

Civil Rights Groups File Challenge to President Trump's Executive Order on Diversity Trainings

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Quick Hit:

On October 29, 2020, civil rights groups filed a lawsuit challenging President Trump's recent [Executive Order](#) on "Combatting Race and Sex Stereotyping" (the "Order"). The [Complaint](#) alleges that the Order violates the First and Fifth Amendments by infringing on the Constitution's guarantees of Free Speech, Equal Protection, and Due Process. The Complaint also alleges that the Order is unconstitutionally vague and should be declared unlawful and invalid.

More Detail:

The Order, issued on September 22, requires new contracts entered into with the federal government to include a clause prohibiting federal contractors from including certain concepts in diversity and awareness trainings - including certain concepts that are common in unconscious bias and societal privilege trainings. The lawsuit was filed by the NACCP Legal Defense Fund on behalf of the National Urban League ("NUL") and the National Fair Housing Alliance ("NFHA"), and names President Trump; Secretary of Labor, Eugene Scalia; and the United States Department of Labor ("DOL"), as defendants. The Complaint was filed on behalf of both the named parties and on behalf of other entities affected by the Order.

According to the Complaint, the Order is an attack on free speech and "prohibits laudable and necessary efforts by Plaintiffs who want to counteract the effects of systemic discrimination and biases in the workplace." Ultimately, the Complaint argues, the Order "unconstitutionally forces Plaintiffs to choose between censoring speech on these important issues or forfeiting any opportunity to enter into a federal contract for the provision of goods or services or to receive federal funds as a grant recipient."

Further, the Plaintiffs allege that the terms of the Order are unclear and often left undefined. This brings unpredictability and uncertainty, as there “is no objective way to determine which activities are permitted and which are prohibited.” This also invites the possibility of “selective enforcement.” Plaintiffs claim the Order is an attempt to “censor and chill” discussions surrounding equality and inclusion—speech that is “at the *core* of the First Amendment’s protections.”

Plaintiffs, among other relief, seek a declaration that the Order is unlawful and invalid and a permanent injunction enjoining its enforcement.

We will continue to monitor developments with this lawsuit and advise our readers of further developments.

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