

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

National Association of Diversity Officers in  
Higher Education, *et al.*,

Plaintiffs,

v.

Donald J. Trump, in his official capacity as  
President of the United States, *et al.*,

Defendants.

Civil Action No. 1:25-cv-333-ABA

**PLAINTIFFS' MOTION TO FURTHER STAY PROCEEDINGS**

Plaintiffs hereby move for a stay of all proceedings in this case, including any deadlines for Plaintiffs to amend their complaint and for Defendants to respond to any complaint, until final agency action on a rulemaking currently pending before the General Services Administration. Defendants oppose this motion. The stay, if granted, would conserve judicial resources and would not prejudice any party. The grounds for this motion are as follows:

**BACKGROUND**

1. This case is before the Court on remand from a decision of the United States Court of Appeals for the Fourth Circuit. Plaintiffs brought this action to challenge, on their face, three provisions in two Executive Orders issued by President Trump immediately after he took office: the “Termination Provision” in Section 2(b)(1) of Executive Order No. 14,151; the “Certification Provision” in Section 3(b)(iv) of Executive Order No. 14,173, and the “Enforcement Threat Provision” in Section 4(b)(iii) of Executive Order No. 14,173. All three provisions seek to curtail

activities by federal grantees that promote diversity, equity, and inclusion (DEI), whether within or outside the scope of federal grants. This Court issued a preliminary injunction prohibiting enforcement of those three provisions, but on Defendants' appeal, the Court of Appeals vacated the injunction and remanded for further proceedings.

As relevant here, the Court of Appeals first held that Plaintiffs have standing to challenge the Termination and Certification Provisions, though not the Enforcement Threat Provision. *See* C.A. Op. at 11-15, Dkt. 92-2. On the merits, however, the Court of Appeals held that Plaintiffs were not likely to succeed on their *facial* claims.

As to the Termination Provision, the Court of Appeals concluded that a facial Fifth Amendment vagueness challenge was not likely to succeed because the provision does not directly regulate private parties at all, and only directs agency officials to terminate federal grants "to the maximum extent allowed by law," *id.* at 19. But, the court noted, "if government actors have terminated grants or contracts 'without regard to their legality,' then plaintiffs can sue *those* actors for terminating *those* contracts," *id.* at 22 (quoting Gov't Reply Br. at 6).

As to the Certification Provision, the Court concluded that a facial First Amendment challenge was not likely to succeed because the Provision facially requires "only that plaintiffs certify compliance with federal antidiscrimination laws, which the First Amendment doesn't confer a right to violate." *Id.* at 24. The Court suggested that what Plaintiffs "are really challenging is how the Administration and its agency actors interpret antidiscrimination law in relation to [Plaintiffs'] DEI programming," but that was not "fertile ground for a *facial* attack against the Certification Provision," *id.* (emphasis added).

2. Since the Court of Appeals decision issued, the parties have discussed the possibility of the Plaintiffs amending their complaint. To give the parties time to evaluate further

proceedings, they submitted a joint motion to stay proceedings on February 23, 2026 (Dkt. 93). Per the parties' motion, Plaintiffs were to file an amended complaint, if any, by April 17; if no amended complaint were filed, Defendants were to move to dismiss by April 30, but if an amended complaint were filed, Defendants were to respond within 30 days after it was filed. The Court granted the parties' motion on February 23, 2026 (Dkt. 95). The Court's order stays all deadlines in this case until April 17, 2026.

3. Meanwhile, the Administration has taken action that may significantly affect the contours of this case. On January 28, the General Services Administration issued a notice and request for comments on a proposal to require all applicants for and recipients of Federal financial assistance to register in the GSA's System for Award Management (SAM). *See* Ex. A, General Services Administration, Information Collection; System for Award Management Registration Requirements for Financial Assistance Recipients, 91 Fed. Reg. 3726 (Jan. 28, 2026) (GSA Notice). As the GSA Notice explained, the proposed requirement would update federal grant recipients' "Financial Assistance General Representations and Certifications" to align with *both* Executive Order No. 14,173 (including the Certification Provision) *and* a memorandum issued by then-Attorney General Bondi on July 29, 2025, titled "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination" (Bondi Memo) (attached as Ex. B).

The nine-page Bondi Memo extensively discussed the Administration's criticisms of DEI programs, going well beyond the sparse text of Executive Order No. 14,173. For example, the Bondi Memo opines that it is "potentially unlawful" for grantees to require cultural competence of its employees, or to target specific geographic areas for their services, or to require a statement of applicants describing obstacles they have overcome in their lives. *See* Ex. B, at 5; *see generally id.* at 4-8 (cataloguing the Administration's view of unlawful, and "potentially unlawful,"

practices). The Bondi Memo thus raises as a significant possibility that federal agencies, in administering Executive Order 14,173, will go well beyond merely enforcing current antidiscrimination law. The GSA Notice, by incorporating the Bondi Memo, further suggests that the Administration intends to require federal grantees and grant applicants to certify their compliance with, and adherence to, the Administration's extremely broad view that virtually all DEI programs are impermissible.

