



Navigating Workplace Flashpoints in the New Presidential Era

February 13, 2025

Seyfarth Shaw LLP

"Seyfarth" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).
©2025 Seyfarth Shaw LLP. All rights reserved. Private and Confidential



Legal Disclaimer

This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

Seyfarth Shaw LLP

"Seyfarth" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).

©2025 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

Today's Presenters



Sam Schwartz-Fenwick
Partner
Chicago



Dawn Solowey
Partner
Boston



Brandon Dixon
Partner
Chicago



Agenda

- 1 | What Are Flashpoints?
- 2 | What Has Changed Since January 21st?
- 3 | Renewed Energy in Existing Flashpoints
- 4 | What Do Employers Do Now?
- 5 | How Flashpoints Litigation Is Different
- 6 | How Seyfarth Can Help

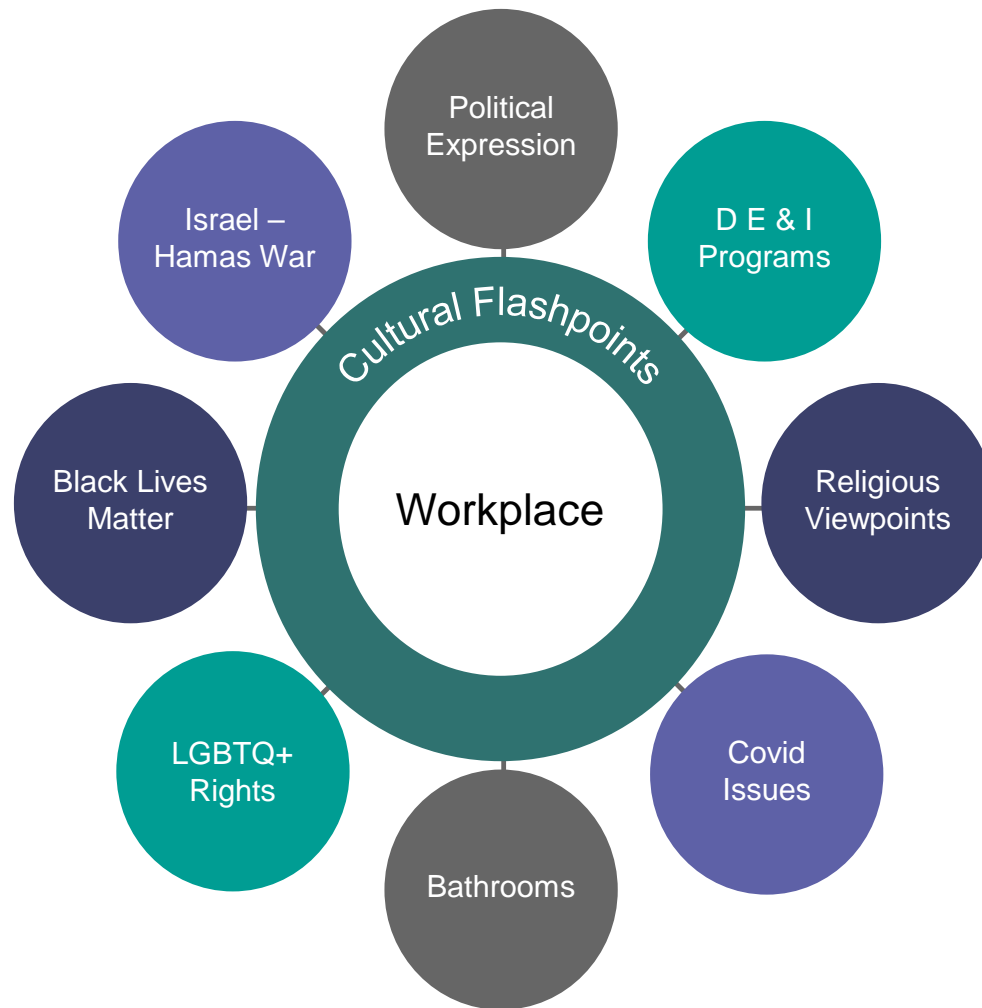
A note about this webinar

- Even talking about cultural flashpoints can be tricky
- Please know that we approach these issues today as neutral legal advisors and business partners in order to help our clients
- The viewpoints we discuss today are examples only and not those of Seyfarth Shaw or the presenters

What are Cultural Flashpoints?



