

DEI-Related Executive Orders: Employers Must Still Comply with Federal and State Anti- Discrimination Laws

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In the aftermath of the Trump Administration's actions regarding Diversity, Equity and Inclusion (DEI) and the issuance of several Executive Orders related to DEI initiatives, it is important for employers to be mindful of their ongoing obligations to remain in compliance with state and federal employment laws, including anti-discrimination statutes.

Large corporations, healthcare entities, and small business owners alike should take this opportunity to review all relevant employment practices and policies, including their employee handbooks, to ensure that they are up to date and in conformance with the law. Failure to do so could result in fines and other penalties, as well as potential litigation, regardless of the status of enforcement of the above-referenced Executive Orders.

Employment and discrimination disputes arise in the business sector over a wide variety of employment-related concerns. Claims of bias, prejudice, and unfair treatment have not been excluded from judicial consideration following the present administration's efforts to curtail and/or eliminate DEI initiatives.

The New Jersey Law Against Discrimination (NJLAD) is a significant and broad reaching law that protects New Jersey employees from discrimination in the workplace. Federal law related to claims of discrimination is equally inclusive and strenuous.

NJLAD provides protection to employees from discrimination or harassment from employers or coworkers based on race, national origin, age, sex, gender identification, sexual orientation, marital status, religion, disability, pregnancy or military status. Under NJLAD – which pertains to bias, prejudice and equality in the workplace for employees facing a wide range of circumstances – a business entity can be liable for punitive

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damages including attorney's fees even if there is a minimal finding of liability. As a result, employers must have rigorous safeguards in place to facilitate the handling of any employment disputes that arise in a timely and effective manner.

In summary, this Alert serves as a reminder that business entities must remain as vigilant as ever in maintaining discrimination-free practices and policies in their hiring and daily operations and must document the existence of those practices and policies in their employee handbooks and other employment materials. Please contact the author of this Alert with questions or to discuss your specific business circumstances.

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