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DEI Task Force Update

May 6, 2026

Gibson Dunn's Workplace DEI Task Force aims to help our clients navigate the evolving legal and policy landscape following recent Executive Branch actions and the Supreme Court's decision in *SFFA v. Harvard*. Prior issues of our DEI Task Force Update can be found in our DEI Resource Center.

Key Developments

On May 5, the U.S. Equal Employment Opportunity Commission ("EEOC") sued the New York Times based on a complaint from a white male employee who alleges he was denied a promotion because of his race and gender. The EEOC alleges that the New York Times's "stated race and sex-based representation goals influenced the decision not to advance" the employee's candidacy for a deputy real estate editor role in 2025, while the race and sex of the selected candidate factored into the decision to advance her to a final interview panel and award her the position. In the complaint, the EEOC quotes extensively from diversity and inclusion reports issued by the New York Times between 2017 and 2024, including a 2021 "Call to Action" that set a goal of increasing the number of Black and Latino employees. The case is *U.S. Equal Employment Opportunity Commission v. The New York Times Company*, 1:26-cv-03704 (S.D.N.Y. 2026).

According to reporting from the New York Times, the EEOC and the company engaged in months of back-and-forth information requests as part of the agency's investigation into

the employee's allegation. The parties were reportedly "briefly" engaged in conciliation efforts—a process in which the agency seeks to resolve alleged unlawful employment practices before filing suit. The New York Times has denied the allegations. A spokesperson, Danielle Rhoades Ha, said, "The New York Times categorically rejects the politically motivated allegations brought by the Trump administration's E.E.O.C. . . . Our employment practices are merit-based and focused on recruiting and promoting the best talent in the world. We will defend ourselves vigorously."

On May 4, the U.S. Department of Education's Office for Civil Rights announced that it opened a Title IX investigation into Smith College, an all-women's college in Massachusetts, to determine whether the school violated Title IX by admitting transgender women and permitting them access to women-only spaces, including dormitories, bathrooms, locker rooms, and athletic teams. According to the Department, Title IX's exception for single-sex educational institutions applies on the basis of "biological sex" rather than gender identity. Assistant Secretary for Civil Rights Kimberly Richey stated that "[a]llowing biological males into spaces designed for women raises serious concerns about privacy, fairness, and compliance under federal law."

On April 27, Judge Gerald J. Pappert of the U.S. District Court for the Eastern District of Pennsylvania granted the University of Pennsylvania's motion to stay the enforcement of a March 31 decision requiring the University to comply with an EEOC subpoena while the University appeals the decision to the Third Circuit Court of Appeals. The subpoena requires the University to disclose to the EEOC all groups and organizations "related to the Jewish religion," including contact information for any University employees affiliated with these groups. The court found that while the University "does not have a strong chance of success on the merits," the public interest in the "orderly resolution" of the case, which has "sparked a great deal of public debate," favored a stay. The court concluded that the Third Circuit should have time to decide the case on the merits "absent unnecessary procedural deadlines." The case is *EEOC v. Trustees of the University of Pennsylvania*, No. 25-6502 (E.D. Pa. 2025).

On April 24, the U.S. Department of Justice ("DOJ") moved to intervene as a plaintiff in artificial intelligence company xAI's lawsuit challenging Colorado's new AI law, SB24-205. The law—scheduled to take effect in June 2026, after being postponed from its original February 2026 effective date—imposes duties on AI developers to mitigate the risk of "algorithmic discrimination," which the statute defines as the use of an AI system that results in "unlawful differential treatment or impact" on the basis of various protected characteristics, including race and sex. The law also requires AI developers to make disclosures about such mitigation efforts. xAI's complaint alleges that SB24-205 violates the First Amendment and the Equal Protection Clause by compelling AI developers to speak Colorado's preferred messages, violates the Dormant Commerce Clause by regulating activities occurring entirely outside Colorado and imposing significant burdens on interstate commerce that are not outweighed by any local benefits, and is unconstitutionally vague in that it fails to define essential terms. The DOJ's complaint in intervention alleges that the law violates the Equal Protection Clause by compelling AI developers to manipulate model outputs in ways that amount to discrimination on the basis of race, sex, and other protected characteristics. In a press release, Assistant Attorney General Brett A. Shumate of the DOJ's Civil Division said that "America's success in the AI race will depend on removing barriers to innovation" and that "[l]aws like Colorado's that force AI models to produce false results or promote ideological bias threaten national and economic security and must be stopped." Both xAI and the DOJ seek declaratory and injunctive relief barring enforcement of the law. The case is *United States of America & X.AI LLC v. Philip J. Weiser, Colorado Attorney General*, No. 1:26-cv-01515-DDD-CYC (D. Colo. 2026).

On April 20, a coalition of nonprofits, university professors, and federal contractors and subcontractors filed a complaint in the U.S. District Court for the District of Maryland, seeking to permanently enjoin enforcement of Executive Order 14398, which we covered in more detail in our March 30 client alert. The complaint raises three causes of action: violation of free speech and association under the First Amendment due to overbreadth, viewpoint discrimination under the First Amendment, and ultra vires executive action. Plaintiffs assert that the Trump Administration's definition of "racially discriminatory DEI activities" is "both overbroad and imprecise seeks to suppress disfavored speech through coercion, and

instills a “fear [that plaintiffs’ members] must choose between exercising their First Amendment rights and maintaining their ability to work on federal contracts,” which they rely on for thei livelihoods. Plaintiffs request that the court declare the executive order “unlawful and unconstitutional” and permanently enjoin its enforcement. The case is *National Association of Diversity Officers in Higher Education et al. v. Donald J. Trump et al*., No. 8:26-cv-01532 (D. Md. 2026).