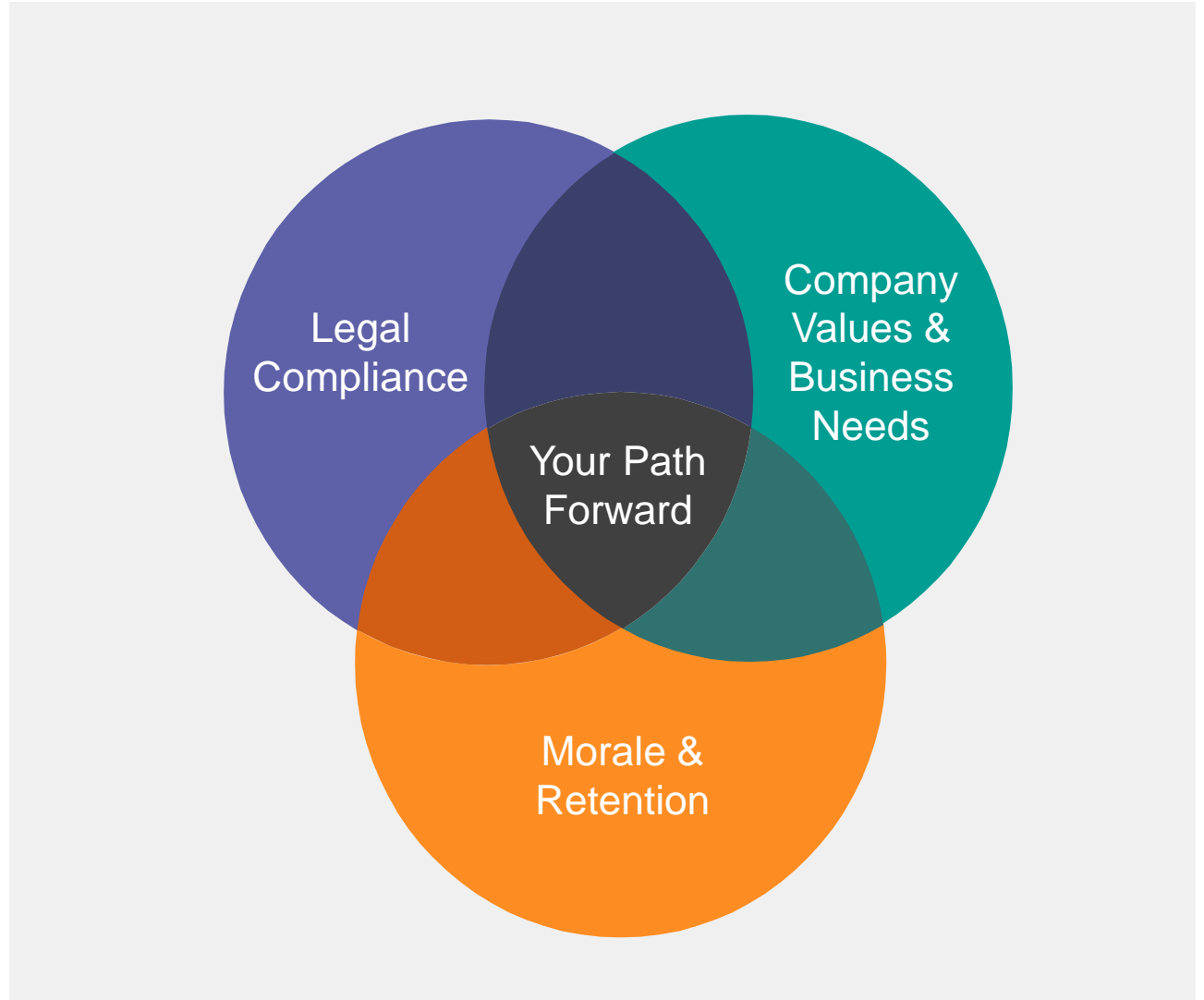
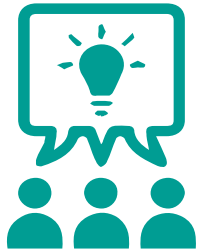
What Do We Mean by Cultural Flashpoints?



What Do We Mean by Cultural Flashpoints?

- Workplaces are not immune from polarization in American society
- Cultural conflicts are on the rise
- When cultural flashpoints occur, employers must have effective strategies to:
 - lower the temperature or,
 - if that is not possible, defend against ensuing litigation
- In a post-election year, these trends will only accelerate
- Clients are asking for help navigating these issues

How to move forward proactively and thoughtfully



The background of the slide features a close-up of a calendar with a red border and a wooden surface. The calendar shows dates from 14 to 31. To the right, an hourglass with blue sand is shown, with the sand flowing from the top bulb to the bottom bulb. The hourglass is partially enclosed by a white geometric shape consisting of overlapping circles and lines.

