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Fourth Circuit Temporarily Allows DEI-Related EOs to Continue

Government Contractor Compliance & Regulatory Update on **March 17, 2025**

As we previously reported, on March 3, 2025, the Maryland District Court denied Defendants' motion to stay the preliminary injunction in *National Association of Diversity Officers in Higher Education v. Trump*, preventing the federal government from enforcing several DEI-related clauses in its recent Executive Orders. The court held that the Government had not shown a likelihood of success on the merits and that both the balance of harms and the public interest weighed against the stay. In addition, the court declined to limit the scope of the injunction to actions involving only Plaintiffs and their members, holding that the severity of the constitutional violations at issue justified the nationwide scope of the injunction.

However, on March 14, 2025, the Court of Appeals for the Fourth Circuit stayed the preliminary injunction pending the outcome of the Government's appeal, which will allow implementation of the DEI-related Executive Orders to continue until the court makes a final ruling on the injunction. The circuit court found that the Government had shown a strong likelihood of success on the merits under *Nken v. Holder,* 556 U.S. 418, 426 (2009). In concurring opinions, Judges Diaz and Harris expressed concerns over the lack of definition given to "DEI or its component terms" and the potential for overbroad agency enforcement of the Executive Orders. Judge Rushing, in a separate concurrence, raised "serious questions" about the ripeness of Plaintiffs' complaint, as the district court relied on evidence of how agencies "are implementing or may implement" the Executive Orders to grant the preliminary injunction.

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Proskauer's DEI Risk Mitigation Group is comprised of seasoned attorneys who provide strategic guidance, regulatory insights, and thought leadership with respect to organizational diversity, equity, and inclusion policies and programs.

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