

Donald Trump has spent the first two weeks back in the White House bombarding the political, economic and legal atmosphere by signing a deluge of Executive Orders designed to remodel American society seemingly with the intent to turn back the hands of time to the detriment of minorities, women, the disabled, veterans and other underrepresented individuals. These Executive Orders have covered a wide array of issues spanning various diverse topics such as immigration, climate change, birthright citizenship and closing federal departments. And, moreover, they have been executed in seemingly nonstop, rapid-fire succession designed to create “shock and awe” paralysis, frustration, confusion and even hopelessness for those affected by them.

The Legislative Committee (the “Committee”) of the African American Chamber of PA, NJ and DE (“AACC”) has primarily focused its attention on the Executive Orders that will have the largest adverse impact on its members – the one that bans all federal agencies and departments from deploying Diversity, Equity and Inclusion (“DEI”) programs, policies, funding and grants, and further requires federal employees to report any violation of the ban under penalty of sanctions.<sup>1</sup>

After conferring with and participating in meetings held by legal advocacy organizations, civil rights nonprofits and leaders, contractor and supplier advocates and other stakeholders, the Committee recognizes how critical it is for AACC and Black owned businesses to demonstrate and amplify, this year especially, that the successes and accomplishments achieved by these qualified entities were hard fought, well-earned and deserved through outstanding performance and delivery of services and products. So, in other words, rather than wallow in dismay and despair, AACC and its members must once again disprove and even mock the endless racially stereotypical disparagements voiced by the Trump administration without an ounce of supporting evidence.

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<sup>1</sup> The Trump administration’s anti-DEI policies come as no surprise as it is a continuance of state and academic anti-DEI efforts that occurred prior to January 20, 2025. The following lists some of the events:

— Dozens of diversity, equity and inclusion programs have already closed in Alabama, Florida, Kentucky, North Carolina, Iowa, Nebraska, Texas and other states.

— Almost 200 diversity, equity and inclusion staff positions were either cut or reassigned across North Carolina’s public university system. The University of North Carolina at Chapel Hill Board of Trustees in May approved diverting \$2.3 million of state funds for advancing diversity to public safety and policing.

— Texas’ 2023 law led to the University of Texas cutting 300 full- and part-time positions and eliminating more than 600 programs related to diversity, equity and inclusion training.

— In 2023, Oklahoma Republican Gov. Kevin Stitt signed an anti-DEI order that led to last year’s termination of the national women’s leadership program at the University of Oklahoma.

— Universities of Wisconsin regents reached a deal with Republican lawmakers in 2023 to limit DEI positions at the system’s two dozen campuses in exchange for funds for staff raises and construction projects. The deal imposed a hiring freeze on diversity positions through 2026 and shifted more than 40 diversity-related positions to focus on “student success.”

First, this abrupt shift abandons policies that have helped dismantle and eradicate entrenched race and sex segregation in high-paying industries historically closed to women and Black, Brown and Asian workers. It also leaves contractors scrambling to navigate a complex regulatory environment, including federal anti-discrimination laws like Title VII and other laws mandating federal contractors take affirmative action with respect to veterans and disabled workers — all of which remain in place.

More broadly, the Executive Orders seek to intimidate all employers — ranging from private organizations and federal contractors and grantees to state and local entities — into abandoning DEIA initiatives, using vague and threatening language to create fear of enforcement actions.<sup>2</sup> The strategy is obvious and patently clear: Bully everyone into dropping programs that ensure equitable workplaces by falsely equating diversity efforts with discrimination.

