rulings in *SFFA v. Harvard* and *SFFA v. University of North Carolina* are not misinterpreted or misrepresented to arbitrarily undermine corporate DEI practices and budgets?

Diversity of thought and representation plays an essential role in innovation, employee satisfaction, and productivity in companies nationwide. As the Co-Chairs of TECH 2025 and members of the Congressional Black Caucus, we are confident you share our belief in the importance of diversity and inclusion in the workplace and a commitment to ensuring that organizations engaged in layoffs are not dismantling progress made toward these goals.

We look forward to your response.

³ Essence, [Tech Companies are Quietly Defunding Diversity Pledges and Industry Layoffs are Hitting Black and Brown Workers Hardest – Experts Say The Message is Clear](#), (Updated December 8, 2022).

Sincerely,



Barbara Lee
Member of Congress
Co-Chair of CBC Tech 2025



Emanuel Cleaver, II
Member of Congress
Co-Chair of CBC Tech 2025



Lisa Blunt Rochester
Member of Congress



Lauren Underwood
Member of Congress



André Carson
Member of Congress



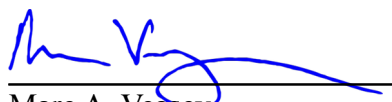
Gregory W. Meeks
Member of Congress



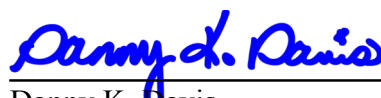
Valerie P. Foushee
Member of Congress



Summer Lee
Member of Congress



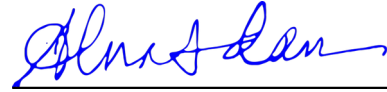
Marc A. Veasey
Member of Congress



Danny K. Davis
Member of Congress



Al Green
Member of Congress
Scion of the Enslaved
Africans -
Sacrificed to Make America
Great



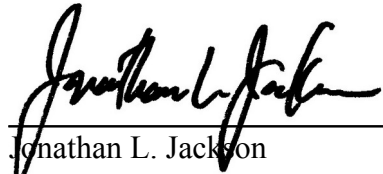
Alma S. Adams, Ph.D.
Member of Congress



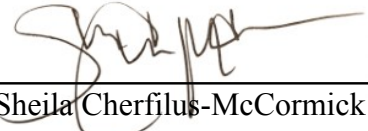
Eleanor Holmes Norton
Member of Congress



Joyce Beatty
Member of Congress



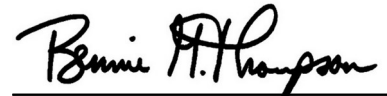
Jonathan L. Jackson
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



Yvette D. Clarke
Member of Congress



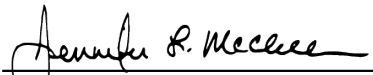
Bennie G. Thompson
Member of Congress



Bonnie Watson Coleman
Member of Congress



Robin L. Kelly
Member of Congress



Jennifer L. McClellan
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



Frederica S. Wilson
Member of Congress



Shontel M. Brown
Member of Congress



Sheila Jackson Lee
Member of Congress



Nikema Williams
Member of Congress