

MIND YOUR BUSINESS

Navigating Choppy Waters: DEI programs in law firms

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Alexandria K. Montanio. (Photo by Gordon Feinblatt)

Law firms should remain committed to their diversity, equity and inclusion programs. Although the profession has become a particular focus of the Trump administration's efforts to curtail DEI initiatives across the U.S. workforce, firms that overcorrect in response to present political pressure risk undermining their long-term stability. The demographic forces that drove the rise of DEI programs have not slowed. When structured carefully and grounded in authenticity, these initiatives can continue to be the ship that weathers these turbulent seas.

Diversity refers to the presence of different identities within a group—a factual condition, rather than a political position. These differences include commonly cited characteristics such as race, gender, sexual orientation and religion, as well as less frequently discussed factors, such as age, caregiving responsibilities and disability status. Inclusion is where the fact of diversity meets feeling: whether individuals feel welcomed, respected and able to contribute fully. Equity focuses on policy and practice, using institutional tools to ensure fair access to opportunity by addressing systemic barriers.

Despite the politicization of the term, DEI efforts have benefited workers across ideological and demographic lines. Anti-harassment protections, family leave policies, accessible workplaces, adaptive technologies and flexible work arrangements are all products of decades of advocacy for more inclusive workplaces. These measures are now widely accepted as baseline employment standards.

Further, the business case for a diverse workforce where inclusion is valued has been well documented (<https://www.bcg.com/publications/2018/how-diverse-leadership-teams-boost-innovation>). Developing a diverse workforce is both the morally sound thing to do and can lead to better financial performance (<https://www.forbes.com/councils/forbesbusinessdevelopmentcouncil/2023/05/11/the-business-case-for-diversity-equity-and-inclusion>).

While some critics incorrectly assert that utilizing lessons from diversity, equity and inclusion practices means selecting less qualified candidates for hiring or promotion because of their identity, these efforts are actually about ensuring that all qualified candidates have a fair opportunity to be considered. Inclusive employment practices require that people meet the same qualifications and skills standards; the difference is that bias and unnecessary barriers are reduced, so that qualified candidates from underrepresented backgrounds are not systematically excluded.

However, the mere presence of diversity is not enough to change company performance. Robust DEI programs remain incredibly important as companies must deeply incorporate inclusive practices into their daily work to capitalize on the value of different backgrounds and perspectives.

Legal considerations

While enforcement rhetoric has intensified, the core legal framework governing workplace equity remains intact. Federal statutes, ranging from the Equal Pay Act of 1963

([https://www.eeoc.gov/statutes/equal-pay-](https://www.eeoc.gov/statutes/equal-pay-act-1963)

[act-1963](https://www.eeoc.gov/statutes/equal-pay-act-1963)) to the Pregnant Workers Fairness Act of 2022

(<https://www.eeoc.gov/statutes/pregnant-workers-fairness-act>) and everything in between, continue to apply.

President Donald Trump has issued executive orders, such as Executive Order 14173 (<https://www.whitehouse.gov/presidential-actions/2025/01/ending-illegal-discrimination-and-restoring-merit-based-opportunity>), aimed at curbing DEI in the private sector.

His administration has also initiated lawsuits, such as an Equal Employment Opportunity Commission case against a Coca Cola bottling affiliate (<https://www.eeoc.gov/newsroom/eeoc-sues-coca-cola-beverages-northeast-sex-discrimination>) regarding a women's employee networking event; and sent warnings, including a letter from Federal Trade Commission Chairman Andrew Ferguson (<https://www.ftc.gov/news-events/news/press-releases/2026/01/federal-trade-commission-chairman-andrew-n-ferguson-issues-warning-letters-law-firms-anticompetitive>) to 42 law firms concerning (<https://www.abajournal.com/news/article/ftc-issues-antitrust-warning-to-law-firms-over-diversity-certification-program>) participation in Diversity Lab's Mansfield Certification program. Ferguson alleged that the certification, which is about broadening the pool of candidates considered for jobs and promotions, could potentially violate antitrust laws related to colluding in hiring practices because so many firms participate.

Many of the administration's efforts have inspired fear but remain unproven in court. Further, in many jurisdictions, state attorneys general have issued counter guidance broadly defending corporate DEI practices, such as the "Multi-State Guidance Concerning Diversity, Equity,



Inclusion and Accessibility Employment Initiative” signed

(<https://www.mass.gov/doc/multi-state-guidance-concerning-diversity-equity-inclusion-and-accessibility-employment-initiatives/download>), by the attorneys general of 16 states.

As with any area of regulatory risk, leaders should distinguish carefully between allegations and binding precedent. Many DEI practices remain compliant with current administration guidance when designed thoughtfully. Expanding recruitment outreach, providing DEI-related training, and maintaining employee resource groups open to all employees continue to be permissible.

In December 2025, the EEOC chair, Andrea Lucas, posted a video to social media directly soliciting white men to file discrimination claims if they feel they have been excluded from DEI activities or otherwise subject to discrimination. Some employment lawyers have already reported seeing an uptick in these types of cases in their practices. DEI initiatives were originally designed to reduce conduct that could result in claims from historically protected groups. Eliminating such initiatives could expose companies to additional legal risk from those employees. Further, state and local laws may impose requirements that are in tension with the Trump administration’s stance. Overreaction, rather than measured compliance, may create greater legal exposure.

