

Publications

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Nationwide Injunction Shuts Down Enforcement of Trump's DEI Executive Orders

On February 21, 2025, a federal district court judge issued a nationwide preliminary injunction that blocks enforcement of three major provisions of President Trump's Executive Orders related to Diversity, Equity and Inclusion (DEI) programs:

1. Executive Order 14151, "*Ending Radical and Wasteful Government DEI Programs and Preferencing.*"
2. Executive Order 14173, "*Ending Illegal Discrimination and Restoring Merit-Based Opportunity.*"

(Each an **EO** and collectively referred to as the **EOs**.)

The National Association of Diversity Officers in Higher Education filed a lawsuit in the U.S. District of Maryland (**Maryland District Court**) challenging the constitutionality of these EOs, arguing they are vague under the Fifth Amendment and violate the First Amendment's Free Speech Clause.

Below is a summary of the enjoined provisions.

1. Termination Provision: Requires Executive agencies to terminate "equity-related grants or contracts."
2. Certification Provision: Requires federal contractors and grantees to certify they will not operate programs promoting DEI that violate Federal anti-discrimination laws.
3. Enforcement Provision: Directs The U.S. Attorney General to investigate and take actions (e.g., civil compliance investigations) against private sector entities continuing DEI practices.

While the injunction prevents the executive branch from enforcing these EOs, U.S. District Court Judge Adam Abelson allowed the U.S. Attorney General to continue its investigation for a report on ending illegal discrimination and preferences pursuant to EO 14173.

The Trump administration filed a motion with the Fourth Circuit Court to appeal the nationwide injunction. Depending on whether the Fourth Circuit upholds or reverses the injunction, the case may go to trial to determine if the Trump administration's actions to

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ban DEI policies and practices are constitutional. Pending the appeal, the Trump administration requested a stay of the preliminary injunction which was denied by Judge Abelson. The Maryland District Court stressed the Trump administration was unable to demonstrate a strong likelihood of success on the merits. Additionally, the Court emphasized, “the chilling of the exercise of fundamental First Amendment rights weighs strongly in favor of the preliminary injunction and against a stay pending appeal.”¹

On March 10, 2025, Judge Abelson issued further clarification regarding the scope of the preliminary injunction, stating that it applies to all federal agencies, departments and commissions, not just the named defendants. He explained that limiting the injunction to only the named parties would create an unfair situation where the termination status of a federal grant or the certification requirements for federal contractors would depend on which specific federal agency the grantee or contractor works with for current or future funding. This would result in inequitable treatment in an area that requires uniformity. Consequently, considering President Trump’s directives for all federal agencies, departments and commissions to adhere to the Termination and Certifications Provisions, the preliminary injunction will now encompass all federal agencies to prevent any inconsistent application.

Since the Maryland lawsuit, additional complaints against the anti-DEI EOs have been filed in Illinois, California and Washington D.C., with similar legal arguments to the Maryland case. We will continue to monitor these lawsuits as they progress through the court system.

You can read more about the Maryland lawsuit and the implications of these EOs in our previous alert linked here.

Polsinelli’s Nonprofit Organizations team provides a full range of professional services focused on solving the challenges nonprofits encounter. If you have any additional questions, please feel free to reach out to Lisa Schultes, Michael Kuczynski, Maverick Flowers, Michele Manceaux, Polsinelli’s Executive Action Working Group or your regular Polsinelli attorney.

[1] *Nat’l Ass’n of Diversity Officers in Higher Educ. v. Trump*, Memorandum Opinion and Order Denying Motion to Stay Injunction Pending Appeal, Case No. 25-cv-00333-ABA (Mar. 3, 2025), 6.