On April 20, Coca-Cola Beverages Northeast, Inc. filed a motion to dismiss the lawsuit brought against it by the EEOC in relation to a Women’s Forum event it held in 2024. The complaint alleges that Coca-Cola discriminated against male employees by excluding male employees from the forum, which included a social reception, team-building exercises, recreational activities, speaker events, and paid accommodations. In its motion to dismiss, Coca-Cola argues that the Women’s Forum was a lawful effort to expand its pool of qualified candidates for promotion without impacting the selection process for advancement. Coca-Cola further contends that its actions complied with Title VII and Executive Order 11246, which was not revoked until January 21, 2025—more than four months after the Women’s Forum took place. Coca-Cola also argues that the EEOC failed to allege any actionable harm regarding any term, condition, or privilege of employment, arguing that exclusion from a one-time event is “far too trifling” to constitute actionable discrimination. The EEOC has not yet responded to the motion. The case is *U.S. Equal Employment Opportunity Commission v. Coca-Cola Beverages Northeast, Inc.*, 1:26-cv-2115 (D.N.H. 2026).

On April 17, the FAR Council released guidance interpreting EO 14398, which President Trump issued on March 26. As reported in our March 30 client alert, EO 14398 requires federal contractors, among other things, to certify that they wi not engage in “racially discriminatory DEI activities” and to require that their subcontractors agree to the same. The April 17 FAR guidance introduces new language for agencies to include in their contracts consistent with the requirements o EO 14398 and instructs agencies to begin using the new language starting April 24, 2026, and to modify existing contracts to include the language by July 24, 2026. The new clause also specifies that contractors must include the substance of the clause in their subcontracts at any tier. The guidance notes that where a contractor refuses to modify an existing contract as instructed, “the contracting officer should

consider whether, absent the modification, the contract no longer meets the agency's needs and should therefore be terminated for convenience."

On April 16, eight states—California, Massachusetts, New York, New Jersey, Colorado, Illinois, Maryland, and Wisconsin—moved for summary judgment in their pending action against the U.S. Department of Education ("DOE"), seeking to restore approximately $160 million in federal grants for teacher training programs that were terminated in 2025. The states allege that DOE's February 2025 directive, issued by then-Acting Secretary Denise Carter, unlawfully prohibited funding for programs that "promote or take part in diversity, equity, and inclusion ('DEI') initiatives" and effectively eliminated two federal grant programs both designed to recruit and train teachers in underserved school districts and high-need subject areas. The states argue that DOE's actions are unconstitutional and violate several statutes including the Administrative Procedure Act and the General Education Provisions Act. The states ask that the court hold unlawful and set aside the Department's actions as arbitrary and capricious. The case *is State of California, et al. v. U.S. Department of Education, et al*., No. 1:25-cv-10548-AK (D. Mass. 2025).

On April 3, the EEOC issued a report assessing the agency's performance in fiscal year 2025 and outlining its priorities for fiscal years 2026 and 2027. With respect to fiscal year 2025, the report details the agency's work to address what it characterizes as "DEI-related discrimination" in the workplace Key accomplishments the report highlights include securing what the agency describes as major settlements with six of th nation's largest law firms involving commitments to merit-based employment practices, achieving a $21 million settlement with Columbia University to resolve antisemitism charges (the largest religious discrimination settlement in the agency's history), and issuing comprehensive resource materials to help workers and employers understand, identify and report DEI-related race and sex discrimination. For additional reporting on these events, please see prior editions of our DEI Task Force Newsletter here and our client alert on the EEOC's guidance here. With respect to future priorities, the report indicates the agency will continue prioritizing what i terms "unlawful race and sex discrimination arising from or related to DEI." The report states that the agency will continu creating guidance documents and resources addressing DEI-related discrimination at work. Additionally, the agency's

Strategic Plan for fiscal years 2026–2030 is currently under development, which will further define the agency's priorities and approach to these issues in the coming years. At a webinar hosted by the DC Bar and the College of Labor and Employment Lawyers on April 9, EEOC Chair Andrea Lucas described her priorities as a "return to the original intent" of the Civil Rights Act, which she contends was to prohibit discrimination with a focus on individual rights, equality, dignity, and the "immutable characteristics that no one can control." She highlighted the EEOC's efforts to reach out specifically to white men, who she explained had long seen the EEOC's doors as "closed" to them. Touting historic EEOC litigation victories and successful conciliation, Chair Lucas assured attendees that the EEOC remains committed to eliminating all kinds of discrimination. Chair Lucas also cautioned employers against creating training programs aimed at specific groups or encouraging specific groups to apply for employment, stating that those practices would violate Title VII and draw focus from the EEOC.

Media Coverage and Commentary

Below is a selection of recent media coverage and commentary on these issues:

- **New York Times, "EEOC Is Prioritizing Job Discrimination Cases That Match Trump's Agenda" (April 27, 2026)**: Rebecca Davis O'Brien, writing for the New York Times, reports on the shifting enforcement priorities of the EEOC under the leadership of Chair Andrea Lucas, who is pushing EEOC field staff to pursue cases aligned with the Trump Administration's priorities, according to O'Brien. O'Brien also reports that Lucas has significant direct involvement in individual cases—referencing her involvement in the recent investigations into Nike and the

University of Pennsylvania—which former employees describe as “without precedent” for an EEOC Chair. The article discusses a purported internal list of priority cases, known as the “top 30,” that are considered the most likely to generate legal and media attention, according to O’Brien. Cases on the list reportedly align with what Chair Lucas has identified as her priorities: prosecuting discrimination based on religion and American national origin, targeting DEI initiatives, and addressing what she has described as the improper elevation of gender identity over biological sex. The article notes that priority cases typically require special permission to dismiss, and that staff understand no case may be removed from the “top 30” list without Chair Lucas’s approval.

