

CLIENT ALERT

NAACP Seeks Injunction of EO Banning Implicit Bias Training

Oct.30.2020

The NAACP Legal Defense and Education Fund, Inc. has [filed suit on behalf of the National Urban League and the National Fair Housing Alliance](#) in the United States District Court for the District of Columbia challenging the lawfulness and validity of [Executive Order 13950](#), Combating Race and Sex Stereotyping, issued on September 22, 2020. The EO prohibits the use by federal contractors or subcontractors, and certain federal grantees, of training materials that “inculcate[] in its employees any form of race or sex stereotyping or any form of race or sex scapegoating.” The Department of Labor has since [released its own guidance](#) regarding the EO and a [Request for Information](#) seeking materials “concerning workplace trainings involving prohibited race or sex stereotyping or scapegoating” and has set up both email and phone hotlines to receive complaints about training that may violate the EO.

The suit names as defendants President Trump, Eugene Scalia in his capacity as Secretary of Labor, and the Department of Labor itself, and identifies the representative class as federal contractors and federal agencies, departments, or divisions that offer or intend to offer workplace training of the type prohibited by the EO. The suit alleges:

1. An ultra vires action in violation of the First Amendment in the form of viewpoint discrimination;
2. A violation of the Fifth Amendment, namely that the EO is void for vagueness; and
3. A violation of the Equal Protection clause of the Fifth Amendment.

The Complaint seeks a declaratory judgment that the EO is unlawful and invalid, pursuant to 28 U.S.C. § 2201, and a preliminary and permanent injunction to stop implementation or enforcement of any part of the EO, as well as costs and fees.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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