

Eleventh Circuit Rules Mandatory Meeting Prohibition of Florida’s “Stop W.O.K.E. Act” Restricting Workplace Diversity Training is Unconstitutional

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Earlier this month, the Eleventh Circuit affirmed the district court’s preliminary order blocking enforcement of the Individual Freedom Act’s provision banning mandatory workplace trainings endorsing certain viewpoints.

The Eleventh Circuit agreed with the district court’s finding that the mandatory-meeting provision of the Individual Freedom Act violates the First Amendment of the United States Constitution. **As a result, Florida can no longer bar employers from requiring employees to attend trainings discussing certain beliefs relating to race, color, sex, and national origin.**

The Individual Freedom Act (commonly referred to as the “Stop W.O.K.E Act”) prohibits Florida employers from requiring their employees to attend trainings discussing the following eight beliefs:

1. Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.
2. An individual, by virtue of his or her race, color, sex, or national origin is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
3. An individual’s moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.
4. Members of one race, color, sex, or national origin, or sex cannot and should not attempt to treat others without respect to race, color, sex, or national origin.
5. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex or national origin.

6. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
7. An individual, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part, committed in the past by other members of the same race, color, sex, or national origin.
8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

Legal Challenges

Shortly after the Stop W.O.K.E. Act went into effect on July 1, 2022, legal challenges were filed:

1. In August 2022, the United States District Court for the Northern District of Florida entered a preliminary injunction ordering Florida officials not to enforce the Stop W.O.K.E. Act on the basis that the mandatory-meeting provision is both unconstitutionally vague and an unlawful content-and viewpoint-based speech restriction. Florida appealed this ruling to the Eleventh Circuit, where a three-judge panel upheld the district court's ruling that the Stop W.O.K.E. Act violates the First Amendment right to freedom of speech and expression.
2. The Eleventh Circuit rejected Florida's assertion that the Stop W.O.K.E. Act does not violate the First Amendment because it is a restriction on conduct (attendance at mandatory meetings) rather than a restriction on speech. Highlighting the fact that the Stop W.O.K.E. Act only prohibits mandatory meetings that convey a particular message and viewpoint, the Eleventh Circuit ruled that the Stop W.O.K.E. Act constitutes an illegal per se ban on speech with which the state disagrees.
3. The Eleventh Circuit concluded that "speech is not regulated incidentally as a means of restricting discriminatory conduct," rather "restricting speech is the point of the law" and an "outright violation of the First Amendment."

How Does This Ruling Impact Florida Employers?

In light of the Eleventh Circuit's ruling, Florida cannot prohibit employers from requiring mandatory attendance of employees at trainings that discuss endorsing the above eight beliefs related to race, color, sex, or national origin. Employers should, however, continue to review their trainings to ensure compliance with state and federal laws prohibiting discrimination.

The Eleventh Circuit's full opinion can be viewed here (PDF): [Honeyfund.com Inc., et al. v. Governor, State of Florida, et al. \(03-04-2024\)](#)

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