



NHRMA 24

86TH ANNUAL CONFERENCE + TRADESHOW

CS05

2024: Current and Future Status of DEI in the Workplace



Archbright[™]

WORKPLACE PERFORMANCE EXPERTS

Current and Future Status of DEI in the Workplace: Why DEI Still Matters

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Welcome!

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(she/her)



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(she/her)





About Archbright

Archbright™ is the go-to resource for employers offering easy access to expert HR, safety, and legal advice through an affordable membership.

We help companies elevate workplace performance with services that span every stage of the employer-employee relationship.

What is IDEAL?

**IDEAL stands for
Inclusion, Diversity, Equity, Accessibility, and Leadership**

IDEAL Offerings | Specialized DEI consultants and trainers to support you with:

- Private team DEI training
- Leadership training
- Organizational DEI assessment and surveying
- Strategic planning
- Consulting

Contact:
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AGENDA



1

Activity: Did I make money, lose money, or break even?

2

Provide a legal update regarding DEI, and how employers can still cultivate DEI in the workplace legally.

3

Why DEI still matters.

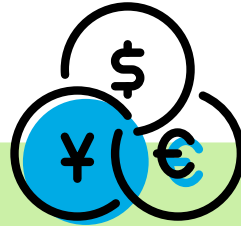
4

Q & A

Make Money, Lose Money, or Break Even?



You bet \$100 at the
Roulette Table and
win \$50.



At the
Blackjack table,
you bet \$150,
and win \$50.



Raise your hand if
you made money,
lost money, or
broke even.

Turn and Talk

Directions: With your neighbor...



1. Share if you think that you made money, lost money, or broke even.



2. Share why you chose this answer.

Building Perspective



We all see and experience the world differently.



This informs our perspectives and our solutions to problems.



Listening to other people helps us think about our perspectives differently.



Diversity, equity, and inclusion (DEI) is about broadening our perspectives. The openness to hear people out and try to understand where others are coming from.

DEI or EDI?



- **Diversity** refers to the presence of differences in one another; and recognizing the social complexities that can exist due to our differences and lived experiences.



- **Inclusion** refers to an environment of belonging and respect where everyone can feel valued.



- **Equity** refers to granting access, accommodations, or resources to people who need them.

DEI is Under Attack



Misinformation:

False or inaccurate information.



Disinformation:

False information which is deliberately intended to mislead.

Legal Update



- Students for Fair Admission, Inc. v. Harvard College and N. Carolina (6/29/23).



- Muldrow v. City of St. Louis (4/17/24).
- Expansion of Title VII increases likelihood of differential treatment being considered adverse action.



- Surge in Anti DEI legislation.
- Since May 2024 12 states enacted laws focusing on the restriction of DEI training, policies, and roles in governmental entities.
- Florida “Stop W.O.K.E.” Act.

Legal Scrutiny and Outcomes



- Reverse discrimination lawsuits and shareholder derivative lawsuits.



- Corporate Response: public walk-back of DEI programs and positions: Zoom, Tesla, Lyft, Home Depot, and Wayfair.



- Removing the E from DEI? SHRM, Microsoft, REI.
- MEI? Merit, Excellence, and Intelligence (WSJ 7/29/24).

Equality v Equity

EQUALITY



EQUITY



**Jeff Vaughn v. CBS Broadcasting, Inc.,
Paramount Global and McMahon
(Cal. Dist. Ct. 7/1/24)**

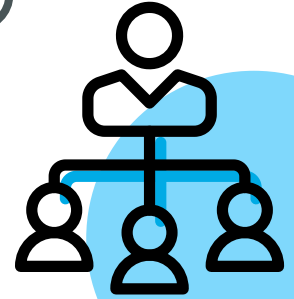


Duvall v. Novant Health, Inc, (4th Cir. 3/12/24)

- News anchor lawsuit alleging reverse discrimination against white, male, heterosexual employees over 40. Alleging CBS's diversity initiatives favoring women, BIPOC, and LGBTQ+ talent led to his replacement with a younger, Black, male anchor.
- CBS publicly stated goals: " Double female representation" and "triple people of color".

McCreary v. Adult World, Inc. (E.D. Pa. 4/4/24)

- Cisgender male working in an adult entertainment store sued for discrimination when his employer hired two transgender clerks and treated them more favorably.
- In fact, the district manager promoted one of the transgender employees to a position as a store manager within 90 days of that employee's start date.



