


COMMENTARY

Counteracting threats to DEI with good trouble and innovation

William G. Obenauer 

Maine Business School, University of Maine, Orono, USA
Email: william.obenauer@maine.edu

Legislation aimed at dismantling diversity, equity, and inclusion (DEI) programs and policies threatens the well-being of students, employees, and other community members. Stakeholders have a responsibility to push back against these threats, but the appropriate methods of resistance may not be as siloed as it seems. While recognizing that attacks against DEI programs are damaging, DEI activists should (a) look for additional opportunities to push the boundaries of resistance and (b) respond to these attacks with innovative strategies that empower and strengthen DEI efforts.

Educational institutions should adopt many of the recommendations for businesses

Follmer et al. (2024) discussed the need for businesses to “ensure that their existing policies and practices are not affected by inherent biases” (p. 35). Educational institutions, however, also have long-standing concerns about biased processes that should be addressed (Lawrence et al., 2014). The tenure and reappointment process is not only burdened by ambiguity but also it often relies on student evaluations of teaching, which can be conflated by identity-driven biases (Heffernan, 2022) in the same way that subjective grading processes are (Malouff & Thorsteinsson, 2016). Thus, regardless of the status of DEI programs, faculty should utilize their role in shared governance to initiate critical evaluation and redesign of some of academia’s most impactful processes to increase objectivity and reduce susceptibility to bias.

Similarly, Follmer et al., suggested businesses could incorporate their current DEI training curriculum into other mandated topics. This approach translates almost seamlessly into higher education, particularly in fields such as management, I-O psychology, and leadership where DEI is germane to typical course topics (e.g., compensation, selection, and teams). Faculty should seek to better understand how DEI education can be effectively integrated within their course content, helping to increase the presence and effectiveness of DEI education. Rather than having DEI education isolated in classes that students can opt out of, by systematically weaving it into the fabric of all *relevant* coursework, particularly in the social sciences, educators can increase students’ potential exposure to these important lessons. This will also prepare students for a workplace where such training may be more limited due to anti-DEI legislation.

Stakeholders should engage in “good trouble” by resisting unjust laws

Follmer et al. suggested that “ambiguity or flexibility in the law” (p. 36) may create opportunities for businesses to push boundaries. I contend that these opportunities apply to businesses, educational institutions, and their members. Although Follmer et al. were careful to advise “that organizations need to adhere to the law” (p. 36), I question whether this is a place for what the late

Congressman John Lewis used to refer to as “good trouble.” In this case, I use good trouble to describe resisting an unjust law that conflicts with other, higher order laws.

Anti-DEI legislation may not always be constitutional. For example, Executive Order 13950 was subject to a temporary injunction that prevented enforcement (Kalkman, 2021) before it was overturned by President Biden, and Florida’s Stop W.O.K.E. legislation was also halted in court. More than 40% of proposed anti-DEI measures attempt to limit what educators can teach in the classroom or what employers can include in employee training (Follmer et al.). When passed, such measures may constitute laws that infringe on freedom of speech and are, thus, unconstitutional. Stakeholders can engage in some peaceful “good trouble” by passively refusing to abide by such restrictions. This resistance will likely come with consequences for those who assume such risk, but if gone unchallenged, these measures will become more powerful through perceived legitimacy, even when they violate constitutionally granted rights.

For clarification, the recommendation here is not to become unruly or disobedient, but simply to carefully evaluate if and how one should comply with unjust and potentially illegal laws that attempt to restrict free speech. The easy rebuttal to this is that educators and leaders have a responsibility to model behavior as law-abiding members of society, but such a position may not be consistent with organizations’ actions in other matters. For example, despite marijuana being illegal at the federal level, many organizations offer services that support the cannabis industry such as coursework on the business of marijuana (e.g., University of Arizona, 2024), cannabis banking (e.g., Berkshire Bank, 2024), and cannabis payroll services (e.g., Gusto, 2024). If there is room for organizations to profit from supporting an industry that violates federal law, surely there is space to resist an anti-DEI law that one views as unconstitutional.

Allies should engage in “good trouble” even when efforts may appear futile

Resistance must come—at least in part—from allies. Unlike targets of discrimination, allies have an influential effect that is not confounded by potential perceptions that their activism is associated with self-interest (DeTurk, 2011). By inviting risk through their activism, allies are demonstrating the value that they place on others. Even when their activism does not lead to the desired result (e.g., overturning a law or reversing unjust discipline against a colleague), it still has the impact of *demonstrating* support. Unlike targets of discrimination, however, allies can disengage from activism when it is personally disadvantageous (e.g., fear of being fired; DeTurk, 2011). Such disengagement can be damaging for targets of discrimination because it signals a lack of true support. The stakes are high when DEI is under legislative attack; thus, it is critical for allies to visibly demonstrate support and resist unjust laws in response to these attacks.

DEI work can be strengthened by establishing organizational independence

Follmer et al. outlined why threats to DEI programs are a serious problem; thus, they are not considered a positive outcome. However, strategy scholars have long recognized that impactful innovations are often stimulated by crises and other types of external stressors (Marcus, 1988). In the absence of such stressors, the *need* for innovation is not always clearly recognized. Perhaps there is a need for innovation in DEI programs that can be recognized in response to recent attacks. The immediate need that comes to mind is the need for independence.

Follmer et al. suggested that disbanded organizational DEI offices and programs could reconstitute themselves as volunteer organizations. These volunteer organizations may serve as an improvement. The recent effectiveness of organizationally run DEI programs has been questioned as many organizations have failed to measure their success or even clearly integrate the goals of these programs into their daily operations (Zheng, 2024).

One obstacle to the success of DEI programs may be that current structures impede change. In a business setting, the presence of managers who are responsible for personnel evaluations and reward distribution on DEI committees could limit members' comfort with advocating for changes in practice. This problem can be compounded by the potential for resource allocation to a DEI committee to be contingent upon aligning DEI objectives with the objectives of those in power. At the university level, policy can dictate that control over membership and goals of DEI committees resides with the administration (e.g., Maine Business School, 2017). Consequently, the effect of formalizing DEI committees that were founded as grassroots volunteer efforts may have been similar to hostile takeovers, particularly when formalizing these volunteer groups came with no budget allocation or official power.

Philosophically, it makes little sense for DEI committees to be under the control of organizational leadership given that DEI work is designed to address historical power imbalances. When managers, particularly those with limited interest or expertise in DEI, have power over DEI programs, it creates the potential for activities that enhance the organization's image (e.g., public events and signage) to be prioritized over deconstructing inequities. This impedes DEI work by diverting attention and resources from more legitimate causes (Holmes IV, 2020).

As attacks on DEI cause DEI work to transition from the control of organizations to independent efforts, it will transition the power in this work back to the people doing it. DEI activists and allies will be empowered to reenvision how they approach this work. There will be potential to not only form volunteer groups but also to establish not-for-profit organizations that develop independent business models so that they are not beholden to organizations in the way that universities are beholden to states that provide them with appropriations. I-O psychologists and other subject matter experts can support these nonprofits as they work closely with, but independently of, organizations to combat systematic oppression. Although these new organizations will have the freedom to work collaboratively with university and business partners, they will also have the autonomy to challenge the status quo in a way that organizationally sanctioned DEI offices and programs are not always free to do. Consequently, by responding to recent attacks with the establishment of structural independence from the organizations they serve, DEI activists and allies may find an opportunity to make an even more powerful impact.

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