Despite Attacks, Civil Rights Protections Endure

July 2025

Despite Attacks, Civil Rights Protections Endure

Two Years After the Supreme Court's Students for Fair Admissions Decision, the Law Still Supports Diversity, Equity, and Inclusion Measures

Editorial Note: *This supplemental report tracks key legal developments over the last year stemming from ongoing efforts to misuse the Supreme Court's Students for Fair Admissions (SFFA) decision to undermine racial equity and other work towards greater inclusion. Many of these legal attacks and outcomes were catalogued by Democracy Forward in our 2024 report,* ***Safeguarding and Strengthening Diversity, Equity and Inclusion (DEI) Initiatives****. Our 2025 SFFA-related case tracking includes new filings, key rulings, and notably, matters that have been resolved without court opinions—which have not changed the applicable laws. We also cover examples of the Trump-Vance administration's distortion of the SFFA decision in its attempts to dismantle DEIA-related measures.*

Overview

Legal attacks on programs promoting racial equality accelerated following the June 2023 U.S. Supreme Court ruling in ***Students for Fair Admissions v. Harvard*** and ***Students for Fair Admissions v. University of North Carolina*** (collectively, *SFFA*).[1] While this decision undermined long-standing legal precedent concerning the consideration of race as part of college admissions, the *SFFA* decision was narrow in scope and limited to higher education admissions. However, far-right organizations and political extremists have invoked the *SFFA* opinion to broadly attack diversity, equity, inclusion, and accessibility (DEIA) initiatives.[2] In response, Democracy Forward Foundation, alongside our civil rights and public interest allies, is actively litigating to defend critical DEIA initiatives.

We catalogued *SFFA*-related anti-DEIA attacks in our 2024 report, ***Safeguarding and Strengthening Diversity, Equity and Inclusion (DEI) Initiatives***, identifying more than 70 cases nationwide.[3] This 2025 supplemental report tracks key legal developments over the last

---

[1] *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).
[2] We use both acronyms DEIA and DEI throughout this report to reflect the specific programs and cases discussed.
[3] Democracy Forward, *Safeguarding and Strengthening Diversity, Equity and Inclusion (DEI) Initiatives* (July 2024).

year. These attacks broadly target seven key sectors: workplaces, grant programs, government boards, government-run services and programs, health care systems, educational institutions, and voting access.[4]

2025 Legal Landscape

Despite a steady stream of lawsuits from anti-equity groups, most DEIA programs remain on firm legal ground. However, far-right extremist groups, now joined by the Trump-Vance administration, continue to distort the *SFFA* opinion well beyond its legal boundaries. The anti-equity movement appears emboldened by the knowledge that the federal government is on its side–continuing to both file new cases[5] and actively pursuing older cases.[6] For example, Edward Blum, the President of Students for Fair Admissions who brought the original cases against Harvard and University of North Carolina, continues to litigate these cases.[7]

Working in concert with these far-right groups, the Trump-Vance administration has advanced similarly flawed positions against DEIA initiatives. Examples include:

- **Issuing anti-DEIA executive orders:** In his first week in office, President Trump issued a series of executive orders targeting DEI programs in the public and private sectors. One early order, which explicitly cites the *SFFA* decision, attempts to misinterpret civil rights laws in a way that would prohibit certain equity measures and seeks to chill organizations from supporting diversity, equity, inclusion, and accessibility.[8]
- **Unlawful attempts to withhold federal funds:** The Trump-Vance administration's Department of Education also cited *SFFA* when it threatened school districts with loss of funding and other penalties if they did not eliminate DEI-related efforts or activities

https://democracyforward.org/work/report-safeguarding-and-strengthening-diversity-equity-and-inclusion-dei-initiatives/.

[4] This report provides a representative overview of the current legal landscape across these major sectors; it does not provide a comprehensive account of all cases seeking to undermine DEIA initiatives.

[5] *See, e.g.*, *Do No Harm, et al. v. David Geffen Sch. of Med., et al.*, No. 2:25-cv04131 (C.D. Cal. filed May 8, 2025) (challenging university admissions policies); *Students Against Racial Discrimination v. The Regents of The Univ. of Cal., et al.*, No. 8:25-cv00192 (C.D. Cal. filed Feb. 3, 2025) (challenging university admissions policies); *H. et al. v. Univ. of Cal. Bd. of Regents et al.,* No. 3:25-cv-01399 (N.D. Cal. filed Feb. 11, 2025) (challenging a high school medical internship program).

[6] *See, e.g.*, *Khatibi et al v. Hawkins et al.*, No. 24-3108 (9th Cir. argued Mar. 27, 2025) (challenging implicit-bias training requirement in continuing medical education courses); *Sargent v. Sch. Dist. of Phila.*, No. 22-cv-1509, 2024 WL 4476555 (E.D. Pa. 2024), *appeal docketed*, No. 24-3112 (3rd Cir. Nov. 13, 2024) (challenging specialized public schools' admissions policies); *Suhr v. Dietrich,* No. 2:23-cv-01697 (E.D. Wis. filed Dec. 19, 2023) (challenging state bar leadership and mentorship programs); *Chu v. Rosa*, No. 1:24-cv-75 (N.D.N.Y. filed Jan. 17, 2024) (challenging a college preparation program).

[7] Robert Barnes, *How one man brought affirmative action to the Supreme Court. Again and again*, Wash. Post (Oct. 24, 2022), https://www.washingtonpost.com/politics/2022/10/24/edward-blum-supreme-court-harvard-unc/. Blum also founded the American Alliance for Equal Rights (AAER), which has filed numerous lawsuits targeting DEIA-related programs in the private sector, including those at corporations, law firms, and cultural institutions.

[8] Exec. Order No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025). See also Exec. Order No. 14151, 90 Fed. Reg. 8339 (Jan. 20, 2025).

referencing race or racism.[9] Yet the agency failed to define these terms, instead vaguely referencing both curricular content and non-curricular activities in its "Dear Colleague Letter" and related guidance.[10] And in May, the Department of Justice issued a memo citing the False Claims Act to require that certain recipients of federal funding certify compliance with an overbroad interpretation of *SFFA* or risk "significant penalties."[11]

- **Weaponizing civil rights agencies:** For example, the U.S. Equal Employment Opportunity Commission (EEOC) has long supported DEI-related initiatives, describing these measures as helpful to enforcing our nation's federal civil rights protections.[12] In January, President Trump unlawfully fired two of the three Democratic commissioners, stripping the commission of a quorum.[13] The Acting Chair of the EEOC, a Trump appointee, has since issued confusing anti-DEIA information on the agency website, notably without quorum and without following established procedures.[14]

These actions have drawn immediate and sharp criticism from the legal community. In January, thirteen State Attorneys General released a joint statement denouncing the executive orders as misleading and unjustified, stating: "President Trump's executive orders are unnecessary and disingenuous. These orders have nothing to do with combatting discrimination. The Trump administration has longstanding civil rights laws at its disposal to combat real discrimination, and we would be willing partners if it chose to pursue this path. Instead, the administration is targeting lawful policies and programs that are beneficial to all Americans. These policies and programs are not only consistent with state and federal anti-discrimination laws, they foster environments where everyone has an opportunity to succeed. That is the opposite of discrimination."[15]

---

[9] Letter from Craig Trainor, Acting Assistant Sec'y for C.R., U.S. Dep't of Educ., to Colleagues (Feb. 14, 2025), https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf.

[10] *Id.*; *see also* U.S. Dep't of Educ., *Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act* (Feb. 28, 2025), https://www.ed.gov/media/document/frequently-asked-questions-about-racial-preferences-and-stereotypes-under-title-vi-of-civil-rights-act-109530.pdf.

[11] Memorandum from Deputy Att'y Gen. Todd Blanche (May 19, 2025), https://www.justice.gov/dag/media/1400826/dl.

[12] *See, e.g.*, EEOC, NVTA-2021-1, Protections Against Employment Discrimination Based on Sexual Orientation or Gender Identity (2021), https://web.archive.org/web/20250120110315/https://www.eeoc.gov/laws/guidance/protections-against-employment-discrimination-based-sexual-orientation-or-gender; Br. of Amicus Curiae EEOC, *Vavra v. Honeywell Int'l, Inc.*, No. 23-2823 (7th Cir. Feb. 6, 2024).

[13] Alexandra Olson & Claire Savage, *Trump Fires Two Democratic Commissioners of Agency That Enforces Civil Rights Laws in the Workplace*, AP News (Jan. 29, 2025), https://apnews.com/article/trump-eeoc-commissioners-firings-crackdown-civil-rights-c48b973cb32bad97e9da9e354ba627db.

