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DEI Task Force Update

August 11, 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 August 6, the Department of Justice's Civil Rights Division announced its investigative findings that Duke University School of Law intentionally discriminated on the basis of race in admissions decisions for its incoming classes (2023–2025), in violation of Title VI of the Civil Rights Act of 1964, as interpreted by the U.S. Supreme Court in *SFFA v. Harvard*. Its investigation found that following the *SFFA* decision, Duke Law undertook a "deliberate effort to preserve race-based outcomes," through revising its mission statement to reference a commitment to diversity of perspective and experience; inviting applicants to address that mission statement through short-answer essays; instructing admissions reviewers to "tag" responses to these short-answer questions with a "Diversity/Services" tag as well as to use tags to capture specific applicant characteristics that are, according to DOJ, commonly correlated with race, such as being a Pell grant recipient. According to the Department, these practices allowed admissions reviewers "to highlight applicant information that could be used to advance Duke Law's racial diversity goals," resulting in "a substantially higher likelihood of admission" for Black and Hispanic applicants as compared to white and Asian applicants with comparable academic credentials.

On August 4, the House of Delegates of the American Bar Association ("ABA") voted to uphold Standard 206, the accreditation standard requiring law schools to demonstrate a commitment to diversity and inclusion. Soon thereafter, the House passed a second resolution that would allow the Council of the Section of Legal Education and Admissions to the Bar ("the Council") to override the House of Delegates' vote and remove the Standard, rendering the first vote effectively moot. The Council, which will meet later this month, is expected to repeal Standard 206 ahead of a September hearing before the U.S. Department of Education's National Advisory Committee on Institutional Quality and Integrity. The votes likely reflect the ABA's effort to respond to the Trump Administration's threats to strip the ABA of its law school accreditation authority.

On July 23, the U.S. Department of Education's Office for Civil Rights ("OCR") announced that it is rescinding several disparate-impact provisions from the Department's regulations implementing Title VI of the Civil Rights Act of 1964. OCR characterized the rescission as a deregulatory action taken in accordance with Executive Order ("EO") 14281, issued in April 2025, which directed federal agencies to eliminate the use of disparate-impact liability. According to OCR, disparate-impact laws and regulations permit demographic data alone to establish a Title VI violation, even absent a facially discriminatory practice or discriminatory intent, which OCR argues has effectively required educational institutions to consider race and engage in racial balancing to comply with federal civil rights law. OCR asserts that removing these provisions aligns its regulations with Title VI's statutory text. The action follows the Department of Justice's December 2025 revision of its own Title VI regulations eliminating disparate-impact liability. OCR noted that Title VI continues to prohibit discrimination based on race, color, and national origin in federally funded educational programs.

On July 23, the University of Pennsylvania and the U.S. Equal Employment Opportunity Commission ("EEOC") reached a resolution regarding the EEOC's subpoena for information relating to the agency's investigation into allegations that the school subjected faculty and staff to antisemitic harassment, failed to effectively address complaints of harassment, failed to take prompt and effective measures to end harassment, and allowed harassment to escalate. The subpoena requested, among other things, the identification of and contact information for witnesses to and victims of the religious-based harassment. It also sought the identification of and contact information for employees who have filed discrimination complaints relating to their Jewish faith, those who belong to Jewish clubs or campus groups, and anyone who works in the University's Jewish studies program. In a joint stipulation of dismissal, the EEOC stated "that it will not take any further measures to enforce the subpoena" or the court's March order requiring the University's compliance in exchange for the University's withdrawal of its appeal of the March decision. The EEOC also added that it would not "otherwise seek . . . any material sought by the subpoena[] during the pendency of the EEOC's administrative investigation." The case is *EEOC v. Trustees of the University of Pennsylvania*, No. 25-6502 (E.D. Pa. 2025).

On July 21, the EEOC announced it had voted to issue a Notice of Proposed Rulemaking that would rescind employers' legal obligations to collect and file annual reports regarding workforce demographic data—moving one step closer to rescinding disclosure requirements that have been in place for 60 years. The proposal would rescind EEO-1 reporting requirements, which require private-sector employers with 100 or more employees and federal contractors with 50 or more employees to submit to the EEOC annual reports on workforce demographics. It also would eliminate EEO-2, EEO-3, EEO-4, EEO-5, and EEO-6 data collections from unions, state and local governments, public schools, and higher-education institutions, respectively. According to reporting by PBS, former Democratic EEOC commissioners and civil rights organizations have said the proposal will deprive the agency of a critical tool for uncovering discrimination patterns and measuring progress made by women and racial minorities since the passage of the 1964 Civil Rights Act. EEOC Chair Andrea Lucas stated that the reporting regime "may promote stereotyping at work, and may encourage employers to engage in discrimination," due to the "mistaken view that it is permissible for employers to take race- and sex-based actions to correct statistical imbalances." A 63-page draft Notice of Proposed Rulemaking was posted on the Federal Register on July 30 for a 30-day comment period, after which agency leadership will convene again to potentially finalize the rule.

On July 3, the U.S. Department of Education released its new regulatory agenda, which prioritizes a number of policy proposals, including those related to defining sex, eliminating DEI programs, and clamping down on foreign funding in education. Jessica Blake of Inside Higher Ed reports that the Department stated its intention to amend Title VI regulations—which it did on July 23, as explained above—as well as to explain how the law's prohibitions affect DEI programs, bar race-conscious affinity groups and programs, and amend Title IX regulations to define sex as an individual's "immutable biological classification." According to Inside Higher Ed's reporting, the agenda also includes proposals to reduce focus on disparate-impact actions, reduce college mergers and consolidations, limit foreign influence on educational institutions, and expand Title IV aid eligibility for certain for-profit and religious institutions.