Effective DEI programs resemble container ships: built to withstand varied conditions and carrying many different initiatives. They require deliberate navigation, not abrupt course changes, when conditions shift.

Business considerations

Legal compliance is only part of the equation. Firms must also consider their stakeholders, talent pipelines, revenue sources and risk tolerance. In a polarized environment, no business decision will satisfy all constituencies, but retreating from DEI carries its own costs.

Roughly half the country still supports DEI efforts. In a November 2024 survey conducted by Pew Research Center (<https://www.pewresearch.org/short-reads/2024/11/19/views-of-dei-have-become-slightly-more-negative-among-us-workers/#:~:text=For%20the%20most%20part%2C%20similar,women%20who%20say%20the%20same,>),

52% of employed adults stated that in general, “focusing on increasing DEI at work is mainly a good thing.” About a quarter (26%) of respondents were neutral.

A Gallup poll conducted in May 2025 found that 69% of survey respondents (<https://news.gallup.com/poll/696221/fewer-americans-diversity-business-priority.aspx>), felt that it was “extremely or somewhat important” for companies to promote DEI.

Younger professionals (particularly Generation Z) generally place a higher premium on workplace diversity and equity than prior generations. Generation Z, defined as individuals born between 1997 and 2012, will be between 14 and 29 years old this year. The U.S. Bureau of Labor Statistics projects (<https://www.naceweb.org/talent-acquisition/student-attitudes/54ebbbe2-3ff3-44a1-a755-050a14a18986>), that Gen Z will make up about 30% of the U.S. workforce by 2030.

For years, polling has shown that a steady majority of Gen Z respondents care more about diversity and equity efforts at work than any prior generation. For example, the World Economic Forum recently published an article reporting, (<https://www.weforum.org/videos/1-in-2-gen-z-ers-won-t-work-in-a-place-without-diverse-leadership/>), that 56% of Gen Zers say they would not accept a job without diverse leadership, and 68% say their employer is not doing enough to build a more diverse workplace.

This is unsurprising, as Gen Z is the most diverse generation to date across many metrics. Nearly 50% of this population (https://www.statista.com/statistics/206969/race-and-ethnicity-in-the-us-by-generation/?srsltid=AfmBOooQF8ZNzDHm81uFtbM0uRfjnSO3LmYRzLpO4e9F8-tead0_2DS0), identifies as a race other than white as reported from U.S. census data. A February 2025 Gallup poll reported (<https://news.gallup.com/poll/656708/lgbtq-identification-rises.aspx>), that 22.7% of Gen Z adults openly identify as LGBTQ+. By comparison, these same surveys and government data show that the baby boomer generation is 72% white, and only 3% openly identify as LGBTQ+. Again, increasing diversity, the presence of differences, is a measurable fact.

The Law School Admission Council’s 2024 1L Profile (<https://www.lsac.org/data-research/research/lacs-knowledge-report-2024-1l-profile>), also reflects this reality: 41.8% of the 1L class came from racial and ethnic minority groups, 56% were

women, 14.8% were LGBTQ+, 23% were first-generation college graduates, and 75% were the first in their families to attend law school.

Law firms must aim to design programming that benefits everyone without running afoul of anti-discrimination laws. Meaningful DEI programs have never needed to rely on quotas to make a more inclusive and attractive workplace. Instead, consistent, structured programs open to everyone remove many of the mysteries of professional success and effectively support all professionals in the work place. Offering topics that reflect the diversity of the modern workforce—from how different religions celebrate holidays to the impact of menopause in the workplace—and shaping company policy to reflect that learning result in more workforce engagement and productivity.

DEI programs are critical to recruiting and retaining this generation of law students and to attracting their business when they attain the ability to influence or determine outside counsel selection as some pursue corporate roles. Firms that fail to adapt may find themselves sidelined sooner than anticipated.

Values

Finally, DEI decisions signal institutional values and audiences are paying close attention. Organizations that publicly committed to diversity during the racial justice reckoning of 2020 are now being evaluated on follow-through. Authenticity matters. When stated values and operational decisions diverge, trust erodes quickly.

Recent corporate pullbacks from DEI initiatives illustrate the risks of reactive decision-making. In some cases, attempts to appease critics alienated core consumers without attracting new ones, resulting in reputational and financial fallout. While most law firms may not face national headlines, clients, recruits and local communities will notice inconsistencies between rhetoric and action.

Values function as a form of market signaling. They help organizations build shared purpose and encourage long-term internal and external investment, both financial and relational. Once that trust is compromised, it is difficult to restore.

A steady hand forward

The current political focus on DEI presents real challenges for law firm leaders, but it also offers an opportunity for strategic clarity. Political winds shift, but demographic change does not. Firms that respond with discipline, rather than panic—grounding their DEI programs in law, business reality and authentic values—will be better positioned for what comes next.

For that reason, the wisest course is not to abandon the ship. A firm hand on the wheel remains the most reliable way through choppy waters.

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