[14] *See, e.g.*, Press Release, EEOC, Removing Gender Ideology and Restoring the EEOC's Role of Protecting Women in the Workplace (Jan. 28, 2025), https://www.eeoc.gov/newsroom/removing-gender-ideology-and-restoring-eeocs-role-protecting-women-workplace.

[15] Press Release, Atty. Gen. Rob Bonta, Joint Statement from 13 State Attorneys General: President Trump is Misleading the American People on Purpose of Diversity, Equity, Inclusion, and Accessibility Initiatives (Jan. 31, 2025),

Since the start of the Trump-Vance administration, Democracy Forward Foundation, together with a broad coalition of civil rights and legal organizations, educational institutions, unions, and state and local officials, is fighting back against the attacks on DEIA in the courts, including:

- Filing the first lawsuit challenging two of the anti-DEIA executive orders on behalf of the National Association of Diversity Officers in Higher Education (NADOHE), the American Association of University Professors, and the city of Baltimore, along with our co-counsel, Asian Americans Advancing Justice (AAJC).[16]
- Representing a school district and educational organizations in a challenge to the Department of Education's "Dear Colleague Letter."[17]
- Representing, together with the ACLU of DC, federal employees who have been targeted for engaging in DEI-related work or who are perceived to be involved in such efforts based on their identities.[18]
- Filing complaints challenging the misuse of the False Claims Act to discourage DEIA initiatives.[19]
- Challenging the unlawful termination of EEOC Commissioner Jocelyn Samuels.[20]

When challenged in court, federal government lawyers repeatedly fail to define what counts as so-called "illegal" DEIA. In some instances, they have claimed that their executive orders or related anti-DEIA guidance merely aim to ensure compliance with existing civil rights laws. But this is little more than gaslighting. The administration is creating rules it cannot–and will not–clearly define, with the overall intent of deterring institutions and communities from maintaining or pursuing any DEIA-related initiatives.

Our nation's civil rights laws remain on our side. The barrage of anti-DEIA actions and rhetoric strengthens the resolve of the coalitions and organizations fighting back. We are far from alone in this effort to advance more inclusivity across our country. For example, our partner organizations including AAJC, ACLU, Lambda Legal, LatinoJustice PRLDEF, Lawyers'

---

https://oag.ca.gov/news/press-releases/joint-statement-13-state-attorneys-general-president-trump-misleading-american.

[16] Press Release, Democracy Forward, Higher Education Officials, Restaurant Workers, City of Baltimore Challenge Trump Administration's Violation of Free Speech Protections, Separation of Powers In Suit to Block Anti-DEIA Executive Orders (Feb. 3, 2025), https://democracyforward.org/updates/anti-deia-executive-order-challenge/.

[17] Press Release, Democracy Forward, Educators Sue to Challenge Trump Administration's Efforts to Weaponize Civil Rights Laws, Attack Educational Programs and Student Opportunities (Feb. 25, 2025), https://democracyforward.org/updates/challenge-trump-weaponizing-civil-rights-education/.

[18] Press Release, Democracy Forward, Federal Employees File Class-Action Complaint Against Trump Administration for Unlawfully Targeting Employees for DEI Activities (March 26, 2025), https://democracyforward.org/updates/federal-employees-file-class-action-complaint-against-trump-administration-for-unlawfully-targeting-employees-for-dei-activities/.

[19] *See, e.g.*, Press Release, Democracy Forward, Broad Nationwide Coalition Sues to Block Trump Administration's Unlawful Restrictions on Health and Housing Grants (July 21, 2025), https://democracyforward.org/updates/ri-certifications-hhs-hud/.

[20] Press Release, Democracy Forward, New Lawsuit Challenges President Trump's Unlawful Removal of EEOC Commissioner Jocelyn Samuels (Apr. 9, 2025), https://democracyforward.org/updates/samuels-040925/.

Committee for Civil Rights Under Law, NAACP Legal Defense Fund, and National Women's Law Center have also filed important lawsuits against the Trump-Vance administration's anti-DEIA executive orders.[21]

Now is the time for sustained engagement and collective resolve. Institutions and communities must stay focused and aligned—seeking legal guidance in setting up programs, defending inclusive practices, and ultimately reaffirming the role of DEIA-related initiatives in building a society that serves all of us. We cannot allow intimidation to succeed. This work will require persistence and an unwavering commitment to inclusion.

Note: *Specific programs should be reviewed with counsel, and this report is not intended to, and should not be understood to, provide legal advice.*

Key Findings

1. **Civil rights laws remain unchanged.**
   Federal civil rights statutes and settled case law continue to support efforts that advance diversity, equity, inclusion, and accessibility. Despite hostile rhetoric and enforcement threats, the Trump-Vance administration has not changed the law.

2. **Courts are rejecting attempts to expand *SFFA*.**
   Most courts that have considered arguments attempting to expand the reasoning of *SFFA* beyond race-specific university admissions policies have rejected those arguments.

3. **Programs that consider race or other identities as a part of decisionmaking must be carefully structured.**
   DEIA-related programs must be evaluated in context. Their legality often depends on documented historical and present-day discrimination. Legal counsel should be consulted to assess the specific contours of DEIA-related initiatives.

4. **Even lawful programs may be subject to investigations and lawsuits from the administration and its right-wing backers.**
   While courts may ultimately reject efforts to use *SFFA* as a broader weapon against DEIA, the political climate presents significant challenges. The administration has targeted DEIA efforts regardless of their legality, and the right-wing extremist forces behind *SFFA* have been emboldened by the current administration and the Supreme Court.

[21] Nat'l Urb. League v. Trump, No. 1:25-cv-00471 (D.D.C. argued Mar. 19, 2025)); S.F. AIDS Found. et al v. Trump, No. 3:25-cv-1824 (N.D. Cal. argued May 22, 2025); Chi. Women in Trades v. Trump, No. 1:25-cv-02005 (N.D. Ill. argued Apr. 10, 2025).

5. **Most DEIA-related practices remain legally sound.**
There are many examples of lawful strategies available to advance equity and inclusion. Some of these include: making job postings more accessible to wider communities, expanding recruitment efforts, providing anti-discrimination training, structuring grants as gifts rather than contracts, collecting demographic data to identify which groups remain underrepresented, inviting program applicants to highlight how their race or other identities have impacted their lives, and basing eligibility for programs on factors such as geography or income levels. Entities should continue to consider all the ways they can help this nation live up to its stated values.

2025 Case Updates

Building on our 2024 report, Democracy Forward reviewed legal decisions and new filings in cases citing *SFFA* across seven key areas. Below, we provide some of the critical legal updates in the contexts of workplaces, private grants, government boards, government programs, health care, and schools. This year, we've added a seventh area of critical importance, voting access.

1. People's Right to an Inclusive, Welcoming Workplace

While some employers have capitulated to the threats of this administration, many have remained steadfast in ensuring that DEIA measures are in place to help prevent and address discrimination. In fact, employers may run a greater risk of liability under civil rights laws if they turn away from DEIA-related measures. As highlighted by the National Institute for Workers' Rights, DEIA measures often help employers to stay in compliance with civil rights laws. For example, protections against disability-based discrimination and religion-based discrimination require employers to provide accommodations to some applicants and employees, acknowledging that some people have differing needs in the workplace.[22] Additionally, as emphasized in the U.S. Equal Employment Opportunity Commission's (EEOC) 2024 amicus brief in ***Vavra v. Honeywell***, courts around the nation have signed off on consent decrees with a range of equal employment opportunity policies and trainings.[23] And in April of this year, ten former EEOC officials issued a public memo providing further guidance on the legality of employers' DEI practices, expressing that "employers lawfully may—and indeed should—take proactive steps to identify barriers that have limited the opportunities of applicants and

[22] See, e.g. Nat'l Inst. for Workers' Rts., *Increased Liability Risk from Backing Away from DEI Initiatives* (Oct. 2024), https://niwr.org/wp-content/uploads/2024/10/NIWR-Summary-Memo-on-DEI.pdf; Nat'l Inst. for Workers' Rts., *Making Equal Opportunity Real: How Diversity, Equity, and Inclusion Efforts Combat Workplace Discrimination (*May 20, 2025), https://niwr.org/2025/05/20/policy-brief-how-dei-combats-discrimination/.

