

DEI Injunction Stands: Court Denies Trump Administration's Motion to Stay

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Takeaways

- A federal district court judge in Maryland denied the Trump Administration's motion to stay implementation of a preliminary injunction enjoining aspects of the administration's EOs that ban "illegal DEI" while the administration appeals the injunction order.
- The court ruled that the administration's motion to stay failed for the same reasons the court allowed the plaintiffs' motion for preliminary injunction: the application did not provide any further reasoning in support of the stay.
- The court also denied the administration's effort to limit the "nationwide" enforcement of the preliminary injunction.
- The preliminary injunction is on appeal to the Fourth Circuit.

Related link

- [Federal Court Blocks Provisions of Trump Administration's 'Illegal DEI' Executive Orders](#)

Article

A federal district court judge for the district of Maryland on March 3, 2025, denied the Trump Administration's motion to stay implementation of a Feb. 21, 2025, preliminary injunction temporarily prohibiting the administration from enforcing aspects of the Jan. 20 and 21, 2025, executive orders (EOs) banning "illegal DEI." *National Association of Diversity Officers in Higher Education et al. v. Trump et al.*, No. 1:25-cv-00333 (D. Md.).

Arguments

The administration argued that "Plaintiffs' harms are 'purely speculative,' but the injunction 'threatens irreparable injuries' to the government and 'improperly impedes' agencies from 'implementing the President's stated priority of enforcing the antidiscrimination laws.'" (Citing *Maryland v. King*, 567 U.S. 1301, 1013 (2012).) The administration alternatively argued that if the court keeps the injunction in place, it should "stay the nationwide application of the injunction," i.e., limit the application to the plaintiffs and their members. (Citing *Labrador v. Poe ex rel. Poe*, 144 S. Ct. 921 (2024).)

Court Ruling

In rejecting the stay application, the court ruled that the factors for the "extraordinary remedy" of a stay or a limitation of the "nationwide" application of the stay do not exist. The court noted the administration has not established a probability of success on the merits, particularly since the application relies upon the same arguments the court found unpersuasive when the preliminary injunction was granted.

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The court reiterated its prior decision stating, “the executive branch is obviously entitled to have policy goals and to pursue them. But in pursuing those goals it must comply with the Constitution, including, as relevant here, the Free Speech Clause of the First Amendment, and the Due Process Clause of the Fifth Amendment.” The court continued, “although the case is presently in its preliminary stages, several of the challenged provisions clearly, on their face, violate First Amendment free speech protections....” The court noted that “chilling of unquestionably protected speech” is a serious harm attributable to the challenged provisions.

The court further rejected the administration’s fallback argument that the preliminary injunction should not apply “nationwide” and should be limited to the named plaintiffs and their members. The court reasoned that “in identifying the appropriate contours of a preliminary injunction, an injunction that extends to non-parties” may be particularly “appropriate” where, as here, “the government relies on a ‘categorical policy,’ and when the facts would not require different relief for others similarly situated to the plaintiffs.” Here, because the plaintiffs have shown a likelihood of proving a “constitutional violation,” the court is “required to tailor the scope of the remedy to fit the nature and extent of the constitutional violation.” *Hills v. Gautreaux*, 425 U.S. 284, 293–94 (1976).

Fourth Circuit: *CASA, Inc.*

The court cited for support a decision of the U.S. Court of Appeals for the Fourth Circuit: *CASA, Inc., et al. v. Trump, et al.*, No. 25-1153 (Feb. 28, 2025). It noted that “[n]otwithstanding ... reservations” expressed in “separate writings by Supreme Court Justices,” the U.S. Supreme Court has “allowed most universal injunctions to remain in effect during the course of litigation.”

The *CASA* court, which will hear the administration’s appeal of the preliminary injunction, specifically observed that the executive action challenged there was a “categorical policy” as to which the “facts would not require different relief for others similarly situated.” It also observed that an injunction limited to the parties “would be unworkable in practice and thus fail to provide complete reliefs to the plaintiffs.” As explained above, those considerations apply with equal force here.

Conclusion

The denial of a stay of the preliminary injunction is important for a number of reasons:

- Unless the Fourth Circuit issues a stay, the district court’s preliminary injunction will remain in effect while the administration appeals the court’s decision.
- The court reiterated its prior holding that the EOs appear to violate fundamental constitutional rights, including those of free speech.
- The administration’s effort to limit application of the preliminary injunction to simply the plaintiff organizations and their members was rejected.

Jackson Lewis attorneys are closely watching developments in this area and can answer your questions.

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