

Florida law puts diversity, inclusion training in crosshairs

Stop WOKE Act and similar legislation in several other states could restrict DEI training programs like those offered by associations

By **Walt Williams**

A new law in Florida would prevent employers from requiring workers to attend diversity, equity and inclusion training like that offered by some associations, although its full impact on those programs remains unclear.

Florida's recently enacted "Stop WOKE Act" forbids employers with at least 15 employees from subjecting workers to diversity training that causes them to believe certain concepts or makes them feel uncomfortable because of the subjects discussed, according to an analysis by the law firm *Foley & Lardner*.

While the law doesn't outright ban diversity training, it muddies the water about what content that training can include. For example, employees have the right to reject any training that implies they're responsible for actions "committed in the past by other members of the same race, color, sex or national origin."

The Florida law is part of a broad swath of Republican-sponsored legislation introduced in various states seeking to restrict the teaching of "divisive concepts" in schools and workplaces. Other examples include proposed laws banning the teaching of critical race theory in classrooms or imposing restrictions on LGBTQ materials in school libraries.

Among the opponents of the Stop WOKE Act is ASAE, which argues the law was designed to censor thoughtful considerations of DEI. The group said in a March 16 statement that more than 62,000 associations play a significant role in adult education and training, which means they are "on the frontline seeking to confront pervasive inequalities in hiring practices, leadership advancement, compensation, credentialing and organizational culture."



Florida Capitol Complex

"When the Florida government gives license to ignoring the very real barriers that millions of employees feel in their workplaces and that women, people of color, gay and transgender people and other historically underrepresented groups experience in their professions, it sends a clear signal that the state is not interested in the views or experiences of diverse employees, or in confronting racial and gender disparities that permeate every industry and profession in America," ASAE said.

Guessing game

Most associations have not weighed in on the law. CEO Update reached out to several associations that offer DEI training or certification to their professions and industries. Most declined to comment. Those that replied said they were still reviewing the potential impact on their offerings—such as the School Nutrition Association, which launched a DEI professional development series in 2020—or anticipated no change.

"The AAMC offers several equity, diversity, and inclusion resources and programs to faculty and staff at its member institutions, and will continue to do so," Norma Poll-Hunter, senior director, workforce diversity portfolio at the Association of American Medical Colleges, said in an email.

How would the Stop WOKE Act affect associations as employers? Jeffrey Tenenbaum, managing partner at Tenenbaum Law Group, said the law does not seem to force associations to modify their hiring, management or training practices, but the law is vague.

"Whether or not Florida-based associations' hiring, management and training practices could be deemed to violate the law may come down to a matter of perception," he said in an email.

"Certain employees/attendees/certificants who are looking for a fight are likely going to believe that the hiring, management and training practices violated one of the outlined principles and seek to litigate when the practices perhaps never, in fact, did so."

Whether or not such practices actually run afoul of the Florida law, the enhanced risk of private litigation and regulatory

enforcement "will likely have the effect of affecting certain hiring, management and training practices of associations," Tenenbaum said.

Culture wars

Most associations have traditionally been wary of weighing in on hot-button social issues that could divide their memberships and distract from other priorities. There are exceptions: Multiple business groups publicly supported the Black Lives Matter protests in 2020, argued for full citizenship for the children of illegal immigrants, and advocated against state legislation—commonly known as bathroom bills—barring transgender individuals from using public restrooms corresponding to their chosen gender.

Few groups have commented on the new wave of social policy coming out of states, from the Stop WOKE Act to bans on gender-transition therapy for children. The American Counseling Association said it opposes any attempt to redefine child abuse to include gender-affirming care. The International Associations of Exhibitions and Events recently announced it would advocate against policies that discriminate against LGBTQ individuals, although the group did not cite any examples.

Executive Vice President and COO Cathy Breden noted IAEE previously advocated against a proposed bathroom bill in its home state of Texas, not just because the group disagreed with the policy, but because it would have been bad for business.

"We have seen that over the years where organizations come out and say that if there are any type of discriminatory laws, they will not hold their events in that state," she said. "So that hurts that state, but it also hurts the facilitation of business between buyers and sellers" who would have attended the event.

The National Recreation and Park Association announced last year it would no longer hold events in Tennessee after that state passed several LGBTQ-related laws, including legislation restricting transgender participation in school sports.

Breden said IAEE wouldn't go as far as recommending boycotts. "We've never even used that word."

"We will be an advocate if necessary, but it's not like we're going out and telling our members, 'Don't hold your events in a specific destination,'" she said. "We're just coming out with our statement of what we believe." ■