- **The Atlantic, “Harmeet Dhillon Is Not Wasting Any Time” (April 13, 2026)**: Quinta Jurecic of The Atlantic reports on recent changes to the DOJ’s Civil Rights Division under the leadership of Assistant Attorney General Harmeet Dhillon. According to Jurecic, the Division’s Employment Litigation Section has shifted its focus towards investigating DEI programs and other efforts to increase diversity in hiring, and the Immigrant and Employee Rights Section—which had historically investigated discrimination against immigrants in favor of Americans—has been repurposed to address claims by American citizens allegedly harmed by preferences for foreign workers. Jurecic also reports that, under Dhillon’s leadership, the Division has refocused its Title IX work away from combatting sexual harassment on campus and towards scrutiny of school policies on transgender athletes, retracted findings of several Biden-era investigations into police misconduct, moved to dismiss pending and existing consent decrees with police departments, and created a new Second Amendment Section that has filed a lawsuit challenging Washington, D.C.’s ban on semiautomatic firearms. Jurecic notes that Dhillon’s supporters, including Kenneth Marcus of the Brandeis Center, have applauded her reorientation of the Division, with Marcus describing her as committed to following the plain meaning of the statutes she is charged with enforcing.

- **NPR, “How Trump’s EEOC is Attacking DEI and Emphasizing White People” (March 31, 2026)**: Andrea Hsu of NPR writes that EEOC Chair Andrea Lucas is shifting the agency’s priorities away from its traditional focus “on protecting vulnerable and underserved workers” and toward investigating discrimination against majority groups, including white employees and men. Hsu highlights several recent examples that illustrate this change in priority, including Lucas’s letter urging Fortune 500 company leaders to “reject identity politics as its solution to society’s ills,” the EEOC’s investigation into whether Nike’s hiring and career development practices disadvantage white employees, a $500,000 settlement with a Planned Parenthood affiliate over discrimination against white workers, a lawsuit against Coca-Cola Beverages Northeast stemming from a male employee’s complaint about a female-only networking event, and Lucas’s public statements encouraging white men to file discrimination claims where they feel they have been treated unfairly. Hsu reports that former EEOC leaders have criticized Lucas’s approach, arguing that she is using the agency’s “scarce resources” to advance an ideological perspective at odds with the agency’s traditions.

- **Law360, "MTA Sues Feds Over $59M in Frozen 2nd Ave. Subway Funds" (March 17, 2026)**: Linda Chiem of Law360 reports on the breach-of-contract suit filed by the New York Metropolitan Transportation Authority ("MTA") in the U.S. Court of Federal Claims against the Trump Administration, after the federal government suspended payments to the MTA earmarked for Phase 2 of the Second Avenue Subway expansion. The government suspended the payments based on its review of the MTA's Disadvantaged Business Enterprise program for compliance with nondiscrimination laws. MTA's complaint states that the U.S. Department of Transportation ("DOT") has given "changing and inconsistent explanations for its actions." The complaint cites: (1) a DOT letter stating that it was "reviewing the projects it funds to ensure nondiscrimination," (2) a statement by President Trump indicating that the payments were suspended to apply political pressure over the shutdown, and (3) a statement by the DOT that the payment suspension was a result of broader policy disputes during the shutdown. According to the MTA, the DOT offered the same rationale when it withheld funds from the Gateway Development Commission for the Hudson Tunnel Project, which resulted in litigation ordering the DOT to release $205 million in February.

- **Forbes, "What Comes After DEI? A Different Future For Race, Work, And Policy" (March 16, 2026)**: Adia Harvey Wingfield, writing for Forbes, examines what she describes as the "shortcomings" of corporate DEI efforts over the past five years, and argues instead for a broader approach to combatting workplace inequality. Pointing to the continued lack of diversity in leadership across industries, Wingfield suggests that, despite significant investment, many DEI initiatives have not been as effective as intended. Wingfield attributes this gap in part to "symbolic compliance," whereby organizations adopt formal DEI programs sufficient to meet perceived public expectations without implementing measures that produce meaningful change. Wingfield proposes a shift beyond traditional DEI frameworks toward broader workplace and policy reforms—such as paid leave, shorter workweeks, and strengthened labor protections—which she argues may more effectively address systemic inequities while benefiting a wider range of employees.

- **New York Times, "Professors Are Changing What They Teach, Even Far From Trump's Gaze" (March 16, 2026)**: Alan Blinder of the New York Times reports that professors across the country are modifying their lesson plans and research focus in response to perceived pressure from the Trump Administration on higher education. Blinder reports that this trend exists even at institutions that have not been subject to criticism or attack by the Trump Administration. Blinder describes instances of faculty members rewriting syllabi, self-censoring lectures, and removing language from grant applications that could draw federal scrutiny, with some opting not to apply for funding at all. Blinder gives the example of one law professor at the University of California, Berkeley, who said he is considering omitting certain topics from his syllabus that would otherwise be clearly relevant to his courses. Blinder also notes that some professors have welcomed the shift, with one political science professor at Virginia Commonwealth University reporting that fewer of her students have been "announcing their personal pronouns or

identity groups during discussions" which, in her view, has resulted in more open discussion.

- **New York Times, "When DOGE Unleashed ChatGPT on the Humanities" (March 7, 2026)**: Jennifer Schuessler of the New York Times reports on the tactics used by the Department of Government Efficiency ("DOGE") to identify the nearly 1,500 National Endowment for the Humanities ("NEH") grants the Administration cancelled in connection with Executive Order 14173 last spring. According to Schuessler, DOGE officials, acting pursuant to Trump Administration policy directives, used the AI platform ChatGPT to identify the grants as related to DEI and therefore "problematic," resulting in their mass cancellation. As part of this effort, the federal government cancelled grants totaling more than $100 million—nearly half of the NEH's annual budget. According to Schuessler, documents filed in two lawsuits against DOGE show that officials entered brief project summaries into ChatGPT using a prompt asking whether each project "relate[s] at all to D.E.I." and "did not appear to question ChatGPT's judgments." Internal communications, Schuessler notes, indicate that the process moved quickly, with little "input or pushback" from NEH leadership and included references by a DOGE official to "pressure from the top" to complete the review. NEH leadership ultimately approved the grant terminations without allowing for appeals, departing from the agency's typical procedures. The two lawsuits allege that DOGE unlawfully took control of the NEH and canceled grants in violation of the First Amendment and the Equal Protection Clause by engaging in impermissible viewpoint and status-based discrimination, including on the basis of race and gender. The cases are *American Council of Learned Societies v. McDonald,* 1:25-cv-03657 (S.D.N.Y. 2025) and *Federation of State Humanities Councils et al. v. United States DOGE Service*, No. 3:25-cv-00829 (D. Or. 2025).