On July 1, the EEOC released for public comment a draft of a new four-year strategic plan, laying out its overarching goals and priorities through fiscal year 2030. The 29-page document, which was open for comment through July 19, articulates three goals: combatting and preventing employment discrimination through the strategic application of the EEOC's law enforcement authority; preventing discrimination and advancing equal employment opportunity through outreach and training; and striving for organizational excellence through the agency's people, practices, and technology. To achieve the first goal, the EEOC plans to focus on its priorities as set forth in the agency's National Enforcement Plan, using administrative and litigation mechanisms as well as federal sector adjudications and oversight activities to identify and eliminate discriminatory practices. The draft four-year plan sets forth 17 performance measures across its three goals, including a target that 97% of conciliation agreements and litigation resolutions contain targeted, equitable relief and a goal that in 80% of systemic investigations in which cause is found, the EEOC will achieve targeted equitable relief and at least $1 million in monetary relief. The plan also identifies external factors that may affect its implementation, including budgetary appropriations, demographic and economic shifts, Supreme Court and other judicial decisions interpreting the laws the agency enforces, the potential enactment of new legislation, and technological change—particularly the growth of generative AI, which the agency anticipates will affect how applicants apply for jobs, how employers screen candidates, and how the agency carries out its functions.

On June 30, the EEOC announced it had voted to rescind two decades-old policy documents on voluntary workplace affirmative action plans. The now-rescinded documents include a 1979 interpretive rule called "Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964," which outlined how employers could voluntarily implement affirmative action plans that comply with federal civil rights law, as well as a related Compliance Manual—Section 607—which discusses affirmative action. According to the EEOC, the stated purpose of the guidelines—to protect employers that had adopted "employment practices and systems to improve employment opportunities for minorities and women via race, sex, or national origin conscious . . . decisions"—contradicts the Supreme Court's holding that Title VII provides the "same protections for every individual." EEOC Chair Lucas stated that the Commission's rescission is consistent with the text of Title VII and Supreme Court precedent and reaffirms that the statute's protections apply equally to all American workers.

On June 24, the Office of Information and Regulatory Affairs ("OIRA") approved an extension through June 30, 2029, of the Uniform Guidelines on Employee Selection Procedures ("UGESP"), pursuant to the EEOC's comment request on October 29, 2024. The EEOC's request, which was submitted during the Biden Administration with a Federal Register notice published on October 29, 2024, did not receive any feedback from the public during its 60-day comment period and was submitted to OIRA on January 6, 2025. The UGESP, which has been in place since 1978 and is enforced by various agencies, including the EEOC, DOJ, and Department of Labor ("DOL"), require that employers maintain internal race/ethnicity and sex self-identification data for applicants necessary to evaluate whether employers' selection procedures produce adverse impacts against protected classes and to make those records available during an investigation or enforcement action. Notably, these are recordkeeping requirements, not reporting obligations: employers must collect and maintain the data internally and produce it upon request, but are not required to affirmatively report it. Given that the UGESP records exist principally to assess disparate impact, the approval of the extension is in tension with the current Administration's rejection of disparate-impact theory—including EO 14281, the EEOC's National Enforcement Plan prioritizing disparate treatment over disparate impact claims, and recent agency actions rescinding disparate-impact provisions, such as OCR's regulatory overhaul described above. It also stands in apparent contrast to the EEOC's recent proposed rule to rescind EEO-1 and related reporting requirements, although that proposal addresses demographic data reporting for current employees, whereas UGESP concerns the collection and retention of applicant data.

On June 22, the U.S. Supreme Court invited the Solicitor General to submit a brief expressing the views of the United States on a cert petition, which challenges a New Jersey Appellate Division decision that approved a New Jersey State Bar Association ("NJSBA") procedure for fostering diversity in its leadership. The suit was brought in 2021 by Rajeh Saadeh, who alleged that the NJSBA's practice of reserving eight board seats for members of certain demographic groups amounted to discrimination under New Jersey's public accommodation law. The trial court ruled for Saadeh, but the Appellate Division reversed and remanded, holding that compelling the NJSBA to forgo the set-aside seats would burden NJSBA's expressive associational rights and "infringe its ability to advocate the value of diversity and inclusivity in the Association and more broadly in the legal profession." The court further held that the State's compelling interest in eliminating discrimination did not justify that intrusion. The petition asks the Supreme Court to decide whether the First Amendment overrides antidiscrimination laws when the alleged discrimination is an expression of opinion about diversity, equity, or inclusion. Saadeh argues that the NJSBA's system of status-based discrimination is conduct, not speech, and therefore receives no First Amendment protection. The case is *Saadeh v. New Jersey State Bar Association*, No. 25-1002 (U.S.).

On June 12, Judge George L. Russell III of the U.S. District Court for the District of Maryland granted the EEOC's motion to dismiss a lawsuit challenging the agency's decisions to cease processing certain EEOC charges tied to sexual orientation and gender identity and restrain state and local civil rights agencies from processing charges related to gender identity or transgender status. The suit was filed on July 29, 2025, by a Baltimore-based LGBTQ+ legal services nonprofit, FreeState Justice, against the EEOC and EEOC Chair Lucas. The plaintiff alleged that the EEOC's non-enforcement policy violated the Civil Rights Act of 1964, the Equal Protection Clause of the Fifth Amendment, the Administrative Procedure Act ("APA"), and the Supreme Court's holding in *Bostock v. Clayton County*, 590 U.S. 644 (2020). On October 15, 2025, the EEOC moved to dismiss for lack of subject matter jurisdiction, arguing, among other things, that the plaintiff lacked standing to challenge the EEOC's enforcement discretion, and that the APA did not allow jurisdiction over the plaintiff's claims. The district court largely agreed with the EEOC's standing arguments and dismissed the case without prejudice. Although the court remarked that the EEOC's policy was "troubling," it concluded that the agency's decision to alter its investigations of gender identity claims constituted "a discretionary decision . . . which the Court lack[ed] authority to review." The case is *FreeState Justice v. EEOC*, No. 1:25-cv-02482 (D. Md. 2025).

On June 10, a group of attorneys general from 19 states and Washington, D.C. filed suit in the U.S. District Court for the District of Maryland against more than 50 federal officials and agencies, challenging EO 14398, issued on March 26, which prohibits federal contractors from engaging in "racially discriminatory DEI activities." The coalition alleges that the executive order and its implementing actions were adopted without the public notice and comment period required by the APA, and that the new contract terms are arbitrary, capricious, and insufficiently clear in defining what conduct is prohibited. The coalition contends that the lack of clarity increases compliance costs, disrupts lawful efforts to prevent and remedy discrimination, and puts states at risk of losing federal contracts. The coalition further asserts that the required contract terms impose monitoring and reporting obligations regarding subcontractors that are unduly burdensome given the unclear scope of the prohibition and the potentially severe consequences of violating the EO. The EO provides that noncompliant contractors may have their contracts canceled, face debarment, or be subject to False Claims Act lawsuits. The plaintiffs are Maryland, California, Illinois, Colorado, Connecticut, Washington, D.C., Hawaii, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Virginia, Washington, and Wisconsin. The case is *Maryland et al. v. Pete Hegseth et al.*, No. 1:26-cv-02322 (D. Md. 2026). For more reporting on EO 14398, see our March 30, 2026 client alert here.