[23] Br. of the Equal Employment Opportunity Commission as Amicus Curiae in Supp. of Neither Party at 14-20, *Vavra v. Honeywell*, No. 23-2823 (7th Cir. Feb. 6, 2024), ECF No. 19-2.

employees based on any protected characteristic. Properly constructed, such efforts are *not* discriminatory."[24]

Despite this state of play regarding the law, some extremists have continued to fight even the most basic DEIA measures in the courts. For example, in ***Diemert v. City of Seattle***, a city employee claimed that Seattle's Racial and Social Justice Initiative (RSJI)—a program that encourages affinity groups "open to any City employee regardless of racial identity"[25] and other inclusive practices for city government employees—violates Title VII of the Civil Rights Act of 1964 and the Equal Protection Clause. In February, the district court rejected those claims, holding that "D.E.I. programs aimed at addressing racial inequalities against Black people and other minorities are not by their very nature discriminatory against whites," and that while the plaintiff is free to personally disagree with the RSJI, his claims of discrimination "are not so objectively severe or pervasive as to create a racially hostile-work environment against white people in general or him in particular."[26] That decision is now on appeal at the Ninth Circuit.[27] More broadly, the court in *Diemert* emphasized that while "legal protections against workplace discrimination apply with equal force regardless of the plaintiff's race," "we must acknowledge what history and common sense tell us: instances of discrimination against the *majority* are rare and unusual."[28]

The Supreme Court addressed a similar issue this term in ***Ames v. Ohio Department of Youth Services***, a case regarding whether Title VII permits or requires courts in so-called "reverse discrimination" cases to consider "background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority."[29] The Court unanimously rejected the background circumstances test, holding that the language of Title VII applies equally to all plaintiffs regardless of their identity. This ruling, which did not address DEIA programs, does not affect the legality of DEIA programs or prevent employers from recognizing the historical and present-day effects of discrimination against marginalized groups.[30]

Another district court recently rejected a white male professor's claim that anti-racism training and emails at Penn State were racially discriminatory, holding that his claims of harassment

---

[24] *Statement of Former Equal Employment Opportunity Commission (EEOC) Officials on Employer Diversity, Equity, and Inclusion Efforts*, Chai Feldblum (Apr. 3, 2025), https://www.chaifeldblum.com/wp-content/uploads/2025/04/Statement-of-Former-EEOC-Officials-on-DEI-04.03.25-1.pdf (emphasis in original).
[25] *Diemert v. City of Seattle*, No. 2:22-cv-1640, 2025 WL 446753, at *3 (W.D. Wash. Feb. 10. 2025).
[26] *Id.* at *1.
[27] *Diemert v. City of Seattle*, No. 25-1188 (9th Cir. appeal docketed Feb. 25, 2025).
[28] *Diemert*, 2025 WL 446753, at *1.
[29] *Ames v. Ohio Dep't of Youth Servs.*, 145 S. Ct. 1540, 1542 (2025) (internal quotation marks omitted).
[30] *See, e.g.,* Michelle Travis, *Supreme Court Didn't Make DEI Illegal In Ames Ruling, Lawyers Explain*, Forbes (June 11, 2025), https://www.forbes.com/sites/michelletravis/2025/06/11/supreme-court-didnt-make-dei-illegal-in-ames-ruling-lawyers-explain/.

were neither severe nor pervasive enough to prevail under Title VII.[31] The court in ***De Piero v. Pennsylvania State University*** favorably cited the decision in *Diemert* to support this conclusion.[32] The professor has appealed, and the case is now pending before the Third Circuit.[33]

Last year, in ***Young v. Colorado Department of Corrections***, the Tenth Circuit affirmed the dismissal of an employee's claim that a single mandatory DEI training session subjected him to a racially discriminatory hostile work environment, holding that even though the plaintiff found the training "strongly objectionable, our case law requires more" to state an actionable discrimination claim.[34] The plaintiff filed an amended complaint, which the district court again dismissed in January of this year for failure to state a claim.[35] His case is now back at the Tenth Circuit, supported by several anti-equity amicus briefs, including one from seventeen state governments claiming that DEI trainings increase workplace hostility and division.[36]

Law Firm Diversity Programs

In our report last year, we noted that anti-equity group AAER sued three law firms, challenging their diversity fellowship programs as racially discriminatory. Those matters were all settled without court decisions, and the firms often retained programs that included DEIA-related considerations.[37]

In a series of executive orders aimed at punishing law firms he disfavors, President Trump alleged erroneously that large law firms' diversity initiatives are unlawful. While some firms targeted have settled with the administration, the firms who have fought back in court have uniformly won in cases the Trump-Vance administration has been slow to appeal.[38]

---

[31] *De Piero v. Penn. State Univ.*, 769 F.Supp.3d 329, 349 (E.D. Pa. 2025). ("No rational trier of fact could view occurrences such as receiving campus-wide e-mails about the murder of George Floyd, Juneteenth, and the hiring of police officers; being invited to review scholarly materials and engage in conversations about antiracist approaches to teaching and learning; and, discussing allegations of harassment levied by and against him as sufficiently 'extreme' to sustain his charge of 'severe' harassment.")
[32] *Id.* at 350, 353-56.
[33] *De Piero v. Penn. State Univ.*, No. 25-1952 (3rd Cir. appeal docketed May 16, 2025).
[34] *Young v. Colo. Dep't of Corrs.*, 94 F.4th 1242, 1245 (10th Cir. 2024).
[35] *Young v. Colo. Dep't of Corrs.*, No. 23-cv-01688, 2025 WL 306986 (D. Colo. Jan. 27, 2025).
[36] Br. of Montana, 15 States, and the Arizona Legislature in Supp. of Appellant and Reversal at 3-12, *Young v. Colo. Dep't of Corrs.*, No. 25-1068 (10th Cir. Apr. 30, 2025), ECF No. 26.
[37] Democracy Forward, *Safeguarding and Strengthening Diversity, Equity and Inclusion (DEI) Initiatives* 14 (July 2024), https://democracyforward.org/wp-content/uploads/2024/07/DF-DEI-Report_Final-Proof_070224.pdf
[38] Erin Mulvaney, et al., *The Law Firms That Appeased Trump—and Angered Their Clients*, Wall St. J. (June 1, 2025), https://www.wsj.com/us-news/law/law-firms-trump-deals-clients-71b3616d; Adam Liptak, *Trump's Strategy in Law Firm Cases: Lose, Don't Appeal, Yet Prevail*, N.Y. Times (June 16, 2025), https://www.nytimes.com/2025/06/16/us/politics/trump-strategy-law-firms-appeals.html; but see Notice of Appeal, *Perkins Coie LLP v. DOJ*, No. 25-cv-00716 (D.D.C. June 30, 2025).

In particular, courts in these cases have rejected the administration's position that the firms' DEI programs and policies—such as the Mansfield Rule, which encourages consideration of candidates from diverse backgrounds for leadership roles[39]—are unlawful under the *SFFA* decision. In ***Perkins Coie v. U.S. Department of Justice***, the judge wrote in her May ruling granting summary judgment to the firm that the Trump-Vance administration's "briefing reveals the true motivation lurking behind the façade of discrimination allegations: the administration's disapproval of plaintiff's speech in favor of diversity," and reaffirmed that "public statements supporting diversity" are protected by the First Amendment.[40] Similarly, in ***Jenner & Block v. U.S. Department of Justice***, the judge wrote in his ruling granting summary judgment to the firm that "factually there is very little" to support the administration's claim that the firm's DEI programs are discriminatory and that the administration instead wrongly "expand[s] the Supreme Court's recent decision in [*SFFA*] beyond its own bounds."[41] Crucially, the Trump-Vance administration failed to point to a single case holding DEI programs like the Mansfield Rule illegal.[42] Two other law firms, WilmerHale and Susman Godfrey, have also had significant wins against the administration's punitive targeting.[43]

In another unlawful attempt to intimidate firms with DEI practices, acting head of the EEOC Andrea Lucas sent letters in March to 20 law firms, demanding that the firms hand over detailed personal information about their applicants and employees dating back up to a decade.[44] In response, a group of law students represented by Democracy Forward Foundation filed a lawsuit in April, ***Doe 1 v. EEOC***, seeking to stop the handover of their sensitive personal data without any of the required EEOC charge-related confidentiality protections.[45]

2. People's Right to More Inclusive Grant Programs

Democracy Forward Foundation filed the first lawsuit challenging the Trump-Vance administration's anti-DEIA executive orders on behalf of the National Association of Diversity Officers in Higher Education (NADOHE), the American Association of University Professors, and