Case Updates

Below is a list of updates in new and pending cases:

1. Contracting claims under Section 1981, the U.S. Constitution, and other statutes

- ***American Alliance for Equal Rights v. American Bar Association*, No. 1:25-cv-03980 (N.D. Ill. 2025)**: On April 12, 2025, the American Alliance for Equal Rights ("AAER") sued the American Bar Association ("ABA") in relation to its Legal Opportunity Scholarship, which AAER asserts violates Section 1981. According to the complaint, the scholarship awards $15,000 to 20-25 first-year law students per year but limits eligibility to "member[s] of an underrepresented racial and/or ethnic minority." On June 25, 2025, AAER filed an amended complaint, adding new allegations about the ABA's commitment to diversity and beliefs around refusing to contract with persons of certain races. On July 30, 2025, the ABA moved to dismiss. On October 31, 2025, AAER filed a notice advising the court that the ABA's scholarship no longer requires applicants to "be a member of an underrepresented racial and/or ethnic minority" and instead now requires

applicants to “have demonstrated a strong commitment to advancing diversity, equity, and inclusion.” On January 21, 2026, the court granted in part and denied in part the ABA’s motion to dismiss AAER’s amended complaint. The court held that AAER had organizational standing with respect to one of its members, who had plausibly alleged that he was ready and able to apply for the scholarship in 2025 but was ineligible under the scholarship’s published criteria for the 2025 cycle. The court held that AAER lacked standing with respect to another of its members, however, because that individual did not apply to law school in 2025 and therefore could not have been eligible for the scholarship that year, and while he might have been eligible for the 2026 scholarship, the altered eligibility criteria eliminated his claim of race-based ineligibility. On the merits, the court held that AAER had plausibly pled a Section 1981 claim, rejecting the ABA’s argument that the scholarship was a purely gratuitous program and not “contractual.” Finally, the court declined to resolve the ABA’s First Amendment affirmative defense at the motion to dismiss stage, because the defense depended on disputed facts that required further factual development through discovery.

    - **Latest update**: On April 27, 2026, the parties filed a Joint Stipulation of Dismissal, resolving the case with prejudice. Under the stipulation, the ABA agrees to maintain race- and ethnicity-neutral eligibility criteria for its Legal Opportunity Scholarship Fund, refrain from conditioning eligibility on protected group identities, and ensure that any demographic information collected is used solely for data-tracking purposes and is not provided to evaluators. The stipulation notes that no damages or other relief will be awarded, no AAER member will receive scholarship funds, and the agreement should not be construed as an admission as to any allegation, claim or defense. The court’s minute order reflects that the parties also resolved fees and costs through a separate confidential agreement.

- ***AAER v. Congressional Black Caucus Foundation, Inc.*, No. 1:26-cv-01123 (D.D.C. 2026)**: On April 2, 2026, AAER sued the Congressional Black Caucus Foundation (“CBC Foundation”), alleging that its educational scholarships violate Section 1981. According to the complaint, the CBC Foundation administers the CBC Spouses Education Scholarship that allegedly limits eligibility to applicants who are African American or Black and who reside in or attend an academic institution in a district represented by a CBC Foundation member. The complaint alleges that these requirements unlawfully exclude non-Black applicants from applying and competing for the scholarships in violation of Section 1981. AAER seeks a declaratory judgment that the scholarship program violates Section 1981, as well as a temporary restraining order, preliminary injunction, and permanent injunction barring the CBC Foundation from considering race or race proxies in administering the scholarships.

    - **Latest update**: The docket does not reflect that the defendants have been served.

- ***Mid-America Milling Company v. U.S. Department of Transportation*, No. 3:23-cv-00072 (E.D. Ky. 2023)**: On October 26, 2023, two construction companies sued the DOT, asking the court to enjoin the DOT's Disadvantaged Business Enterprise Program, an affirmative action program that awards contracts to minority- and women-owned small businesses in DOT-funded construction projects, with the statutory aim of granting 10% of certain DOT-funded contracts to these businesses nationally. The plaintiffs alleged that the program constitutes unconstitutional race discrimination in violation of the Fifth Amendment. On September 23, 2024, the court granted the plaintiffs' motion for a preliminary injunction. On December 23, 2025, intervenor Disadvantaged Business Enterprise ("DBE") filed a motion to dismiss all the plaintiffs' claims for lack of subject matter jurisdiction and to vacate the existing preliminary injunction. DBE argued that the plaintiffs' claims were moot because the DOT issued an Interim Final Rule after the litigation was filed, eliminating the race- and sex-based presumptions in the Disadvantaged Business Enterprise Program. DBE also asked the court to vacate the preliminary injunction, arguing that the injunction was based on "now-stale facts" since it was issued before DOT issued the Interim Final Rule. On January 13, 2026, the plaintiffs opposed DBE's motion to dismiss, arguing that the case was not moot because the "voluntary cessation" exception to the mootness doctrine applied.

    - **Latest update**: On March 19, 2026, the district court dissolved the preliminary injunction and dismissed the case, rejecting the plaintiffs' argument under the voluntary cessation exception. The court held that the DOT's issuance of the Interim Final Rule mooted the dispute because the regulatory change provided the precise relief that the plaintiffs sought.

