

Insights: Alerts

Federal Court Enjoins Significant Aspects of the Trump Administration DEI Executive Orders

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As we reported on [January 21, 2025](#), and [January 29, 2025](#), the Trump Administration issued Executive Orders targeting diversity, equity and inclusion (“DEI”) initiatives in the federal government and private sector, namely Executive Order 14151 (Ending Radical and Wasteful Government DEI Programs) and Executive Order 14173 (Ending Illegal Discrimination and Restoring Merit-Based Opportunity).

The Mayor and City Council of Baltimore along with DEI advocates challenged the DEI Executive Orders for violating free speech and impeding due process. On Friday, February 21, 2025, a federal judge in Maryland blocked significant parts of Executive Orders 14151 and 14173 finding that the language of the Executive Orders violated free speech and due process. See *National Association of Diversity Officers in Higher Education, et al. v. Trump*, Case No. 1:25-cv-00333-ABA (D. Md. Feb. 21, 2025).

In a 63-page opinion, the Court entered a preliminary injunction underscoring the vagueness of the language used in the Executive Orders which could lead to arbitrary enforcement. The Court also highlighted First Amendment freedom of speech concerns.

Specifically, in its ruling the Court enjoined:

- A provision requiring federal agencies to terminate “equity related grants or contracts;”
- A provision requiring federal contractors and subcontractors to certify they do not operate unlawful DEI programs; and
- A provision directing the Attorney General to enforce civil rights laws against DEI programs in the private sector.

The Court held that the termination of “equity related grants or contracts” provision from Executive Order 14151 is unconstitutionally vague and fails to provide fair notice of what constitutes an “equity-related” grant or contract inviting arbitrary enforcement by agency officials who must make subjective determinations about which grants have sufficient connection to “equity” to warrant termination.

Similarly, the Court held that the certification provision of Executive Order 14173 requiring federal contractors to certify compliance under penalty of perjury and False Claims Act liability violates free speech because it imposes content-based restrictions and threatens punishment for violations. The Court stated, “although the

government may choose to fund one activity to the exclusion of another,” the government may not punish government contractors and grantees “because of their speech on matters of public concern.”

Finally, the Court held that the enforcement threat provision of Executive Order 14173, which directed the Attorney General take appropriate measures to end “illegal discrimination and preferences” also constitutes an impermissible viewpoint-based and content-based restriction on protected speech. Enforcement against perceived violators would essentially have the effect of penalizing protected speech. The Court further determined this enforcement imperative is exacerbated by the unconstitutionally vague language in the Executive Order, which failed to define key terms like “illegal DEI” or “illegal DEI and DEIA policies.”

The Trump administration is appealing the ruling.

We will continue to monitor the DEI landscape as it impacts government contractors and private entities.

For more information or assistance related to this Legal Alert, please contact one of the authors or a member of Kilpatrick’s Government Contracting & Public Procurement or Labor and Employment Team.

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