What Has Changed Since January 21st?

January 20-21 Executive Actions



- “Initial Recissions of Harmful Executive Orders and Actions”
- “Ending Radical And Wasteful Government DEI Programs And Preferencing”
- “Ending Illegal Discrimination And Restoring Merit-Based Opportunity”
- “Gender Ideology Extremism”



What Has Changed, and What Is Still the Same? (For now)

- Federal Contractors and Federal Grantees
 - Certification Requirements and Potential FCA Liability
- DOJ “Strategic Enforcement Plan”
 - Heightened Risk of a Government Investigations and Government-Initiated Litigation
- “Encouraging” Private Sector to End DEI

- “Illegal” DEI
 - “Programs promoting DEI that violate any applicable Federal anti-discrimination laws”
- EEOC Enforcement Priorities and Positions
- Interplay Between State and Federal Mandates

- Title VII
- Case Law Relevant to DEI
 - *Johnson/Weber*
 - *Muldrow*
 - *Ames*

The Legal Framework

It is Still Early . . .

- *Challenges to Executive Order*
- *Interpretation of laws by federal courts*
- *Constitutional Questions*
- *Federalism Questions*
- *Separation of Powers Questions*



Potential Impact on the Workplace

- Expectation that the organization will take a position
 - Increased discourse about the meaning and merits of “DEI”
 - Scrutiny of public statements about DEI
 - Increase in internal challenges/complaints
 - ERG Activity
-
- **Addressing the Increased DEI Discourse**
 - Be prepared – Legal, Communications, HR, DEI
 - Try to get on the same page
 - Neutral Statements
 - “Evaluating” Programs
 - Complying with obligations under the law



Renewed Energy in Existing Flashpoints

2025 Flashpoints

When we bring our full selves to work, how do we draw the line between sharing our truth and respecting our colleagues?

- Bathrooms and pronouns
- Political and social advocacy speech
- Diversity and inclusion programming
- Leadership qualities (teamwork v doing it alone)

Trends



Religious Issues

- Religious discrimination and accommodation claims
- Trends in Requests:
 - prayer space or a prayer room;
 - exemption from e.g., diversity training, Pride Month, using preferred pronouns;
 - faith-based ERGs;
 - exemption from vaccination programs;
 - training about specific religions.
- Litigation
 - claims of antisemitism and Islamophobia
 - claims of anti-Christian bias
 - ongoing litigation over mandatory vaccination policies



PRESIDENTIAL ACTIONS

ARTICLES

BRIEFINGS & STATEMENTS

FACT SHEETS

PRESIDENTIAL ACTIONS

REMARKS


Religious Issues – Executive Orders

- 1/20 Executive Order (“Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”)
- 1/27 Executive Order (“Reinstating Service Members Discharged Under the Military’s Covid-19 Vaccination Mandate”)
- 1/29 Executive Order (“Additional Measures to Combat Anti-Semitism”)
- 2/6 Executive Order (“Eradicating Anti-Christian Bias”)

