

Diversity, Equity, and Inclusion (DEI) Counseling and Support

Recent Executive actions by the Trump Administration to eliminate diversity, equity, and inclusion (DEI) policies including Executive Order 11246 – the nation’s primary affirmative action and nondiscrimination obligation – make clear that federal agencies, and their contractors and grantees, will be closely scrutinized to ensure that they do not engage in illegal DEI and workplace balancing activities that violate civil rights and other laws and regulations ensuring equal rights for all Americans.

The private sector is also at risk of being targeted for civil compliance audits and will likely face enhanced policing of their DEI activities by federal government agencies including the U.S. Department of Justice (DOJ) and the Equal Employment Opportunity Commission (EEOC). This is an uncertain environment in which companies will need to navigate new regulations that may impact their ability to preserve core values while meeting the demands of shareholders, boards of directors, employees, customers, and other key stakeholders.

Wiley’s multidisciplinary team is tracking these and other significant policy changes across industry sectors as part of our Trump Administration Resource Center, and we are actively monitoring trends and reporting on the latest policy developments and case law. We are analyzing in real time Executive Orders and directives specifically targeting DEI policies, programs, and activities, and providing Client Alerts and Insights to assist companies, nonprofits, universities, and other organizations in navigating this rapidly evolving area of law in alignment with their business objectives and values.

Drawing on decades of employment litigation, government contract compliance, dispute resolution, crisis management, counseling, training, and investigations experience, we can help clients evaluate their DEI policies and programs; minimize litigation and enforcement risks; defend against lawsuits; lawfully define and execute their environmental, social, and governance (ESG) sustainability goals; and avoid potential pitfalls in developing future initiatives.

Experience

- **Outreach, Recruitment, and Hiring.** Wiley’s attorneys can conduct privileged reviews of clients’ outreach, recruitment, and hiring practices for compliance with Title VII and other civil rights laws.

- **Internal DEI Policies and Procedures.** Wiley can assist companies in reviewing employer policies and practices that fall under the broad heading of DEI for lawfulness, including those aimed at promoting positive, productive, and inclusive work environments, and in tailoring such policies and practices to minimize risk of legal claims.
- **Audits & Investigations.** Wiley has experienced white collar and employment attorneys who can advise and defend clients facing government audits, investigations, and enforcement actions related to their DEI activities and/or programs.
- **Litigation and Dispute Resolution.** Wiley has a deep bench of litigators capable of defending companies, foundations, nonprofits, and educational institutions against legal challenges based on claims of unlawful DEI practices.
- **Office of Federal Contract Compliance Programs (OFCCP) Response.** Wiley has the experience to guide federal contractors and subcontractors in winding down their EO 11246 (affirmative action) compliance programs and disentangling those practices from the compliance practices that must remain in place, including advising to ensure that contractors can certify with confidence “that [they do] not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.”
- **Nonprofit and Educational Institution Support.** Wiley attorneys have assisted nonprofits and educational institutions by evaluating and assessing risk related to their DEI programs and policies.
- **Supply Chain Risk.** Wiley's compliance counselors can perform risk assessments of supplier diversity programs and provide guidance for in-house legal counsel and supplier partners.

Related practice areas that strengthen our capabilities

- Wiley's Employment & Labor team can provide tactical, smart, and innovative guidance concerning DEI-related employment issues, and high-stakes litigation support to minimize impacts to clients' businesses for years to come.
- Wiley's Litigation team can support complex litigation, dispute resolution, and crisis management, advising corporations, trade associations, and nonprofits, as well as individuals and government officials, across a broad spectrum of regulatory, arbitral, and judicial disputes.
- Wiley's Government Contracts team has extensive experience helping clients navigate non-discrimination obligations for contractors (including through engagement with OFCCP) and has been engaged in evolving law and policy in the area of employment discrimination with the Executive branch and Congress.
- Wiley's White Collar Defense & Government Investigations team stands ready to advise and defend corporate and individual clients facing government investigations, civil enforcement actions, criminal prosecutions, and congressional inquiries related to their DEI activities and programs. Our team is comprised of former Acting Inspectors General, former Assistant United States Attorneys, former congressional counsel, former DOJ and SEC attorneys, and a deep pool of home-grown talent.
- Wiley's Environmental, Social & Governance (ESG) team of interdisciplinary lawyers can help you develop policies and plans to achieve your ESG goals, and guide you through this rapidly changing,

complex regulatory and political environment.