

Continuing to Build Thriving Organizations Through Diversity, Equity, and Inclusion

It is no secret that the new administration has made it a priority to dismantle DEI, not only within the federal government but throughout the private sector, nonprofits, and higher education. Executive Orders issued from President Trump's first day in office shuttered all DEI offices in federal agencies, put staff out of jobs, and terminated contractors conducting any work remotely related to DEI. Agencies and federal contractors have been scrambling through websites, training materials, and all written communications to eradicate language and content that even says words like "inclusion" and "bias." Not to mention the anti-trans Executive Orders that not only exclude nonbinary and transgender individuals, it violates civil rights and puts many in physically dangerous situations.

Although these efforts have led many organizations, large and small, to roll back their DEI programs and initiatives, this is not the death of diversity, equity and inclusion work. In fact, numerous private sector companies and nonprofit organizations have publicly stood by their DEI work, stating that what they do is not only legal but crucial to their mission and performance.

The coming months will continue to shift the landscape significantly, as the new administration moves into the next phase of its plans to dismantle what it refers to as "illegal DEI." The next phase will focus on diminishing civil rights and EEO offices and staff across the federal government, and finding more pronounced ways to pressure private sector companies to dismantle their DEI work. Lawsuits are already being filed to challenge these executive orders, but the courts will take time, and meanwhile it is incumbent upon us organizational leaders and DEI practitioners to have the knowledge to help guide our profession and our clients through this time armed with collective strategy, courage, and wisdom.

This working document is intended to compile and synthesize information and resources on the Executive Orders and advice from legal experts on how to be in compliance with the law, updates on challenges to the legality of the E.O.'s, information on how the E.O.'s are impacting various sectors (e.g. corporate, nonprofits, higher education) and how organizations are responding and continuing their diversity, equity, and inclusion work.

Disclaimer: This document does not offer legal advice. It is intended to be used as a resource for our colleagues and clients who support diversity, equity, and inclusion efforts.

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Summary of Trump Administration Executive Orders

[“Initial Recissions of Harmful Executive Orders and Actions”](#)

Stated Purpose:

“The injection of “diversity, equity, and inclusion” (DEI) into our institutions has corrupted them by replacing hard work, merit, and equality with a divisive and dangerous preferential hierarchy.”

Implementation:

Revoked 67 Biden Administration Executive Orders and Memos focusing on prioritizing DEIA in the federal workforce and advancing equity in federal support and services to underserved communities.

[“Ending Radical And Wasteful Government DEI Programs And Preferencing”](#)

Stated Purpose:

“The Biden Administration forced illegal and immoral discrimination programs, going by the name “diversity, equity, and inclusion” (DEI), into virtually all aspects of the Federal Government, in areas ranging from airline safety to the military...The public release of these plans demonstrated immense waste and shameful discrimination...”

Implementation:

- Terminated all DEI/DEIA mandates, policies, programs, preferences, and activities in the Federal Government.
- Directs all agency heads to:
 - Terminate all DEI, DEIA, and ‘environmental justice’ offices and positions, all ‘equity action plans,’ ‘equity’ actions, initiatives, or programs, ‘equity-related’ grants or contracts, and all DEI or DEIA performance requirements for employees, contractors, or grantees.
 - Provide the Director of OMB with a list of all:
 - Agency or department DEI, DEIA or environmental justice positions, committees, programs, services, activities, budgets, and expenditures in existence on November 4, 2024, and an assessment of whether any of those were “misleadingly relabeled” to preserve their function.
 - Federal contractors who have provided DEI training or materials to agency or department employees.
 - Federal grantees who received Federal funding to provide or advance DEI, DEIA, or environmental justice programs, services, or activities since January 20, 2021.

[“Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”](#)

Purpose:

The E.O. states that “ideologues who deny the biological reality of sex have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women’s domestic abuse shelters to women’s workplace showers.” It further states that its rationale for this E.O. is to defend women’s rights and protect freedom of conscience by “using clear and accurate language and policies that recognize women are biologically female and men are biologically male.”