---

[39] *Mansfield Certification*, Diversity Lab, https://www.diversitylab.com/what-we-do/mansfield-certification/ (last visited July 17, 2025).
[40] *Perkins Coie LLP v. DOJ.*, No. CV 25-716, 2025 WL 1276857, at *29-30 (D.D.C. May 2, 2025).
[41] *Jenner & Block LLP v. DOJ*, No. 25-916, 2025 WL 1482021, at *16 (May 23, 2025).
[42] *Id*.
[43] *Wilmer Cutler Pickering Hale & Dorr LLP v. Executive Office of the President, et al.*, No. 25-917, 2025 WL 1502329 (D.D.C. May 27, 2025); *Susman Godfrey LLP v. Executive Office of the President*, No. 25-1107, 2025 WL 1779830 (D.D.C. June 27, 2025).
[44] Press Release, U.S. Equal Emp. Opportunity Comm'n, EEOC Acting Chair Andrea Lucas Sends Letters to 20 Law Firms Requesting Information About DEI-Related Employment Practices (March 17, 2025), https://www.eeoc.gov/newsroom/eeoc-acting-chair-andrea-lucas-sends-letters-20-law-firms-requesting-information-about-dei.
[45] Press Release, Democracy Forward, Law Students Sue to Oppose Trump Administration's Ongoing Assault on Legal Profession (April 15, 2025), https://democracyforward.org/updates/law-students-sue-to-oppose-trump-administrations-ongoing-assault-on-legal-profession/.

the city of Baltimore, along with our co-counsel, Asian Americans Advancing Justice.[46] The district court in ***NADOHE v. Trump*** granted[47] and then expanded[48] a preliminary injunction halting implementation of the orders, but that injunction is now paused while the Trump-Vance administration's appeal proceeds in the Fourth Circuit. Eighteen states,[49] private businesses and employers,[50] and civil rights and science advocacy organizations[51] filed friend-of-the-court briefs in support of the preliminary injunction, arguing that the challenged executive orders have already chilled protected speech, jeopardized scientific research and education, and triggered funding cuts for programs serving historically marginalized communities.[52] As noted, civil rights organizations with whom we often work have also brought similar cases against these anti-DEIA executive orders.[53]

Democracy Forward Foundation has also brought several more cases challenging the unlawful withholding of federal grants. In ***American Association of Physics Teachers, Inc. v. National Science Foundation***, we and the Norton Law Firm represent educators and researchers challenging the mass termination of grants by the National Science Foundation after it announced that awards "that are not aligned with program goals or agency priorities have been terminated, including but not limited to those on diversity, equity, and inclusion (DEI)."[54] In ***Rhode Island Coalition Against Domestic Violence v. Bondi***, we (alongside Jacobson Lawyers Group, Lawyers' Committee for Rhode Island, ACLU Foundation of Rhode Island, and

---

[46] *NADOHE v. Trump,* No. 1-25-cv-00333 (D. Md. filed Feb. 3, 2025) ; see also Press Release, Democracy Forward, Higher Education Officials, Restaurant Workers, City of Baltimore Ask Court to Pause Trump Administration Anti-DEIA Executive Orders (Feb. 14, 2025), https://democracyforward.org/updates/higher-education-officials-restaurant-workers-city-of-baltimore-ask-court-to-pause-trump-administration-anti-deia-executive-orders/.

[47] Press Release, Democracy Forward, Judge Halts Implementation of Trump Anti-DEIA Executive Orders Nationwide in Suit Filed by Higher Education Officials, Restaurant Workers, City of Baltimore (Feb. 21, 2025), https://democracyforward.org/updates/judge-halts-nationwide-the-implementation-of-trump-anti-deia-executive-orders/.

[48] Press Release, Democracy Forward, Breaking: Court Rebuffs Administration, Reaffirms Injunction Against President's Anti-DEIA Policies (Mar. 10, 2025), https://democracyforward.org/updates/nadohe-clarified-pi/.

[49] Br. for Amici Curiae Illinois, California, Massachusetts, Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Rhode Island, Vermont, and Washington Supporting Pls.-Appellees and Affirmance, *NADOHE v. Trump*, No. 25-1189 (4th Cir. May 15, 2025), ECF No. 51.

[50] Unopposed Amicus Curiae Br. of Private Employers with Diversity, Equity, and Inclusion Programs, and Organizations that Support Them, Supporting Appellees, *NADOHE v. Trump*, No. 25-1189 (4th Cir. May 15, 2025), ECF No. 55.

[51] Br. of Amici Curiae ACLU of Maryland, Public Justice Center, and Union of Concerned Scientists, in Supp. of Appellee, by Written Consent, *NADOHE v. Trump*, No. 25-1189 (4th Cir. May 15, 2025), ECF No. 54.

[52] Press Release, Democracy Forward, Broad Coalition Urges Court to Uphold Injunction Against Trump's Anti-DEIA Executive Orders (May 16, 2025), https://democracyforward.org/updates/nadohe-amici/.

[53] *Nat'l Urb. League v. Trump*, No. 1:25-cv-00471 (D.D.C. argued Mar. 19, 2025); *S.F. AIDS Found. v. Trump*, No. 3:25-cv-1824 (N.D. Cal. argued May 22, 2025); *Chi. Women in Trades v. Trump*, No. 1:25-cv-02005 (N.D. Ill. argued Apr. 10, 2025).

[54] Compl., *Am. Ass'n of Physics Tchrs. v. NSF*, No. 25-cv-1923 (D.D.C. June 18, 2025), ECF No. 1.

National Women's Law Center) represent 17 state domestic violence and sexual assault coalitions challenging DOJ's new requirement that grant recipients must certify they do not operate any prohibited DEI programs, among other representations.[55] Twenty-one states and the District of Columbia filed an amicus brief in support of our pending motion for preliminary injunction in that case.[56] In a related case, ***Rhode Island Coalition Against Domestic Violence v. Kennedy***, we and our co-counsel filed a complaint on behalf of the same coalition and five nonprofit organizations addressing homelessness to ask the court to block the administration from enforcing requirements that push grantees to restrict or deny diversity, equity, and inclusion efforts, censor support for transgender individuals, and certify compliance with broad anti-equity mandates, or else face severe penalties, including liability under the False Claims Act.[57]

And in ***American Bar Association (ABA) v. U.S. Department of Justice***, we represent the ABA challenging DOJ's abrupt cancellation of millions of dollars in grants the ABA relies on to train and provide technical assistance to lawyers and judges who work with survivors of domestic violence and sexual assault.[58] One day before those grants were terminated, Deputy Attorney General Todd Blanche issued a memo announcing new restrictions on DOJ employee participation in ABA events, citing as justification ABA's submission of an amicus brief in *SFFA* supporting the challenged affirmative-action policy.[59] In granting a preliminary injunction to restore the cancelled grants in May, the district court "conclude[d] that the ABA is likely to succeed on its claim that Defendants terminated the agreements because of its protected activity in violation of the First Amendment."[60] The DOJ declined to appeal the preliminary injunction and the U.S. District Court for the District of Columbia has administratively closed the case, ending for now the DOJ retaliatory effort.

As we noted in last year's report, some cases challenging DEIA initiatives resolve through settlements rather than court decisions. For example, in ***American Alliance for Equal Rights v. Fearless Foundation***, AAER claimed that a company's grant program for Black woman-owned businesses was a racially discriminatory contract in violation of Section 1981 of the Civil Rights Act. After the Eleventh Circuit made a preliminary decision in June 2024 that the

---

[55] Compl., *R.I. Coal. Against Domestic Violence v. Bondi*, No. 1:25-cv-00279 (D.R.I. June 16, 2025), ECF No. 1.
[56] Br. of Amici Curiae States of Rhode Island, et al., *R.I. Coal. Against Domestic Violence*, No. 1:25-cv-00279 (July 15, 2025), ECF No. 18.
[57] Press Release, Democracy Forward, Broad Nationwide Coalition Sues to Block Trump Administration's Unlawful Restrictions on Health and Housing Grants (July 21, 2025), https://democracyforward.org/updates/ri-certifications-hhs-hud/.
[58] Press Release, Democracy Forward, American Bar Association Files Suit to Stop Retaliation by the Justice Department, Restore Funding for ABA Services For Domestic and Sexual Violence Survivors (Apr. 23, 2025), https://democracyforward.org/updates/american-bar-association-files-suit-to-stop-retaliation-by-the-justice-department-restore-funding-for-aba-services-for-domestic-and-sexual-violence-survivors/.
[59] Memorandum from Deputy Att'y Gen. Todd Blanche to All Dep't Emps. 1 fn.2 (Apr. 9, 2025), https://www.justice.gov/dag/media/1396116/dl?inline.
[60] *Am. Bar Ass'n v. DOJ*, No. 25-cv-1263, 2025 WL 1388891, at *8 (D.D.C. May 14, 2025).

grant program was likely illegal,[61] the parties settled the case in September 2024, limiting the reach of the Eleventh Circuit's initial ruling to that program. Given the voluntary resolution of this case, no court made a final determination regarding the program. While the Eleventh Circuit's analysis is discouraging to those seeking to set up programs limited to certain racial groups, it should be noted that the claim here, Section 1981, only applies to contracts, and not gifts. Additionally, even contract-based grant programs that focus on particular communities but remain open to all applicants regardless of race are also unaffected by this ruling.

