

# The DEI Pulse - December Newsletter

December 2025

Welcome to the DEI Pulse, Wiley's monthly update on the latest developments in the law and policy governing Diversity, Equity, and Inclusion (DEI).

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## DEI Spotlight – Enforcement Outlook 2026

Since January 20, 2025, the Trump Administration has taken significant steps to curtail DEI policies and initiatives within the government and crack down on what it views as unlawful DEI in the private sector. The U.S. Equal Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) are instrumental in this charge, and with the EEOC's newly established quorum, businesses should be prepared for continued and more aggressive DEI-related enforcement in the coming year.

## EEOC Priorities

In late October 2025, Brittany Panuccio was sworn in as an EEOC Commissioner, giving the Commission a quorum for the first time since January 2025. With three Commission seats filled and a 2-1 Republican majority, the EEOC is now capable of taking high-impact actions such as issuing or amending formal policy guidance, initiating pattern and practice and systemic discrimination cases, pursuing litigation matters that require significant expenditures, and altering regulations. In 2026 we expect to see actions advancing the Trump Administration's enforcement policies, including:

- Formal guidance on and adjudication of what constitutes "illegal DEI." Consistent with its prior scrutiny of "DEI-Related Discrimination" at work, the EEOC will likely prioritize DEI-related discrimination charges in the next year and may begin

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## Practice Areas

Diversity, Equity, and Inclusion (DEI)  
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Employment & Labor  
Litigation  
White Collar Defense & Government  
Investigations

filing pattern and practice lawsuits as a result.

- Formalization of Executive Order (EO) 14168 to enforce binary sex-based rights and sex-segregated spaces.
- Revision of prior EEOC guidance to reverse broad interpretations of the Pregnant Workers Fairness Act (PWFA) that sought to protect conditions other than pregnancy.
- A shift in civil rights enforcement priorities from disparate impact to intentional discrimination, with emphasis on reverse discrimination protections and combating anti-American and religious discrimination.
- Withdrawal and revision of its Guidance on Harassment in the Workplace, to revise protections for employees based on sexual orientation and gender identity.

Additionally, it is important to note that while the legal challenge to President Trump's removal of Democrat-appointed EEOC Commissioner Jocelyn Samuels is ongoing, the Administration's agenda at the EEOC will proceed.

### DOJ Enforcement

The DOJ's DEI-related enforcement focus is expected to continue in the coming year. For context, in March 2025, DOJ and EEOC issued joint guidance on DEI in the workplace, which we cover here, signaling a new focus on "unlawful" DEI enforcement.

In May 2025, DOJ announced the Civil Rights Fraud Initiative to "utilize the False Claims Act to investigate and ... pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws." Following the announcement, DOJ began issuing civil investigative demands to federal contractors and grant recipients seeking detailed information about their DEI practices. To the extent False Claims Act cases are filed, those matters typically proceed under seal for months and years, and we anticipate enforcement to proceed largely behind closed doors for the time being.

### Federal and State Updates:

- Atlanta Forfeits \$37.5M in Airport Funds After Refusing to Agree to Trump's DEI ban. The city of Atlanta recently forfeited at least \$37.5 million in federal funding after refusing to adopt new Federal Aviation Administration (FAA) terms on DEI. The FAA specifically requested the airport to certify that it does not operate DEI initiatives that violate applicable Federal antidiscrimination laws.
- UVA Strikes Deal to End DOJ's Civil Rights Probes and Agrees to End DEI Policies. The DOJ has agreed to hold in abeyance investigations that it initiated in April through June of this year into the University of Virginia (UVA) in exchange for the University's promise that it will abide by federal civil rights laws and comply with DOJ's "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination." Practically, the settlement means the federal government will "treat UVA as eligible for grants, funding, contracts, and awards on the same basis as other universities, and no less favorable than those available to any other university."

- America First Legal Files Federal Civil Rights Complaint Against the City of Seattle for Alleged Government-Wide Race-Based Discrimination. The America First Legal Foundation has filed a complaint alleging the City of Seattle's Race and Social Justice initiative violates Title VI and Title VII of the Civil Rights Act of 1964 and defies federal Executive Orders.