Implementation:

- Definition of Sex. Enforces all sex-protective laws to refer to “sex” as either male or female, “female” meaning a person belonging, at conception, “to the sex that produces the large reproductive cell” and “male” meaning a person belonging, at conception, “to the sex that produces the small reproductive cell.”
- Defines “gender ideology” as the “ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa...”
- Directs all federal agencies to only use the binary terms “male” and “female” in their communications, and when applying and interpreting regulations and statutes.
- Directs DHS and OPM to require that government-issued IDs, including passports, visas, Global Entry cards, and federal employee records, reflect the holder’s sex, as defined by this EO.
- Directs agencies to remove any language or communications promoting gender “ideology.”
- Restricts federal funds from promoting “gender ideology.”
- Restricts trans women from being detained in women’s prisons or detention centers.
- Directs HUD to repeal the Equal Access Rule, which would prohibit trans women from entering women’s emergency shelters.
- Directs agencies to limit access to bathrooms and other single-sex facilities on any federal property based on the adopted definition of sex (assigned at birth).

“Ending Illegal Discrimination And Restoring Merit-Based Opportunity”

Purpose:

The EO declares that organizations have adopted “dangerous, demeaning, and immoral race- and sex- based preferences under the guise of so-called ‘diversity, equity, and inclusion’...that can violate the civil-rights laws of this Nation.” It further argues that illegal DEI and DEIA policies threaten the safety of Americans by “diminishing the importance of individual merit, aptitude, hard work, and determination when selecting people for jobs and services...”

Implementation:

- Revokes several Executive Orders, including EO 11246, the foundational Executive Order from 1965 which imposed affirmative action obligations on federal government contractors and subcontractors.
- Directs the Office of Federal Contract Compliance Programs to cease promoting diversity and to no longer hold federal contractors and subcontractors responsible for taking “affirmative action” or engage in workforce “balancing.”
- Contractors and grant recipients must certify they do not operate any programs promoting DEI that “violate any applicable Federal anti-discrimination laws.”
- Directs all federal agencies to take action against “DEI discrimination” throughout private industry.
- Directs the Attorney General to create a report within 120 days that identifies:
 - Key sectors of concern and the most “egregious and discriminatory DEI practitioners in each sector of concern.”
 - A plan to “deter DEI programs that constitute illegal discrimination or preferences.” The EO requires each agency to identify up to nine potential civil compliance investigations of publicly traded corporations, large non-profits, foundations with assets of \$500 million+, state and local bar and medical associations, and higher ed institutions with endowments over \$1 billion.
 - Other strategies to encourage the private sector to end illegal DEI discrimination and preferences and comply with all Federal civil-rights laws.
 - Litigation for Federal lawsuits, intervention, or statements of interest and potential regulatory action and sub-regulatory guidance.

Implications of Anti-DEI Executive Orders by Sector

The implications are sweeping. They have been catastrophic for DEI and EEO professionals in public service and have had a significant chilling effect across all sectors.

Public Sector

Although the initial purge focused on workers whose primary function was DEI, it [has also targeted employees who were not directly working on DEI](#), and the Department of Government Efficiency (DOGE) plans to expand its campaign further through the first half of 2025 to target staff who work in offices established by law to ensure equal employment and civil rights. [Among the groups listed in DOGE internal documents are an office in Veterans Affairs tasked to ensure veterans receive equal access to care and an office in HHS that provides information about the health of minority populations](#). DOGE also plans to target employees who are not in formal DEI roles but whom DOGE deems are in some way performing functions related to DEI. It's not clear how DOGE can possibly prove that, and legal challenges to such actions would swiftly follow.

A recent Executive Order giving even more power to DOGE to engage in a “workforce optimization initiative” could provide further space for the Department to gut offices that have been legally mandated to uphold and enforce civil rights.

Regarding the anti-trans EO, there is a significant ripple effect in that it directs agencies to defy the [Supreme Court's decision in Bostock v. Clayton County \(2020\)](#), which held that discrimination based on sexual orientation and gender identity constitutes illegal sex discrimination. This will essentially mean that agencies may permit discrimination against the LGBTQ+ community in the workplace, education, housing, and health care. Furthermore, it endangers transgender people and nonbinary individuals in the prison system and takes away access to everything from private spaces like bathrooms to shelters for domestic violence survivors.

Private Sector

Private sector organizations that have contracts with or receive grants from federal government agencies face a legal and financial minefield.

