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Federal Judge Blocks Key DEI Executive Order Provisions

Law and the Workplace on **April 25, 2025**

On April 14, 2025, the U.S. District Court for the Northern District of Illinois issued a preliminary injunction preventing the U.S. Department of Labor ("DOL") from enforcing a certification provision and termination clause included in the executive orders titled Ending Illegal Discrimination and Restoring Merit-Based Opportunity ("EO 14173") and Ending Radical and Wasteful Government DEI Programs and Preferencing ("EO 14151").

The ruling prevents the DOL from enforcing the provision in EO 14173 requiring federal contractors and grantees to certify that they do not operate "illegal" DEI programs that violate any federal anti-discrimination laws. The ruling also enjoins the DOL from terminating a federal grant issued to the plaintiff based on language in EO 14151, which requires agencies to terminate all "equity-related" grants.

Background

Plaintiff, Chicago Women in Trades ("CWIT"), provides programming and training to prepare women across the country for jobs in skilled trades such as electric work, plumbing and carpentry. CWIT receives approximately 40% of its annual budget from federal funding and specifically, a Women in Apprenticeship and Nontraditional Occupations ("WANTO") grant from the DOL Women's Bureau. On February 26, 2025, CWIT sued President Trump, the DOL, and several other federal agencies and agency heads, claiming the following provisions of EOs 14173 and 14151 violate the First Amendment, Fifth Amendment, constitutional spending powers held by Congress and the separation of powers principle:

- The "Certification Provision" (EO 14173 § 3(b)(iv)), which orders each agency to include certifications in every contract or grant award that the contractor or grantee does not operate illegal DEI programs and that compliance with federal anti-discrimination laws is "material to the government's payment decisions for purposes of" the False Claims Act;
- The "Termination Provision" (EO 14151 § 2(b)(i)), which orders each "agency, department, or commission head" to "terminate, to the maximum extent allowed

by law, all ‘equity-related’ grants or contracts.”

CWIT sought a declaration that the Certification Provision and Termination Provision are unlawful and unconstitutional, and preliminary and permanent injunctions enjoining the Defendants, other than President Trump, from enforcing those sections of the EOs that are found to be unlawful and unconstitutional.

Court’s Opinion and Reasoning

District Judge Matthew F. Kennelly issued a nationwide injunction enjoining the DOL’s use of the Certification Provision and enjoining the DOL from terminating the WANTO grant based on the Termination Provision in EO 14151.

As to the Certification Provision, the Court found the government’s argument that the certification is permissible because it simply requires the grantee to certify that it is not breaking the law, unavailing. The Court instead found that the language was unclear and left the meaning of illegal DEI programs up “to the grantee’s imagination” by not defining what DEI is or what makes a DEI program “violate Federal anti-discrimination laws.” The Court noted that the Certification Provision applies to all federal grantees and contractors and that there is a critical urgency to protect grantees and contractors from irreparable injury to their free-speech rights.

The ruling therefore held that CWIT is likely to succeed on the merits in showing that the Certification Provision violates First Amendment rights. The Court also found that the nature of the First Amendment right at stake supported a broad preliminary injunction, not only limited to CWIT, as every contract and grant offered by an agency would likely contain the provision. The Court did, however, limit the injunction to the DOL, noting that CWIT had “demonstrated a risk of imminent harm with regards only to DOL,” and “it is hard to see – and CWIT does not suggest – a basis upon which it would seek grants from agencies other than DOL.”

On the issue of the Termination Provision, the Court similarly found that CWIT showed sufficiently imminent injury as CWIT's grants were directly targeted by the provision. However, the Court found that, unlike the Certification Provision, "there is likely a low risk that other grantees who risk termination or are terminated will not challenge enforcement of this provision against them." Therefore, the Court declined to extend the injunction and limited its reach to enjoining the DOJ from terminating CWIT's WANTO grant.

On April 16, 2025, the DOJ filed a Preliminary Injunction Compliance Status Report confirming its compliance with the Court's preliminary injunction order and attaching an email that was sent to agency heads in the DOJ and other relevant parties including the Court's order.

Other cases involving challenges to the EOs discussed in this article include: *Nat'l Ass'n of Diversity Offs. in Higher Educ. v. Trump*, F. Supp. 3d, No. 25 C 333 ABA, 2025 WL 573764 (D. Md. Feb. 21, 2025); *Nat'l Urban League v. Trump*, No. 25 C 471 (D.D.C.); and *S.F. AIDS Found. v. Trump*, No. 25 C 1824 (N.D. Cal.). Other Proskauer articles on this topic include: Federal Court Issues Partial Preliminary Injunction Halting Enforcement of DEI-Related EOs, Fourth Circuit Temporarily Allows DEI-Related EOs to Continue, EEOC and DOJ Release Guidance on DEI and Workplace Discrimination, President Trump Issues Sweeping Executive Orders Aimed at DEI.

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