Trends

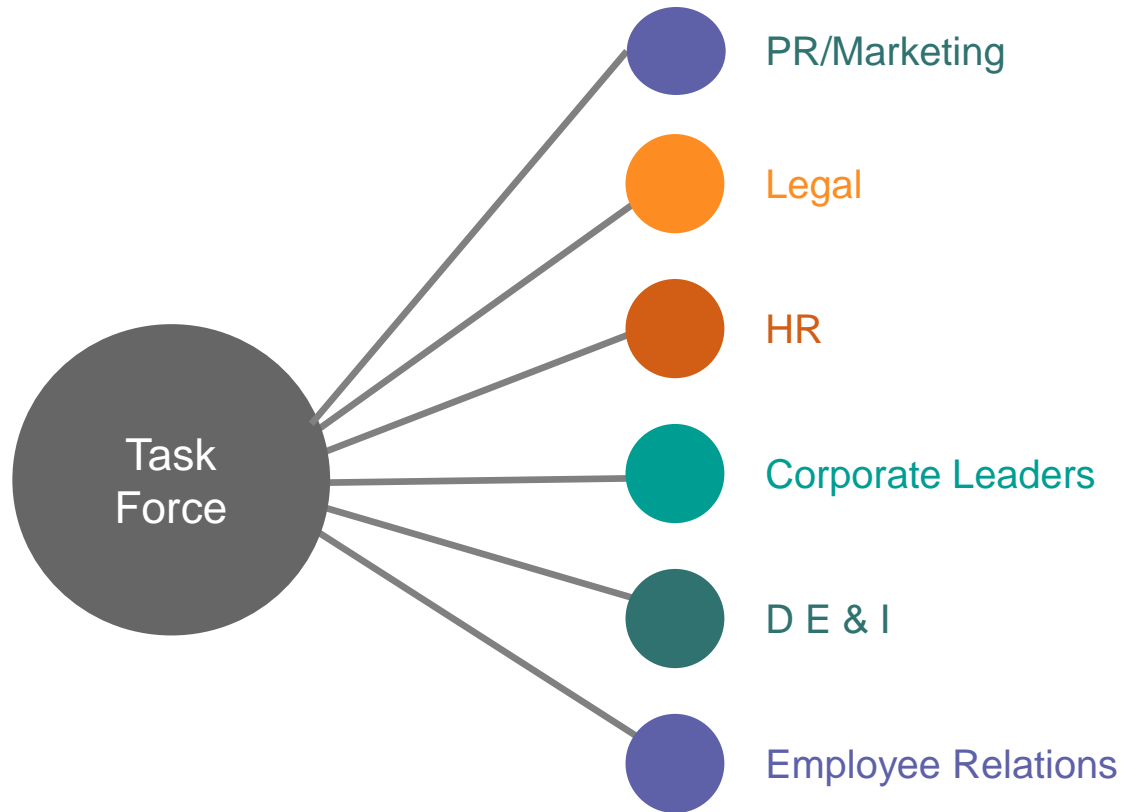
Religious Issues – Action Steps

- Training
- Religious Accommodation Request Form
- Process Mapping
- Arm HR with Talking Points for Interactive Process
- Use our Religious Accommodation Assessment Tool

A photograph of three people sitting around a table in a meeting room, each working on a laptop. The room has wood-paneled walls. A decorative vase with white flowers sits on the table. A white grid with a central circle is overlaid on the right side of the image.

What Do Employers Do Now?

Proactive “Flashpoints” Analysis





Maintaining Core Values in a Challenging Climate

- What are your corporate core values?
- When you discuss words like diversity, what do stakeholders mean?
- Likewise, what does inclusion mean?
- Are there areas of value overlap amongst people with very different views of a term?
- Where do we land on the spectrum of a free market of ideas and a more keep to oneself culture?

