



emtrain®

HOW HR TEAMS
CAN RESPOND TO
EXECUTIVE ORDERS
BANNING “**ILLEGAL DEI**”

A Message from Emtrain Founder & CEO Janine Yancey

HR teams, diversity leaders, and compliance professionals are facing a moment of extraordinary uncertainty. President Trump's recent executive orders targeting Diversity, Equity, and Inclusion (DEI) initiatives have sent a clear message: federal agencies will be enforcing new restrictions, federal contractors must disavow certain DEI programs, and private-sector companies may face investigations. While most organizations are unlikely to be directly scrutinized, the broader impact is undeniable—HR teams are now being pressured to reduce or eliminate DEI efforts, often without clear guidance on what is legally required, what remains compliant, and what risks must be managed.

In times like these, leaders need trusted training partners who are also legal experts. At Emtrain, we recognize the difficult position that HR, legal, and compliance teams are in. You are being asked to navigate a new legal and regulatory landscape while still maintaining workplace culture, engagement, and inclusion. That's why we're here—to provide expert guidance, resources, and support to help you make informed decisions.

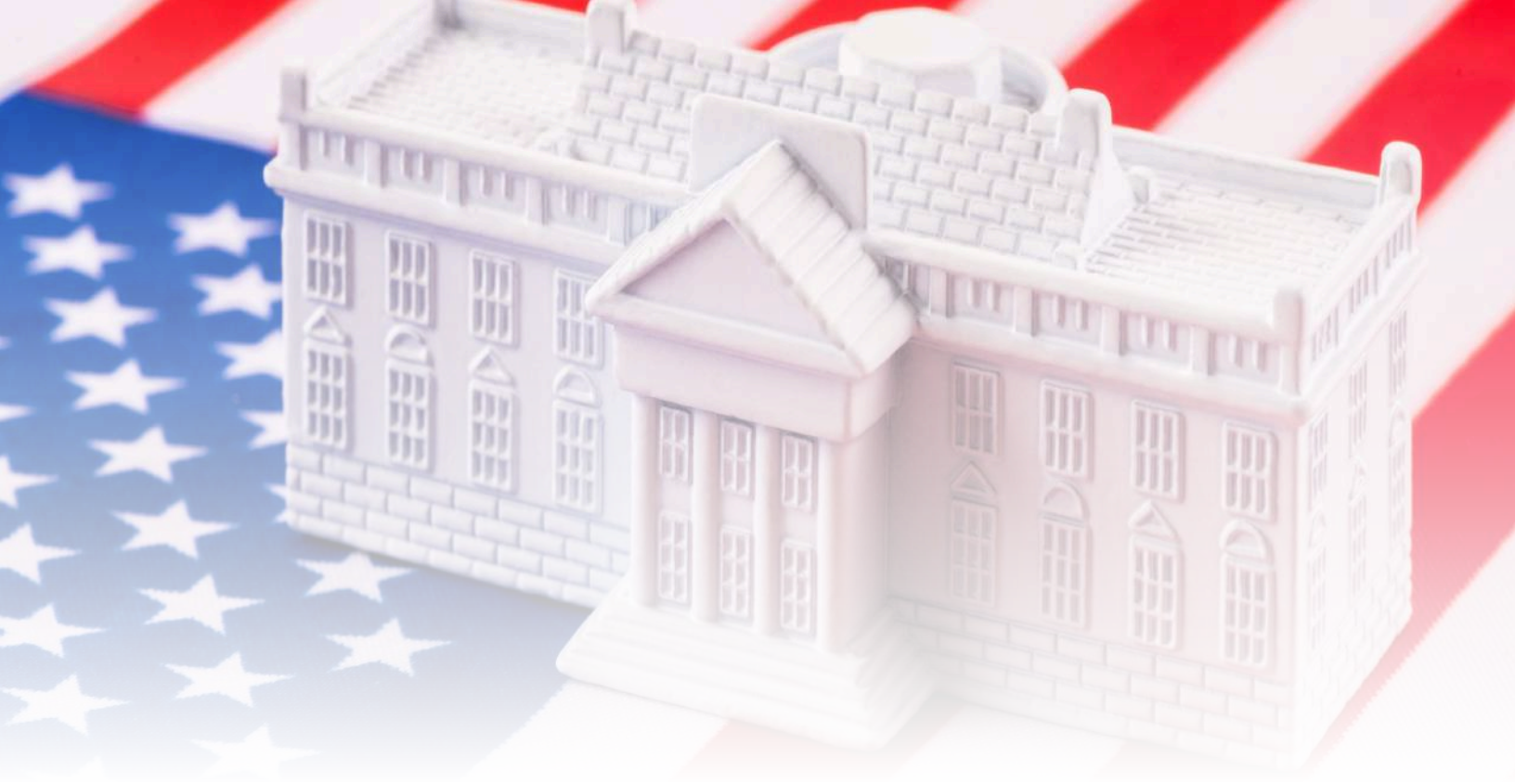
Unlike any other compliance training provider, Emtrain is the only solution with practicing employment lawyers on staff to answer your questions and work directly with in-house counsel and compliance teams to identify and mitigate risk. Whether you need clarity on what these executive orders mean for your policies, strategies to reframe workplace inclusion efforts, or insights into protecting your organization from legal exposure, we can support you.

