Important Employment Law Updates You Need to Know

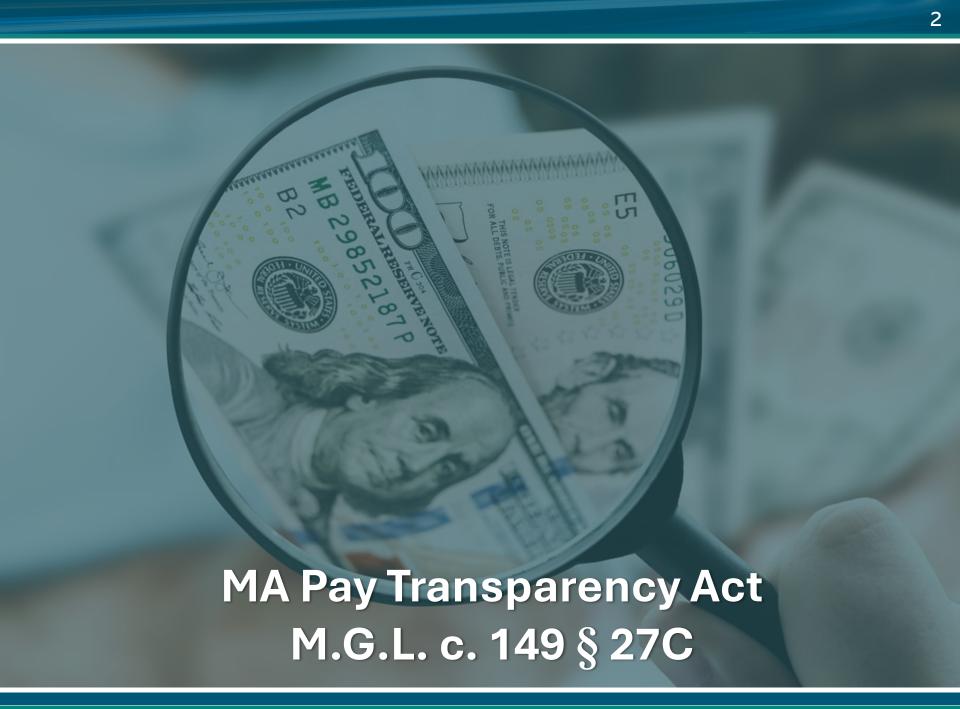
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Part of the Frances Perkins Workplace Equity Act

Effective Feb. 1, 2025 (for firms with 100 + employees) and effective October 29, 2025 (for firms over 25 but less than 100)

Law mandates that employers with 25 or more employees in Massachusetts disclose salary ranges in job postings, when offering promotions or transfers and upon employee or applicant request.

A "pay range" is "the annual salary range or hourly wage range that the employer reasonably and in good faith expects to pay for such a position at that time. Wage reporting under the Massachusetts Pay Transparency Act requires employers with over 100 employees to submit wage data reports annually by February 1, 2025 with the Office of the Secretary of the Commonwealth

Employees with over 100 Employees already have to file EEO-1 Data Report each year with this U.S. Equal Employment Opportunity Commission (EEOC)

Employers who already submit EEO-1 Data Reports to the EEOC will now also submit these reports to the Secretary of the Commonwealth

MA Attorney General has exclusive jurisdiction to enforce the MPTA – Remedies may include warning letter, declaratory relief, injunctive relief



14 States and the District of Columbia Have Pay Transparency Acts

California

- Colorado
- Connecticut
- Hawaii
- Illinois
- Maryland
- Massachusetts
- Minnesota

- Nevada
- New Jersey
- New York
- Rhode Island
- Vermont
- Washington
 - **District of**
 - Columbia

MPTA has anti-retaliation provisions PROHIBITING:

Retaliating against any employee for:

- i. Pursuing rights under the MPTA;
- ii. Making a complaint to MA AGO regarding an alleged violation
- iii. Instituting any proceeding under the MPTA;
- iv. Testifying in any such proceeding
- Employers have two business days to cure any defect before a fine is imposed
- Employers should review compensation practices, prepare wage data reports, and be compliant with the February 1, 2025 and October 29, 2025 deadlines.

1st Violation = Warning

2nd Violation = up to \$500

3rd Violation = up to \$1,000

4th Violation = penalties in M.G. L. c. 149, §27(c)

<u>See AGO's FAQ's = https://www.mass.gov/info-</u> details/pay-transparency-in-massachusetts

Federal Executive Orders Re: DEI Initiatives

January 20, 2025: White House issued Executive Order 14151: "Ending Radical and Wasteful DEI Programs and Preferencing"

Section 1: Purpose and Policy: Forced DEI programs going by the name "Diversity, Equity and Inclusion (DEI) previously required by the Biden Administration's Executive Order 13985 are no longer.

