

## DEI / Executive Orders - HR Update

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*\*Disclaimer: The information contained in this document is provided for informational purposes only, and should not be construed as legal advice on any subject matter.*

We are all settling in after the flurry of Executive Orders in the first months of the Trump Administration. Although many parts of the orders are undergoing legal challenges, as employers, it is important to ensure we understand what these orders mean and if there is any action that should or should not be taken as a result.

To take you back to January 2025, two executive orders (Executive Order 14173 and 14151) were written targeting “illegal” Diversity, Equity, and Inclusion (DEI) programs. Since then, employers have been waiting for guidance on what is considered “illegal DEI.” That long awaited guidance was released on March 19, 2025, jointly from the Equal Employment Opportunity Commission (EEOC) and Department of Justice (DOJ) which include two technical assistance documents.

The full documents can be found here:

["What To Do If You Experience Discrimination Related to DEI at Work."](#)

["What You Should Know About DEI-Related Discrimination at Work."](#)

Overall, the guidance did provide updated language on what the agencies refer to as “illegal” diversity, equity, inclusion and accessibility practices. The guidance suggests that “an employer initiative, policy, program, or practice may be unlawful if it involves an employer or other covered entity taking an employment action motivated – in whole or in part – by race, sex or another protected characteristic.”

### **WHAT DOES THIS MEAN FOR EMPLOYERS?**

Regardless of the back and forth with these regulations, employers should remember the Civil Rights Act of 1964 is still in force. It is still illegal to discriminate against anyone due to their protected status. Private employers can also continue DE&I efforts but ensure they are open

and inclusive to all, not targeting a specific protected class. There are a few areas that employers should, however, be aware of.

**DEI Training.** Questions 10 and 11 in the FAQ portion of the guidance document warns that DEI training could create a hostile work environment, and thus result in a harassment claim.

**DEI Based Initiatives.** Overall, if your organization has any DEI initiatives, be sure they are inclusive and not exclusionary or have eligibility based on a particular characteristic. What this means is that if you have programs (think internships, networking, mentorships) where membership is aimed at a specific protected trait, they should be open to everyone, and everyone should have equal access. Again, remember inclusivity.

**EEO Language.** Legal experts have weighed in that there is no concern regarding continuing to use the phrase “equal opportunity employer” on your job postings and other employment related documents.

Overall, it boils down to creating a respectful, positive work environment. Our advice to organizations is to continue your efforts to maintain an inclusive culture. It's essential to review your existing DEI policies and practices to ensure they are compliant with the new guidance. By maintaining a focus on inclusivity and equal access, employers can foster a workplace that celebrates diversity while adhering to the most recent executive orders.