2. Employment discrimination and related claims

- ***Bowen v. City and County of Denver*, 1:24-cv-00917 (D. Colo. 2024)**: On April 5, 2024, Joseph Bowen, a sergeant in the Denver Police Department, sued the Department and the City and County of Denver alleging that the Department's 30×30 initiative, which pledges that 30% of all police recruits will be women by 2030, caused him to lose out on a promotion to three less-qualified women. Bowen alleges that the Department discriminated against him on the basis of his sex, in violation of Title VII. On August 11, 2025, the defendants moved for summary judgment, arguing that Bowen could not establish that his non-promotion was discriminatory. The defendants asserted that the record proves (1) the Department used a "banding" process that permitted consideration of qualitative factors as well as assessment scores, (2) Bowen and the three selected candidates were all placed in the "high band," from which the Department could promote any candidate, (3) the 30×30 initiative was

implemented *after* the Department made the captain selections here, (4) the Department hired 10 men and six women for captain between 2018 and 2024, and (5) the Department had legitimate, non-pretextual reasons for its decision not to promote Bowen: namely, concerns about his leadership style. On September 2, 2025, Bowen opposed the defendants' motion for summary judgment, asserting the existence of disputed facts as to his non-selection for promotion, including (1) the Department's reliance on allegedly vague, secondhand complaints about him, (2) its failure to consider his positive performance reviews, and (3) its use of subjective, undocumented discretion in the promotion process that enabled discrimination.

    - **Latest update**: On March 26, 2026, the district court denied the defendants' motion for summary judgment, concluding that Bowen raised sufficient evidence of pretext to survive summary judgment. The court noted that there were genuine issues of material fact regarding whether the promotion decisionmaker ever observed Bowen's management style and found potential inconsistencies in the Department's explanations regarding an investigation into Bowen. The court ordered the parties to engage in alternative dispute resolution. On April 6, the court scheduled a settlement conference for May 11, 2026.

- ***Cooper v. The Office of the Commissioner of Baseball, et al.*, No. 1:24-cv-03118 (S.D.N.Y. 2024)**: On April 24, 2024, Brandon Cooper, an Arizona-based former minor league baseball umpire sued Major League Baseball ("MLB"), claiming that his employment was retaliatorily terminated after he accused a female umpire of harassing him and using homophobic slurs. The complaint further alleges that the MLB implemented an "illegal diversity quota requiring that women be promoted regardless of merit," which Cooper contends emboldened the female umpire to believe she could "get away with anything" because she was a woman, and that "MLB ha[d] to hire females" and would not terminate her employment. Cooper later filed an amended complaint adding Alexander Lawrie, a Florida-based former minor league baseball umpire, as co-plaintiff, raising claims under state, local, and federal law for hostile work environment, wrongful termination, failure to promote, and retaliation. The defendants moved to dismiss or in the alternative, to transfer Cooper's claims to the District of Arizona and Lawrie's to the Middle District of Florida. On December 17, 2025, the parties submitted a joint letter informing the court that the defendants had reached a settlement in principle with Lawrie and were in the process of finalizing the settlement agreement. On January 29, 2026, the parties stipulated to dismiss Lawrie's claims with prejudice, and the court ordered the dismissal on February 6, 2026.

    - **Latest update**: On March 10, 2026, Cooper filed a status update, indicating that he and the MLB had reached a

settlement. On March 11, 2026, the court entered an order closing the case.

- ***State of Missouri v. Starbucks Corp*., No. 4:25-cv-00165 (E.D. Mo. 2025), on appeal at No. 26-1258 (8th Cir. 2026)**: On February 11, 2025, the State of Missouri filed a lawsuit against Starbucks, alleging that Starbucks violates state and federal anti-discrimination laws by unlawfully tying executive compensation to diversity-and-inclusion-related quotas and metrics; providing discriminatory advancement opportunities through race- and gender-based mentoring programs, training programs, and employee "networks"; and discriminating on the basis of race and sex with respect to its board membership. On April 7, 2025, Starbucks filed a motion to dismiss for lack of jurisdiction and failure to state a claim. On May 21, 2025, Missouri filed an opposition, arguing that (1) the court has personal jurisdiction because Starbucks applies its "discriminatory policies" in Missouri; (2) the court has subject matter jurisdiction because Missouri can assert "quasi-sovereign interests" related to the well-being of its residents; (3) governments can bring claims under Title VII, and its exhaustion provisions are not applicable to states; (4) the Attorney General can bring a Section 1981 claim on behalf of its residents; and (5) the state law claims are within the Attorney General's statutory authority because the defendant engaged in discriminatory practices affecting Missouri residents. On February 5, 2026 the court dismissed the lawsuit finding that Missouri lacked standing, because it "did not point to even a single Missouri resident" who suffered an adverse employment action because they lacked Starbucks's "preferred racial or sex characteristics." On February 12, Missouri filed a notice of appeal.
    - **Latest update**: On April 16, 2026, Missouri filed its opening brief in the Eighth Circuit, arguing that the district court erred in several respects. First, Missouri contends that the district court erred in concluding that it lacks standing because case law supports its position that it has an interest in protecting residents from policies that affect them. Second, Missouri argues the state has the authority to enforce federal and state anti-discrimination laws. Third, Missouri contends the district court erred by improperly weighing evidence rather than accepting the complaint's factual allegations as true.

3. Challenges to statutes, agency rules, executive orders, and regulatory decisions

- ***Fell v. Trump*, No. 1:25-cv-04206 (D.D.C. 2025)**: On December 3, 2025, four former federal employees who had separated from the federal government pursuant to Executive Orders 14151 and 14173 sued President Trump and numerous federal agencies and officials, challenging the executive orders and their implementing directives as violating the First Amendment, Title VII, and the Civil Service Reform Act. On March 3, 2026, the plaintiffs moved to certify a class of "potentially thousands" of

federal employees who were allegedly separated from their positions under Executive Orders 14151 and 14173. The plaintiffs also seek to certify two sub-classes: a Title VII Gender Subclass that includes female or non-binary federal employees, and a Title VII Race/Ethnicity Subclass that includes African American/Black, Hispanic/Latino, Asian American/Pacific Islander, and/or Native American/Indigenous federal employees.