- 1) Federal contractors and grantees have to certify that they do not operate programs “promoting DEI that violate any applicable Federal anti-discrimination laws.” If they are found to be in violation, they could face civil or even criminal repercussions.
- 2) Even companies that do not have to rely on the government for their financial viability may still face a [significant chilling effect considering the language in the E.O.'s indicating the Administration's intent to target private industry for engaging in “illegal DEI.”](#)

Nonprofit Sector

The executive orders raise concerns for nonprofit organizations as well as private companies in terms of whether they will be able to retain the status of their funding secured through federal grants, contracts, loans, or cooperative agreements. Of particular concern is the requirement that grant recipients must certify that their organization does not operate programs promoting DEI that “violate any applicable federal anti-discrimination laws” and invokes the federal False Claims Act.

Higher Education

The executive orders have had a significant impact on institutions of higher education, both public and private. The executive orders rescinded President Biden’s initiatives to support Hispanic-serving institutions and tribal colleges and foster better collaboration between federal agencies and the institutions. President Trump also signed an executive order altering Title IX, rolling back policies that extended the definition of sex to include individuals’ gender identity or sexual orientation. Trump has also issued executive orders related to immigration, repealing the Biden Administration’s “sensitive locations” policy, which prohibited raids by ICE or Customs and Border Protection agents at campuses and other protected areas. Additionally, although the Trump Administration paused a funding freeze for research institutions like the NIH and NSF, it caused massive confusion among higher education institutions.

Institutions that receive federal funding are faced with challenges related to the question of what constitutes “illegal DEI.” Even institutions that are not reliant on federal grants or funding are potentially targeted.

Standing Up to the DEI Backlash

Despite the swift and brutal impact of these executive orders, there is reason to stand firm in our commitments to diversity, equity, and inclusion work.

First of all, multiple groups have already begun to take legal action against the executive orders, challenging the legality and constitutionality.

- A [lawsuit filed Feb 3](#) to block the two DEI EOs on behalf of National Association of Diversity Officers in Higher Education, American Association University Professors, Restaurant Opportunities Centers United, and the Mayor and City Council of Baltimore. On February 21, a [federal judge in Maryland blocked several significant portions of the executive order](#). Although this may only have a temporary effect, it is still a victory and hopefully sets some legal precedent for others to follow.

- The [NAACP Legal Defense Fund and Lambda](#) filed a suit February 19 against the anti-DEI and anti-transgender executive orders, stating they will severely limit organizations' ability to provide critical social and health services.

Additionally, rolling back or dismantling DEI efforts carry significant long-term potential consequences that organizations need to keep in mind:

- 1) Organizations might make themselves more susceptible to future discrimination lawsuits. DEI work originated in organizations to prevent (or quite often respond to) discrimination or harassment lawsuits. By pulling back on initiatives that are intended to support policies and cultures that ensure DEI, companies may put themselves at more legal risk if they are sued. For example, ceasing compensation audits or recruiting efforts for diverse job candidates could lead to claims that women, people of color or LGBTQ+ people were discriminated against in terms of pay equity, equal employment or advancement opportunities.
- 2) DEI continues to be broadly popular. Consistently a broad majority of U.S. adults believe that companies should promote DEI in the workplace. Furthermore, [in recent months public opinion has indicated that people oppose companies walking back their DEI efforts](#). Furthermore, companies that have rolled back their DEI efforts are now feeling the heat from consumers. For example, the [NAACP recently encouraged Black Americans to boycott retailers](#) that rolled back their DEI commitments. The purchasing power of Black Americans, in addition to Americans who oppose companies walking back DEI efforts, is sure to negatively impact these companies' bottom lines.
- 3) Demographics speak for themselves. The working-age population is and will continue to be the most diverse in history and any organization that does not commit to diversity, equity, and inclusion will not be able to compete for top talent. According to the 2020 Census, the White only, non-Hispanic population in the U.S. is about 57%, (down from 63% in 2010). The percentage of people who identify as Hispanic and those who identify as Multiracial have increased the most. Additionally, the representation of people with disabilities in the workforce increased to historical highs in 2023. Women out-represent men in higher education programs and post-graduate programs. In terms of sheer numbers as well as talent, skills, and potential, it is imperative that companies adapt their structures, policies, and cultures to accommodate the needs of an increasingly diverse workforce.