Yet, in employment for example, properly designed DEIA programs are not only legal under federal and state civil rights laws and longstanding legal precedents, they are also necessary to ensure compliance with those laws. Programs labeled as DEIA encompass a broad range of lawful initiatives that create fairer workplaces and ensure opportunities are not limited based on race, ethnicity, disability, sex, sexual orientation, or gender identity. Most of these initiatives are not focused on selecting specific candidates for hire. To the contrary, they merely aim to create fairer

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<sup>2</sup> Additionally, on Wednesday evening, newly installed Attorney General Pam Bondi sent staff in several divisions of the Department of Justice more than a dozen memos within a 15-minute span, laying out the agency’s new policies on issues ranging from reviving the death penalty, to targeting sanctuary cities, to enforcing a strict return-to-office policy.

Slate reports that one memo puts the Department of Justice (“DOJ”) at the center of President Donald Trump’s widespread efforts to destroy any traces of initiatives that would create inclusive and diverse workspaces, otherwise known as Diversity, Equity, Inclusion and Accessibility (“DEIA”). The new memo claims that it will target private sector DEIA initiatives for potential “criminal investigation.” In other words, in the name of protecting constitutional rights, Bondi’s DOJ is teeing up an all-out assault on fundamental First Amendment rights to speak, organize, and associate.

The memo, headed with the subject line “ENDING ILLEGAL DEI AND DEIA DISCRIMINATION AND PREFERENCES,” instructs the Civil Rights Division, historically charged with protecting the rights of vulnerable minorities, and the Office of Legal Policy, to take a number of steps to attack any private companies that prioritize diverse workforces through DEIA programs. Bondi has given those departments a March 1 deadline to submit a report with their “recommendations” “to encourage the private sector to end illegal discrimination and preferences, including policies relating to DEI and DEIA.”

The memo then asks for a list of business “sectors of concern within the Department of Justice” and the “most egregious and discriminatory DEI and DEIA practitioners in each sector of concern.” It also asks for “litigation activities” and “other strategies” to target these private sector companies, evidently envisioning a coordinated, agency-wide onslaught that would divert many attorneys’ attention away from their normal areas of practice. Bondi says the DOJ will also be working with the Department of Education to make sure that universities are in compliance with the administration’s new anti-DEIA mandate.

processes. For instance, recruiting at underrepresented institutions or ensuring fairness in promotion criteria helps address systemic inequities without disadvantaging any individual.

DEIA programs encompass a broad range of lawful initiatives that create fairer workplaces and schools. Trump’s Executive Orders banning DEI attempt to conflate these lawful efforts with discrimination, thereby weaponizing enforcement to bully institutions into abandoning critical programs and taking steps to try to eliminate protections against discrimination by government contractors. However, no court has declared DEIA efforts inherently illegal, and President Trump cannot override decades of legal precedent.

Companies, schools, and institutions must resist the fear and confusion created by these Executive Orders. AACC will encourage our corporate partners to double down on their commitment to equal opportunity, ensuring that everyone, regardless of their background, has a fair chance to thrive. Further, AACC will work with other like-minded organizations to provide these partners with data that confirms that DEIA expands opportunity by improving education, helping businesses grow, and giving all communities a chance to thrive and succeed.

Second, and corollary to the immediately preceding discussion, it is essential to understand that while Executive Orders “are official documents... through which the President of the United States manages the operations of the Federal Government[,]” they are not, and do not override or supersede, legislation.

Therefore, as previously mentioned, the Executive Orders banning DEI, in certain circumstances, may violate federal and/or state laws that encourage diversity. For this reason, lawsuits have already been filed, and others are being planned, to challenge the constitutionality and/or limits of this Executive Order, so many facets of the DEI ban probably will be stayed through injunctions and not be resolved for years. Where appropriate, AACC will join in these cases, even if only by filing friends of the court briefs. Also, it should be noted that any AACC members that currently have federal contracts that have been canceled or otherwise adversely impacted by this ban should confer with their attorneys to see whether the ban is consistent with the contract terms and applicable state and local laws.

Third, Trump is purging the federal government of DEI initiatives in order to usher in what he called a “colorblind and merit-based” society. He even said his executive order eliminating the programs was “the most important federal civil rights measure in decades.” The meaning behind his words was clear, that diversity equals incompetence. And for many historians, civil rights leaders, scholars and citizens, it was an unmistakable message of racism in plain sight at the highest levels of American government.

