

Practice Management

Advisory Firms' DEI Programs May Be Scrutinized

By **Paula L. Green** February 21, 2025



Photo by *iLixe48*

Don't panic!

But do pay close attention to the flurry of executive orders flying out of Washington D.C. in recent weeks to be sure your financial advisory firm doesn't run afoul of new decrees.

As the administration of President Donald J. Trump moves swiftly to change the employment law landscape, companies need to carefully navigate the changes and position themselves for compliance with executive orders as well as future legislation, rules and regulations.

"You've got to react. You've got to do something. I just hope you don't overreact and do something that can cause more harm than good," said David G. Gabor, a partner at the Wagner Law Group, headquartered in Boston. "I think what you can do is take a hard look at what your policies are now. If you have a DEI policy, if you have harassment prevention training, if you're trying to create a better atmosphere for employees to work in."

Gabor was referring to [recent executive orders](#) that no longer require federal contractors and subcontractors to take “affirmative action” and encourage private employers to end discriminatory programs promoting diversity, equity and inclusion.



Gabor, who leads Wagner Law Group’s labor, employment and human resources practice, spoke along with other attorneys during a Feb. 13 webinar hosted by the law firm. The webinar aimed to help business owners, human resources professionals, managers, supervisors and in-house attorneys keep up with the rapidly shifting employer–employee relationship. The goal is to help employers remain complaint while carrying out best practices.

Federal Executive Orders are Broad and Murky

Katherine Brustowicz, a partner at Wagner, said the orders require all federal agencies to encourage private sector employers to terminate their discriminatory practices, including race and sex-based preferences and DEI mandates and activities. She noted that companies cannot simply rename a DEI program and keep it in place. The orders are broad and there is not yet guidance from the federal government that defines an illegal or discriminatory program.

“So the full scope of the orders prohibitions are still murky at best, and we still don’t know what practices would be consistent with the orders,” said Brustowicz. She added that affirmative action requirements for federal contractors have been eliminated, which means federal contractors should not be preparing affirmative action plans regarding women and minorities.

Yet pay equity remains the law under existing civil rights laws and many states have also enacted pay transparency laws to combat the historic pay gaps between men and women. State laws are not affected by these recent executive orders.

Review Your Practices

And as DEI and DEIA offices and initiatives have been ended across the federal sector, there is also heightened scrutiny over illegal DEI programs in the private sector. The executive orders direct federal agencies to investigate private sector organizations for potential civil rights law violations.

“It goes without saying that this is a time when legal counsel is going to be very helpful,” said Brustowicz. Legal counsel can particularly help employers review their human resource practices to identify policies or procedures that may be perceived as including illegal discrimination or preferences under federal law. “That includes reviewing practices related to hiring, promoting and even mentoring your workforce,” she added.

Employees with Disabilities

Noting the references to accessibility in some of the orders, Denise Chicoine, another Wagner partner, said disability inclusion efforts may be under scrutiny even though Section 501 of the Rehabilitation Act of 1973 forbids discrimination by federal agencies against people with disabilities. Gabor added that the Workers Fairness Act (also called the Pregnant Workers Fairness Act) and the Americans with Disabilities Act are statutes that private employers are expected to follow.

“While we are in a much more employer friendly environment, we do believe that the law is a law, and it’s the employer’s obligation to follow the existing laws,” Gabor said. And according to the federal disabilities

act, if a person has a disability covered by the law, they have a right to engage in the interactive process to determine whether or not a reasonable accommodation can be secured so that they can perform the job's essential functions, he added.



Digital and Paper Documents Under Scrutiny

Companies should review their websites to be sure they are compliant, said Gabor, noting that a federal Department of Justice or state attorney general could monitor websites for information about an illegal practice. Company managers can also review paperwork in employee manuals or handbooks that describe trainings or initiatives.

The federal government's focus is on DEI training programs that reference unconscious bias, cultural sensitivity, inclusive leadership, race-based employee resources or support groups, a gender-based mentoring and promotion process, race-based fellowships run by third parties, and race-or sex- based preferences.

Proceed Cautiously and Protect your Company

Brustowicz urged employers to proceed with caution as they analyze their risks and remember that retaining and attracting top talent remains important from a business perspective. Employers can focus their recruitment efforts on skills-based, knowledge-based and merit-based applications, rather than the applicants belonging to a certain race or sex.

"That is a way that you can protect yourself. Making sure that all are treated equally, and documenting that those decisions were merit-based and color-, race- and sex-blind is another way that companies can protect themselves," she added.

Gabor also offered words of encouragement. "Don't give up. Don't throw in the towel," he said. "Take a few minutes to talk with someone who's either a consultant or a firm that can help you to modify your programs and what you're doing so that you can have a great place to work, that you can hire the best and brightest people to work for you."

Over time, the Trump Administration will have a direct impact on the Equal Employment Opportunity Commission, the Department of Labor, the National Labor Relations Board, and the employment law landscape in general.

Paula L. Green is a New York City-based freelance journalist with more than three decades of reporting and editing experience that spans coverage of international business and finance issues to murders and politics at the Jersey Shore to presidential press conferences in Argentina and Mexico. She can be contacted by plgreen12004@gmail.com. To read more of her articles, click [here](#).

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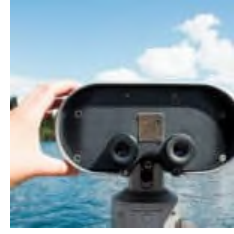
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