DEI: Legal Considerations in the Workplace and Beyond

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The Refresher on the Basics

• Diversity: The presence of differences within a given setting.
• Equity: The act of ensuring that processes and programs are impartial, fair and provide equal possible outcomes for every individual.
• Inclusion: The practice of ensuring that people feel a sense of belonging in the workplace. This means that every employee feels comfortable and supported by the organization.
DEI in Employment: Title VII and the Equality Act

*Title VII*
• Employers with 15 or more employees, including state and local governments.
• Protected Classes
• “In Employment”: Hiring, discharge, wages, conditions, privilege

*Equality Act*
• Makes sexual orientation and gender identity non-discrimination “official”
• Expands areas to which discrimination applies
DEI in Employment: ADEA, ADA and More

- **ADEA** – age 40 and over; Covers private employers with 20+ employees, state and local governments, labor unions
- **ADA** – those with disabilities as defined by the statute; applies to all private businesses with 15 or more employees
- **Affirmative Action Programs** - Businesses that contract with the federal government must have AAPs, while others can (SHOULD) implement them voluntarily.
- **Equal Pay Act** - requires that men and women in the same workplace be given equal pay for equal work.
DEI in the Provision of Care

*Title VI*
- Prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance.
- Bias not enough

*Section 1557 of the ACA*
- Nondiscrimination provision of the ACA
- Builds on longstanding nondiscrimination laws
Onslaught of Executive Orders

**EO 19385**
- Released on January 20, 2021
- Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- Directs federal agencies to evaluate whether their policies produce racially inequitable results when implemented, and to make the necessary changes to ensure underserved communities are properly supported.

**EO 14035**
- Released on June 25, 2021
- Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce
- Seeks to create a Government-wide initiative to promote diversity, equity, inclusion, and accessibility (DEIA)
Path Forward and Potential Legal Landmines

• No legal requirement to implement a DEI program.....
• Metrics = Landmine
  • One must remain cognizant of Title VII duties
  • Express seek to promote diversity, equity, and inclusion in their workplace, and, consistent with that goal, hire only the most qualified candidates.
• Best Practices
  • Refrain from using rigid quotas or set-asides
  • Review DEI programs regularly
  • Communication is key
To Learn More...

New online course starting this Spring 1 (January – March), entitled, ‘Leadership and Equity in the Life Sciences.’

In partnership with The Drug Information Association (DIA) and the University of Arizona James E. Rogers College of Law, this course joins the Graduate Certificate in Regulatory Science and Master of Legal Studies in Health Law & Policy.

For more information or to apply to take this course and program contact: law-healthcare@arizona.edu or visit https://lnkd.in/eqACWZ6.
Thank you!

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This is my thank you dance!