Section 2: Implementation: Director of Office of Management and Budget (OMB) assisted by the US Attorney General and the Director of the Office of Personnel Management (OPM) shall coordinate the termination of all DEI "discriminatory programs." Federal employment practices, including federal employee performance reviews, shall reward individual initiative, skills, performance and hard work and shall not under any circumstances consider DEI or DEIA factors, goals, policies, mandates or requirements. (b) Each Agency, department, commission head, in consultation with the Attorney General, the Director of OMB, the Director of OPM shall take action within 60 days.

 Terminate, to the maximum extent allowed by law, all DEI, DEIA and "environmental justice" offices and positions (including, but not limited to, Chief Diversity Officer positions), all "equity action plans", "equity action,/Plans, "equityrelated" (ii) Provide the Director of OMB with a list of:

- A: Agency of Department, DEI, DEIA or "environmental justice" positions, committees, programs, services, activities, budgets and expenditures in existence on November 4, 2024.
- B: Federal contractors who have provided DEI training or DEI materials to agency or department Employees.
- C: Federal grantees who have received Federal Funding to provide or advance DEI, DEIA or "environmental justice" programs, services, or activities since January 20, 2021.

Second Executive Order 14173 – January 21, 2025: "Ending Illegal Discrimination and Restoring Merit-Based Opportunity"

Section 1 – Purpose: "The Federal Gov't, major corporations, financial institutions, the medical industry, large commercial airlines, law enforcement agencies and institutions of higher education have adopted and actively use dangerous, demeaning and immoral race and sex-based preference under the guise of diversity, equity and inclusion (DEI) or 'diversity, equity, inclusion, and accessibility' (DEIA) that can violate the civil rights laws of this Nation"

Section 2 – Policy: Promote individual initiative, excellence and hard work. Orders termination of all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent oirder and requirements.

Section 3: Rescinds numerous prior Executive Orders (E.O. 12898, E.O. 13583 E.O. 13672, E.O. 11246) and other policies/programs

Tension Between Federal and State Guidance

Commonwealth of MA and State of Illinois issues **Multi-State Guidance Concerning Diversity, Equity and Inclusion and Accessibility Employment Initiatives** on February 13, 2025

Notably, the Multi-State Guidance Notes that "incorporating diversity, equity, inclusion and accessibility best practices are not only compliant with state and federal civil rights laws, but they help to reduce litigation risk by affirmatively protecting against discriminatory conduct that violates the law."

The Multi-State Guidance also notes that "when companies have such policies, employees are less likely to be subjected to unlawful discrimination.

ENFORCEMENT INITIATIVES FROM ATTORNEY GENERAL Colleges and Universities receiving Title IV and other Federal Funding (Columbia, Harvard, Cornell, etc.)

Law Firms doing work for Federal Agencies

WilmerHale and Jenner Block

Perkins Coie

Targeted Publicly Traded Companies, including Walmart, Facebook, META, McDonald's, Ford, etc. Statements of Bar Associations in Support of Non-Discriminatory DEI Initiatives and the Rule of Law

ABA Statement

BBA Statement

ACTL Statement

PRACTICAL TAKEAWAYS



Review DEI Initiatives for quotas, express preferences, etc. – <u>Harvard</u> Scotus Decision



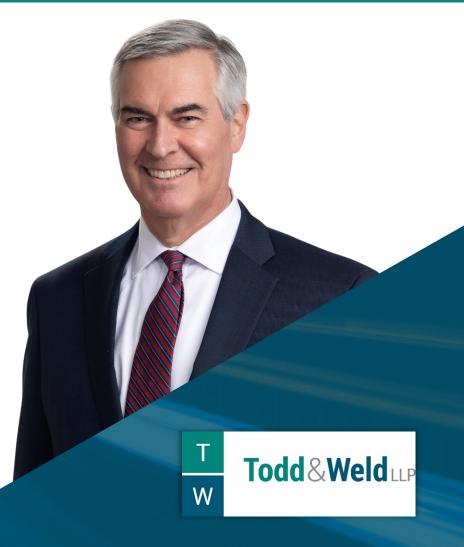
Tension between Federal Executive Order and MA Law/Mandates



Initiatives that foster goals of inclusion and diversity are still OK so long as they do not have quotas, scoring or preferences Todd & Weld LLP One Federal Street Boston, MA 02110

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