Comments on the GSA Notice closed on March 30, and the proposed requirement is under consideration at GSA. Should GSA adopt a provision that broadly prohibits DEI practices by grantees that heretofore have not been considered illegal under existing antidiscrimination law, that could gravely affect Plaintiffs' missions and ability to deliver services. At present, however, it is unknown exactly what the outcome of the GSA Notice will be and what GSA will require of grantees.

### **ARGUMENT**

Plaintiffs respectfully request that the Court further stay proceedings in this case until GSA issues final agency action on the GSA Notice. Such a stay would serve judicial economy and would not prejudice any party. Plaintiffs would be prepared, within 30 days of the issuance of final agency action by GSA, to inform the Court whether they intend to amend their complaint, or, if not, whether they intend to stand on their existing complaint.

“District courts have inherent power to manage their dockets with an eye toward speedy and efficient resolutions[.]” *United States ex rel. Nicholson v. Medcom Carolinas, Inc.*, 42 F.4th 185, 196 (4th Cir. 2022); *see Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How

this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.”). When exercising that power on consideration of a motion to stay, courts weigh three factors: (1) judicial economy; (2) the “hardship to the moving party if the case is not stayed”; and (3) “the potential damage or prejudice to the non-moving party if a stay is granted.” *Int’l Refugee Assistance Project v. Trump*, 323 F. Supp. 3d 726, 731 (D. Md. 2018); *see also Fisher v. Liberty Mut. Ins. Co.*, 2025 WL 3042629, at \*3 (D. Md. Oct. 31, 2025).

Here, all three factors favor granting a further stay. The most important factor here is judicial economy. This Court has invested considerable resources in this case, and is familiar with the constitutional issues raised by the Administration’s efforts to curtail DEI activities by federal grantees. The Court has already reviewed briefs on Plaintiffs’ motion for preliminary injunction, Defendants’ motion to stay the injunction, Plaintiffs’ motion to clarify the injunction, and Plaintiffs’ motion to vacate the injunction. Although final action by GSA adopting the proposed SAM requirement, and thus implementing Executive Order No. 14,173 and the Bondi Memo, would likely require an as-applied challenge rather than a facial challenge, the constitutional issues raised by such a challenge would presumably be closely related to those the Court has already examined in this case.

The Plaintiffs will suffer hardship if this case is not stayed. In particular, Plaintiffs would lose the opportunity to fully evaluate within the context of this case the significance of GSA’s final agency action for their challenges to the two Executive Orders, since that final agency action may well be subject to an as-applied challenge. And likewise, Plaintiffs would lose the opportunity to fully evaluate the significance of other final agency actions similar in kind to the GSA’s action. The Plaintiffs would also lose the opportunity to fully evaluate whether, should they seek to

challenge GSA's final agency action in a separate matter, they would be prejudiced in that matter by the existence of this case.

Finally, neither party will suffer prejudice from a further stay. In particular, Defendants will suffer no prejudice from a further stay. The preliminary injunction has not been in effect since March 14, 2025, when the Court of Appeals stayed it pending appeal, and has been vacated; Defendants therefore are not presently obligated to comply with any decision holding the Executive Orders unconstitutional. And a further stay will relieve Defendants, for the time being, of the burden of having to respond to either the initial complaint or an amended complaint, until GSA takes final action on the GSA Notice.

### CONCLUSION

For the foregoing reasons, the Court should further stay proceedings in this case until GSA takes final action on the GSA Notice.

April 17, 2026

Niyati Shah (Bar No. 31526)  
Noah Baron\*  
Alizeh Ahmad\*  
**Asian Americans Advancing Justice | AAJC**  
1620 L Street NW, Suite 1050  
Washington, DC 20036  
(202) 296-2300  
nshah@advancingjustice-aajc.org  
nbaron@advancingjustice-aajc.org  
aahmad@advancingjustice-aajc.org

Respectfully submitted,

/s/ Brooke Menschel  
Brooke Menschel (Bar No. 31492)  
Audrey Wiggins (Bar No. 31620)  
**Democracy Forward Foundation**  
P.O. Box 34553  
Washington, D.C. 20043  
(202) 448-9090  
bmenschel@democracyforward.org  
awiggins@democracyforward.org

\* admitted *pro hac vice*

**CERTIFICATION OF SERVICE**

I hereby certify that this document filed through the ECF system and all attachments will be sent electronically on April 17, 2026, to the registered participants as identified on the Notice of Electronic Filing (NEF).

*/s/ Brooke Menschel*

Brooke Menschel

**Democracy Forward Foundation**

P.O. Box 34553

Washington, D.C. 20043

(202) 448-9090

[bmenschel@democracyforward.org](mailto:bmenschel@democracyforward.org)