This guide will walk you through the latest executive orders, what they mean for your business, and how to respond proactively. Our goal is to equip you with the knowledge and tools to protect your organization while maintaining a workplace culture that fosters respect and inclusion.

These are challenging times, but you don't have to navigate them alone. Emtrain is committed to being your partner in compliance, risk mitigation, and workforce culture strategy.



Janine Yancey
Founder & CEO, Emtrain



Summary of the January Executive Orders: What's at Stake?

The January 21st Executive Order, **“Ending Illegal Discrimination and Restoring Merit-Based Opportunity,”** has implications for federal agencies, federal contractors and for private sector companies.

Key provisions HR should note:

- **The January 21st EO terminates EO 11246**, signed in 1965 and which requires federal contractors to take “affirmative action” to ensure their workforce reflects the communities they operate in.
- **Federal contractors and federal agencies** are prohibited from seeking to rebalance the workforce or set any goals or quotas based on race, color, sex, sexual orientation, religion or national origin, or anything other than merit.
- The order broadly bans **“illegal DEI”** which is described as actively using **“dangerous, demeaning, and immoral race- and sex-based preferences.”**
- Notably, the EO instructs the **Attorney General to create a plan in 120 days (July 21, 2025)** to deter “illegal DEI” programs in the private sector and crack down on “egregious and discriminatory DEI practitioners” within publicly traded corporations, large non-profit organizations, foundations with assets of 500 million or more, state and local bar and medical associations, and institutions of higher education with endowments of over 1 billion dollars.

Immediate Action Plan for HR Leaders

1 Conduct a Full Review of Workplace Policies

Begin by auditing all DEI-related policies—including **hiring, promotion, pay equity, and training programs**—to determine whether they could be labeled as discriminatory under the new executive order.

- Review job descriptions and hiring practices: Avoid any language suggesting race, gender, or other protected characteristics influence hiring decisions.
- Assess training programs: Remove any mandatory training that could be perceived as requiring employees to acknowledge unconscious bias or privilege.
- Examine mentorship and leadership programs: Ensure that participation is open to all employees, rather than targeting specific demographic groups.

Recommendation: **Work closely with legal counsel** to ensure your policies comply with existing federal, state, and local laws while still fostering an inclusive workplace.

2 Reimagine Employee Resource Groups (ERGs)

Employee Resource Groups (**ERGs**) **are likely to face extra scrutiny**, particularly if they are perceived as limiting membership to specific identity groups; they could be viewed as discriminatory under Title VII of the Civil Rights Act. Here are some easy modifications to make regarding ERGs:

- **ERGs should be open to all employees**—any restriction based on race, gender, or other legally protected traits presents a compliance risk.
- **Rename and reframe ERGs** to focus on shared experiences rather than identity-based criteria. Example: Instead of a “Women in Leadership” ERG, consider a “Leadership Development Network” that remains inclusive while still supporting underrepresented talent.
- **Clarify ERG ground rules**—ensure that discussions remain professional and aligned with the company’s values of inclusivity without creating legal exposure.

Recommendation: Do not eliminate ERGs, but adjust their structure to focus on professional development, business impact, and broad participation.

3 Prepare for Increased Compliance Audits and Potential Investigations

With the **Attorney General tasked with identifying major companies for DEI-related investigations**, HR teams **must be ready to defend** their workplace policies **under federal scrutiny**.

- **Federal contractors** should assess compliance with Section 503 (Rehabilitation Act) and VEVRAA (Veterans' employment protections), as these remain in effect even after Executive Order 11246 was rescinded.