    - **Latest update**: On April 6, 2026, the defendants filed a motion to dismiss, arguing that the plaintiffs (i) lack standing to sue agencies and agency heads that never employed them, (ii) failed to exhaust administrative remedies, and (iii) failed to state viable claims for relief. That same day, the defendants also filed their opposition to class certification, arguing that the motion is premature in light of the pending motion to dismiss. The defendants also assert that numerosity and commonality are lacking because the plaintiffs offer no reasonable basis for estimating the size of the proposed class, and determining class membership across multiple agencies would require individualized inquiries into whether each employee was subject to the challenged directives, whether the action reflected agency-specific or lawful considerations, whether administrative remedies were exhausted, whether a legally cognizable injury occurred, and whether the employee falls within the proposed subclasses. The defendants also argue that the named plaintiffs are neither typical nor adequate representatives of the proposed class, as they pursued different administrative tracks, asserted different combinations of claims, and were in materially different circumstances at the time of their terminations. Finally, the defendants contend that the relief sought would require individualized adjudications rather than a single injunction applicable to all class members.

- ***Flinn et al. v. City of Evanston*, No. 1:24-cv-04269 (N.D. Ill**.): On May 23, 2024, a putative class action complaint was filed against the City of Evanston challenging Evanston's Restorative Housing Program, which compensates Black residents for housing discrimination they or their ancestors may have faced between 1919 and 1969. The program assists eligible applicants with buying or improving their homes, and in some cases, qualifies households for direct payments of up to $25,000. The plaintiffs allege that the program violates Section 1983 because it is limited to only Black residents or the ancestors of Black residents. The suit seeks to certify a class of "all individuals who are able and ready to apply for the program and are eligible for a $25,000 payment but for the program's race-based eligibility requirement." On July 22, 2024, the City of Evanston filed a motion to dismiss under Rules 12(b)(1) and 12(b)(6) and requested leave to take jurisdictional discovery.

    - **Latest update**: On March 27, 2026, the court denied the City's motion to dismiss in its entirety and declined to order jurisdictional discovery. With respect to the motion to dismiss for lack of standing under Rule 12(b)(1), the court held that even though the plaintiffs never applied for the city's program, they alleged they were deterred from doing so and that applying would have been futile, which constitutes an injury-in-fact sufficient to confer Article III standing. As to jurisdictional discovery, the court held that the dispute was better resolved through "ordinary merits discovery." Finally, the court held that it was not proper to decide whether the action was timely at the motion to dismiss stage.

- ***Glass, Lewis & Co., LLC v. Ken Paxton*, 1:25-cv-01153 (W.D. Tex. 2025)**: On July 24, 2025, Glass, Lewis & Co., LLC sued Texas Attorney General Ken Paxton to enjoin Texas Senate Bill 2337, which, starting September 1, 2025, requires proxy advisory services like Glass Lewis to "conspicuously disclose" that their advice or recommendations are "not provided solely in the financial interest of the shareholders of a company" if the advice or recommendations are based wholly or in part on ESG, DEI, social credit, or sustainability factors. Glass Lewis alleges that the law unconstitutionally discriminates based on viewpoint and infringes on its freedom of association in violation of the First Amendment. Glass Lewis also contends that the law is unconstitutionally vague under the First and Fourteenth Amendments and is preempted by ERISA. On August 29, 2025, the district court issued a preliminary injunction preventing the law from going into effect. On November 20, 2025, Glass Lewis filed a motion for summary judgment, and in response, the Attorney General filed a motion to defer or deny the motion as premature, arguing that the factual record needed to be complete to resolve Glass Lewis's claims. On February 2, 2026, the court deferred ruling on Glass Lewis' summary judgment motion and directed the parties to meet and confer regarding document production.

    - **Latest update**: On March 16, 2026, the Attorney General filed a motion for clarification asking the court to clarify that its preliminary injunction order does not bar the Attorney General from enforcing a Civil Investigative Demand ("CID") issued to Glass Lewis prior to entry of the injunction. On March 30, 2026, Glass Lewis filed an opposition, arguing that the motion improperly seeks a determination that enforcement of the CID falls outside the scope of the injunction and that the CID is, in fact, part of the State's enforcement of S.B. 2337. On April 6, 2026, the Attorney General filed a reply in support of the motion for clarification, maintaining that the CID was issued pursuant to separate authority under the Texas Deceptive Trade Practices Act and does not constitute enforcement of S.B. 2337. The court has yet to rule on the motion.

- ***Rice v. UBS Securities LLC*, No. 3:25-cv-00025 (D. Alaska 2025)**: On February 5, 2025, Cody Rice, a former UBS Securities LLC employee, sued UBS Securities, alleging discrimination and retaliation under federal and state law, including claims under the ADA, ADEA, FMLA, Section 1981, Title VII, and related New York state and city laws. The complaint alleges that Rice, a white male and registered Republican, was transferred to UBS's Environmental, Social, and Governance team, which he alleges was closely tied to DEI-related initiatives and culture, and where he claims he was treated with hostility by supervisors and excluded from opportunities because of his race, sex, and political views. The complaint further alleges that supervisors demeaned his work, imposed unrealistic assignments, and treated non-white and non-male colleagues more favorably, ultimately leading to a negative performance review and Rice's termination after he complained about discrimination and took leave for mental health reasons. On March 10, 2025, UBS filed a motion to compel arbitration and stay the action, arguing that Rice had agreed to arbitrate all employment-related disputes pursuant to a binding arbitration agreement executed as a condition of his employment. On April 17, 2025, Rice opposed the motion, arguing that the arbitration agreement was invalid due to lack of consideration, and even if there were a contract, it was unconscionable and therefore unenforceable. On July 17, 2025, the court granted UBS's motion, holding the arbitration agreement valid and enforceable and concluding that it covered Rice's statutory discrimination and retaliation claims. The court stayed the action pending arbitration.
    - **Latest update**: On March 25, 2026, the court entered the parties' stipulation of dismissal, terminating the case. The stipulation does not reveal the outcome of the arbitration.
- ***Zena Washington v. IBM*, No. 8:25-cv-03550 (D. Md. 2025)**: On October 29, 2025, former IBM employee Zena Washington sued IBM, alleging race discrimination under Section 1981 and Title VII in connection with her termination during a reduction in force. The complaint alleges that, following President Trump's inauguration and executive orders aimed at curtailing DEI initiatives, IBM undertook an "exodus of Black senior executives" to align with the new administration and preserve government contracts. The complaint further alleges that the plaintiff's termination was part of this broader effort to remove African American employees despite satisfactory performances. The complaint further alleges that the plaintiff was fired because her supervisor favored Asian employees over others.
    - **Latest update**: On March 27, 2026, IBM filed a partial motion to dismiss, asserting that the Title VII claims are untimely. The plaintiff's opposition is due April 30, 2026.