Anti-equity groups like AAER and Do No Harm continue to bring new lawsuits against grant programs that prioritize marginalized groups, several of which have also settled over the past year. In ***American Alliance for Equal Rights v. Southwest Airlines***, AAER sued Southwest over its program that awarded flight passes to Hispanic college students to stay connected with their families.[62] But even after Southwest modified its program to not limit applicants by race, ethnicity, or national origin and agreed to pay AAER's attorney's fees, AAER refused to settle the case, prompting the district court to "forgo the merits" and enter judgment against Southwest to end the litigation and conserve judicial resources.[63] And in ***Do No Harm v. National Association of Emergency Medical Technicians (NAEMT)***, Do No Harm challenged a diversity scholarship program for students of color training to be EMTs.[64] Though the district court refused to grant Do No Harm a temporary restraining order, it also denied NAEMT's motion to dismiss, and the case settled on April 17, 2025, after NAEMT stipulated that its future diversity scholarships "will not have any eligibility requirement or preference based on applicants' race or ethnicity."[65]

To be clear, these settlements are not admissions of liability, and organizations committed to diversity have many avenues remaining to support marginalized communities.

3. People's Right to Representative Government Boards

In ***American Alliance for Equal Rights v. Ivey***, AAER challenged Alabama's long-standing requirement that the state's Real Estate Appraisers Board include two racial minorities. Last year, Democracy Forward Foundation successfully intervened in this case representing the Alabama Association of Real Estate Brokers to defend the law.[66] The case was dismissed with

---

[61] *Am. All. for Equal Rts. v. Fearless Fund Mgmt.*, 103 F.4th 765 (11th Cir. 2025).
[62] Compl., *Am. All. for Equal Rts. v. Southwest Airlines Co.,* No. 3:24-CV-1209 (N.D. Tex. filed May 20, 2024), ECF No. 1.
[63] *Am. All. for Equal Rts. v. Southwest Airlines Co.,* No. 3:24-CV-1209, 2025 WL 1397513, at *1 (N.D. Tex. May 14, 2025).
[64] Compl., *Do No Harm v. Nat'l Ass'n of Emergency Med. Technicians*, No. 3:24-cv-11 (S.D. Miss. Jan. 10, 2024), ECF No. 1.
[65] Stipulation of Dismissal, *Do No Harm v. Nat'l Ass'n of Emergency Med. Technicians*, No. 3:24-cv-11 (S.D. Miss. Apr. 17, 2025), ECF No. 34.
[66] *Black Real Estate Professionals Defend Alabama Law Ensuring Diversity on the State's Appraisers Board*, Democracy Forward, https://democracyforward.org/work/black-real-estate-professionals-defend-alabama-law-ensuring-diversity-on-the-states-appraisers-board/ (last visited July 16, 2025).

prejudice in June, leaving the law intact.[67] This is a victory for our clients and for equality and opportunity in the state. As part of this case, Democracy Forward Foundation developed expert reports that outlined the past and continuing racial discrimination (including in real estate) and the need for racial representation on government boards.

We're also tracking ***Miall v. City of Asheville***, a challenge to the city's Human Relations Commission's policy that initially called for numerical identity-based quotas but was later amended to specify that "[m]embership on the Commission shall include, but not be limited to," certain identity groups (including racial minorities, LGBTQ+ identities, youth, residents of public housing, people with disabilities, and "[i]ndividuals who are recognized as community leaders").[68] White plaintiffs brought this lawsuit after they applied for seats on the Commission and were denied. In October 2024, the district court denied the City's motion to dismiss the case, allowing the plaintiffs' Section 1981 and Equal Protection claims to proceed.[69] In July, the city filed its answer to the plaintiffs' second amended complaint, expressly denying that it "affords preferential treatment to members of any particular race…in making appointments to its Human Relations Commission."[70] This case is now continuing through the litigation process.

In August 2024, a district court dismissed for lack of standing Do No Harm's challenge to Tennessee laws requiring that the governor "strive to ensure" state boards like the Board of Tennessee Podiatric Medical Examiners include at least one racial minority.[71] Do No Harm appealed this loss in ***Do No Harm v. Lee***, but voluntarily dismissed its appeal after Tennessee introduced and passed bills repealing the challenged statutes and mooting the case, leaving no precedent on the merits of its claim.[72] This means that other courts can't rely on this case to determine what DEI-related conduct is lawful or not.

4. People's Right to Equitable Government Programs

The Trump-Vance administration has actively sought to dismantle DEIA-related programs across the federal government, including reversing positions mid-litigation in cases previously defended by the prior administration. However, these are policy shifts—not changes in the underlying law governing the legality of DEIA-related government programs.

In October 2023, Mid-America Milling Company and Bagshaw Trucking, represented by right-wing legal group Wisconsin Institute for Law & Liberty (WILL), filed a challenge to the Department of Transportation's Disadvantaged Business Enterprise (DBE) program, which is

[67] Stipulation of Dismissal, *Am. All. for Equal Rights v. Ivey*, No. 24-cv-00104 (M.D. Ala. June 5, 2025), ECF No. 95.
[68] Second Am. Compl. 19, *Miall v. City of Asheville*, No. 23-cv-00259 (W.D.N.C. June 20, 2025), ECF No. 47.
[69] Order Denying Mot. to Dismiss, *Miall*, No. 23-cv-00259 (Oct. 29, 2024), ECF No. 32.
[70] Answer to Second Am. Compl. 1, *Miall*, No. 23-cv-00259 (July 8, 2025), ECF No. 48.
[71] Mem. Op., *Do No Harm v. Lee*, No. 23-cv-01175 (M.D. Tenn. July 8, 2024), ECF No. 37.
[72] Appellant's Mot. to Dismiss Appeal, *Do No Harm v. Lee*, No. 24-5937 (6th Cir. May 29, 2025), ECF No. 26.

designed to remedy the effects of historic and ongoing discrimination in public contracting by ensuring that businesses owned by socially and economically disadvantaged individuals have a fair shot at federal transportation work. The Biden administration defended the DBE program in ***Mid-America Milling Company v. U.S. Department of Transportation***, but after the change in administration and President Trump's early anti-DEI executive orders, Democracy Forward Foundation and the Minority Business Enterprise Legal Defense and Education Fund moved to intervene in support of the program on behalf of a coalition of minority- and women-owned businesses and trade organizations, which the district court granted in May.[73] Shortly after our intervention was granted, WILL and the Trump-Vance administration attempted to end the case with a proposed "consent order" that would seriously impair the DBE program and harm the parties we represent. We filed our opposition to that consent order in June, explaining that the proposed agreement is legally deficient, unfairly negotiated, inconsistent with decades of court rulings and congressional reauthorizations affirming the DBE Program, and a threat to thousands of minority- and women-owned businesses that rely on the DBE Program to access opportunities in a historically exclusionary industry.[74] We were supported in this opposition by four amicus briefs[75] from a diverse group of states,[76] municipalities and local officials,[77] veterans,[78] and small businesses[79].

Similarly, in March 2024, white male farmers represented by right-wing legal groups Southeastern Legal Foundation and Mountain States Legal Foundation challenged the United States Department of Agriculture's (USDA) provision of disaster relief for prioritizing "socially disadvantaged individuals" (including marginalized racial groups and women).[80] Last June, the court found that the plaintiffs in ***Strickland v. U.S. Department of Agriculture*** were likely to succeed on their claims and granted them a preliminary injunction.[81] However, after the change in administration, the court stayed the case based on the Trump-Vance administration's new position that "the Department of Justice will no longer defend the merits of the USDA programs

[73] *See* Mem. Op. & Order, *Mid-America Milling Co. v. DOT*, No. 23-cv-00072 (E.D. Ky. May 21, 2025), ECF No. 78; *see also* Press Release, Democracy Forward, Court Grants Intervention to Minority and Women-Owned Business Groups Defending Disadvantaged Business Enterprise Program (May 21, 2025), https://democracyforward.org/updates/midamericamilling-mit/.
[74] Intervenor DBEs' Opp'n to Joint Mot. for Entry of Consent Order, *Mid-America Milling Co.*, No. 23-cv-00072 (June 18, 2025), ECF No. 91.
[75] Press Release, Democracy Forward, Broad Swaths Of Civil Society From Across The Country Weigh In To Defend Disadvantaged Business Enterprise Program (June 26, 2025), https://democracyforward.org/updates/mamco-amicus-briefs/.
[76] Br. of Amici Curiae States of Maryland et al., *Mid-America Milling Co.*, No. 23-cv-00072 (June 24, 2025), ECF No. 94-1.
[77] Br. of Amici Curiae Local Governments et al., *Mid-America Milling Co.*, No. 23-cv-00072 (June 25, 2025), ECF No. 104-1.
[78] Br. of Amicus Curiae Minority Vets of America, *Mid-America Milling Co.*, No. 23-cv-00072 (June 24, 2025), ECF No. 101-1.
[79] Br. of Amicus Curiae DBEs of America, *Mid-America Milling Co.*, No. 23-cv-00072 (June 24, 2025), ECF No. 100-1.
[80] Compl., *Strickland v. USDA*, No. 24-cv-00060 (N.D. Tex. Mar. 29, 2024).
[81] Mem. Op. & Order, *Strickland*, No. 24-cv-00060 (June 7, 2024).

at issue in this case to the extent they provide increased benefits based on race and sex."[82] Subsequently, the parties' joint motion to remand for USDA to revise the challenged programs was granted.[83] In July, the USDA issued a final rule stating that it will no longer employ the "socially disadvantaged" designation to provide increased benefits across several programs.[84] Because this resolution came about through agreement of the parties after a preliminary court decision, there is no final decision on the legal merits of the program.

