

The Latest Administrative Actions Affecting the Workforce and Related Employment Challenges

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I. INTRODUCTION

Since January 20, 2025, the Trump Administration has attempted to un-do decades of settled civil rights norms, dismantle programs intended to interrupt centuries of economic exclusion for communities of color, and remove from federal employment the non-partisan professionals entrusted with enforcement of workplace laws. The scope and speed of this attempted social and legal renovation have been breathtaking. This paper will only attempt to discuss one aspect of the federal strategy: the attack on the principles of diversity, equity, and inclusion.

II. FEDERAL MANDATES FOR WORKPLACE FAIRNESS

Laws and policies advancing workplace fairness and combatting workplace discrimination extend back over 140 years to at least 1883, with the passage of the Pendleton Civil Service Reform Act, 22 Stat. 403, that prioritized merit over personal connections for federal work. With the racial desegregation of the United States armed forces in the 1940s and passage of civil rights laws in the 1960s, the federal government adopted more concerted efforts to advance diversity, enhance fairness, and ensure meritocratic outcomes.

Enacted as part of the Civil Rights Act of 1964, Title VII prohibits employment discrimination based on race, color, religion, sex, and national origin. Congress designed this landmark legislation to eliminate pervasive discrimination in the workplace and to promote equal employment opportunities for all individuals. On the heels of Title VII's enactment, President Lyndon B. Johnson in 1965 issued Executive Order 11246, prohibiting employment discrimination based on race, color, religion, and national origin by federal contractors and subcontractors. In 1972, Congress passed the Equal Employment Opportunity Act of 1972, which extended to federal employees the protections of Title VII.²

In 2011, President Barack Obama issued Executive Order 13583, directing federal agencies to implement a comprehensive, government-wide strategy to promote diversity

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² In 1978, Congress passed the Civil Service Reform Act (CSRA), which reinforced merit system principles "without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for [worker] privacy and constitutional rights." 5 U.S.C. § 2301(b)(2). The CSRA also protects federal employees "against arbitrary action, personal favoritism, or coercion for partisan political purposes." *Id.* at (8)(A).

and inclusion in the federal workforce. Recognizing the federal government’s role as the nation’s largest employer, the order sought to remove barriers to equal employment opportunity while ensuring merit-based hiring and advancement.³

Following the May 2020 murder by police of George Floyd, an unarmed African American man, President Joseph Biden extended the federal commitment to racial equity. On January 20, 2021, President Biden signed Executive Order 13985 (“EO 13985”), *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, which sought to ensure diversity, equity, inclusion, and accessibility throughout the federal government.⁴ The order explained, “Equal opportunity is the bedrock of American democracy, and our diversity is one of our country’s greatest strengths. But for too many, the American Dream remains out of reach.” Accordingly, the order declared that it was the Administration’s policy to “pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.” In pursuit of that policy, the Administration set up a plan, coordinated by the White House Domestic Policy Counsel, “to embed equity principles, policies, and approaches across the Federal Government.” The EO ordered action items, policy initiatives, assessments, and working groups to achieve that plan.

A few months later, on June 25, 2021, President Biden issued Executive Order 14035, reaffirming the federal government’s commitment to fostering a workforce that reflects the diversity of the American people.⁵ The Order directed agencies to develop strategic plans to, *inter alia*, eliminate barriers to equal opportunity and ensure equitable access to employment, promotion, and professional development. It also emphasized the importance of accessibility for individuals with disabilities, pay fairness, and the recruitment and retention of qualified workers from underrepresented groups.

These statutes and executive directives largely reflected evolving sensibilities, and often borrowed from state and private initiatives that preceded them, including programs embedded in police departments, schools and colleges, and corporate America.

III. THE TRUMP ADMINISTRATION ATTACK ON CIVIL RIGHTS

On January 20, 2025, President Trump signed Executive Order 14151, *Ending Radical and Wasteful Government DEI Programs and Preferencing*, directing the Director of the Office of Management and Budget (“OMB”), the Attorney General, and the Director of the Office of Personnel Management (“OPM”) to engage in sweeping, top-down efforts to eliminate *all* DEIA-related offices, programs, and positions from *all* federal agencies within sixty days.⁶ The EO provided no definition of DEIA. The next day, President Trump signed EO 14173, *Ending Illegal Discrimination and Restoring*

³ Exec. Order No. 13,583, 76 Fed. Reg. 52847 (Aug. 18, 2011).

⁴ Exec. Order No. 13,985, 86 Fed. Reg. 7009 (Jan. 25, 2021).

⁵ Exec. Order No. 14,035, 86 Fed. Reg. 34593 (June 30, 2021).

⁶ Exec. Order No. 14,151, 90 Fed. Reg. 8339 (Jan. 29, 2025).

Merit-Based Opportunity,⁷ again attacking DEIA without defining it. In the days and weeks that followed, OPM followed the President’s command and, in three separate memos, issued directives to federal agencies government-wide to carry out the anti-DEI EOs. Among other things and in direct violation of regulations governing federal personnel practices, OPM directed agencies to execute RIFs of all “employees who work in a DEIA office”; it also ordered agencies to terminate “all DEI, DEIA, and ‘environmental justice’ offices and positions.”

Almost immediately, a slew of leading American companies raised the white flag and disowned the internal diversity programs they had so proudly announced (and/or marketed) just a few years earlier, including: Walmart, Target, Bank of America, Pepsi, IBM, Google, Amazon, Goldman Sachs, and many others.

IV. LITIGATION CHALLENGING THE ANTI-DIVERSITY, EQUITY, AND INCLUSION EXECUTIVE ORDERS⁸

Over the last year numerous cases have been filed challenging President Trump’s attacks on the federal workforce, often brought by federal unions righteously protecting their members. In addition, on December 3, 2025, federal workers filed the first private class action, *Fell v. Trump*, Case No. 1:25-cv-4206 (Chutkan, J.), seeking to vindicate civil and constitutional rights trampled by the anti-DEI Executive Orders. This complaint was amended to add additional plaintiffs on January 12, 2026. *See* Amended Compl. (attached). The federal workers in *Fell* allege that the administration (1) discriminated against them based on perceived political affiliations in violation of the First Amendment to the United States Constitution; (2) discriminated against them based on advocacy or perceived advocacy for protected racial and/or gender groups (*i.e.*, people of color, women, and/or LGBTQ people) in violation of Title VII; (3) discriminated against them due to their race and/or gender in violation of Title VII based on disparate impact and disparate treatment theories; and (4) violated the Civil Service Reform by terminating federal workers from their careers in violation of numerous federal civil service protections.

Discovery is just beginning.

⁷ Exec. Order No. 14,173, 90 Fed. Reg. 8633 (Jan. 31, 2025).

⁸ Full disclosure: My firm is prosecuting *Fell v. Trump* in combination with the ACLU – DC Office and the firm Khalijarvi Chuzi Newman & Fitch.