

# DISMANTLING DEI PROGRAMS

## Overview

Diversity, Equity, and Inclusion (DEI) programs that hire, retain, reward, promote, or otherwise discriminate against individuals because of race, color, sex, national origin, or religion are legally risky and, depending on how they are implemented, may be illegal under federal law. While DEI programs have operated for years under the guise of fairness and the need to promote individuals of a certain race, color, sex, or national origin to make up for the sins of America's past, in reality, most DEI programs are institutionalized discrimination because they seek to retain, hire, and promote individuals (and thereby discriminate against others) based not on merit, but on race, color, sex, and national origin.

While advocates of this framework claim that it promotes belonging, strengthens unity, and helps companies do their part to fight injustice, recent research reveals that DEI programs have the opposite effect. DEI fosters division and hostility within the workplace by labeling individuals as “oppressed” or “oppressors” based on their immutable characteristics, posing a long-term threat to the health of a business, including in the areas of employee recruitment, retention, and innovation.

A mass corporate exodus from DEI is now underway. Girded with the knowledge that DEI does not deliver on its promises and spurred on by executive orders, consumer campaigns, stockholder pushback, and the real risk of violating federal anti-discrimination laws, corporations are fleeing DEI in droves. In light of DEI's legal risks and negative cultural impacts, companies ought to dismantle their DEI programs and instead prioritize merit-based employment systems and promote respect and equal opportunity for each individual.

## TALKING POINTS

- DEI is simply discrimination repackaged. Such discrimination violates important civil rights protections by treating some employees worse than others based on protected characteristics like race and sex. That's wrong.
- DEI is a proven failure. It carries significant legal risk, undermines healthy meritocracy, and fosters division.
- Businesses should hire and promote the best candidates for positions based on merit—not skin color, race, or sex. That's common sense, and it's also in line with federal civil rights laws.
- Americans are tired of divisive ideologies like DEI that pit people against each other because of their skin color.



## LEGAL PROBLEMS WITH DEI

Title VII of The Civil Rights Act of 1964 provides that “[i]t shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.” In sum, employers are prohibited from treating employees worse than others because of race, color, religion, sex, or national origin. But that is exactly what DEI programs promote.

A growing body of case law suggests that such DEI and DEI-like programs are either illegal, unconstitutional, or, at a minimum, legally risky. Case-in-point, in *Students for Fair Admission, Inc. v. Harvard*, the Supreme Court struck down Harvard and the University of North Carolina’s race-based admissions systems because they admitted students—and thereby excluded and discriminated against others—in part, based on race, in violation of the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin by an entity that accepts federal funds. In December 2024, the U.S. Court of Appeals for the Fifth Circuit [struck down](#) a Nasdaq rule imposing diversity quotas on all Nasdaq-listed company boards. And in June 2024, in *American Alliance for Equal Rights v. Fearless Fund Management, LLC*, the U.S. Court of Appeals for the Eleventh Circuit held that a grant program limited to black females was substantially likely to violate 42 U.S.C. § 1981 because it discriminated on the basis of race in contracting with individuals.

Furthermore, in a series of executive orders enacted immediately upon his inauguration, President Trump introduced a new level of risk for companies with DEI programs by prohibiting federal contractors from illegal DEI practices and encouraging civil investigations for private and publicly traded companies that insist on treating some employees worse than others based on race or sex under the DEI banner.

Specifically, Executive Order titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” ordered the Department of Labor to cease (i) promoting diversity, (ii) requiring federal contractors and subcontractors to engage in affirmative action; and (iii) “[a]llowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.” The order also (i) requires each federal agency to include a term in every government contract acknowledging that noncompliance with federal anti-discrimination laws will affect the government’s payment decisions and certifies that the counterparty does not have DEI programs that violate federal law and (ii) tasks agency heads and the U.S. Attorney General with identifying ripe targets for investigation among American corporations and institutions that persist in unlawful DEI practices.

On February 5, 2025, the Attorney General of the United States of America, Pam Bondi, issued a memorandum putting American companies and institutions on notice that in accordance with President Trump's executive orders, the Department of Justice's Civil Rights Division will “investigate, eliminate, and penalize illegal DEI and DEIA preferences, mandates, policies, programs, and activities in the private sector and in educational institutions that receive federal funds.”

The new Acting Chair for the Equal Employment Opportunity Commission, Andrea Lucas, has also made her stance against DEI clear, [writing](#) in her online biography that “[s]he prioritizes evenhanded enforcement of civil rights laws for all Americans, including by rooting out unlawful DEI-motivated race and sex discrimination . . .” In light of the *Students for Fair Admissions* ruling, Lucas previously [warned](#) that the Court “rejected diversity, nebulous ‘equity’ interests, or societal discrimination as justifying actions motivated—even in part—by race, sex, or other protected characteristics. Companies continuing down this path after today may violate federal antidiscrimination laws.” And in 2024, in *Muldrow v. City of St. Louis*, the United States Supreme Court clarified that Title VII not only prohibits discriminatory hiring and firing practices but also any harmful employment action that is taken based on race, color, sex, national origin, or religion. This not only places hiring, promotion, and firing decisions in the crosshairs, but many “softer” DEI programs like scholarships, mentorships, and employee resource groups.

