

# Addendum:

## Update on suits challenging constitutionality of President Trump's anti- DEI Executive Orders

Several lawsuits challenging President Trump's anti-DEI executive orders are continuing to work their way through the courts, with mixed results. In National Association of Diversity Officers in Higher Education v. Trump et al., the Fourth Circuit Court of Appeals stayed a nationwide preliminary injunction imposed by the District court that would have halted enforcement of the executive orders, meaning that the challenged provisions of the executive orders are in effect pending a final ruling on appeal.

However, about two weeks later, on March 27, 2025, in Chicago Women in Trades the U.S. District Court for the Northern District of Illinois issued a temporary restraining order blocking the Department of Labor from enforcing the same provisions of the challenged Trump executive orders which limited or prohibited federal grants or programs relating to "illegal," "unlawful," and "immoral" diversity, equity, and inclusion ("DEI").

Finally, National Urban League, et al. v Trump was filed challenging the constitutionality of the two anti-DEI executive orders as well as the executive order targeting the rights of transgender individuals - Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.

### ***National Association of Diversity Officers in Higher Education , et al. v Trump, et al.***

Two executive orders on DEI – Executive Order 14151, "Ending Radical and Wasteful Government DEI Programs and Preferencing," and Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," are now enforceable as of March 14, 2025. Key provisions of these executive orders had previously been halted when the U.S. District Court for Maryland stayed the federal government from enforcing three provisions of these executive orders. Now that the executive orders are technically in effect, the Administration recently released informal guidance/technical assistance purporting to provide additional information about what constitutes "illegal DEI."

## Underlying Case Halts Enforcement of Executive Orders

In the underlying case at the district court, National Association of Diversity Officers in Higher Education, et al. v. Trump, et al., the court issued a preliminary injunction in February temporarily stopping the federal government from enforcing three provisions in the Trump executive orders (14151 and 14173) that prohibited “illegal” diversity, equity and inclusion activities: (1) the termination provision, (2) the certification provision, and (3) the enforcement threat provision.

The district court found that these three provisions likely violated the First Amendment of the U.S. Constitution by imposing unconstitutional restrictions on content and viewpoint speech and likely violated the Due Process Clause of the Fifth Amendment because terms such as “illegal DEI” are void for vagueness.

## Court of Appeals Reverses the Stay Pending Full Appeal of the Preliminary Injunction

The Trump Administration appealed the district court’s preliminary injunction to the Fourth Circuit, arguing that the challenged provisions of the executive orders were constitutional. They argued that the certification and enforcement threat provisions were limited to conduct that violates already existing federal anti-discrimination laws. The Trump Administration also argued that the termination provision authorized termination not based on a grantees’ speech or activities but based on the nature of the grant-funded activity itself.

On March 14, the U.S. Court of Appeals for the 4th Circuit granted the Trump Administration’s request to stay, pending appeal, the nationwide preliminary injunction issued by the U.S. District Court for the District of Maryland. The Court of Appeals determined that the federal government had met the factors necessary to establish a sufficient likelihood of success for the government to stay the preliminary injunction from the district court until the court can hear and decide the appeal. The three judges who heard this appeal all agreed to reverse the stay, with Judge Harris, Judge Diaz and Judge Rushing all issuing separate concurring opinions. Judge Harris’ concurring opinion explained this ruling in part by noting that the executive orders “do not purport to establish the illegality of all efforts to advance diversity, equity, or inclusion.”

This was a unanimous decision of the three judge panel, but two of the judges issued noted in their concurring opinions that the federal government action beyond the limited scope of the executive orders “may well implicate cognizable First and Fifth Amendment concerns.” In other words, as Judge Harris noted, “What the orders say on their face and how they are enforced are two different things. Agency enforcement actions that go beyond the orders’ narrow scope may well raise serious First Amendment and Due Process concerns.”

## What to Watch for Next with this Litigation

The Fourth Circuit Court of Appeals still needs to decide the full appeal of the preliminary injunction issued by the U.S. District Court. The government's opening brief is due April 8, 2025, and the plaintiff's response brief is due May 8, 2025.

