

TLDEF Opposes Executive Order 13950 that Seeks to Restrict Diversity and Inclusion Trainings

In violation of the First Amendment's free speech clause, the Executive Order limits access to federal funding among employers that aim to foster transgender-inclusive workplaces.



(NEW YORK, NY – December 1, 2020) - Today, the Transgender Legal Defense & Education Fund (TLDEF) submitted [comments](#) in opposition to Executive Order (EO) 13950, which jeopardizes access to federal contracts by government agencies, federal contractors, federal grant recipients, and other employers that provide workplace diversity and inclusion trainings.

“Executive Order 13950 stands in the way of eliminating discrimination and harassment from our workplaces and our public spaces,” said **TLDEF Legal Director David Brown**. “It also violates freedom of speech by withholding federal funding from those that don’t agree with the government’s political ideology. It’s the exact opposite of what we need our government to do. It has to go.”

Executive Order 13950, entitled, “Executive Order in Combating Race and Sex Stereotyping” contains vaguely worded references about implicit bias trainings and threatens to withhold federal grant funding in the event that the trainings include discussions of so-called “divisive concepts” that may cause employees to experience discomfort. Under those circumstances, employees would be able to file a report through a government hotline, which could disqualify employers from receiving federal contracts and funding.

Implicit bias trainings promote conversations about diversity and inclusion, typically by challenging one’s own conscious or unconscious attitudes or stereotypes about race, sex, and gender. Transgender people, especially those who are also people of color, experience higher rates of discrimination and harassment in employment and in public accommodations such as restaurants, hospitals, and retail shops among other spaces, which can be addressed and overcome through workplace diversity trainings for employees.

As a result of the EO, employers may eliminate any type of diversity and inclusion training for fear of losing their federal funding. However, imposing viewpoint- or values-based restrictions as a condition to receive federal funding violates the First Amendment’s free speech clause. The Supreme Court has held numerous times that requiring people to embrace or reject a government ideology in order to receive government funding is unconstitutional, most recently in [Agency for International Development v. Alliance for Open Society International](#).

TLDEF’s comments argue by restricting workplace trainings that aim to educate employees on implicit bias and discrimination in the workplace, the EO effectively stymies competent and quality access to health care, social services, and equal treatment in the justice system. In a comprehensive [national survey](#), 23% of transgender employees reported experiencing workplace discrimination on the basis of their gender identity. Additionally, 31% of transgender people reported incidents of discrimination in public accommodations.

TLDEF offers workplace trainings and presentations to address systemic inequities, reduce barriers for transgender people, and ensure workplaces are safe and affirming for all employees. TLDEF regularly offers training to a host of employers, including government agencies, financial institutions, law firms, consulting firms, and national retailers among others.

TLDEF attorney David Brown submitted the comment with the law firm **Cozen O’Connor** (attorneys Ethan Chernin, Anne Greene, Anna Will Kentz, and Cassandra Jacobsen) in New York City providing counsel to TLDEF.

About TLDEF

TLDEF is committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender people through test-case litigation, direct legal services, public policy, and public education efforts. For more information, visit tldef.org.

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