Guidance for Organizations' DEI Initiatives

Organizations should continue to make decisions not based on fear, but to stay informed and strategic. Here are a few tips.

1. **Don't stop doing diversity, equity, and inclusion work.** **Do make sure your policies are in compliance with the law.**

There is significant legal precedent and the primary law around DEI in terms of employment has not changed, at least not for private companies as it pertains to employment. Title VII of the Civil Rights Act of 1964 is still the law of the land when it comes to ensuring that employers do not discriminate based on race, sex, color, religion, age, or other protected classes.

- Avoid conferring preference to a protected group or the appearance of excluding any individuals or groups from participating in initiatives because of their identities. For example:
 - ◆ Mentoring or internship programs include candidates at a certain stage of their careers rather than from specific protected identity groups.
 - ◆ Employee resource groups (ERGs) host events and activities open to individuals of other identity groups.
- Rather than quotas or diversity targets, focus on non-binding aspirational goals. Prioritize broadening the pool of qualified candidates in order to ensure a workforce that is representative of society and contributes diverse perspectives, skills, and experiences. This may include local job boards, chambers of commerce, and recruiting at job fairs hosted by community colleges, HBCUs, Hispanic Serving Institutions, and Tribal Colleges.
- Make sure interview processes mitigate potential preference or bias. For example, use standardized questions and decision-making criteria for hiring and promotions, consider removing names or other identifying information from resumes, and remove language around "culture fit" from decision making in hiring processes.
- Conduct annual compensation reviews to identify potential pay gaps.
- Review scholarship programs, applications, joint venture agreements, or other relevant agreements - e.g. qualifications for applicants in forms, internal policies or external marketing materials.
- Work with legal counsel to ensure compliance with federal and state laws, and keep track of changing language and laws around DEI. This is particularly important for any organizations that receive federal funding through contracts or grants under which you must certify you are not operating programs that promote "illegal" DEI.

2. **Don't dismantle DEI out of fear.** **Do evolve your initiatives to be strategic.**

Even before the anti-DEI backlash and 2025 Executive Orders, organizations had started reassessing their diversity, equity, and inclusion work over the last several years. DEI is not meant to be a one-time event or tactical fix. It's systems change work and it requires a systems change approach.

- How do the principles of diversity, equity, and inclusion align with our mission, vision and values?
- How do we define diversity, equity, and inclusion at our organization?
- Who do we serve (e.g. consumers, communities, shareholders, etc) and what do they need from us?
- How do we engage stakeholders at every level with our DEI strategy?"
- What previous commitments/goals have we made related to DEI as an organization? How have we achieved or made progress toward those goals?
- How do we measure progress toward our DEI goals?
- Who is responsible for our DEI commitments?
- How does staff feel about our commitment and progress toward DEI?

3. **Don't be overly risk averse.** **Do evaluate risk tolerance.**

Every organization will have different levels and types of risks to consider. When evaluating your risk tolerance, consider short-term and long-term consequences, probability of outcomes, and severity of consequences.

- Work with legal counsel to assess the level of legal risk your organization faces directly due to the current EOs, particularly if your organization receives federal funding.
- Consider the potential legal risks of dismantling or rolling back DEI programs in the event the organization is sued for discrimination.
- Conduct a stakeholder analysis to identify various perspectives (e.g. staff, Board, donors, members, consumers, etc.) to make more informed decisions.
- Consider risk tolerance in terms of the financial status of the organization.
- Consider risk tolerance in terms of public opinion.
- Consider risk tolerance in terms of staff morale and retention.
- Explore alternative funding streams, such as private foundation grants.

4. **Don't go silent.** **Do get intentional with language.**

Words carry power. Although the term DEI has become a political lightning rod, the

three concepts it represents are foundational to the work we do. Wherever possible, spell out the acronym and demonstrate what these three words mean in the context of the organization's purpose. Ensure the language is expansive so everyone can see themselves reflected in it.

- Use a broad definition of diversity that includes everyone. For example, "Diversity includes all of us. It means all of the characteristics that make us unique and shape our lives."
- If any or all of these three terms are potentially problematic for your organization's viability, work with legal counsel, a communications team, and select staff/stakeholders to determine language that will continue to align with your organization's mission, vision, and values and uphold your commitments while mitigating legal or financial risk (e.g. "inclusion and wellbeing," "workforce excellence," "culture of belonging,").
- Review language in documents and policies to ensure it focuses on promoting fairness for all. For example: "We are committed to creating policies and practices that ensure everyone has access to opportunities for growth, development, and balance."

