Here's an excerpt from our **Client Update** from Chris Wilkinson, Abdul Kallon and Jeremy Wright about a recent public letter from 13 state attorneys general voicing opposition to employers' use of DEI programs:

"**Does the AG Letter Change the Legal Landscape?**

The AG Letter does not set forth any new legal standard and, by its own terms, recognizes that the *SFFA* decision is cabined to the university admissions context. Rather, close review of the letter reveals that the legal authority it cites are longstanding principles that many employers have followed in creating and expanding their DEI programs.

The guiding principle of carefully developed programs has been that race should not govern employment decisions and that any efforts to increase diversity should be grounded in expanding opportunities through improved recruiting, retention, and belonging efforts. Federal contractors are required to conduct broad analyses of their workplaces, set appropriate goals for employment practices and engage in efforts to ensure equal employment opportunities.

Indeed, in one of the few legal decisions evaluating whether the federal government itself could require contractors to set goals, the U.S. Court of Appeals for the D.C. Circuit ruled that the Department of Labor did not violate federal law by requiring federal contractors to set a 7% goal for disability representation in the workplace. *Associated Builders and Contractors (ABC) v. Shiu*, 773 F.3d 257 (2014). Also, longstanding Equal Employment Opportunity Commission (EEOC) regulations provide similar avenues for private employers to make comparable efforts. Neither the federal contractor regulations nor Title VII of the Civil Rights Act allow quotas, and employers with well-crafted DEI programs and practices likely remain on firm legal grounds."

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