For now, this means the Trump DEI executive orders are technically in effect. **However, as noted in our Guide, the prohibition on "illegal DEI" does not apply to the vast majority of DEI practices employed by companies and organizations. DEI is lawful – we provide many examples of effective and lawful DEI practices employed by effective companies and organizations nationwide. Indeed, the Court points to this in the Court of Appeals ruling, noting the certification and enforcement provisions of DEI "apply only to conduct that violates existing federal anti-discrimination law."**

**In her concurring opinion, Judge Harris stated very clearly that her "vote should not be understood as agreement with the attack on efforts to promote diversity, equity, and inclusion." And Chief Diaz wrote that "people of good faith who work to promote diversity, equity, and inclusion deserve praise, not opprobrium."**

While we cannot predict the outcome of any one court case, it does appear that the Court of Appeals may very well resolve this aspect of the appeal in favor of the Trump Administration. Whenever the Fourth Circuit rules on the appeal, the case will be remanded back to the district court.

Regardless of how this appeal is resolved, the DEI practices highlighted in our Guide as lawful will remain lawful. Businesses with federal contracts or grants are likely to face greater scrutiny and be asked to sign certifications that should be reviewed with counsel. For smaller non-profits, we continue to recommend reaching out the Lawyers' Committee for Civil Rights Under Law to access pro bono counsel in the event you are presented with such a certification.

**PLEASE FOLLOW the Advancing DEI Initiative project of the Meltzer Center for Diversity, Inclusion, and Belonging at NYU School of Law for [additional updates on this case](#).**

### ***Chicago Women in Trades v. Trump et al.***

In this case, Chicago Women in Trades, a non-profit that has partnered with companies, state and federal agencies and others to recruit more women into the skilled trades and receives federal funding from the Department of Labor, challenged President Trump's anti-DEI executive orders on constitutional grounds. On March 27, 2025, the U.S. District Court for the Northern District of Illinois issued a temporary restraining order blocking the Department of Labor from enforcing provisions of the anti-DEI Executive Orders [14173](#) and [14151](#).

The Judge found that the certification provisions of EO 14173 requiring federal contractors and grant recipients to certify that they do not operate any programs "promoting DEI that violate any applicable Federal anti-discrimination laws," likely violates the First Amendment of the U.S. Constitution. This ruling on the certification provision of EO 14173 applies only to contracts and grants issued by the Department of Labor and not to all federal agencies. The ruling also stops the Department of Labor from enforcing the provision of EO 14151 requiring agencies to terminate grants and contracts with agencies that promote DEI, but for now, it only stops enforcement with respect to Chicago Women in Trades.

The District Court in Illinois will next determine whether to issue a preliminary injunction which could extend the restrictions on the Department of Labor while the case is pending before the court. A hearing will be held on April 10, 2025 on the preliminary injunction. If the preliminary injunction is issued, the Trump Administration is likely to file an appeal similar to the one it filed in the 4th Circuit case.

**PLEASE FOLLOW the Advancing DEI Initiative project of the Meltzer Center for Diversity, Inclusion, and Belonging at NYU School of Law for [additional updates on this case](#).**

### ***National Urban League et al. v. Trump et al.***

[National Urban League v. Trump](#) is a federal lawsuit challenging the constitutionality of the two anti-equity executive orders and one anti-gender executive order from President Trump related to diversity, equity, inclusion, accessibility and transgender people. This lawsuit challenging two anti-equity executive orders and one anti-gender executive order related to diversity, equity, inclusion, accessibility, and transgender people was filed on February 19, 2025, by the [Legal Defense Fund](#) and [Lambda Legal](#) on behalf of the National Urban League, the National Fair Housing Alliance, and the AIDS Foundation of Chicago.

**PLEASE FOLLOW the Advancing DEI Initiative project of the Meltzer Center for Diversity, Inclusion, and Belonging at NYU School of Law and the [NAACP Legal Defense and Education Fund](#) for additional updates on this case.**