

DEI—The Newest “Dirty Words”

By VIANCA T. MALICK

On the first day of his second term, President Trump issued Executive Order 14151 titled “Ending Radical and Wasteful Government DEI Programs and Preferencing.”¹ In an attempt to terminate DEI initiatives across the federal government, President Trump claims that such programs have caused “immense public waste” and “shameful discrimination.”² But what is “DEI”? The acronym standing for “Diversity, Equity, and Inclusion” has increased in popularity over the last several years, but has also increased in criticism, causing widespread disagreement as to what DEI actually means.

The origins of DEI date back to the 1960s anti-discrimination legislative movement, which included the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, and the Age Discrimination in Employment Act of 1967.³ Usually lumped together as one, DEI actually refers to three pillars of policy that, when implemented together, prevent discrimination and create more inclusive environments for those from marginalized groups.⁴ “Diversity” refers to the representation of people from a variety of backgrounds at all levels of an organization (different races, genders, economic statuses, sexual orientations, etc.).⁵ “Equity” focuses on fairness and impartiality, such as whether people are being fairly compensated, treated, and considered for advancement opportunities at an organization.⁶ “Inclusion” is about whether people feel like they belong or are valued in an organization.⁷

In the wake of the Black Lives Matter movement, the murder of George Floyd, and the #MeToo movement, DEI initia-

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tives increased in popularity but also garnered increased criticism creating a “flashpoint” in American politics.⁸ The most common criticism? Meritocracy. DEI is often misconstrued as reverse discrimination that credits race and gender over individual merit.⁹ DEI and meritocracy, however, are not oxymorons. Rather DEI supports merit-based decision making by correcting power inequities and breaking down barriers that hinder the success of qualified people from such marginalized groups.

In February, the CBA Young Lawyers Section held its diversity dinner at Café Fiore in Cromwell. Moderated by Cromwell Mayor James Demetriades, attendees participated in a frank discussion of the current state of DEI in our country. Sharon Brown, DEI Partner at Barclay Damon LLP, and State Representative Jack Fazzino of District 83 addressed common misconceptions regarding DEI and the impact the president’s executive orders have on companies and organizations that wish to continue their commitment to DEI without breaking the law.

Attorney Brown and Representative Fazzino also discussed the impact of the U.S. Supreme Court’s decision in *Students for Fair Admissions v. Harvard*.¹⁰ Students for Fair Admissions, Inc. sued Harvard University and the University of North Carolina alleging that the universities’ admissions practices were discriminatory, because they used race and gender as one of many factors when making admissions decisions.¹¹ On June 29, 2023, the Supreme Court held that the universities’ approaches for achieving diversity violated the law thereby ending the use of affirmative action in higher education.¹² Attorney Brown noted that people often confuse DEI with affirmative action, but the two are not the same. The Supreme Court’s decision addressed programs that use race- or sex-based preferences; it has no applicability to businesses that wish to continue their DEI programs that don’t involve affirmative action.

Unfortunately, between the end of affirmative action and the President’s executive orders, diversity, equity, and inclusion are now “dirty words” and many U.S.

companies are clawing back their DEI initiatives across the board. In August 2024, Ford Motors and Lowe's announced they will no longer participate in external diversity surveys and will be consolidating their employee resource groups.¹³ In November 2024, Walmart confirmed it will not renew its commitment to the Walmart.org Center for Racial Equity.¹⁴ In January 2025, McDonald's announced it will retire goals for achieving diversity at senior leadership levels and Target amended its "Belonging to Bullseye" strategy ending programs to aid Black employees in building their careers and efforts to recruit more diverse suppliers.¹⁵

Despite the many companies dismantling their DEI programs, others have recommitted to their DEI initiatives. In January, Costco's Board of Directors voted against a proposal from the National Center for Public Policy Research to evaluate the risks associated with their DEI efforts.¹⁶

Companies like Goldman Sachs and JP Morgan have also publicly reaffirmed their commitment to increasing diversity.¹⁷

I am not sure what the current state of DEI will be when this is published. As of March 2025, the president's executive orders regarding DEI have been largely blocked by federal courts.¹⁸ My hope is that DEI initiatives will not be something of the past, but rather only the beginning of our efforts to create a true meritocracy where everyone can succeed without the barriers discrimination has plagued many of our citizens with. ■

NOTES

¹ Exec. Order No. 14151, 90 Fed. Reg. 8339 (Jan. 20, 2025).

² See *id.*

³ See Kiara Alfonseca, *A Look at What DEI Means Amid Trump Executive Orders*, ABCNews (Jan. 24, 2025, 1:47PM), <https://abcnews.go.com/US/dei-programs/story?id=97004455>.

⁴ See *id.*, see also, Jessica Guynn, *DEI Explained: What is DEI and Why is it so divisive? What you need to know*, USA TODAY (Mar. 4, 2025, 10:53PM), <https://www.usatoday.com/story/money/2025/03/04/trump-dei-backlash-explained/81170427007/>.