“His attacks on diversity, equity and inclusion aren’t about a particular program or some acronym — they’re just a sanitized substitute for the racist comments that can no longer be spoken openly,” Margaret Huang, the Southern Poverty Law Center’s president and chief executive, said during a call with civil rights leaders after Mr. Trump’s remarks. “But the message is the same, that women,

Black and brown communities are inherently less capable, and if they hold positions of power or authority in government or business, it must be because the standards were lowered.”

With that in mind, Trump and his administration must not be permitted to redefine the meaning of DEI. DEI is a vehicle or tool, not the end point. The concept behind the federal government’s diversity programs is not new. It developed as a result of the Civil Rights Act of 1964. The goal of the Act was to remove discriminatory barriers for women, minority groups and people with disabilities from jobs and the earliest beneficiaries were white women, white people in rural areas and disabled veterans.

The idea was that qualified people were being overlooked. “It wasn’t discriminatory, because it was always about offering qualified people an opportunity to have a seat at the table,” civil rights attorney Timothy Welbeck said. “They weren’t supplanting people, it was more so an opportunity for access.”

However, the Executive Orders signed by Trump banning DEI programs also revoked a Sept. 24, 1965, order signed by President Lyndon B. Johnson that established the government’s affirmative action systems with an eye toward addressing historical disadvantages. It was not a “DEI” program but simply a long-standing policy that aimed to combat barriers Americans might face when seeking employment with the U.S. government. Of particular note is the fact that such policies have been effective in reducing barriers for Americans with disabilities who require accessibility — the “A” in the OPM’s now-defunct DEIA office.

And in case anyone believes that the underlying motive for this anti-DEI fervor is not racially motivated, please note that the uproar over DEI is similar to the one over critical race theory, a graduate-level concept that explores systemic racism in America, was rarely taught in K-12 schools, a few years ago, in which conservative activists alleged that schools were indoctrinating students to become radical race warriors, and shaming students by teaching them about the history of slavery.

The architect of the movement to turn critical race theory into a Republican rallying cry, Christopher F. Rufo, a senior fellow at the Manhattan Institute, laid out a blueprint for Trump in December to eliminate “left-wing racialism” from the federal government. In a post he called the “Counterrevolution Blueprint,” he wrote: “Trump can end these programs under his executive authority and replace D.E.I. with a policy of strict colorblind equality. This action would deliver an immediate shock to the bureaucracy.”

In copying the successful critical race theory campaign, the meaning behind Trump’s words on DEI have been clear and unequivocal - that diversity equals incompetence. And for many, it is an unmistakable message of racism conveyed in plain sight at the highest levels of American government.

Therefore, a touchstone to mounting a compelling campaign to sustain DEI is the reclaiming of the original and true definitions of DEI and diversity. To that end, AACC will collaborate with political leaders, legal and civil rights organizations and other advocacy groups to make the public aware of as many successful, qualified minority-, women-, disabled- and veteran-owned businesses that



benefitted from DEI programs as possible, in addition to data and reports that further establish the ample benefits of DEI programs. Ironically, the goal will be to disprove unproven, but unfortunately still believed, racial stereotypes. While many people will remain unswayed, it is reasonably believed that many more citizens will comprehend and be moved by the truth and this malignant farce being perpetrated upon the American people will wither under the glare of truth and competence.

Finally, AACC leadership and the Committee will continue to monitor and report on all material legal, regulatory and political developments involving DEI and federal, state and local contracting, as well as collaborating with like-minded organizations in order to maintain and increase those employment opportunities. Members should understand that the fight to ensure their employment and contracting opportunities may be long, slog, but they should rest assured that AACC and its allies will remain vigilant and aggressively pursue all avenues to preserve the benefits and rights so richly earned by our members.