Use Policies to Take Down the Temperature

**Discrimination
/
Harassment
/
EEO**

Respect

**Political
Expression**

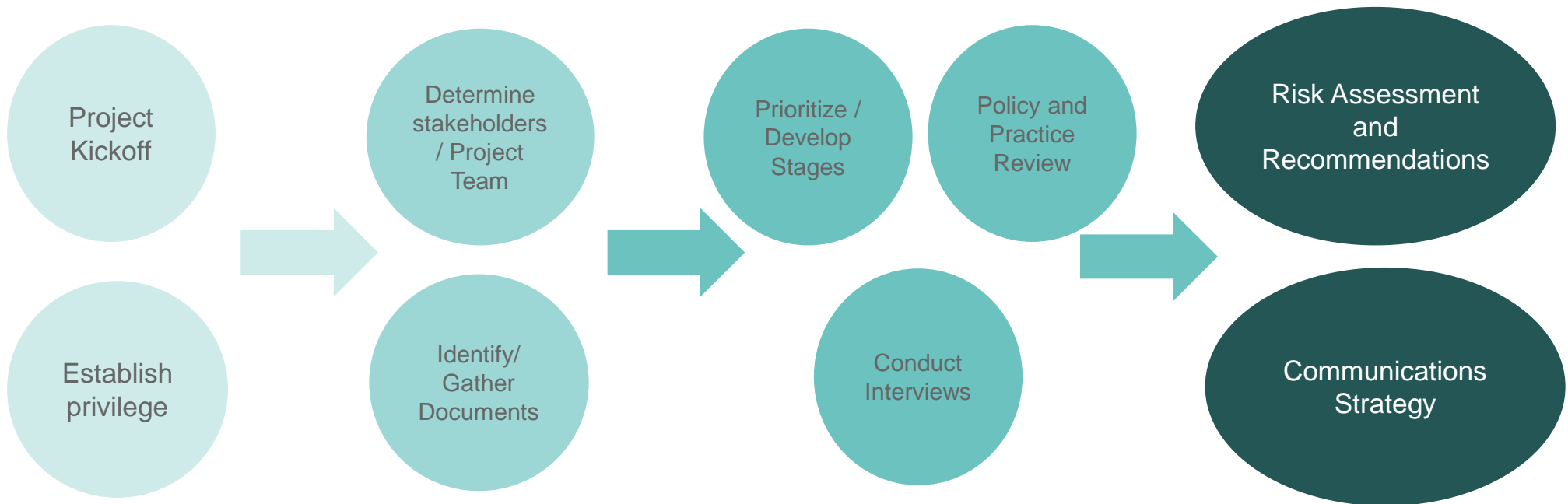
**Religious
Accommodation**

Social Media

Consider Changes to Everyday Policies Too



DEI Program Legal Review Process





Training Is Your Secret Weapon



It's an investment.

- How to train?
- Who to train?
- Content matters

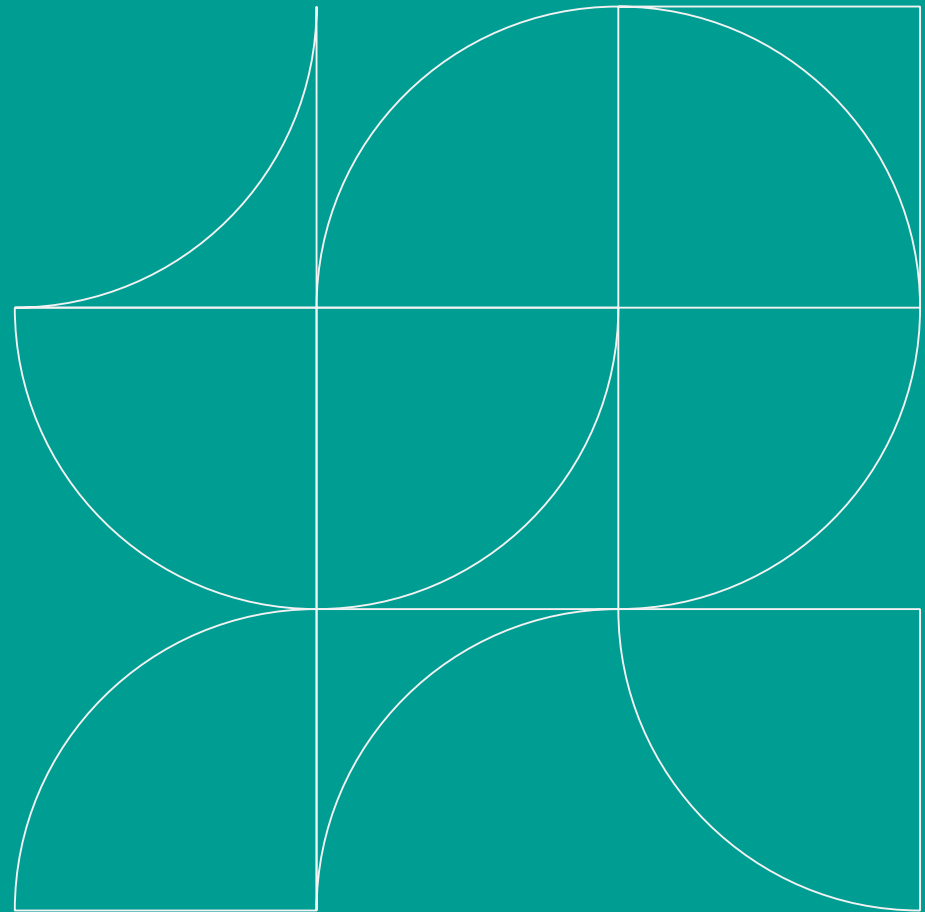


How Flashpoints Litigation Is Different

How Seyfarth Can Help



**Email us for our
Flashpoints checklist**





CLE: NEW PROCESS

Please scan the QR code and complete the digital attendance verification form to receive CLE credit for this program.

You will need:

1. **Title:** Navigating Workplace Flashpoints in the New Presidential Era
2. **Date Viewed:** February 13, 2025
3. **Attendance Verification Code:** SS_____

State-specific CLE credit information can be found in the form.

thank
you

contact information

For more information, please contact:

Dawn Solowey

email: dsolowey@seyfarth.com

Sam Schwartz-Fenwick

email: sschwartz-fenwick@seyfarth.com

Brandon Dixon

email: bdixon@seyfarth.com