On June 9, the Office of Legal Counsel ("OLC") issued a memorandum opinion for the Chair of the EEOC, which concludes that certain of the EEOC's Title VII guidelines are unconstitutional because "they contemplate liability based on disparate effects alone, without regard to an employer's likely intent," and because they "pressure employers to engage in race-based decisionmaking." The OLC opinion specifically finds that two features of the EEOC's existing interpretive rules and guidance are unlawful. First, OLC finds that the EEOC Uniform Guidelines on Employee Selection Procedures' validation-study requirements impose burdens that far exceed what is required to meet Title VII's business-necessity defense. According to the memo, an employer need only show that the challenged policy is a "reasonable" way of accomplishing a "valid interest," whereas the Guidelines contemplate "an exceedingly high burden to validate an employer policy." Second, the opinion notes that the EEOC's affirmative-action regulations are unlawful because they “purport[] to authorize” and “expressly encourag[e] racial preferences . . . in response to actual or anticipated disparate impacts,” in violation of Title VII and the Equal Protection Clause. The opinion identifies three “corrections” which, taken together, could make disparate-impact liability lawful: (1) courts interpreting the business-necessity defense must give employers “significant leeway” to show that the challenged practice rationally serves a valid business purpose, including by presuming that background checks, aptitude tests, and SAT scores are likely job-related; (2) plaintiffs must satisfy a robust causality requirement by showing that the specific employment practice being challenged caused the disparate impact; and (3) plaintiffs must establish with particular evidence that an equally effective alternative practice exists that causes less disparate impact.

On June 8, the NAACP sued the EEOC in the U.S. District Court for the District of Columbia, alleging that the agency violated the Freedom of Information Act (“FOIA”) by wrongfully withholding documents in response to a records request for enforcement-related data and guidance on workplace discrimination. The NAACP filed the FOIA request in March after EEOC Chair Lucas released a video and social media posts in December 2025, encouraging white males to submit discrimination complaints. The FOIA request seeks eight categories of records, including guidance on workplace discrimination enforcement, data on race- and sex-based discrimination charges, and communications related to Chair Lucas’s video solicitation. The complaint alleges that the EEOC violated federal law by failing to conduct adequate searches and wrongfully withholding records after missing statutory deadlines for its response. The case is *NAACP v. EEOC*, No. 26-cv-02020 (D.D.C. 2026).

In May and June, the EEOC updated its webpage tracking the annual number of discrimination charges received by statute and type of discrimination alleged, removing a table that showed data on LGBTQ+ discrimination titled "Title VII Sex-Sexual Orientation and/or Transgender Status." The updated tracker also eliminates a set of more granular data the agency had previously reported from its charge filings, broken out by the issue or job action underlying the bias claim, such as English-only rules, layoffs, maternity and paternity, recordkeeping violations, union representation, and benefits.

Media Coverage and Commentary

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

- **New York Times, "At Trump's Direction, Federal Agencies Are Abandoning Discrimination Cases" (July 5, 2026)**: Erica L. Green and Niko Gallogly of the New York Times report that, after President Trump issued an executive order directing federal agencies to "deprioritize" disparate-impact discrimination cases, agencies including the Departments of Education, Housing and Urban Development, and Justice and the EEOC have abandoned civil rights cases predicated on that theory. Green and Gallogly explain that disparate-impact liability, established by the Supreme Court in 1971 and codified by Congress in 1991, permits challenges to facially neutral policies where they disproportionately harm a protected group. The authors report that, consistent with the Administration's guidance, the EEOC dropped a class-action lawsuit against Sheetz alleging that its criminal background checks disproportionately screened out applicants of color; the Department of Housing and Urban Development withdrew disparate-impact guidance; and the Department of Justice terminated an environmental justice settlement it characterized as "illegal DEI." According to the article, the Office of Management and Budget separately proposed a rule barring federal funds from being used to promote disparate-impact theories.

- **HR Dive, "DEI's next era? Reorientation, says SHRM's Johnny Taylor Jr." (June 24, 2026)**: Caroline Colvin of HR Dive reports on remarks by Johnny C. Taylor, Jr., president and CEO of the professional association Society for Human Resource Management ("SHRM"), who predicted at the organization's annual conference in June 2026 that the future of corporate inclusion will be "bumpy" over the next two years. According to the article, Taylor noted that while the EEOC continues to file standard cases, it has increasingly focused on reverse discrimination claims. Taylor predicted that the human resources profession will have to "reorient" away from focusing on groups that have been historically underrepresented and discriminated against toward broadly opposing any form of discrimination. Taylor clarified that SHRM is not abandoning diversity and inclusion, citing its revamped Center for Inclusion and Diversity, but is instead encouraging a reframe, emphasizing that Title VII refers to "equal" treatment, rather than "equity," and that employers must comply with the law as written.
- **Law360, "FCC's Carr Calls Policy Against DEI 'Right Thing To Do'" (June 23, 2026)**: Christopher Cole of Law360 reports that the Federal Communications Commission ("FCC") released an exchange of letters between Chair Brendan Carr and 18 members of the U.S. House of Representatives regarding the FCC's employment- and diversity-related regulatory actions. Cole reports that, in his role to date, Chair Carr has told regulated companies to eliminate policies that cause "invidious" discrimination and stated that the FCC's mandate to enforce nondiscrimination under the Communications Act extends to DEI-related employment practices. The letters from 18 Members of Congress challenged whether Chair Carr possessed the authority to target "lawful internal" DEI programs. In response, Chair Carr stated in part that the FCC "takes seriously its responsibility to investigate and address

allegations that regulated entities have been discriminating in violation of the federal nondiscrimination regulations."