4. Actions against educational institutions

- ***Do No Harm et al. v. University of California et al.*, No. 2:25-cv-4131 (C.D. Cal)**: On May 8, 2025, Do No Harm, Students for Fair Admissions,

and a rejected applicant filed a class action complaint against the David Geffen School of Medicine at UCLA, UCLA, and the Regents of the University of California, along with numerous individual defendants including regents, university administrators, and admissions committee members. The plaintiffs allege that UCLA Medical School unlawfully uses race as a factor in admissions decisions in violation of Section 1983, Title VI, Section 1981, and California's Unruh Civil Rights Act. The complaint also alleges that the University effectively shut down an internal investigation into its admissions practices by requiring admissions committee members to sign nondisclosure agreements and refusing to assure cooperating witnesses they would not face retaliation. On December 23, 2025, the plaintiffs filed a second amended complaint, omitting claims under the Unruh Act and instead raising only federal claims under Title VI, Section 1981, and Section 1983. On January 28, 2026, the United States filed a motion to intervene as a plaintiff-intervenor. On February 19, 2026, the court granted that motion. On February 24, 2026, the United States filed an intervenor complaint, alleging that the defendants violated the Equal Protection Clause of the Fourteenth Amendment by intentionally engaging in racial balancing that confers preferences in admissions without a legitimate governmental purpose.

    - **Latest update**: On March 16, 2026, the plaintiff-intervenor and the defendants filed a joint stipulation of dismissal without prejudice as to the individual defendants. On March 17, 2026, the court entered the stipulated dismissal. On March 20, defendant the Regents of the University of California filed an answer to the complaint, denying all claims and asserting various affirmative defenses, including lack of standing.

- ***Henderson, et al. v. Springfield R-12 School District, et al*., No. 23-01374 (8th Cir. 2023)**: On August 18, 2021, two educators sued a Springfield, Missouri school district alleging that the district's mandatory equity training violated their First Amendment rights. The educators claimed that the equity training constituted compelled speech, content, and viewpoint discrimination, and an unconstitutional condition of employment. The equity training at issue included sessions on anti-bias, anti-racism, and white supremacy. On January 12, 2023, the district court granted the defendants' motion for summary judgment. The plaintiffs appealed the decision to the U.S. Court of Appeals for the Eighth Circuit. Oral argument was held on February 15, 2024. Counsel for the plaintiffs argued that the training compelled educators to engage in political speech, while counsel for the defendants argued that the educators were not compelled because they did not face punishment. On September 13, 2024, a panel of the Eighth Circuit unanimously held that the plaintiffs' fear of punishment was too speculative to constitute injury under the First Amendment and affirmed the decision below. On November 27, 2024, the Eighth Circuit granted a petition for rehearing en banc. On December 30, 2025, the en banc panel reversed the district court's dismissal of the case,

vacated the award of attorneys' fees, and remanded for further proceedings. The court held that the plaintiffs had standing because they experienced a "credible threat of adverse consequences" from their employer if they "opposed the school district's views on racism" and that they presented sufficient evidence to show "an objectively reasonable chilling effect on speech" that constituted an injury-in-fact. The court also determined that the record did not clearly establish whether the alleged compelled speech in the equity training program "was pursuant to the plaintiffs' official duties." The Eighth Circuit remanded to the district court on March 19, 2026.

    - **Latest update**: On April 1, 2026, the district court granted an unopposed motion to stay pending disposition of the defendants' petition for writ of certiorari.

- ***Johnson v. Fliger, et al.*, No. 1:23-cv-00848 (E.D. Cal. 2023), on appeal at No. 24-6008 (9th Cir. 2024)**: On June 1, 2023, Daymon Johnson, a professor at Bakersfield College in California, sued several Bakersfield and Kern Community College District officials, alleging that the District's commitment to "embrac[e] diversity" and "anti-racism" through state and local district statutes, regulations, and policies imposes an "ideological orientation" on faculty and suppressed opposing viewpoints and political speech in violation of Section 1983 and the First and Fourteenth Amendments. On September 23, 2024, the court dismissed the complaint, reasoning that the plaintiff failed to allege sufficient injury. On September 23, 2024, the plaintiff filed a notice of appeal. On July 14, 2025, the Ninth Circuit reversed the district court's decision, holding that (1) the plaintiff sufficiently alleged "an intention to engage in a course of conduct arguably affected with a constitutional interest" under the First Amendment, (2) his intended conduct was "arguably proscribed" by the regulations, and (3) the plaintiff adequately alleged a "credible threat" of enforcement. The court remanded the plaintiff's motion for preliminary injunction for the district court to consider in the first instance. On September 26, 2025, the plaintiff submitted supplemental briefing in support of his motion for a preliminary injunction. That same day, the defendants filed supplemental briefing in support of their motion to dismiss. On February 20, 2026, the district court granted in part the plaintiff's motion for a preliminary injunction and denied the defendants' motion to dismiss. The court granted the preliminary injunction as to the plaintiff's as-applied viewpoint discrimination and compelled speech challenges, holding that the plaintiff "is likely to succeed on the merits" of those claims. The court denied the preliminary injunction as to the plaintiff's facial challenges to the regulations, holding that the regulations "apply broadly to non-speech practices" as well as the plaintiff's "intended speech" and that the plaintiff had therefore not demonstrated a likelihood of success on the merits on his facial challenge.

