

# The DEI Pulse - October Newsletter

October 22, 2025

Welcome to the inaugural edition of 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 – Developments in Education

**Back to school and front of mind.** Over the past month, universities were front of mind for the government and other entities opposed to certain DEI policies and practices. Most recently, on October 1, according to news outlets, the White House asked nine universities to sign a "Compact for Academic Excellence in Higher Education," pledging to uphold the Trump Administration's higher education priorities, including a number of DEI-related provisions, in exchange for preferred access to federal funding.

In addition, some agencies have withdrawn funding or launched civil rights investigations. For example, on September 10, the U.S. Department of Education announced that it was ending funding for several Minority-Serving Institutions (MSI) grant programs that it alleges discriminate by conferring government benefits exclusively to institutions that meet racial or ethnic quotas. Additionally, on September 16, the U.S. Department of Health and Human Services (HHS) Office for Civil Rights initiated an investigation of a recipient of HHS funding to probe its alleged use of race-based criteria in the provision of scholarships.

Universities have also been the subject of complaints brought by advocacy organizations. On September 23, America First Legal (AFL) filed a federal civil rights complaint against Ohio Northern University for alleged unlawful discrimination in hiring and admissions

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## Practice Areas

Diversity, Equity, and Inclusion (DEI)  
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Investigations

processes. Additionally, on September 16, AFL issued a press release and filed a complaint with the U.S. Department of Justice (DOJ) to investigate Washington University School of Medicine in St. Louis for alleged illegal discrimination. Based on these developments, it is clear that scholarships, admissions, and hiring in education will continue to be flashpoints for DEI-focused legal disputes.

These new actions follow a significant legal victory for Harvard University on September 3, when the U.S. District Court in Boston ruled that the federal government acted unlawfully under the Administrative Procedures Act, Title VI, and the First Amendment when it froze \$2.2 billion in research funding in response to alleged antisemitic policies at Harvard. This ruling impacts not only Harvard's ongoing efforts to restore funding but also has implications for free speech and academic freedom on university campuses.

### **Federal and State Updates**

- **DOJ issues civil investigative demands concerning DEI practices.** DOJ has begun to issue civil investigative demand letters to federal contractors and grantees requesting information related to their DEI practices. This is part of the agency's effort to use the False Claims Act to investigate and pursue claims against recipients of federal funds that knowingly violate federal civil rights laws.
- **EEOC's quorum is restored.** The Equal Employment Opportunity Commission (EEOC) was without a quorum following President Trump's removal of now former Chair Charlotte Burrows and Commissioner Jocelyn Samuels in January. On October 7, the Senate voted to confirm Brittany Panuccio as a Commissioner for a term ending in 2029. With restoration of quorum the EEOC can issue formal guidance in support of the Administration's goals, including on DEI matters.
- **EEOC moves to close workers' disparate impact job bias charges.** The EEOC is reported to have issued an internal memo instructing staff to administratively close all worker charges that are exclusively based on disparate impact claims, with a few exceptions. Under the memorandum, staff must end cases by September 30 and provide right to sue letters by the end of October.
- **DOJ tells Austin, TX its diversity goals may be unlawful.** On September 18, DOJ sent a letter to the Mayor of Austin, TX, opening an investigation to determine whether the city of Austin is engaged in a pattern or practice of discrimination, primarily in hiring. The letter states concern over the city's DEI policies and follows a series of announced investigations into DEI employment initiatives across the country. The government similarly announced an investigation into the city of Chicago's hiring practices, and California's EPA's employment practices.
- **EEOC hit with LGBTQ+ bias charge from ex-official.** Former EEOC Director of Information Governance and Strategy, Marc Seawright, filed a formal complaint with the EEOC office alleging discrimination and harassment based on sex, and calling on the agency to revert to its previous policies and procedures that advanced robust safeguards for LGBTQ+ workers, both internally and externally. Katz Banks Kumin, the firm representing Seawright, said in the charge announcement that unless his complaint is "properly addressed," he has "expressed an intent to file a lawsuit against the EEOC."

## **Case Law Updates**

- ***Chislett v. New York City Department of Education* (2nd Cir. Sept. 25, 2025).** On September 25, the Second Circuit held that mandatory implicit bias training is not illegal *per se*, but the method of training can violate federal law if the training discusses a particular race “with a constant drumbeat of essentialist, deterministic, and negative language.”
- ***National Association of Diversity Officers in Higher Education et al. v. Donald Trump et al.*, 25-1189 (4th Cir. filed Feb. 27, 2025).** On September 11, the Fourth Circuit heard oral arguments on whether a trial court correctly issued a preliminary injunction on two Executive Orders issued by President Trump that sought to end DEI programs in the federal government and discourage them in the private sector.
- ***Zinski v. Liberty University Inc.*, 25-1228 (4th Cir. filed March 11, 2025).** On September 9, 19 states and Washington, DC filed an amicus curiae brief in the Fourth Circuit urging the court to affirm a trial court's decision not to dismiss a former Liberty University employee's Title VII lawsuit alleging transgender bias. The states argued that the university's interpretation of the First Amendment's right of expressive association does not apply to the actions at issue in the case.
- ***United States v. Rhode Island Department of Education*, 1:25-cv-00466 (D.R.I. filed September 16, 2025).** On September 16, DOJ filed a complaint in the U.S. District Court for Rhode Island alleging that the Rhode Island Department of Education violated Title VII of the Civil Rights Act by establishing a student loan repayment program exclusively available to educators who identify as “teachers of color.”

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.