- **Law360, "Investors Nearly Unanimously Reject Anti-Diversity Proposals" (June 22, 2026)**: Sue Reisinger of Law360 Pulse reports that, according to a study published in the Harvard Law School Forum on Corporate Governance by attorneys David Bell and Wendy Grasso, anti-DEI shareholder resolutions have drawn average support of approximately 1% over the past two proxy seasons. Reisinger also reports that pro-diversity proposals, while garnering more support than their anti-DEI counterparts, are declining in number due to what the study describes as "legal and political headwinds." The article notes that some proponents of anti-DEI proposals have tried to reframe these resolutions as "return-on-investment audits" of inclusion programs, or reports on "viewpoint discrimination," but that this has not helped the popularity of such resolutions among shareholders.
- **Forbes, "Is DEI Dead? Not According To New Catalyst Data On Workplace Inclusion" (June 16, 2026)**: Michelle Travis of Forbes reports on a May 2026 survey by the nonprofit Catalyst and the Meltzer Center for Diversity, Inclusion, and Belonging at NYU School of Law, which found that 80% of organizations remain committed to DEI and workplace inclusion efforts. Furthermore, whereas 55% of organizations have publicly signaled a retreat from DEI, only 34% reported actually decreasing inclusion efforts, suggesting a gap between external messaging and internal practices. Travis also notes that companies which are not federal contractors were more likely to report increased inclusion efforts, while federal contractors reported scaling back inclusion efforts amid heightened scrutiny. Travis further states that business leaders and employees continue to associate inclusion efforts with positive impacts on reputation, recruiting, retention, sales, and innovation, and she cites legal experts who maintain that well-designed DEI initiatives remain lawful. Notably, Travis observes that DEI initiatives are more likely to "reduce rather than increase legal risk . . . because employers—particularly non-federal contractors—remain far more likely to be sued for discrimination by individuals from historically excluded groups than to be investigated by the government for diversity initiatives."
- **Reuters, "Law firms loved diversity, until it became a liability" (June 15, 2026)**: Sara Randazzo of Reuters reports that Diversity Lab, the organization behind the legal industry's "Mansfield Certification," which required participating law firms to consider at least 30% underrepresented candidates for certain roles, has permanently closed. The closure followed a campaign by the Federal Trade Commission ("FTC"), which

sent letters to 42 law firms in late January 2026 to raise antitrust concerns about those firms' participation in the certification program. Randazzo reports that firms withdrew their participation after receiving the FTC letters, ultimately depriving Diversity Lab of the revenue needed to operate. Randazzo notes that Diversity Lab founder Caren Ulrich Stacy declined to sign a proposed FTC consent decree that, according to Stacy, would have prohibited the organization from continuing its work.

- **Bloomberg Law, "Worker Bias Suits Reveal DEI Dual Compliance Trap for Employers" (June 11, 2026)**: Bloomberg Law's Khorri Atkinson reports that President Trump's DEI-related EOs have left employers caught in what one attorney calls a "compliance pincer movement," exposing employers to suits by both minority workers if employers rescind DEI practices and non-minority workers if they maintain them. As the report explains, federal contractors in particular face competing pressures, as they are subject to the Administration's DEI-related EOs, state contracting policies promoting diversity, and recent litigation by minority former employees, alleging that the companies took adverse actions against them to appease the Administration. But, as the report notes, the tension also extends to private employers who are not government contractors, many of whom face bias suits from both sides. Practitioners quoted in the article opine that employers should not abandon DEI but should audit and document their practices to ensure employment decisions are made for race- and gender-neutral reasons to guard against litigation from all directions.

- **Inside Higher Ed, "DOJ Investigates CUNY's Black Male Initiative" (June 10, 2026)**: Katherine Knott of Inside Higher Ed reports that the DOJ has opened a Title VI civil rights investigation into the City University of New York's Black Male Initiative, which aims to support students underrepresented in higher education, including Black men. According to Knott, the Department of Justice has received reports that the program, which offers "academic and social support, such as peer-to-peer mentoring," "provides educational benefits to minorities, particularly black males, on the basis of race." The program's website states that the initiative is geared toward Black, Caribbean, and Hispanic men, but is open to all students. In a press release announcing the investigation, Assistant Attorney General Harmeet K. Dhillon of DOJ's Civil Rights Division stated that "[t]he program, as the name suggests, appears to favor select non-white minorities–primarily black males–over applicants of other races," and that "race can never play a role when deciding how to distribute educational resources or opportunities."

- **[Los Angeles Times, “School programs to aid Black students under increased scrutiny as ‘illegal DEI’ under Trump” (June 9, 2026)]**: Annie Ma of the Los Angeles Times reports that enforcement of federal civil rights laws under the Trump Administration has shifted to challenging programs originally designed to remedy historic, systemic discrimination against Black students and other students of color. The article notes that the DOJ has been investigating several such programs, including programs to increase the number of teachers of color in Rhode Island and Iowa and a program to increase access to advanced coursework for Black students in Chicago. According to Ma, the DOJ also has released certain school districts from court-ordered desegregation plans. Ma further reports that the Trump Administration has opened an investigation into a Los Angeles program designed to increase social work and counseling support for Black students, and has joined a lawsuit challenging another Los Angeles program offering smaller class sizes and other support for schools with 70% or more students of color.
- **[The Hill, “DOJ opens 15 new investigations into medical schools’ admissions” (June 4, 2026)]**: The Hill’s Finya Swai reports that the DOJ is investigating 15 medical schools regarding alleged racial discrimination in admissions. According to Swai, the DOJ is investigating whether the schools are complying with the Supreme Court’s ruling prohibiting the use of affirmative action in higher education admissions (*SFFA v. Harvard*). Swai reports that this announcement follows a recent DOJ notice of findings letter, which stated that Yale’s medical school unlawfully favored Black and Hispanic applicants over white and Asian applicants in its admissions process.

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

- ***Landscape Consultants of Texas, Inc. v. Harris County, Texas et al.*, No. 4:25-cv-00479 (S.D. Tex.)**: On February 5, 2025, Landscape Consultants of Texas, Inc. sued Harris County, Texas and the Harris County Commissioners Court (“HCCC”), challenging Harris County’s Minority and Woman-Owned Business Enterprise (“MWBE”) Program. The plaintiff, a non-MWBE landscaping company, claims it “has been at a significant disadvantage when bidding on landscaping contracts” with the County, because a Harris County ordinance requires that the government grant a certain percentage of contracts to MWBEs. The plaintiff alleges that the MWBE Program is racially discriminatory in violation of Section 1981 and the Fourteenth Amendment because it treats companies bidding for public contracts differently based on the race of the company's owners. On April 14, 2025, the HCCC moved to dismiss the plaintiff's claims against it, contending that the court "lacks a separate legal existence" from Harris County and cannot "sue or be sued." On May 5, 2025, the plaintiff voluntarily dismissed its claims against the HCCC without prejudice.