5. **Don't stop DEI programming.**

Do provide ongoing learning and development to build thriving organizational cultures.

- Provide training that is focused on fostering an inclusive culture for all. This can and should absolutely include topics like exploring bias and responding to exclusionary behavior.
- Conduct educational events that constructively explore diverse identities (e.g. deep meaningful conversations and training on specific topics like creating an inclusive workplace for members of the global majority, LGBTQ+, people with disabilities, neurodivergent team members, non-native English speakers, etc).
- Host historical or heritage events throughout the year vs. only cultural months (e.g. Black History Month, Women's History) that go beyond superficial celebrations of "heroes and holidays" to create a deeper learning experience and draw more relevant connections to the organization's mission, values).
- Offer mentoring, leadership development and sponsorship programs, which are an important strategy for developing and retaining the future leaders of your organization. Not only does investing in employee development boost morale and loyalty, it also creates a pipeline for future talent and can diversify leadership and management.

How to Talk About DEI

Fostering Creativity and Innovation Through Diverse Perspectives

Diversity means all of the dimensions of identity that make us unique and shape our lives. All of us are diverse because **all of us have identities**. Therefore, acknowledging that diversity exists is not divisive. It's about learning and building connections by sharing our backgrounds and experiences. When we view diversity as a strength and approach our differences with curiosity and a desire to learn, everyone benefits.

Diversity should not be a “numbers” game. Organizations can and should be proactive in establishing recruitment and hiring practices to broaden the pool of qualified candidates that represent all of the talented professionals across our nation. Organizations and teams with more diversity are more creative, able to adapt more quickly, and are better at solving complex problems. Organizations prosper when teams are able to work collaboratively, come up with innovative solutions to their clients' needs, and can pivot quickly. Diversity is a value to supporting any organization's performance.

Cultivating a Compassionate and Respectful Workplace for All

Prioritizing a healthy and inclusive work culture is crucial for organizational performance and sustainability. People inherently want to feel a sense of belonging, and they want to be recognized and appreciated for what makes them unique. They also want to feel a sense of trust, compassion, and stability in their organization and team. When individuals feel included, they don't have to be concerned or distracted with how they might be treated based on some aspect of their identity. They are more focused, productive, engaged, and willing to give discretionary effort. They have lower levels of absenteeism, higher retention rates, and higher levels of job satisfaction.

Inclusive cultures have a positive external impact, too. In fact, inclusive work environments have also been tied to higher levels of customer service. When employees work in a culture that feels trusting and psychologically safe, they are able to empathize and respond to the needs of a diverse client base more effectively.

Providing Equitable Opportunities and Removing Barriers

Equity is about creating policies and practices that provide everyone with access to opportunities for growth, development, and balance. Equitable practices promote fairness and remove barriers that may exist so that all members of an organization have full access to opportunities to thrive. This may include policies around professional development, salary and compensation, leave, dress code, remote work, and more. In short, everyone's needs are adequately considered and fairly represented in all policies and practices.

Resources

Private Sector Resources:

<https://fortune.com/2025/01/23/dei-donald-trump-executive-order-presidential-action-what-it-means-for-businesses/>

<https://www.hunton.com/insights/legal/new-dei-executive-order-creates-potential-false-claims-act-exposure-for-federal-contractors>

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<https://www.racialequitytools.org/resources/fundamentals/special-topics/countering-attacks-on-racial-equity>

https://www3.weforum.org/docs/WEF_Diversity_Equity_and_Inclusion_Lighthouses_2024.pdf

<https://www.inclusionscore.org/post/illegal-vs-legal-dei>

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<https://hbr.org/2025/02/how-to-assess-the-new-legal-risks-of-your-dei-policies?ab=HP-hero-latest-1>

Nonprofit Sector Resources:

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<https://www.elias.law/newsroom/client-alerts/trumps-anti-dei-executive-order-and-its-potential-impact-on-nonprofit-organizations>

<https://natlawreview.com/article/dei-executive-orders-and-related-litigation>

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