In March of this year, the San Francisco Unified School District and the City of Santa Fe sued the Trump-Vance administration over new conditions it imposed on AmeriCorps grants the local governments had already received, including a condition that grant recipients certify their programs "do[] not include any activities that promote DEI activities."[85] The district court in ***San Francisco Unified School District v. AmeriCorps*** granted the local governments a preliminary injunction unfreezing the funds in June, holding that "while the Government has a compelling interest in banning unconstitutional conduct," the challenged directive "goes beyond enforcement of existing anti-discrimination law" and "AmeriCorps has provided no evidence of its interest in such a sweeping ban."[86] This case is now continuing through the litigation process after this preliminary win for AmeriCorps and DEI.

In May, the Fifth Circuit agreed with the district court that the plaintiffs (a white man and his software company) in ***DigitalDesk v. Bexar County*** lacked standing to challenge a Texas county's small business grant program because their application was rejected for failing to submit a required tax return and thus they "were injured by their failure to follow instructions and not by illegal discrimination."[87] The program awarded points for businesses in three ownership categories (veteran-, women-, and minority-owned) and businesses in specific unincorporated and suburban areas. This decision on technical grounds provides no precedent on the legality of the program.

In ***American Alliance for Equal Rights v. City of Chicago***, AAER sued Chicago and a new casino within the city for offering an investment opportunity only to women and people of color to "create generational wealth."[88] The casino recognized at the time of offering that "[t]his may

---

[82] Resp. to the Court's January 27, 2025 Order 3, *Strickland*, No. 24-cv-00060 (Feb. 10, 2025), ECF No. 52.
[83] Joint Mot. for Voluntary Remand, *Strickland*, No. 24-cv-00060 (May 9, 2025), ECF No. 65.
[84] Removal of Unconstitutional Preferences Based on Race and Sex in Response to Court Ruling, 90 Fed. Reg. 30555 (July 10, 2025), https://www.federalregister.gov/documents/2025/07/10/2025-12877/removal-of-unconstitutional-preferences-based-on-race-and-sex-in-response-to-court-ruling.
[85] Order Granting Pls.' Mot. for Prelim. Inj. 1, *San Francisco Unified Sch. Dist. v. AmeriCorps, a.k.a. Corp. for Nat'l & Cmty. Serv.*, No. 25-cv-02425 (N.D. Cal. June 18th, 2025), ECF No. 59.
[86] *Id*. at 22 ("The Government's interest in banning all diversity, equity, inclusion, and accessibility or equity or equity-related programs – even where those programs do not violate existing anti-discrimination law – is difficult to discern from the record herein. AmeriCorps has provided no evidence of its interest in such a sweeping ban.").
[87] Op., *DigitalDesk v. Bexar County*, No. 24-50513 (5th Cir. May 1, 2025), ECF No. 76.
[88] Compl. 3, *Am. All. for Equal Rights v. City of Chi.*, No. 25-cv-01017 (N.D. Ill. Jan. 29, 2025), ECF No. 1.

result in lawsuits against us and the City of Chicago by persons…who are excluded from this offering" and that they may "incur substantial costs defending the lawsuit."[89] In April, the casino dropped the identity-based restrictions, reopening the initial public offering to all investors "with a preference for residents of Chicago and other parts of Illinois."[90] In June, the parties settled the case without an admission of liability.[91] The casino is still contractually required to have 25% minority ownership under its deal with the city, even without the identity-based investor restrictions.[92]

5. People's Right to Health Care Equity

In April, the National Family Planning & Reproductive Health Association sued the Trump-Vance administration over its abrupt withholding of $65.8 million in Title X family-planning funds to sixteen grantees, apparently because those grantees had expressed support for diversity, equity, and inclusion and opposition to racism.[93] As the complaint in ***National Family Planning and Reproductive Health Association v. Kennedy*** explains, the withholding has already had devastating impacts on health care for hundreds of thousands of low-income patients, including reduced access to "STI screening and treatment, cancer screening, and contraception."[94] This case is ongoing.

In last year's report, we mentioned that Do No Harm's lawsuit against Pfizer alleging its fellowship program was racially discriminatory remained pending before both the district court and the Second Circuit. After the Second Circuit issued a threshold ruling in ***Do No Harm v. Pfizer*** on the anti-equity group's standing to bring the case,[95] the parties stipulated to dismiss the case in February. This dismissal followed Pfizer's modifications to the program eligibility requirements (accepting applications from people of all racial backgrounds so long as they submitted a brief written statement demonstrating "significant commitment and ability to further" the program's goal to "cultivate a pipeline of diverse talent") and the pre-planned end to the program after five years.[96]

Do No Harm also sued the Society of Military Orthopaedic Surgeons (SOMOS) over its E. Anthony Rankin Scholarship Program for medical students from "underrepresented" racial or

---

[89] *Id.*
[90] Mitchell Armentrout, *Bally's Drops Minority Investor Requirement from Chicago Casino IPO*, Chi. Sun Times (Apr. 29, 2025), https://chicago.suntimes.com/casinos-gambling/2025/04/29/ballys-casino-ipo-chicago-minority.
[91] Joint Stipulation of Dismissal, *Am. All. for Equal Rights v. City of Chi.*, No. 25-cv-01017 (June 6, 2025), ECF No. 46.
[92] Mitchell Armentrout, *Bally's Settles Lawsuit Over Now-Scrapped Minority Requirement for Chicago Casino Investors*, Chi. Sun Times (June 9, 2025), https://chicago.suntimes.com/casinos-gambling/2025/06/09/ballys-minority-investor-casino-lawsuit-chicago-settled.
[93] Compl., *Nat'l Fam. Planning & Repro. Health Ass'n v. Kennedy*, No. 25-cv-01265 (D.D.C. Apr. 24, 2025), ECF No. 1.
[94] *Id.* 12.
[95] Per Curiam Op., *Do No Harm v. Pfizer*, No. 23-0015 (2d Cir. Jan. 10, 2025), ECF No. 222-1.
[96] Stipulation of Dismissal, *Pfizer*, No. 22-cv-07908 (Feb. 3, 2025), ECF No. 42.

gender backgrounds, which Do No Harm claims is discriminatory because "[w]hite males are not 'underrepresented.'"[97] The court in ***Do No Harm v. SOMOS*** did not rule on the merits, but in April, the parties settled with an agreement that if the program was later revived, it would be open to all students regardless of racial background.[98]

Notably, neither Pfizer nor SOMOS admitted liability, and no court found that their programs were discriminatory. As with the other contexts, entities have many avenues to reduce barriers and create more inclusion in their programs.

6. People's Right to Inclusive School Environments

Admissions

Following the Supreme Court's decision in ***SFFA v. Harvard***, SFFA filed a number of other challenges to school admissions policies, including military academies, which the Supreme Court expressly declined to address in its holding.[99] In December 2024, following a two-week trial, a Maryland district court judge upheld a military academy's race-conscious admissions program in ***SFFA v. U.S. Naval Academy***, writing in a detailed 175-page opinion that "[t]he program survives strict scrutiny because the Naval Academy has established a compelling national security interest in a diverse officer corps in the Navy and Marine Corps."[100] But the district court largely "defer[red] to the executive branch with respect to military personnel decisions."[101] After the change in administration, the Fourth Circuit granted the Naval Academy's unopposed motion to pause SFFA's appeal while the parties considered whether the Trump-Vance administration's decision to remove race, ethnicity, and sex from consideration in admissions rendered the case moot.[102] In July of this year, the Fourth Circuit granted the parties' joint motion to dismiss the appeal and vacate the district court opinion.[103] This case highlights the narrow holding in the *SFFA* decision; it does not apply to other admissions-related contexts.

