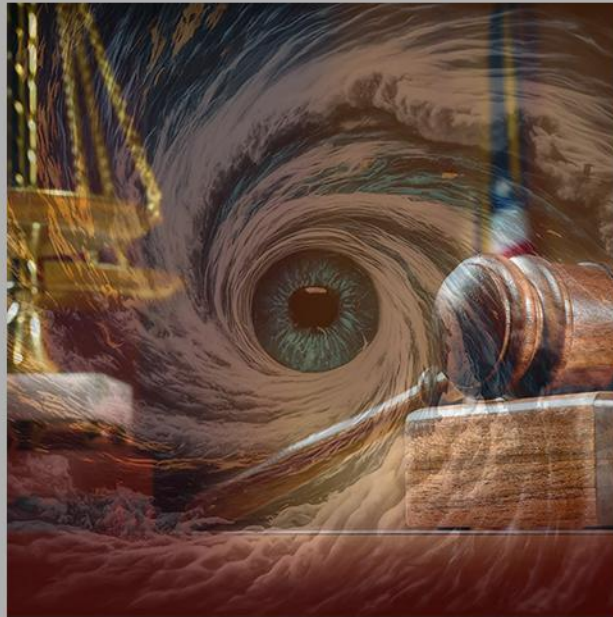




## CORPORATE: Navigating Compliance In a Swirling World

By Kathleen Graham  
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### CORPORATE: NAVIGATING COMPLIANCE IN THIS SWIRLING WORLD

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Today a C-suite executive's job now includes: 1) keep the company out of the danger zone; 2) stay in alignment with corporate core values, using reframing and other tools; and 3) identify/execute ways to enhance company's reputation and brand.

A review of industry literature offers several excellent suggestions as to how to remain compliant and true to corporate goals simultaneously for corporations' top three compliance concerns, which are:

#### 1. Technological Opportunities/Risks: AI and generative AI's major compliance opportunities and challenges.

- “Global economies can save \$3.13 trillion annually using AI to detect and prevent money laundering and terrorist financing.”
- “\$138 billion in total compliance costs could be saved by regulated firms by implementing AI into their AML strategies.”
  - Both quotes are from Napier's AI/AML Index 2024-2025 that illustrate the savings that AI can capture in just one segment (finance).
- Consider AI's impacts on other compliance obligations: lawful processes for training AI models; prevention of false information creation via AI tools—e.g., deepfakes; automated malware generation; transparency for workers, customers, investors, and stakeholders; different geographical or regional jurisdictional legal or regulation differences; and appropriate AI training and governance of employees/workers.

#### 2. Societal and Workplace Conflicts.

- **Societal Conflicts:** use monitoring/data analytics to detect, understand, and address responses to your company's values, strategies, and/or perceived actions (or lack thereof) taken by your company, being vigilant for manipulative amplifications.
- **Workplace Conflicts:** President Trump's 2025 executive orders (EOs) on DEI, along with recent EEOC guidance and court decisions, have created numerous legal conflicts with existing federal and state anti-discrimination laws, resulting in heightened compliance risks.
- The greatest workplace risk areas include: *Recruitment, Hiring, and Promotion Decisions; Affirmative Action and Federal Contractor Compliance; DEI and Implicit Bias Training Content; and Specific Uses of Data Analytics.*
- To address these workplace risks, companies' risk mitigation and compliance strategies should include the following:
  - Conduct comprehensive audits of all DEI policies, programs, and communications under attorney-client privilege to identify and mitigate risks while balancing legal requirements with company values.
  - Use data analytics to monitor workforce demographics and detect potential barriers without establishing numeric targets or quotas. Address findings through process improvements rather than demographic preferences.

- Design inclusive employee programs that promote equal opportunity and address systemic inequities without relying on quotas or preferences based on protected characteristics.
- Shift training content from identity-focused discussions to objective decision-making, legal compliance, and professional workplace conduct, emphasizing respectful communication and inclusive behaviors.
- As of April 2025, using affirmative action plans based on race and sex are no longer required or permitted for federal contractors (FCs). FCs should continue to comply with the remaining narrowly tailored obligations for veterans and individuals with disabilities.
- Monitor ongoing litigation and regulatory developments at both state and federal levels, noting that state law may diverge from federal standards (e.g., CA, NY, and IL maintain robust DEI protections while FL, GA, IA, SC, TN, and TX have restrictions or active litigation).
- Seek legal advice before launching new DEI initiatives or updating legacy programs.

### 3. Increasing Legal Risks Coupled with Regulatory Divergency.

- Third-party risks increased—over 80% of compliance leaders report issues stemming from third-party relationships.
  - Solution: enhanced due diligence, continuous monitoring by all involved internal parties in coordination with legal staff.
- Cybersecurity threats escalating—legal departments are stepping in to run oversight and regulatory compliance.
- Regulatory divergence widens globally and across different US regional legal jurisdictions on a wide range of topics.
  - Solution: adopt more agile frameworks; conduct regulatory intelligence to monitor global/ regional changes in real time; tailor policies, training, and compliance programs to reflect local laws cultural nuances; automate tracking, reporting, and documentation processes; use scenario planning to model regulatory outcomes and test operational resilience.

*Furthermore, do remember that federal law and presidential executive orders on DEI are subject to ongoing litigation and may be temporarily blocked or newly enforced in select jurisdictions as of October 2025. Therefore, please consult your legal counsel on a regular basis to ensure your organization's compliance with both federal and state law.*

### **Sequential References and Notes**

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NOTE: Trump's EOs 14173, 14168, and 14151 have fundamentally changed affirmative action rules for federal contractors. Uncertainty: Multiple federal courts have issued injunctions blocking or pausing aspects of these executive orders. Enforcement status varies by region, and legal interpretations will likely continue to shift throughout the rest of 2025 and through 2026

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NOTE: In *Ames v. Ohio Department of Youth Services*: the Supreme Court unanimously eliminated heightened evidentiary burdens for "reverse discrimination" claims, making Title VII claims by majority-group plaintiffs easier to pursue with "reverse discrimination" lawsuits for hiring or promotion preferences based on race, sex, or other protected characteristics on the rise, especially when cited past practices used quotas or numerical targets.

NOTE: DEI and Implicit Bias Training Content: The main legal risks are that the recent Second Circuit and Supreme Court decisions clarify that DEI and implicit bias trainings must avoid hostile or "racially essentialist" language. Therefore, any program that singles out, stereotypes, or disparages a group can support hostile work environment claims, even for employees not belonging to traditionally underrepresented classes.