- As part of the EO, the Attorney General is instructed to identify publicly traded corporations for civil compliance investigations. Further, there is precedent to implement a method for citizens to report suspected wrongdoing, and it's likely to apply to this EO, which means the Attorney General will implement a method for employees to report their employer if and when that company sponsors "illegal DEI" training.

The White House also published the January 20th EO, 14168, **"Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government."** This EO states that sex is binary - male and female - and that it is biological and immutable and determined by the person's sex at birth. But, this EO also has implications on the EO for "Illegal DEI."

Key provisions HR should note:

- The EEOC** has a new Chair, Andrea Lucas, issued a statement on January 28, 2025, entitled **"Removing Gender Ideology and Restoring the EEOC's Role of Protecting Women in the Workplace."** Chair Lucas **stated that use of pronouns, reflecting a person's biological sex, is not harassment.**
- While gender identity and gender expression are still protected characteristics under Title VII pursuant to the 2020 U.S. Supreme Court case, **Bostock v. Clayton County, Georgia**, the Court Justices have changed and it is likely that the **Bostock** case will be overturned through a new U.S. Supreme Court case that reviews and reconsiders whether Title VII protects gender identity and gender expression.

Concerns to Watch Regarding Harassment and Diversity Training Content

Gender identity and gender expression are protected characteristics in many states. Further, it is appropriate and responsive to harassment prevention training mandates in California, New York, Illinois and other states to include content about gender identity and gender expression (including pronouns) in a harassment prevention training program.

However, gender identity and gender expression may be excluded from Title VII protection at the federal level in the near future. And, it is very possible that an employee reports an employer for sponsoring training content about gender identity and gender expression as "illegal DEI" training – even though those topics are compliant with state harassment law protections. Employers who are likely to be scrutinized by the Attorney General (big publicly traded companies) may want to reconsider publishing training content about gender identity to minimize unnecessary reactions and undue scrutiny.

Regarding diversity training, employers should review content to ensure that it could not be viewed as "dangerous" or "demeaning" or favoring some demographics over others.



- Ensure all employment decisions are based on **objective, job-related criteria** to avoid potential legal challenges.
- **Keep detailed records** of hiring, promotions, and DEI program participation to demonstrate compliance with existing labor laws.

Recommendation: If your company receives federal contracts or grants, consult with counsel to prepare for potential audits.

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Recommended Corporate Communications and Messaging

Heritage Months

To learn about, and appreciate the history and achievements of [fill in the community], we're inviting everyone to engage in a micro-lesson and subsequent discussion to strengthen our social fabric and our workforce.

Managing Bias Training

We all take shortcuts to make quick decisions. "Gut instinct" "Intuition" Those are just another way of saying – a mental shortcut. Shortcuts are often based on assumptions that are not factually accurate and this leads to poor decisions and bad outcomes. In sponsoring a managing bias course, our goal is that people slow down, review facts and exercise critical thinking in decisions that have wide implications on employees.

Inclusion Training

Everyone is different; Different life experiences, different communication styles, different conflict resolution techniques. Differences often require skilled navigation to work productively with co-workers, while minimizing conflict that naturally stems from peoples' differences. We're sponsoring this course to help everyone develop the skills needed to navigate our differences easily while maximizing the benefits of our differences.

Annual Respect/Preventing Harassment training

We operate in many states [can include regions or countries too depending on the campaign] that require an annual training on employees' rights and responsibilities to prevent workplace harassment. At the same time, we know that every year there are new social dynamics that affect our workplace culture and that require skill to navigate productively. That's why we sponsor an annual respect program to build skills for a conscious culture while meeting state regulatory requirements. We appreciate you taking the time to develop your culture skills and helping us create a top workplace culture.

ERGs

Engaging with people who have shared life experiences, interests and/or hobbies helps create a sense of belonging that is good for individuals and good for our workplace culture. We support these ERGs [identify ERGs] which are open to anyone and everyone to attend.

Message to Workforce Regarding Evolving Programs and Workforce Management

We have deeply held values that guide how we develop and support our people and our workplace culture. Those values remain the same. We also need to comply with federal, state and local regulations regarding the workplace. To the extent we modify or evolve any of our training programs, workforce resources and/or tools, it is to avoid unnecessary scrutiny and avoid even the question of our compliance with all applicable regulations.

Long-Term Implications: What Happens As DEI Becomes “Illegal”?