Arsenault v. HP Inc. (D.Conn. 5/29/24)



- Former white employee sued employer alleging his termination was due to his voiced opinion that “company was spending too much time on DEI practices”.

Weitzman v. Fred Hutchinson (W.D. WA 1/16/24)

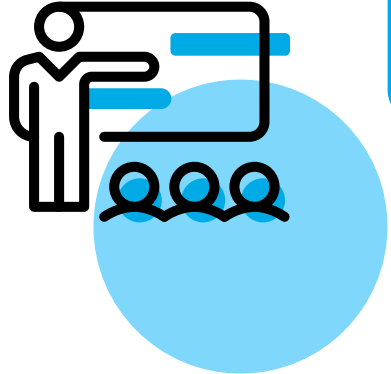
- A white Jewish female former employee sued, alleging that she was terminated for:
 - Expressing her discomfort with DEI-related content shared in the workplace by coworkers
 - Objecting to DEI-related training
 - Expressing her political opposition to DEI-aligned ideologies.



Diemert v. City of Seattle (W.D. 8/28/23)

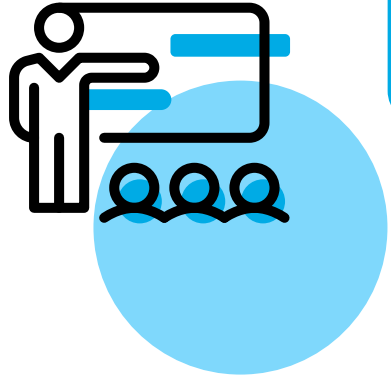


- Former employee sued alleging he had to resign due to hostile and discriminatory treatment based on his white race. E.g.:
 - “What could a straight white male possibly offer our department?”
 - “It’s impossible to be racist against white people.”



What Employers Should Do

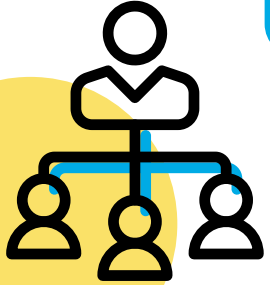
- Words Matter = take care involving statements and actions.
- Partner with general counsel.
- Apply company anti-discrimination policy to all races and protected status to avoid claims of reverse discrimination.
- Train hiring managers, HR and DEI professionals on state and federal anti discrimination laws and how to discuss DEI.



What Employers Should Do

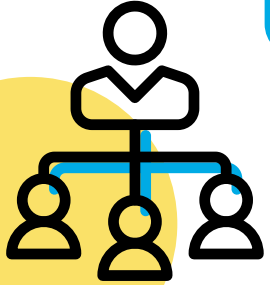
- Keep diversity demographic information about job candidates from decision makers on hiring.
- Set diversity goals in a realistic and objective way.
- Educate recruiters and hiring managers regarding your neutral non-discriminatory selection process.

What Employers Should Avoid



- Avoid numerical caps on the size of interview pools or requirements to interview a “diverse” candidate for every opening.
- Using dashboards/scorecards to meet a quota.
- Making a decision about a promotion/hire using in part an individual’s protected status.

What Employers Should Avoid



- Restricting training or mentorship programs based on protected characteristics.
- Setting unrealistic goals and timeframes for achieving goals.
- Tying executive compensation to achieving diversity goals.

What Employers Can Still Do



Diversify your candidate pools.



Mandate compliance training and have DEI training be mandatory but ensure its even handed.



ADA compliance. Reasonable accommodations for disabled employees.



Pay equity/market analysis.

Why DEI Still Matters



The data still supports a strong business case.



Promotes psychological safety.



Accessibility and disability inclusion.

Business Case



80% of respondents said they want to work for a company that values diversity, equity, and inclusion.



About 60% of respondents claimed the success of their sales teams is tied to the diversity of their teams. 88% of the top sales organizations have racially or ethnically diverse sales teams.

Psychological Safety



The belief that the work environment is safe for interpersonal risk taking.



The experience of feeling able to speak up with relevant ideas, questions, or concepts.



An environment where colleagues trust and respect each other and feel able – even obligated – to be candid.



An environment where people can bring their authentic "work selves" to job without punishment.

Accessibility



- 1 in 4 adults in the US has a disability, and about 1 billion people worldwide.



- Digital accessibility refers to the ability of people with disabilities/impairments to independently consume and/or interact with digital applications and content.

Questions & Answers



Thank You!

Archbright Services:

- HR and Safety Consulting
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END