As a result, DEI programs have become legal landmines—landmines that need to be defused through careful and intentional actions.

## CULTURAL SHIFT AGAINST DEI

DEI is also failing at every turn culturally. In academia, a [scholarly report published](#) in 2024 at *Econ Journal Watch* has cast significant doubt on the common assertion that widespread DEI executive hiring policies lead to positive business outcomes. Reviewing a series of highly relied-upon McKinsey studies dating back to 2015, the authors wrote that they were unable to “quasi-replicate” McKinsey’s conclusions and cautioned company leaders against further reliance on the studies. The New York Times Magazine recently reported that the University of Michigan’s study of its 10-year, \$250-million DEI program resulted in the school becoming [less inclusive](#). A [study conducted](#) by Network Contagion Research Institute (NCRI) in collaboration with Rutgers University, found that common DEI training practices can induce hostility, increase authoritarian tendencies, and foster agreement with extreme rhetoric.

As Colin Wright notes, “[a] [2021 meta-analysis](#) found that some initiatives not only fail to reduce prejudice but actually exacerbate it, fueling resentment and perceptions of unfairness. The NCRI study’s findings echo these conclusions, suggesting that far from fostering inclusion, DEI programs may perpetuate a cycle of suspicion and punitive retribution.” A [scholarly paper featured](#) at the Harvard Law School Forum on Corporate Governance was unable to confirm that recent LGBT or racial minority board governance quotas have resulted in “a significant effect on firm performance, valuation, or risk.”

In corporate America, household brands like Bud Light, Disney, and Target, have sustained [permanent and significant losses](#) from making business decisions and promoting political positions demanded by DEI advocates. The list of companies abandoning DEI is growing rapidly—Walmart, Target, Amazon, Disney, Boeing, Tractor Supply, John Deere, Harley Davidson, Polaris, Indian Motorcycle, Lowe's, Ford, Coors, Stanley Black & Decker, Jack Daniels, Craftsman, Caterpillar, and Toyota have all distanced themselves from DEI—and there is no time like the present to join the return to common sense meritocracy and promoting respect and equal opportunity for each individual.

## BOTTOM LINE

In light of these legal developments and supported by the growing cultural rejection of DEI, companies ought to be dismantling their DEI programs and instead prioritizing merit-based employment systems and promoting respect and equal opportunity for each individual because of their God-given value, uniqueness, and dignity. Doing so will help to create a culture of mutual respect and unity instead of division and side-step the legal landmines now dogging the DEI agenda. Chief Justice John Roberts famously opined for the Supreme Court of the United States in *Parents Involved in Community Schools v. Seattle School District No. 1* that “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”

Because DEI programs almost uniformly discriminate among persons based on race, color, and sex, DEI programs should be dismantled.

## FIRST STEPS TO DISMANTLING DEI

1. Conduct an in-depth audit of your hiring policies and workplace training materials to identify areas where DEI concepts are present. [Here](#) is a guide to help. If present, eliminate quotas and hiring goals or practices that are based on race, sex, color, national origin, or religion. Instead, hire, retain, promote, and reward employees based on merit, not race, color, sex, religion, or national origin.
2. Replace DEI training programs with programs that promote respect for all people regardless of race, color, sex, religion, and national origin and emphasize that all people have unique God-given worth.
3. Stop imposing vendor DEI mandates and push back on companies imposing DEI requirements on other businesses. Make the case that the best thing for a business is focusing on providing excellent goods and services, not promoting divisive policies that reduce people to statistics based on immutable characteristics wholly unrelated to performance.

## RECOMMENDED RESOURCES & EXPERTS

1. [Building Strong Teams by Respecting & Harnessing Individual Talent](#) (Real Unity Training Solutions)

- Crafted for use in corporations, churches and other groups, Real Unity Training Solutions focuses on what unites co-workers and fellow members of organizations rather than what divides them. This material also educates leaders on their legal duties under constitutional and civil rights laws.

2. [Model Policy: Avoiding Divisive Concepts in Workplace Training](#) (Viewpoint Diversity Score)

- This resource provides guidelines to audit all workplace-related trainings, programming, and resources to ensure they avoid divisive concepts, including DEI. Companies should remove resources or avoid training facilitators known to advocate these concepts.

3. [Model Policy: Workplace Viewpoint Diversity Policy](#) (Viewpoint Diversity Score)

- Companies can use this model policy to periodically review all applicable workplace policies and practices to ensure consistency with a commitment to fostering a workplace culture where freedom of thought is welcomed, and all people are valued and respected.

4. [Workplace Resource: Religious Accommodation Policy](#) (Viewpoint Diversity Score)

- Companies can proactively respect religious diversity in the workplace by providing a written policy and process for employees to request religious accommodations.

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