Legal Update Article

What Do Recent DEI Training-Focused Federal Agency Guidance and Court Decisions Mean for Employers?

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June 9, 2025

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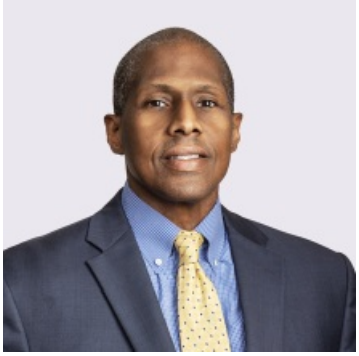

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Takeaways

- Recent legal developments underscore the importance of program design.
- Assessing employee training programs to ensure they meet current legal standards is key.
- Employers should establish effective processes to address complaints and requests for reasonable accommodations related to training and train their managers to take such complaints seriously.

Related links

- What To Do If You Experience Discrimination Related to DEI at Work (guidance)
- What You Should Know About DEI-Related Discrimination at Work (guidance)
- *Vavra v. Honeywell International, Inc.* (opinion)
- *Young v. Colorado Department of Corrections* (opinion)
- *Norgren v. Minnesota Department of Human Services* (opinion)
- *Diemert v. City of Seattle* (opinion)
- *De Piero v. Pennsylvania State Univ.* (opinion)
- Groff Takes DeJoy: U.S. Supreme Court Changes Standard in Religious Accommodation Case

Article

Two new technical-assistance documents jointly released by the Equal Employment Opportunity Commission (EEOC) and Department of Justice (DOJ) warn that common diversity, equity, and inclusion (DEI)-training practices — stereotyping statements, compelled self-disclosure, and mandatory confessions of bias — can trigger employer liability under Title VII of the Civil Rights Act. Combined with five federal court decisions over the past year, the message to employers is clear: Design programming with precision to avoid potential claims of hostile work environment, retaliation, and religious accommodation.

This article reviews the recent agency enforcement guidance and significant cases on DEI training.

Agency Guidance: EEOC and DOJ Directives on DEI

In March 2025, the EEOC and the DOJ issued joint technical assistance documents: What To Do If You Experience Discrimination Related to DEI at Work and What You Should Know About DEI-Related Discrimination at Work. These directives advise employers:

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Related Services

Corporate Diversity Counseling
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Workplace Training

1. *DEI training may support a colorable hostile work environment claim* if it exhibits discriminatory content, application, or context. The guidance says to avoid content that stereotypes or attributes negative traits based on protected characteristics.

2. *Complaints about DEI-related discrimination, including training, constitute protected activity under Title VII.* Objections gain protection if they stem from a fact-specific basis for the employee's belief that the training violates Title VII.

Although not new law, the technical assistance documents outline parameters for evaluating complaints and enforcement priorities, signaling increased agency scrutiny of DEI training content.

Court Decisions: DEI Training

Recent legal challenges to employer diversity-related training programs reveal a pattern. While employers have successfully defended against training-based race discrimination claims, they often face costly motion practice, at least through summary judgment. The outcomes of these cases depend on specific factual circumstances, including the content, context, and impact of the training.

Courts thus far have affirmed that mere participation in training programs, isolated from other factors, does not violate federal anti-discrimination statutes. Importantly, recent cases show that for DEI-based training to constitute an unlawful hostile work environment, the training must meet a high "severe or pervasive" standard. Moreover, for objections to such training to constitute protected activity, the plaintiff must have a subjective and objective reasonable basis to believe the training is discriminatory.

Key cases are illustrative and include the following:

- *Vavra v. Honeywell International, Inc.* (7th Cir. 2024). The plaintiff alleged retaliatory discharge after complaining that an implicit bias training was racist toward White people. The court affirmed summary judgment for the employer, ruling the plaintiff's complaint lacked an "objectively reasonable" basis because he had not reviewed the training material itself and because his supervisor specifically advised him that the training did not discriminate against White individuals. His complaint, therefore, did not qualify as protected activity under anti-retaliation provisions. The court also found that there was no causal connection between the plaintiff's complaint and the decision to terminate his employment.

- *Young v. Colorado Department of Corrections* (10th Cir. 2024). The plaintiff objected to mandatory DEI training that allegedly demeaned him because of his race (White) and "promoted divisive racial and political theories," including concepts such as White supremacy and fragility, intersectionality, equity, and similar concepts he found offensive. The court described some of the content as "troubling" rhetoric but affirmed dismissal of the claims. The court held on summary judgment that this single training event was insufficient to create a "severe or pervasive" hostile work environment.