Before the *Harvard* decision, SFFA sued the University of Texas at Austin for considering race as one factor in its holistic admissions process. Students at UT Austin and three organizations (Texas NAACP, Black Student Alliance, and Texas Orange Jackets) represented by the

---

[97] Compl. 6, *Do No Harm v. Soc'y Mil. Orthopaedic Surgeons*, No. 24-cv-03457 (D.D.C. Dec. 11, 2024), ECF No. 1.
[98] Joint Stipulation of Dismissal with Prejudice, *Do No Harm v. Soc'y Mil. Orthopaedic Surgeons*, No. 24-cv-03457 (D.D.C. Dec. 11, 2024), ECF No. 17.
[99] *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 213 n.4 (2023) ("No military academy is a party to these cases, however, and none of the courts below addressed the propriety of race-based admissions systems in that context. This opinion also does not address the issue, in light of the potentially distinct interests that military academies may present.").
[100] Trial Findings of Fact & Conclusions of Law 3, *Students for Fair Admissions, Inc. v. U.S. Naval Acad.*, No. 23-cv-02699 (D. Md. Dec. 6, 2024), ECF No. 150.
[101] *Id.*
[102] Unopposed Motion to Hold Briefing in Abeyance, *Students for Fair Admissions, Inc. v. U.S. Naval Acad.*, No. 24-2214 (4th Cir. Mar. 28, 2025), ECF No. 24.
[103] Order, *U.S. Naval Acad.*, No. 24-2214 (Mar. 28, 2025), ECF No. 29-1.

Lawyers' Committee for Civil Rights Under Law successfully intervened as defendants in ***SFFA v. UT Austin*** in 2021.[104] After UT Austin changed its admissions policies to eliminate and prohibit the consideration of race, the district court dismissed the case as moot in July 2024.[105] SFFA appealed, arguing the case is not moot because, after the policy change, UT Austin's admissions officers still have the ability to access a database containing information on the race or ethnicity of applicants.[106] Recently, the Fifth Circuit affirmed the dismissal of SFFA's challenge to the old policy but reversed the dismissal of the challenge to the revised policy and remanded the case for further proceedings.[107] AAER also filed a separate lawsuit against UT Austin, challenging as racially discriminatory a grant-funded program that offers Black STEM students a $40 gift card in exchange for sharing their "conceptions of Blackness…as it relates to their STEM engagement and perspectives of racial equity in STEM" with the goal of "informing the development and implementation of racial equity-focused policies and practices in STEM education."[108] In ***AAER v. UT Austin***, AAER alleges the program violates the Equal Protection Clause and Section 1981, and Title VI.[109] The case is ongoing.

As noted in our 2024 report, courts have confirmed that changing admissions criteria in race-neutral ways that increase the pool of minority candidates is lawful. After the First Circuit affirmed in December 2023 that "[t]here is nothing constitutionally impermissible about a school district including racial diversity as a consideration and goal in the enactment of a facially neutral plan,"[110] the plaintiffs in ***Boston Parent Coalition for Academic Excellence Corporation v. School Committee of the City of Boston*** asked the Supreme Court to take up the case. In December 2024, the Supreme Court denied certiorari over a dissent from Justices Alito and Thomas, leaving the First Circuit ruling intact.[111]

In September 2024, the Second Circuit vacated a district court decision granting summary judgment to New York City officials in a case alleging that facially race-neutral changes to admissions policies at the city's specialized high schools (SHSs), intended to include more economically disadvantaged students, discriminated against Asian American students in violation of the Equal Protection Clause. The appeals court in ***Chinese American Citizens Alliance of Greater New York v. Adams*** held that the district court had erred by requiring the plaintiffs to show an aggregate disparate impact on Asian American students to make an Equal Protection claim; rather, "if discriminatory intent is proven, a negative effect or harm from that

---

[104] Order, *Students for Fair Admissions, Inc. v. Univ. of Tex. at Austin*, No. 20-cv-00763 (W.D. Tex. Jan. 14, 2021), ECF No. 35.
[105] Order, *Univ. of Tex. at Austin*, No. 20-cv-00763 (July 15, 2024), ECF No. 94.
[106] Opening Br. 18, *Students for Fair Admissions, Inc. v. Univ. of Tex. at Austin*, No. 24-50631 (5th Cir. Nov. 15, 2024), ECF No. 36.
[107] *Students for Fair Admissions, Inc. v. Univ. of Tex. at Austin*, No. 24-50631, 2025 WL 1911431, at *5-6 (5th Cir. July 11, 2025).
[108] Compl., *Am. All. for Equal Rights v. Univ. of Tex. at Austin*, No. 25-cv-00596 (W.D. Tex. Apr. 21, 2025), ECF No. 1.
[109] *Id.*
[110] *Bos. Parent Coal. for Acad. Excellence Corp. v. Sch. Comm. for City of Bos.*, 89 F.4th 46, 62 (1st Cir. 2023).
[111] *Bos. Parent Coal. for Acad. Excellence Corp. v. Sch. Comm. for City of Bos.*, 145 S.Ct. 15 (2024).

discriminatory policy on individual Asian-American students applying to the SHSs would be sufficient to trigger strict scrutiny review."[112] The appellate court did not determine whether the city's admissions policies satisfy strict scrutiny; it remanded the case to the trial court for discovery on the threshold question of whether discriminatory intent to reduce Asian-American enrollment was present. In this context, intent is key–if the city officials did not intend to discriminate against Asian Americans, the program may well be legal.

In the admissions context, University of Chicago law professor Sonja Starr argues that extending the Supreme Court's "colorblind" jurisprudence to policies with race-conscious *ends* (rather than race-conscious *means* like those struck down in *SFFA*) would "completely upend the government's role in addressing racial inequality and throw countless existing policies into question."[113]

In June, Tennessee and Students for Fair Admissions jointly sued the Department of Education, arguing in ***Tennessee v. U.S. Department of Education*** that the Hispanic Serving Institutions Program (which "provides grant funding to institutions of higher education to assist with strengthening institutional programs, facilities, and services to expand the educational opportunities for Hispanic Americans and other underrepresented populations"[114]) violates Equal Protection principles.[115] We expect to see anti-equity groups and likeminded states continue to bring cases against federal programs the Trump-Vance administration is unlikely to defend, setting the stage for settlements and consent decrees undermining longstanding programs that help students and others.

Nondiscrimination Policies

The U.S. Department of Education issued a "Dear Colleague Letter" in February purporting to reiterate existing legal requirements related to nondiscrimination based on race, color, or national origin under Title VI of the Civil Rights Act.[116] However, the letter is a radical departure from settled understandings of civil rights laws, citing the ***SFFA v. Harvard*** decision to threaten schools that teach about "systemic and structural racism" or operate DEI programs with the "potential loss of federal funding."[117]

---

[112] Per Curiam Op. 7, *Christa McAuliffe Intermediate Sch. PTO, Inc. v. De Blasio*, No. 22-2649 (2d Cir. Sept. 24, 2024), ECF No. 184-1.
[113] Sonja Starr, *The Magnet School Wars and the Future of Colorblindness*, 76 Stan. L. J. 161, 161 (2024), https://review.law.stanford.edu/wp-content/uploads/sites/3/2024/01/Starr-76-Stan.-L.-Rev.-161.pdf.
[114] Office of Postsecondary Educ., *Hispanic-Serving Institutions Division - Home Page*, Dep't of Educ., https://www.ed.gov/about/ed-offices/ope/hispanic-serving-institutions-division--home-page (last reviewed Jan. 14, 2025).
[115] Compl., *Tennessee v. Dep't of Educ.*, No. 25-cv-00270 (E.D. Tenn. June 6, 2025), ECF No. 1.
[116] Letter from Craig Trainor, Acting Assistant Sec'y for C.R., U.S. Dep't of Educ. to Colleague (Feb. 14, 2025), https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf ("Dear Colleague Letter").
[117] *Id.* at 2, 4.