- **Latest update**: On May 11, 2026, Harris County filed a motion for partial summary judgment. Harris County argued that the plaintiff's standing was limited to challenging the constitutionality of the County's MWBE policy only as applied to landscaping contracts. On June 1, 2026, the plaintiff filed a response, arguing that it would be improper for a court to narrow an equal protection facial challenge before deciding whether the challenged policy is unconstitutional and before the close of discovery reveals a complete record. On June 11, 2026, Harris County filed a reply, reiterating that under Fifth Circuit precedent, standing is limited to the market in which the plaintiff competes.

- ***American Alliance for Equal Rights v. Congressional Black Caucus Foundation, Inc.*, No. 1:26-cv-01123 (D.D.C. 2026)**: On April 2, 2026, the American Alliance for Equal Rights ("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**: On June 3, 2026, AAER filed an amended complaint, which maintains near-identical allegations but adds a second plaintiff, the education nonprofit organization Defending Education, whose mission, according to the complaint, is to "prevent . . . the politicization of education" and whose members allegedly “include students, parents, and others who are concerned about the state of education in America.” On July 16, 2026, CBC Foundation filed its motion to dismiss, arguing that the court lacks subject matter jurisdiction, that plaintiffs’ claims are not ripe and speculative, that plaintiffs’ lack standing, and that the Speech and Debate Clause of the U.S. Constitution prevents the court from interfering with the CBC’s membership decisions. CBC Foundation further argues that, even if the court concludes it has jurisdiction, the plaintiffs’ claims should be dismissed because the plaintiffs have not plausibly alleged any violation of Section 1981 and cannot establish intentional discrimination, but-for causation, or the existence of a contractual relationship. Finally, CBC Foundation argues that its charitable donations and related speech are protected by the First Amendment. (Gibson Dunn represents the CBC Foundation.)

2. Employment discrimination and related claims

- ***American Alliance for Equal Rights v. Maestra Music, Inc., Arts Ignite Inc., Wicked LLC*, No. 1:26-cv-04645 (S.D.N.Y. 2026)**: On June 3, 2026, AAER and Kevin Lynch, a white male composer and musician, filed suit against Maestra Music, Inc. (doing business as Musicians United for Social Equity, or “MUSE”); and Wicked LLC, the company that stages the Broadway musical *Wicked*, alleging race and sex discrimination. Specifically, the complaint alleges violations of Section 1981, the New York State Human Rights Law, the New York State Civil Rights Law, and the New York City Human Rights Law. AAER and Lynch contend that Maestra runs an employment directory open only to female and nonbinary musicians, and that MUSE runs a sister directory open only to musicians of color, both of which connect members with theater-industry work. The complaint further alleges that in 2023, Wicked collaborated with Maestra and MUSE to create the “Music Director Experience,” a paid apprenticeship open only to members of the two directories, and that plaintiff Lynch was qualified but excluded from the directories on account of his race and sex. The plaintiffs allege that the position was instead awarded to a “female and nonbinary person of color” who allegedly had less music-directing experience than Lynch. The plaintiffs seek an injunction, barring Maestra and MUSE from considering race or sex in directory admissions and further barring them from classifying directory members by race or sex in their directories. The plaintiffs seek compensatory, punitive, and nominal damages as well as attorneys’ fees.

    - **Latest update**: An initial pretrial conference is set for August 6, 2026. None of the defendants has yet responded to the complaint.

- ***Ardalan v. Wells Fargo*, No. 3:22-cv-03811 (N.D. Cal. 2022)**: On June 28, 2022, a putative class of Wells Fargo stockholders brought a class action against the bank related to an internal policy requiring that half of the candidates interviewed for positions that paid more than $100,000 per year be from an underrepresented group. The plaintiffs alleged that the bank conducted sham job interviews to create the appearance of compliance with this policy and that this was part of a fraudulent scheme to suggest to shareholders and the market that Wells Fargo was dedicated to DEI principles. On August 23, 2024, Wells Fargo answered the amended complaint, admitting that the bank had "Diverse Slate Guidelines" to promote diversity but denying the allegations of unlawful conduct. On April 25, 2025, the court granted a motion for class certification.
    - **Latest update**: On September 25, 2025, the parties notified the court that they had reached an agreement-in-principle to resolve the matter. On October 15, 2025, plaintiffs filed an unopposed motion for preliminary approval of settlement. Under the proposed settlement, the defendants will pay $85,000,000 in cash to be distributed among class members who submit valid claims in accordance with the plan of allocation set forth by the parties or a plan of allocation approved by the court. The class consists of all persons and entities who purchased or otherwise acquired Wells Fargo common stock between February 24, 2021 and June 9, 2022. On May 21, 2026, the court granted the plaintiffs' motion for final approval of the class action settlement and plan of allocation and granted, as modified, class counsel's motion for attorneys' fees and litigation expenses.

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

- ***State of California et al v. U.S. Department of Education et al*, No. 1:25-cv-10548 (D. Mass. 2025)**: On March 6, 2025, the states of California, Massachusetts, New Jersey, Colorado, Illinois, Maryland, New York, and Wisconsin sued the Department of Education, the Secretary of Education, Linda McMahon, and former Acting Secretary of Education, Denise Carter, alleging that defendants arbitrarily terminated previously awarded grants under the Teacher Quality Partnership and Supporting Effective Educator Development programs in violation of the APA. On

April 16, 2026, the plaintiffs moved for summary judgment, alleging that the Department's February 2025 directive, issued by then-Acting Secretary Denise Carter, unlawfully prohibited funding for DEI programs and effectively eliminated the two federal grant programs at issue. The plaintiffs reiterated their argument that the Department's actions are unconstitutional and violate the APA and the General Education Provisions Act, requesting that the court hold unlawful and set aside the Department's actions as arbitrary and capricious.

