

Court Blocks Key Provisions of Trump's Anti-DEI Orders with Nationwide Injunction – UPDATED

Description

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[Update: On March 14, 2025, the Fourth Circuit Court of Appeals issued a stay of the preliminary injunction covered here, which allowed the challenged executive orders to take into effect. For analysis of these developments, see PSH's client alert [here](#).]

On February 21, 2025, the United States District Court for the District of Maryland issued a nationwide preliminary injunction in the case of *National Association of Diversity Officers in Higher Education et al. v. Trump et al.*, Dkt. No. 1:25-cv-00333.^[1] This injunction temporarily halts the enforcement of three provisions of President Trump's executive orders targeting diversity, equity, and inclusion (DEI) programs.

Key Provisions Affected:

1. **Termination Provision:** This provision directed all executive agencies to terminate "equity-related" grants or contracts.
2. **Certification Provision:** This required federal contractors and grantees to certify that they do not operate programs promoting DEI that violate federal anti-discrimination laws.
3. **Enforcement Provision:** This directed the Attorney General to investigate and take actions against private sector entities continuing DEI practices deemed illegal by the executive orders.

The court found that the challenged provisions likely violate the First and Fifth Amendments to the United States Constitution.^[2] More specifically, the court noted that some of the provisions are content-based and viewpoint-discriminatory restrictions on protected speech subject to the strictest scrutiny under the First Amendment and likely unconstitutional. Additionally, the vagueness of undefined terms such as "equity-related," "illegal DEI," and "illegal discrimination" likely deny due process protections afforded under the Fifth Amendment.

The injunction prevents the following through of the three challenged provisions, primarily (i) preventing federal agencies from pausing, freezing, or terminating any awards, contracts, or obligations based on the challenged provisions, (ii) lifting the requirement of federal contractors and grantees to certify compliance with the DEI-related restrictions outlined in the executive orders, and (iii) temporarily barring the Attorney General's office from initiating civil compliance investigations against private sector entities based on the DEI provisions.

The Trump administration has filed an appeal with the Fourth Circuit Court of Appeals and requested a stay of the preliminary injunction. Organizations engaging in DEI programs should monitor this litigation closely and engage PSH attorneys [Elizabeth O. Manchester](#) and [Kelley J. O'Donnell](#) should they have any questions or concerns regarding compliance.

[\[1\] Preliminary-Injunction-Order-National-Association-of-Diversity-Officers-in-Higher-Education-v.-Trump-feb-21-2025-Order.pdf](#)

[\[2\] Federal Judge Issues Temporary Nationwide Order Halting Parts of Trump Executive Orders Restricting DEI Programs | Miller Nash LLP – JDSupra](#)

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