### **Case Law Updates:**

- *Californians for Equal Rights Foundation v. University of California Board of Regents*, No. 3:25-cv-01808-BEN-DEB (S.D. Cal. filed July 16, 2025).
  - On October 20, the University of California, San Diego (UCSD) settled a lawsuit brought by the Californians for Equal Rights Foundation and UCSD student Kai Peters over allegations that the existence of a Black Alumni Scholarship Fund was unlawful. The university agreed to eliminate any race-based restrictions to the scholarship, change the name of the scholarship, and offer it to all UCSD students.
- *Bradley v. Gannett Co. Inc.*, No. 1:23-cv-01100 (E.D. Va. filed Aug. 18, 2023).
  - On October 3, 2025, Plaintiffs, former Gannett employees, appealed the trial court's decision to dismiss the claims of all but one Plaintiff in a lawsuit challenging the company's workplace diversity policies, such as allegedly tying bonuses and promotions to meeting diversity goals.
- *City of Chicago v. Noem*, No. 1:25-cv-12765 (N.D. Ill. filed Oct. 20, 2025).
  - On October 20, the city of Chicago and eight other local governments filed a lawsuit against the U.S. Department of Homeland Security and the Federal Emergency Management Agency (FEMA) claiming the federal government has imposed unlawful conditions on federal grants used to respond to disasters, including a requirement that grant recipients and subrecipients agree not to operate DEI programs in violation of federal anti-discrimination laws. On November 24, the judge granted a preliminary injunction on the grounds that, among other things, the DEI condition is likely unlawful under the Administrative Procedures Act.
- *Schultz v. Weatherhunters Inc.*, No. 1:24-cv-02852, (S.D.N.Y. Apr. 15, 2025).
  - On September 30, a New York Judge granted in part and denied in part a motion filed by Defendant Al Roker and his production company to dismiss Plaintiff Bill Schultz's claims alleging that Defendants violated New York State and city anti-discrimination laws when they terminated Plaintiff after he spoke out against them for failing to uphold the company's DEI policy aimed to ensure the inclusion of BIPOC writers for the PBS program *Weather Hunters*.
- *Freedom Network USA v. Trump*, No. 1:25-cv-12419 (N.D. Ill. filed Oct. 10, 2025).
  - On October 10, Freedom Network USA, a national nonprofit organization that fights human trafficking, filed a lawsuit against the Trump Administration alleging that its Executive Orders against DEI amount to unlawful censorship and undermine the Trafficking Victims Protection Act. On November 21, the U.S. District Court for the Northern District of Illinois issued a preliminary injunction, temporarily blocking the Trump Administration's enforcement of the DEI bans against the Plaintiffs.

- *Road-Con, Inc. v. The City Of Philadelphia*, No. 2:19-cv-1667 (E.D. Pa. filed Apr. 18, 2019).
  - On October 22, the city of Philadelphia settled a lawsuit brought by America First Legal on behalf of various Plaintiffs alleging that the city's "Project Labor Agreements" established race- and sex-based quotas in its public contracting. As part of the settlement, the city of Philadelphia agreed to eliminate racial and gender quotas from its Project Labor Agreements.
- *Farkas v. FirstEnergy Corp.*, CV-23-986280 (Ohio Ct. Com. Pl. filed Sep. 29, 2023).
  - On October 29, FirstEnergy Corp. secured a favorable jury verdict in a case brought against it by an in-house attorney who alleged that company officials fired him in retaliation after he expressed concerns about the legality of the company's DEI program tying bonuses to diversity metrics.
- *Armstrong v. WB Studio Enterprises, Inc.*, No. 24-5049 (9th Cir. filed Aug. 16, 2024).
  - On October 27, the Ninth Circuit affirmed the lower court's ruling in favor of Warner Brothers, finding that the Plaintiff, a White former camera operator, provided insufficient evidence to support his claims of race discrimination, retaliation, and hostile work environment after he was not hired by the company for a new show.
- *Napier v. Orchard School Foundation*, No. 25-191 (S. Ct. filed Aug. 14, 2025).
  - On October 20, the U.S. Supreme Court declined to review a Seventh Circuit decision affirming the lower court's ruling against a private school administrator who brought a discrimination and retaliation lawsuit against his former employer alleging that the school fired him due to its preference for female employees.

As the civil rights legal and compliance landscape continues to shift, Wiley's **DEI Counseling and Support Team** helps private and public companies, federal funding recipients, nonprofit organizations, and colleges and universities navigate evolving legal obligations, mitigate enforcement exposure, and respond effectively to emerging enforcement priorities.

Please reach out to the DEI Counseling and Support Team with questions about recent DEI updates and/or what they may mean for your organization.