  - **Latest update**: On June 1, 2026, the defendants filed a cross-motion for summary judgment, arguing that the plaintiffs' prospective claims challenging the Department's February 2025 guidance are moot because the Department has since issued new, superseding guidance that does not mandate grant terminations. The defendants further argue that the plaintiffs lack Article III standing because it remains speculative whether they will apply for, receive, and then lose future grants under the challenged guidance. Finally, the defendants contend that the guidance is lawful because it directs program offices to review grants for "discriminatory activities" and does not conflict with the grants' authorizing statutes. On July 1, 2026, the plaintiffs filed an opposition to the defendants' cross-motion for summary judgment and reply in support of its motion for summary judgment. The plaintiffs argue that the guidance does not render their claims moot as it relates to a different grant process unrelated to the February 2025 directive. Further, the plaintiffs argue that they have standing because many of them have applied for grants anew since filing their motion for summary judgment. A hearing on the parties' cross-motions for summary judgment took place on July 24, 2026, after which the court took the parties' motions under advisement.

- ***National Association of Diversity Officers in Higher Education et al v. Trump et al.*, No. 1:25-cv-00333 (D. Md.) No. 25-1189 (4th Cir.)**: On February 3, 2025, the National Association of Diversity Officers in Higher Education, the American Association of University Professors, the Restaurant Opportunities Centers United, and the Mayor and City Council of Baltimore, Maryland brought suit against the Trump Administration, challenging EOs 14151 and 14173, which targeted government-funded DEI programs and threatened to terminate or defund contracts. The plaintiffs contend that the EOs exceed presidential authority, violate the separation of powers and the First Amendment, and are unconstitutionally vague. On February 21, 2025, the Court granted in part a preliminary injunction to prevent the Administration from enforcing the EOs. On

March 14, 2025, the Fourth Circuit stayed the injunction. On February 6, 2026, the Fourth Circuit vacated the preliminary injunction and remanded to the lower court, finding that the plaintiffs lacked standing to challenge the Enforcement Threat Provision and failed to show that they were likely to succeed on their claims that the Termination Provision and Certification Provision are facially unconstitutional. On April 30, 2026, in district court, the defendants filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim. In the motion, the defendants argue that the plaintiffs lack standing to challenge the Enforcement Threat Provision because it is an intra-governmental action and does not create an imminent danger of injury. They alternatively argue that the allegations are moot because "[t]he at-issue report has already been 'submitted … to the President," that the plaintiffs' First Amendment argument fails because the plaintiffs have no protected speech interest in operating unlawful programs, and that the plaintiffs' Fifth Amendment vagueness challenge to the Termination Provision fails because courts tend to defer to government funding decisions and bar challenges based on facial vagueness where the government is "acting as a patron, rather than as sovereign." Finally, the defendants assert that the plaintiffs' Spending Clause and separation-of-powers claims fail because the EOs do not impose new funding conditions or usurp Congress's authority.

- **Latest update**: On June 26, 2026, the plaintiffs filed a notice of voluntary dismissal without prejudice. The plaintiffs explained that they were dismissing the case because, in an appeal of the court's grant of a preliminary injunction, the government had represented to the Fourth Circuit that the challenged EOs were much narrower in scope than they believed the Trump Administration's initial statements reflected, and the Fourth Circuit accepted those representations, effectively mooting the plaintiffs' allegations. Specifically, the plaintiffs cite statements by the government that the Termination Provision is not itself a "regulation" but instead is a directive that does not terminate any contracts or directly regulate private conduct, and that the Certification Provision "does not impose a new requirement on recipients—it merely requests that recipients certify that they are honoring their preexisting obligations to abide by anti-discrimination laws in operating any DEI programs." (Stip. at ¶¶ 9-10, 12, 14.) The plaintiffs also point to representations by the government at oral argument that "[o]f course the label [DEI] doesn't make [conduct] unlawful," that the government was not suggesting that it would "come after anything labeled DEI and say it's illegal," and that there is "'absolutely' DEI activity that falls comfortably within the confines of the law." (at ¶ 11.) On June 30, 2026, the court entered dismissal.

- ***FreeState Justice v. Equal Employment Opportunity Commission et al.*, No. 1:25-cv-2482 (D. Md.)**: On July 29, 2025, FreeState Justice sued the EEOC and acting chair Andrea Lucas for declaratory and injunctive relief. The plaintiff, a legal services non-profit organization serving LGBTQ+ people in Maryland, alleged that the EEOC had adopted a policy not to investigate charges of discrimination against transgender individuals, in violation of Title VII of the Civil Rights Act of 1964, the Fifth Amendment, and sections 706(2)(A)-(D) of the APA. On October 15, 2025, the defendants filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The defendants argued that the plaintiff did not have standing to challenge the EEOC's discretionary decisions about how to enforce federal antidiscrimination law, as such functions are generally insulated from judicial review. The defendants also argued that the plaintiff lacked standing because it had not suffered a cognizable injury that was redressable by the court. Finally, the defendants argued that the plaintiff's suit was deficient because the challenged policy was not a discrete, final agency action, as is required for claims brought under the APA.
    - **Latest update**: On June 12, 2026, the court granted the defendants' motion to dismiss. The court held that, although "deeply troubling," the EEOC's decision to change how it investigates claims of gender identity discrimination constituted a discretionary decision over which the court did not have jurisdiction. As a result, the court dismissed the case for lack of standing.
- ***American Federation of Teachers, et al. v. U.S. Department of Education, et al.*, No. 1:25-cv-00628 (D. Md. 2025)**:On February 25, 2025, the American Federation of Teachers, the American Federation of Teachers – Maryland, and the American Sociological Association sued the U.S. Department of Education ("DOE"), challenging the DOE's "Dear Colleague Letter" "DCL") issued on February 14, 2025. The plaintiffs allege that the letter—which purported to "clarify and reaffirm the nondiscrimination obligations of schools and other entities that receive federal financial assistance"— violated the First and Fifth Amendments and the APA. The letter had instructed educational institutions to ensure that their policies and actions "comply with federal civil rights laws," and to cease efforts to circumvent prohibitions on the use of race through "relying on proxies," "third-party contractors, clearinghouses, or aggregators." On March 5, 2025, the plaintiffs