    - **Latest update**: On March 6, 2026, the defendants filed an answer generally denying the plaintiff's claims and asserting affirmative defenses. A scheduling conference is set for June 23, 2026.

- ***Roberts & Freedom Truck Dispatch v. Progressive Preferred Ins. Co.*, et al., No. 23-cv-1597 (N.D. Oh. 2023)**: On August 16, 2023, plaintiffs represented by America First Legal ("AFL") sued Progressive Insurance, Hello Alice, and Circular Board, Inc., alleging that the defendants violated Section 1981 through their grant program that awarded funding specifically to Black entrepreneurs to support their small businesses. On May 21, 2024, the court granted a motion to dismiss the complaint, holding that the plaintiffs lack Article III standing because they fail to allege any injury in fact. The court noted that the application period for the grant had already closed by the time the plaintiffs filed their lawsuit, and the plaintiffs did not allege that the defendants would offer a grant with similar race-based eligibility criteria in the future. On May 23, 2024, the plaintiffs filed a notice of appeal to the Court of Appeals for the Sixth Circuit.

    - **Latest update**: On February 24, 2026, the Sixth Circuit affirmed the district court's dismissal of the complaint for lack of standing. On March 24, 2026, the plaintiffs filed a petition for rehearing en banc. On April 9, 2026, the defendants filed a response in opposition to the petition.

- ***Students Against Racial Discrimination v. Regents of the University of California et al*., No. 8:25-cv-00192 (C.D. Cal 2025**): On February 3, 2025, Students Against Racial Discrimination ("SARD") sued the Regents of the University of California and various individual regents and campus chancellors in their official capacities, alleging that UC schools discriminate against Asian American and white applicants by using "racial preferences" in admissions in violation of Title VI and the Fourteenth Amendment. SARD alleged it has student members who are ready and able to apply to UC schools but are "unable to compete on an equal basis" because of their race. After the defendants moved to dismiss the original complaint on May 20, 2025, SARD filed a first amended complaint on June 10, 2025, which added allegations regarding admissions to UC medical schools. On August 14, 2025, the defendants moved to dismiss the first amended complaint. The defendants argued that the plaintiffs lacked standing and that the complaint makes, at most, indiscriminate "barebones allegations" as to "every undergraduate, law, and medical school across all UC campuses." The defendants also argued that the chancellor of each UC campus is entitled to sovereign immunity under the Eleventh Amendment. On December 16, 2025, the court granted in part and denied in part the defendants' motion to dismiss. The court dismissed all claims to the extent they challenge UC medical school admissions because the plaintiffs failed to identify a member who had taken the medical entrance exam (i.e., the MCAT) and therefore was "able and ready" to apply. The court also dismissed claims for damages under

Section 1981 and the Equal Protection Clause against the chancellors in their official capacities because California has not waived its sovereign immunity. On January 7, 2026, the plaintiffs filed an amended complaint, narrowing the scope of the case and expressly challenging only undergraduate and law school admissions and disclaiming any challenge to transfer, graduate, or medical school admissions. On February 25, 2026, the plaintiffs filed a third amended complaint, which removed the individual regents as defendants and named only the Regents of the University of California and the campus chancellors. On February 27, 2026, the defendants moved to dismiss the third amended complaint, arguing that sovereign immunity barred the claims against the campus chancellors because they lacked sufficient involvement in the allegedly discriminatory admissions practices.

    - **Latest update**: On March 5, 2026, the plaintiffs opposed the motion to dismiss, arguing that the claims against the chancellors are not barred by sovereign immunity because the chancellors' supervisory authority over those implementing admissions policies is sufficient to establish the required connection to the challenged policies. On April 3, 2026, defendant David Faigman, Dean and Chancellor of UC Law San Francisco, filed a motion to dismiss for lack of standing and failure to state a claim, among other grounds. He argues that none of plaintiff's four members plausibly allege injury—two failed to indicate whether they were denied admission, and two have not yet applied—and that Plaintiff alleges no facts specific to him sufficient to overcome sovereign immunity. On April 14, the plaintiffs filed a notice of dismissal of their claims against Faigman.

Legislative Updates

- Idaho H.B. 928: On April 2, 2026, Idaho Governor Brad Little (R) signed House Bill 928, the "Merit-Based Health Care Act," into law. The Act restricts health care providers participating in Idaho's Medicaid program from engaging in specified DEI-related practices, including the use of race or sex-based preferences or goals in hiring, promotion, or contracting decisions. The law also prohibits policies requiring statements, pledges, attestations, or affirmations endorsing DEI as a condition of contracting or employment. It also bars providers from using state Medicaid funds for public-facing communications that promote DEI and makes compliance a condition of Medicaid participation, with enforcement through civil penalties for violations and a limited private right of action for retaliation.

- Utah S.B. 298: On March 19, 2026, Utah Governor Spencer Cox (R) signed Senate Bill 298 into law. The Act limits how financial institutions may use ESG and DEI considerations in their decision-making. The law also prohibits such institutions from denying or restricting transactions based on ESG standards or

"diversity programming compliance," and bars transaction controls tied to a person's protected characteristics or participation in DEI or social justice initiatives. It also establishes enforcement mechanisms including private rights of action with punitive damages and potential revocation of a company's authorization to do business in the state.

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