⁵ See Kiara Alfonseca, *A Look at What DEI Means Amid Trump Executive Orders*, ABCNews (Jan. 24, 2025, 1:47PM), <https://abcnews.go.com/US/dei-programs/story?id=97004455>.

⁶ See *id.*

⁷ See *id.*

⁸ See Jessica Guynn, *DEI Explained: What is DEI and Why is it so divisive? What you need to know*, USA TODAY (Mar. 4, 2025, 10:53PM), <https://www.usatoday.com/story/money/2025/03/04/trump-dei-backlash-explained/81170427007/>.

⁹ See *id.*

¹⁰ 600 U.S. 181 (2023).

¹¹ See *Students for Fair Admissions v. Harvard*, 600 U.S. 181, 197–98 (2023).

¹² See *id.* at 230.

¹³ *Which US Companies are Pulling Back on Diversity Initiatives*, ASSOCIATED PRESS (Mar. 7, 2025, 4:07 PM) <https://apnews.com/article/dei-diversity-equity-inclusion-companies-law-suits-2193ef0a864db968e6934f971f78e8f2>.

¹⁴ See *id.*

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to prior counsel and Disciplinary Counsel's requests for details of the settlement. *Millman v. William John Hennessey*, #23-0165.

Discipline imposed under Practice Book Section 2-37(a)(5) for violation of Rules 1.8(h)(1), 1.8(h)(2), 3.3(a)(1) and 8.4(4) where attorney, who was alleged to have taken a \$750 retainer to draft a Will, denied receiving the retainer, denied meeting the proposed testatrix and did not draft any Will. When complainant daughter sought the Will after the death of her mother, attorney paid her the sum of \$750 requiring her to sign an agreement prospectively limiting his liability although daughter was not represented by other counsel. Attorney ordered to take 6 hours of in-person CLE in ethics within one year in addition to annual

CLE requirements. *Williamson v. Jamaal T. Johnson*, #23-0050.

Discipline imposed under Practice Book Section 2-37(a)(7) for violation of Rule 1.15(b) where attorney, with no intent or harm to any client, failed to keep accurate ledgers for all client's funds in his IOLTA and failed to remove earned fees in a timely manner. Attorney ordered to provide quarterly audit reports of his IOLTA for two years. Panel noted Respondent's dedication and service to his clients. *Slack v. Jeremiah Nii-Amaa Ollennu*, #23-0122.

Discipline imposed under Practice Book Section 2-37(a)(5) for violation of Rule 8.1(2) and Practice Book Section 2-32(a)(1) where attorney failed to respond to disciplinary complaint believing it to be fraudulently filed and, when contacted

by Disciplinary Counsel, failed to file information in accordance with procedural framework. Attorney ordered to take 2 hours of in-person CLE in ethics within 9 months in addition to annual CLE requirements. *Berrios v. Elizabeth Jane Rohback*, #22-0505.

Reprimand issued for violation of Rules 1.5(a), 1.5(b), 8.4(1) and 8.4(4) where attorney, in divorce matter, sought to collect a \$75,000 "bonus fee" from client after a successful mediation based upon a fee agreement which did not provide client with the ability to reject any claim for a bonus. Client had paid attorney's firm \$96,000, not including any bonus. Client ultimately sought new counsel who finalized matter substantially in accord with the mediation results. *Dangremond v. Jeffrey Hill*, #22-0158.

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It allows attorneys to practice from a place of centered awareness rather than anxious attachment. Attorneys can focus their energy on the task at hand, rather than on defending themselves or on the fears and insecurities that can come from that inner voice. From this space, legal work becomes something attorneys do rather than something they are. Challenges are viewed on parity with success, both contributing to our growth.

As Michael Singer writes: "There is nothing more important to true growth than realizing that you are not the voice of the mind—you are the one who hears it." For attorneys whose minds are particularly active and whose professional identity is particularly strong, this realization can be profoundly liberating.

The legal profession requires its practitioners to construct and inhabit an identity defined by analytical prowess, adversarial readiness, and perfectionist standards. Witness consciousness offers a pathway to practicing law skillfully while shedding the identity that can often cause anxiety and stress. Reminding us that beneath the suits, arguments, and legal brilliance exists a consciousness that witnesses it all, untouched by the day's perceived victories and defeats.

This separation of professional identity from authentic self may be the most powerful wellbeing practice available to attorneys in a profession that demands so much of mind and spirit. ■



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¹⁵ See *id.*

¹⁶ See Kiara Alfonseca, *These Companies are Standing By Their DEI Policies Amid Backlash*, ABCNEWS (Jan. 23, 2025, 9:20PM), <https://abcnews.go.com/Business/companies-sticking-dei-amid-backlash/story?id=118037109>.

¹⁷ See *id.*

¹⁸ Judge Largely Blocks Trump's Executive Orders Ending Federal Support for DEI Programs, ASSOCIATED PRESS (Feb. 21, 2025, 9:01PM), <https://www.npr.org/2025/02/21/nx-s1-5305287/trump-dei-programs-executive-order-judge>.

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