amended their complaint to add the Eugene School District as a plaintiff and to add factual allegations about a subsequent DOE FAQ document published on February 28, 2025. After that point, on April 3, 2025, the DOE advised state education agencies that they would be required to certify compliance with the Administration's interpretation of Title VI and the Supreme Court's decision in *SFFA*. On April 9, 2025, the plaintiffs filed an expedited motion to preliminarily enjoin the certification requirement. On April 24, 2025, the court granted in part the plaintiffs' motion for a preliminary injunction, finding the plaintiffs likely to succeed on their APA and First Amendment claims. The court declined to enjoin the certification requirement because the plaintiffs moved to enjoin it without raising any facts about it in their amended complaint, which they had filed prior to the DOE's certification requirement announcement. On June 5, 2025, the plaintiffs filed a motion for summary judgment, arguing the letter and later certification requirement violated the APA, First Amendment, and Fifth Amendment. On July 1, 2025, the defendants filed a motion to dismiss or, in the alternative, for summary judgment, along with their opposition to the plaintiffs' motion for summary judgment. The defendants argued that the plaintiffs lack standing because their alleged injuries are speculative and not traceable to the challenged guidance; that the DCL and the certification requirement are not final agency actions reviewable under the APA and, even if final, are exempt interpretive rules; and that the plaintiffs' First and Fifth Amendment claims fail as a matter of law. The defendants also urged the court to narrow any relief to the parties with standing in light of *Trump v. CASA, Inc.*, 606 U.S. 831 (2025). On July 17, 2025, the plaintiffs filed a second amended complaint adding counts alleging violations of the First Amendment, the Fifth Amendment, the APA, and the Paperwork Reduction Act. On August 14, 2025, the court held that the Dear Colleague Letter and the certification requirement were unlawfully promulgated in violation of the APA, the First Amendment, and the Fifth Amendment, and vacated both documents in their entirety. The court granted the plaintiffs' motion for summary judgment as to the counts challenging the Dear Colleague Letter and the APA claim concerning the certification requirement and granted the DOE's cross-motion only as to the plaintiffs' First Amendment claim challenging the certification requirement. On October 13, 2025, the DOE appealed the order. On January 22, 2026, the Fourth Circuit granted the DOE's motion to voluntarily dismiss the appeal.

- **Latest update**:On June 12, 2026, the parties filed a joint stipulation of dismissal, which the court granted on June 15.

- ***Do No Harm v. Lee*, No. 3:23-cv-01175-WLC (M.D. Tenn. 2023)**: On November 8, 2023, Do No Harm sued Tennessee Governor Bill Lee under the Equal Protection Clause, seeking to enjoin a 1988 Tennessee law requiring the governor to "strive to ensure" that at least one board member of the six-member Tennessee Board of Podiatric Medical Examiners is a racial minority. On February 2, 2024, Governor Lee moved to dismiss the complaint for lack of standing. On August 8, 2024, the court granted Governor Lee's motion to dismiss and entered judgment in the case, holding that Do No Harm had not demonstrated injury in fact. On August 30, 2024, Do No Harm appealed the district court's decision to the Sixth Circuit. On May 29, 2025, Do No Harm moved to dismiss the appeal, with the consent of the defendant-appellee, based on mootness and asked the court to vacate the decision of the lower court. The plaintiff-appellant argued that, since the filing of the appeal, Tennessee introduced and passed bills repealing the challenged statutes, thereby mooting the case.
    - **Latest update**: On June 2, 2026, the Sixth Circuit granted in part Do No Harm's motion to voluntarily dismiss the appeal. The Sixth Circuit agreed that the appeal was now moot but disagreed that vacatur was the appropriate remedy. Instead, the Sixth Circuit dismissed the case for lack of jurisdiction.
- ***National Education Association, et al. v. Formella, et al.*, No. 1:25-cv-00293 (D.N.H. 2025)**:On August 7, 2025, the National Education Association (along with four New Hampshire school districts, DEI professionals, and a nonprofit that provides LGBTQ+ programming in schools) sued multiple New Hampshire state officials to enjoin enforcement of New Hampshire statutes RSA 21-I:112-116 and RSA 186:71-77. These statutes, effective July 1, 2025, prohibit DEI initiatives, programs, trainings, and policies in public schools and other public entities. The statutes require schools to submit a report identifying contracts "containing DEI-related provisions" by September 30, 2025, but the New Hampshire Department of Education requested that schools submit such reports by September 5, 2025. In the complaint, the plaintiffs allege that the statutes (1) violate the Supremacy Clause because they conflict with federal antidiscrimination laws, (2) violate the First Amendment rights of students and educators, and (3) are unconstitutionally vague and ambiguous under the United States and New Hampshire Constitutions. On October 2, 2025, the court granted the plaintiffs' motion for a preliminary injunction, noting that the breadth of New Hampshire's anti-DEI law was "startling" and holding that the law is likely to be unconstitutionally vague. The court also found that the

plaintiffs were likely to succeed on their preemption claim, holding that the laws at issue are likely preempted by the Americans with Disabilities Act ("ADA") and the Individuals with Disabilities Education Act ("IDEA").

  - **Latest update:** On May 20, 2026, the plaintiffs moved for summary judgment on three of their five claims, seeking to make the preliminary injunction permanent. The plaintiffs argue that the relevant laws violate the Fourteenth Amendment's prohibition on vagueness because they are devoid of objective guidelines and lack a scienter requirement; violate the First Amendment by discriminating against specific viewpoints; and are preempted by federal statutes such as the ADA and the IDEA. On June 5, 2026, six New Hampshire public school districts and a school administrative unit filed an amicus brief in support of the motion.

- ***City of Seattle v. Trump, et al.*, No. 2:25-cv-01435 (W.D. Wash. 2025)**: On July3 1, 2025, the City of Seattle sued the Trump Administration, challenging EOs 14173 and 14168, which respectively voided affirmative action requirements for government contractors and outlined the federal government's policy to "recognize two sexes." On October 31, 2025, the court granted Seattle a preliminary injunction, finding that Seattle was likely to succeed on the merits because EOs 14173 and 14168 likely violate the separation of powers doctrine. Additionally, the court found that the harm to Seattle in the absence of a preliminary injunction would be irreparable and certain because Seattle would lose government grants that support a wide array of public safety, law enforcement, and other services. On December 29, 2025, the defendants filed a notice of appeal of the district court's order granting a preliminary injunction; the appeal was stayed on January 12, 2026. On April 7, 2026, Seattle filed an amended complaint, adding as plaintiffs the cities of Cleveland, Columbus, Durham, and Portland, as well as Allegheny County, Pennsylvania, Minnesota's Hennepin County and Ramsey County, and Prince George's County, Maryland. The amended complaint also added numerous federal agencies as defendants. The substantive allegations remain the same. On May 1, 2026, the plaintiffs filed a second motion for a preliminary injunction, seeking to extend to the additional plaintiffs the injunctive relief granted to Seattle.