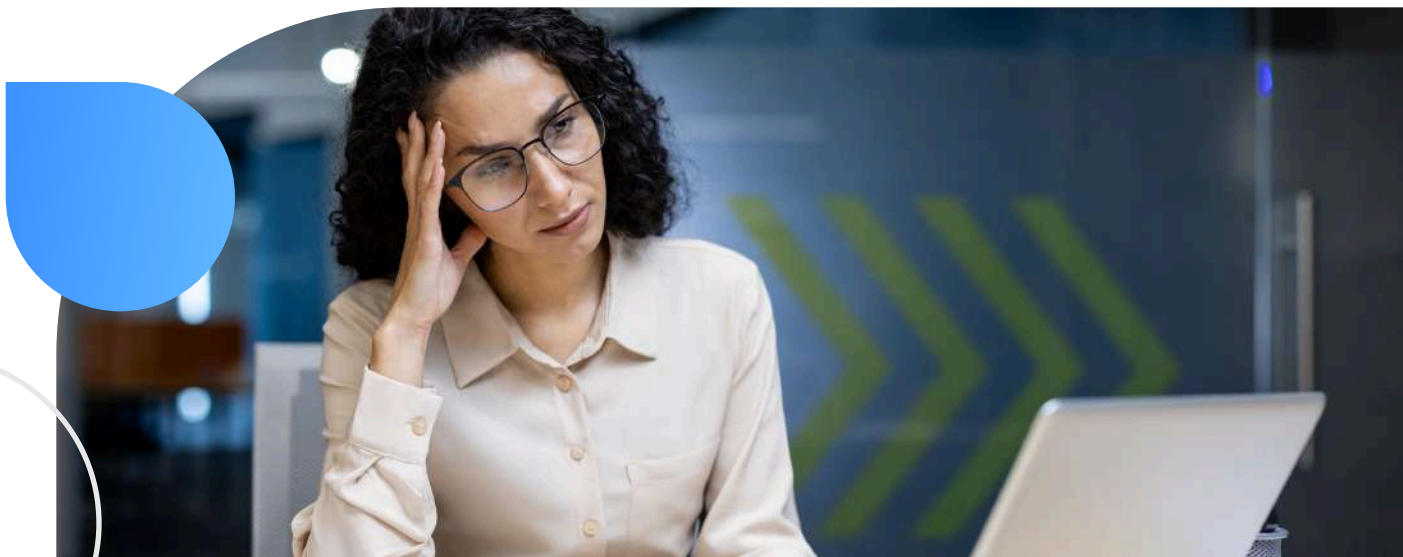
If the current trajectory continues, employers could see further rollbacks of corporate DEI programs, including:

- Bans on diversity hiring goals—Companies may be restricted from setting public diversity benchmarks for hiring and promotions.
- Legal challenges to pay equity initiatives—Efforts to close racial and gender pay gaps could face greater legal hurdles.
- Restrictions on diversity training—Employers may be limited in how they address bias, inclusion, and equity topics in training programs.

Some companies may choose to abandon DEI entirely to avoid legal risks, while others will embed DEI principles into broader HR policies without explicitly labeling them as such.

- Reframe DEI as a business strategy—Instead of focusing on DEI as a standalone initiative, align it with workforce development, management skills, and business outcomes.
- Embed inclusivity into leadership and performance reviews—This ensures DEI efforts continue without being framed as identity-based initiatives.
- Strengthen your legal and HR partnership—Collaboration between HR, legal, and compliance teams will be critical to navigating these changes.

DEI won't disappear—it will evolve. HR leaders should focus on embedding inclusive practices into core business operations rather than treating them as separate DEI initiatives.





HR Must Stay Agile and Proactive

The January Executive Orders mark a turning point for HR leaders, requiring a strategic approach to workplace policies, compliance, and culture. While federal mandates may be shifting, the commitment to fair and inclusive workplaces remains a business necessity.

● Immediate next steps:

- **Audit existing DEI programs and hiring policies** to mitigate legal risk.
- **Ensure ERGs remain open and inclusive** to avoid Title VII violations.
- **Prepare for potential audits and investigations**, particularly for federal contractors.
- **Reframe DEI efforts to focus on business impact**, leadership development, and inclusive culture.

HR professionals have more influence than they realize—even as policies shift, there are still ways to promote inclusivity, fairness, and belonging in the workplace.

Stay informed, stay prepared, and stay committed to building great workplaces.