



Monday Minute

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Executive Orders — Where Are We Today?

The White House’s flurry of executive orders over the past month have left many scrambling to figure out how to maintain both legal compliance and their organizational values. We write to provide an overview of some of the key recent executive orders/actions—with a focus on those related to (1) diversity, equity, and inclusion (DEI), (2) immigration, and (3) federal funding—and their current statuses in light of numerous legal challenges.

Diversity, Equity, and Inclusion (DEI)

- **An executive order** and multiple guidance documents have been issued purporting to target “illegal DEI” in both **education** and the **private sector**.
- **One executive order** prohibits funding toward “discriminatory equity ideology” or “gender ideology” in K–12 schools.
- The Department of Education has created an online portal to anonymously report alleged instances of “illegal DEI,” located **here**.
- **One executive order** establishes a federal policy that there are only two genders. Numerous agencies/offices—particularly those within the Departments of Education and Health and Human Services—have rescinded guidance documents related to LGBTQ+ persons.
- Several additional executive orders and guidance documents have focused specifically on transgender persons.
 - **One order** prohibits transgender women from participating in women’s sports in schools, threatening Title IX enforcement action and federal funding removal at schools that do not comply with the order.
 - The Department of Education issued a “**Dear Colleague Letter**” purporting to vacate the 2024 Title IX regulations, removing recently-added protections based on sexual orientation and gender identity.
 - Another **order** prohibits K–12 teachers and staff from “unlawfully facilitating” a student’s gender transition.
- **One executive order** requires agencies to report and investigate federal funds, contracts, or grants that are “equity-related” or related to “environmental justice” that have been issued since January 2021. This order has been interpreted to require funding recipients to certify their compliance with the order by removing DEI elements from their programs or risk losing funding.

- At least four legal challenges have been filed thus far. A federal district judge has partially enjoined this executive order nationwide, though the Government is in the process of appealing the decision.

Immigration

- Two executive orders (found [here](#) and [here](#)) reflect a broad policy to pursue criminal charges against undocumented persons and those who help them.
 - The Department of Justice also issued a memorandum threatening to prosecute anyone who attempts to conceal or harbor an undocumented person or fails to comply with immigration-related requests.
- A Homeland Security **memorandum** reversed prior policy to allow Immigration and Customs Enforcement officers to conduct raids in “sensitive” areas, including schools and houses of worship.
 - Multiple lawsuits have been filed challenging this memorandum. On February 24, a federal district court in Maryland issued a temporary restraining order; however, that order only prohibits the government from enforcing the memorandum as to the specific parties in that case.
- **One additional executive order** directs agency heads to identify and curb federal funding to programs that provide “any cash or non-cash public benefit” to undocumented persons.

Federal Funding

- **One executive order** and a **press release** from the State Department paused foreign aid and funding from the United States Agency for International Development (USAID).
 - At least three challenges have been filed thus far, focusing on the suspension of foreign aid. All three cases have received a temporary restraining order, though the Supreme Court has recently granted a stay preventing enforcement of the temporary restraining order in two of those cases pending further review.
 - As of February 27, the federal government announced it had canceled 90% of USAID contracts.
- A **memorandum** from the President to various agency heads requires the Secretary of State to remove funding for organizations that support and participate in “coercive abortion or involuntary sterilization.”
- The Director of the National Institutes of Health **imposed a 15% standard rate cap** for funding programs’ “indirect costs” related to operating facilities and administration.
 - A temporary restraining order was issued in one of the cases that challenged this guidance document.

**This client alert is for informational purposes and is not legal advice.*

With the landscape of these orders and associated challenges changing rapidly, we are monitoring the latest developments on a daily basis. If you have any questions about how any of these orders may impact your organization, please contact:

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*View all of our Monday Minute issues [here](#).

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