Three lawsuits have since been filed challenging the Dear Colleague Letter, with courts in all three finding the letter at least partially unlawful. In ***American Federation of Teachers et al. v. U.S. Department of Education et al.***, Democracy Forward Foundation represents a school district and organizations of educators standing up for the principle that "diversity is a critical ingredient to fostering intellectual curiosity and educational attainment."[118] In a preliminary injunction, the district court concluded that "there is no basis in Title VI or *SFFA* for concluding that discussion of race—in the two ways highlighted in the Letter or otherwise—is ever, or especially always, discrimination."[119] On the same day, another district court in ***National Education Association v. U.S. Department of Education*** granted a separate preliminary injunction against the letter, reaffirming that the Supreme Court in *SFFA* "did not hold that the Constitution commands color-blindness."[120]

Although, by and large, the courts have not issued decisions on the merits extending *SFFA* to other contexts, one concerning area to watch involves arguments that the rationale in *SFFA* undermines governments' compelling interest in nondiscrimination policies more generally. Last July, a district court judge sided with an evangelical Christian student group in ***Fellowship of Christian Athletes v. District of Columbia*** after the group lost its officially recognized status for violating a D.C. public school's nondiscrimination policy; the group asked student leaders to sign a pledge disavowing "homosexual activities," which the school board found discriminatory on the basis of sexual orientation.[121] In granting the group a preliminary injunction reinstating its status and exempting its leadership-selection practices from the nondiscrimination policy while litigation continues, Judge Friedrich wrote that "the Supreme Court's recent affirmative-action decision casts doubt on the compelling nature of the District's claimed interest" in "protecting the safety and well-being of its students by promoting an equitable environment free of discrimination," calling it "standardless" and "not sufficiently coherent for purposes of strict scrutiny."[122] Similar arguments are now pending in the First,[123] Fourth,[124] and Tenth[125] Circuits.

The Supreme Court recently considered—but declined to adopt—the argument that inclusion is not a compelling interest in ***Mahmoud v. Taylor***, where it held that parents have a First Amendment right to advance notice and opportunity to opt their children out of public school classroom readings of LGBTQ+-inclusive books. The majority opinion confirmed that "schools have a compelling interest in having an undisrupted school session conducive to the students' learning" and "[a] classroom environment that is welcoming to all students is something to be

[118] Compl.¶ 3, *Am. Fed'n of Tchrs. v. Dep't of Educ.*, No. 25-cv-00628 (D. Md. Feb. 25, 2025), ECF No. 1.
[119] Mem. Op. 33–34, *Am. Fed'n of Tchrs*, No. 25-cv-00628 (Apr. 24, 2025), ECF No. 60.
[120] Order, *Nat'l Educ. Ass'n v. Dep't of Educ.*, No. 25-cv-00091 (D.N.H. Apr. 24, 2025), ECF No. 74.
[121] Compl., *Fellowship of Christian Athletes v. District of Columbia*, No. 24-cv-01332 (D.D.C. May 7, 2024), ECF No. 1.
[122] Mem. Op., *Fellowship of Christian Athletes*, No. 24-cv-01332 (July 11, 2024), ECF No. 26 (quoting *SFFA*).
[123] Appellants' Opening Br. 30, *St. Dominic Acad. v. Makin*, No. 24-1739 (1st Cir. Oct. 8, 2024).
[124] Appellants' Opening Br. 33, *Polk v. Montgomery Cnty. Pub. Schs.*, No. 25-1136 (4th Cir. Mar. 26, 2025), ECF No. 33.
[125] Br. of Amici Curiae The Conscience Project et al. 26, *St. Mary Cath. Par. v. Roy*, No. 24-1267 (10th Cir. Aug. 21, 2024), ECF No. 40.

commended."[126] But in his solo concurrence, Justice Thomas suggested that the school district's claimed reasons for introducing the LGBTQ+-inclusive books without notice and opt out ("promot[ing] 'equity' and 'inclusion' and diminish[ing] classroom disruption") do "not amount to 'interests of the highest order'" that would satisfy heightened scrutiny.[127]

Columbia law professor Olatunde C.A. Johnson argues that in light of the uncertainty as to whether diversity remains a compelling governmental interest after *SFFA*, racial justice advocates should focus more on defending race-conscious policies as furthering the compelling interest of remedying discrimination, particularly *outside* the arena of higher education.[128] But it is important to note that courts around the country have overwhelmingly approved nondiscrimination trainings and policies, including as part of EEOC consent decrees as outlined in the 2024 amicus brief filed by EEOC in ***Vavra v. Honeywell***,[129] and those precedents remain undisturbed.

7. People's Right to Vote

Right-wing extremist groups are also using *SFFA* to undermine a key piece of voting-rights legislation, arguing that Section 2 of the Voting Rights Act (VRA) violates the Equal Protection Clause because it authorizes race-conscious redistricting to remedy racial gerrymandering. The Supreme Court heard arguments in March in ***Louisiana v. Callais*** from non-Black voters challenging Louisiana's creation of a second majority-Black district as a result of earlier VRA litigation; previously, only one of Louisiana's six voting districts was majority-Black while one-third of the state population is Black.[130] The Court has taken the unusual step of ordering a second round of arguments in this case in its next term.[131] Similar Equal Protection challenges to Section 2 of the VRA are underway in the Fifth[132] and Eleventh[133] Circuits.

The Trump-Vance administration is also trying to undermine voting rights in other ways, using *SFFA* to take aim at its political opponents. In July, the administration sent a letter to Texas Governor Greg Abbott, articulating its position that four Democratic-leaning Texas congressional districts are "unconstitutional racial gerrymanders" under *SFFA* and recent Fifth Circuit precedent and threatening to sue unless the state redistricted.[134] Two days later, Gov. Abbott

[126] Op., *Mahmoud v. Taylor*, No. 24-297, 2025 WL 1773627, at *23 (U.S. June 27, 2025) (quotation omitted).
[127] *Id.* at *27 (Thomas, J., concurring).
[128] Olatunde C.A. Johnson, *The Remedial Rationale After SFFA The Remedial Rationale After SFFA*, 54 Seton Hall L. Rev. 1279 (2024), https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=5486&context=faculty_scholarship.
[129] Br. of Amicus Curiae EEOC, *Vavra v. Honeywell Int'l, Inc.*, No. 23-2823 (7th Cir. Feb. 6, 2024).
[130] *Louisiana v. Callais FAQ*, NAACP Legal Def. & Educ. Fund, Inc., https://www.naacpldf.org/case-issue/louisiana-v-callais-faq/ (last visited July 17, 2025).
[131] *Louisiana v. Callais*, No. 24-109 (U.S. June 27, 2025).
[132] *Nairne v. Landry*, No. 24-30115 (5th Cir. *argued* Jan. 7, 2025).
[133] *Grant v. Sec'y, State of Ga.*, No. 23-13921 (11th Cir. *argued* Jan. 23, 2025).
[134] J. David Goodman & Shane Goldmacher, *Abbott Asks Lawmakers to Redraw Texas' Congressional Maps in Special Session*, N.Y. Times (July 9, 2025), https://www.nytimes.com/2025/07/09/us/texas-congressional-resdistricting-maps.html; Phil Jankowski

called a special session of the Texas legislature in part to propose "[l]egislation that provides a revised congressional redistricting plan in light of constitutional concerns raised by the U.S. Department of Justice."[135]

The Road Ahead: Our Renewed Resolve

Safeguarding and strengthening DEIA initiatives has never been more important—or more at risk. The Trump-Vance administration's coordinated efforts to undermine DEIA programs are designed to suppress protected speech, undermine research, censor education, silence perceived enemies, and jeopardize funding for programs that serve historically and presently marginalized communities.

The weaponization of the *SFFA* decision represents not only a direct assault on long-standing efforts to advance equity, but also brings significant collateral consequences, including legal uncertainty, chilled activity, and heightened institutional caution. These pressures show no signs of subsiding anytime soon.

Understanding both the legal and political landscape is essential. The Trump-Vance administration and its far-right allies are likely to continue recycling the same flawed legal arguments. It is up to all of us to press forward, drawing strength from positive developments in the courts and from our shared resolve. Importantly, many of the matters we are tracking have not yet resulted in decisions on the merits, underscoring the need for sustained engagement and strategic response.

Although our nation's civil rights laws remain intact and continue to provide a foundation for DEIA-related programs, defending these initiatives requires relentless commitment. It is imperative that we remain united and focused–mobilizing legal expertise, community advocacy, and public resolve–to confront these attacks. The future of effective DEIA-related efforts depends on our collective determination to protect and expand opportunities for everyone, so that we realize the promise of a truly inclusive nation.

(@PhilJankowski), X (July 9, 2025, 5:23 PM), https://x.com/PhilJankowski/status/1943058471168962808/photo/2.

[135] Press Release, Off. of the Tex. Governor, *Governor Abbott Announces Special Session Agenda* (July 9, 2025), https://gov.texas.gov/news/post/governor-abbott-announces-special-session-agenda-; *see also* Jen Rice, *Texas Plans Mid-Decade Redistricting After Pressure from White House*, Democracy Docket (July 9, 2025), https://www.democracydocket.com/news-alerts/texas-plans-mid-decade-redistricting-after-pressure-from-white-house/.