  - **Latest update**: On May 22, 2026, the defendants filed their opposition to the plaintiffs' second motion for a preliminary injunction, arguing that the plaintiffs failed to show they were likely to succeed on the merits. According to the defendants, the challenged conditions do not violate the APA, the Spending

Clause, the Fourteenth Amendment's prohibition on vagueness, or the Tenth Amendment. The defendants also asked the court to refrain from ruling until the Ninth Circuit issues a decision in *King County v. Turner*, No. 25-3664, in which the district court enjoined the Departments of Transportation, Housing and Urban Development, and Health and Human Services from enforcing the challenged grant conditions relevant to Seattle's case. On June 29, 2026, the court granted Seattle's second motion for a preliminary injunction.

4. Actions against educational institutions

- ***Do No Harm et al. v. University of California et al.*, No. 2:25-cv-4131 (C.D. Cal. 2025)**: 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. 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, 2026, the 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.
    - **Latest update**:On July 14, 2026, the United States filed a first amended complaint that added additional breach of contract and Title VI claims.

- ***Sullivan v. Howard University*, No. 1:24-cv-01924 (D.D.C. 2024)**: On July 1, 2024, a male administrator at Howard University who was transferred to another department filed suit against the university, bringing claims of sex discrimination and retaliation in violation of Section 1981, and sex discrimination, retaliation, and a hostile work environment in violation of the D.C. Human Rights Act ("DCHRA"). On September 16, 2024, Howard University filed a partial motion to dismiss, arguing for the dismissal of both claims brought under Section 1981 because it does not protect against sex-based discrimination, and the hostile work environment claim because the alleged conduct was not severe, pervasive, or even linked to the plaintiff's sex. On April 18, 2025, the court granted the university's motion to dismiss the Section 1981 claims but denied the motion as to the hostile work environment claim. On May 2, 2025, Howard University filed an answer denying the remaining allegations in the complaint. On May 7, 2026, Howard University moved for summary judgment on Sullivan's remaining DCHRA claims for sex discrimination, retaliation, and hostile work environment. Howard argued that Sullivan cannot establish a prima facie case of sex discrimination because (1) he suffered no cognizable adverse action, as none of the employment actions he identified caused "objectively tangible harm," (2) none of the challenged conduct was motivated by his gender, given that the same senior administrator who allegedly discriminated against him had also created the position for him and advocated for his hiring, and (3) he cannot show that Howard's proffered non-discriminatory reasons for each alleged adverse action were pretextual. Howard further argued that Sullivan failed to identify any DCHRA-protected activity to support his retaliation claim, or conduct severe or pervasive enough to sustain his hostile work environment claim.
    - **Latest update**:On June 17, 2026, Sullivan filed his opposition to Howard University's motion for summary judgment, arguing that genuine disputes of material fact exist as to all three DCHRA claims. He contended that he suffered multiple adverse actions; that statements allegedly made by the Howard senior administrator who hired him constituted direct evidence of gender-based animus; and that Howard's proffered reasons for the adverse actions remain pretextual. He further argued that Howard's escalating adverse treatment following each of his complaints supports his retaliation claim, and that the cumulative pattern of conduct created a hostile work environment.

- ***Hooley v. Regents of the University of California et al.*, No. 3:25-cv-01399 (N.D. Cal. 2025)**:On February 11, 2025, the mother of a minor high school student sued the Regents of the University of California ("UC"), alleging that UC San Francisco Benioff Children's Hospital Oakland discriminates against white students by offering its Community Health and Adolescent Mentoring Program for Success ("CHAMPS") internship only to "underrepresented minority students." The plaintiff alleges that her daughter applied for CHAMPS and was rejected based on her race. The plaintiff challenges the CHAMPS program as violating the Fourteenth Amendment of the United States Constitution, Title VI, Section 1981, and the California Constitution. On November 26, 2025, the parties filed a notice of conditional settlement and joint stipulation to vacate all upcoming deadlines. On December 1, 2025, the court entered the stipulation as an order.
    - **Latest update**:On June 12, 2026, the plaintiffs filed a notice of voluntary dismissal, informing the court that the parties had reached a settlement agreement. The court dismissed the case the same day.
- ***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 suppresses 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 July 14, 2025, after the plaintiff appealed, 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 February 20, 2026, the district court granted in part the plaintiff's motion for a preliminary injunction as to the plaintiff's as-applied viewpoint discrimination and compelled speech challenges. The court denied the preliminary injunction as to the plaintiff's facial challenges to the regulations. On March 24, 2026, the parties filed a joint motion to stay the proceedings to focus on a prospective settlement.

- **Latest update**: On July 6, 2026, the parties filed a joint motion for entry of a proposed stipulated order for a permanent injunction. On July 7, 2026, the court ordered the stipulated permanent injunction. The permanent injunction enjoins the defendants from investigating, disciplining, or terminating the plaintiff based on his proposed social or political speech but does not preclude the defendants from requiring that the plaintiff take Bakersfield College's mandatory DEI training to be eligible to serve on a faculty screening committee nor does the injunction apply to official speech made as a faculty screening committee member.

Legislative Updates

- On June 26, 2026, Illinois Governor JB Pritzker signed House Bill 1700 into law. The bill amends multiple Illinois energy and economic development laws by expanding labor, workforce development, and clean-energy initiatives, while revising regulations governing renewable energy projects, energy storage, utility programs, and energy project siting. The law will require certain applicants selected to supply renewable energy credits or receive grants for new energy storage facilities for procurement events to submit DEI plans with numerical goals for expenditures directed to businesses owned by minorities, women, persons with disabilities, LGBTQ individuals, veterans, or businesses in environmental justice communities. Selected applicants will also be required to file regular progress reports with the Illinois Commerce Commission.

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