- *Norgren v. Minnesota Department of Human Services* (8th Cir. 2024). The

plaintiffs objected to mandatory computer-based trainings on gender identity and anti-racism, which included concepts of "Critical Race Theory" and required participants to confess and acknowledge inherent racism and accept that the United States is the root of racist ideas. The "gender identity" training instructed employees to refrain from telling others their gender identities are wrong, which the plaintiffs alleged conflicted with their sincerely held religious beliefs. The plaintiffs sued for violations of Title VII based on race and religion relating to the trainings, compelled speech in supporting the trainings, and retaliation for asserting First Amendment rights. The district court dismissed all the claims; the appellate court reversed in part the lower court dismissal. While largely upholding dismissal of the plaintiffs' race-based discrimination and compelled speech claims, the court held that one of the plaintiffs plausibly stated retaliation and religious discrimination claims.

- *Diemert v. City of Seattle* (W.D. Wash. 2025). The plaintiff alleged the City's Race and Social Justice Initiative created a hostile work environment by "infusing race" and reducing him to his race (White). The plaintiff attended three required DEI classes involving presentations and discussions on "White privilege" and collective responsibility for racism. He claimed training sessions required him to acknowledge complicity in racism, he felt pressured to join racial affinity groups, and he heard a trainer state, "racism is in white people's DNA." He also alleged being "forced to play 'privilege bingo'" where employees identified various "privileges." The court granted summary judgment for the City on discrimination and retaliation claims. It found that "exposure to material that discusses race does not by itself create an unlawful hostile work environment" and the plaintiff failed to prove personal harassment based on his race or an adverse employment action.

- *De Piero v. Pennsylvania State Univ.* (E.D. Pa. 2025). The plaintiff, a White male writing professor, alleged University workshops and training sessions required him to acknowledge "White privilege" and "White supremacy." Specifics included a video titled, in part, "White Teachers Are a Problem" and instruction for faculty to "incorporate antiracism curriculum and pedagogy and practices into" their "classes." An assistant vice provost also commented that "it's a challenge for all of us today, and especially for white and non-black people of color, … to hold our breath just a little longer to not give into our privilege" and asked White individuals to "feel terrible" during a Juneteenth recognition. The court granted summary judgment for the University. It concluded the alleged incidents, occurring over a three-year period, were not "severe or pervasive" enough to constitute a hostile work environment, noting few actions targeted the plaintiff personally, there were no physical threats, and his voluntary participation even after he was aware of the content. The court also determined the plaintiff's complaint was not protected activity, because his belief the training was discriminatory lacked an objectively reasonable basis within academic discourse.

Practical Steps for Employers

The technical assistance documents and cases discussed above underscore that appropriately designed training remains permissible. However, *legal challenge outcomes depend on specific factual circumstances.* Employers must ensure

programs strictly adhere to Title VII's anti-discrimination prohibitions, particularly concerning harassment, retaliation, and religious accommodation, and recognize the inherent legal risks associated with poorly conceived or executed training.

Several important employer considerations emerge from these developments, offering actionable insights:

1. *Design inclusive, nondiscriminatory EEO training:* Employers are required to offer equal employment opportunity (EEO) and prevent unlawful, discriminatory harassment. Effective training continues to be an important tool for them to do so. Employers must ensure that all training — even training that discusses concepts such as race, sex, and other unlawful discrimination — avoid stereotypes, language that could be considered divisive or segregating the workplace, unwelcome remarks, or negative attributions based on protected characteristics to lower the risk of hostile work environment claims. Regularly audit training materials under attorney-client privilege for compliance with anti-discrimination laws.

2. *Handle complaints with care:* Employee objections to training may constitute protected activity under Title VII if they are based on a reasonable, fact-specific belief of discrimination. Employers should avoid retaliatory actions, such as adverse employment decisions, against employees raising such concerns. Train supervisors to explain the nondiscriminatory nature of the training and to educate, not dismiss, employees who assert without evidence that the training discriminates based on protected characteristics.

3. *Respect employee religious beliefs:* Avoid compelling employees to affirm ideological viewpoints, especially viewpoints that conflict with sincerely held religious beliefs. Offer reasonable accommodations, such as alternative training formats, consistent with applicable religious accommodation law and with the U.S. Supreme Court's *Groff v. DeJoy.*

4. *Prevent unlawful segregation:* Ensure training activities maintain open membership to avoid segregation, classification, or separation based on protected characteristics, as cautioned by the EEOC and DOJ.

* * *

The EEOC and DOJ intend to aggressively enforce Title VII to root out "illegal DEI." EEO and anti-harassment programs may assist employers in providing equal employment opportunities for all employees and applicants. Employers, however, must navigate this legal environment with care. Prioritize genuine inclusivity for all employees, avoid preferential treatment, and meticulously review training content to preempt harassment, compelled speech, or religious accommodation issues.

Jackson Lewis attorneys are available to help you in reviewing your trainings and related DEI practices for legal risk and compliance.