



FILE: Florida Gov. Ron DeSantis addresses attendees during the Turning Point USA Student Action Summit, Friday, July 22, 2022, in Tampa, Fla. (Credit: AP Photo/Phelan M. Ebenhack)

NEWS

What's Next In the Legal Challenges to Gov. DeSantis's Signature 'Stop WOKE Act'

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4 minute read

Election and Political Law



Michael A. Mora

What You Need to Know

- A federal district court judge suspended partial enforcement of the Individual Freedom Act in the employment setting.
- In a separate lawsuit pertaining to higher education, an attorney is seeking to enjoin enforcement of the act in a manner similar to the employment ruling.
- The governor credited his policies on Friday for the employment rate dropping to 2.7%, which has only been reached three times since Florida began recording unemployment data in 1976.

A law pushed by Gov. Ron DeSantis, the Individual Freedom Act, also known as the "Stop WOKE Act," is being hit on all sides with legal action that could complicate the future of a signature law central to his administration's agenda.

Chief U.S. District Judge Mark Walker, who sits in the Northern District of Florida, [ruled Thursday that parts of the law](#) placing restrictions on corporate training are unconstitutional. That same day, a new lawsuit was filed challenging separate provisions targeting public schools and colleges.

Morenike Fajana is an attorney at the NAACP Legal Defense and Education Fund Inc. in New York City, who was among the lawyers who [filed the new lawsuit](#) in the U.S. District Court for the Northern District of Florida challenging the "anti-woke" legislation on behalf of students and educators.

"These lawsuits send a message when they pass unconstitutional laws, the Florida courts are going to stand up to them and protect the constitutional rights of all Floridians," Fajana said. "Our case is just getting started in terms of litigation, and we're seeing if we can get the higher education provision enjoined in a similar fashion," referring to Walker's ruling in the corporate setting.



David Miller, a partner at Bryant Miller Olive in Miami.

Focusing on the effect on employment law, David Miller, a partner at Bryant Miller Olive in Miami, warned employers to avoid "sticking their necks out" while this "political bar fight" takes place, as DeSantis is likely to appeal.

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"The biggest impact on employers is the uncertainty," said Miller, a past chair of the City, County and Local Government Law Section of the Florida Bar. "I have clients on both sides of the question. The best advice I can give my employers is to sit back and let the dust settle. Frankly, it won't be long before it does."

DeSantis signed the "anti-woke"

legislation, [FL HB7 \(22R\)](#), into law in April to prohibit companies and schools from inflicting guilt or blame on employees and students based on race or sex. As a result, these new protections prohibit instructing an employee or student to "feel guilt, anguish, or any other form of psychological distress" due to race, color, sex, or national origin.

"No one should be instructed to feel as if they are not equal or shamed because of their race," DeSantis said in April. "In Florida, we will not let the far-left woke agenda take over our schools and workplaces. There is no place for indoctrination or discrimination in Florida."

However, a group of businesses united to challenge the new law with claims that include it violates their right to free speech. Companies, such as Clearwater-based Honeyfund.com, with 15 or more employees, could face civil lawsuits of up to \$10,000 per violation.

Walker, whom former President Barack Obama appointed, slammed DeSantis and the Florida Legislature in his ruling for passing policies "bordering on unintelligible." In granting a temporary injunction, Walker ruled the IFA was "upside down" because it allowed the state to burden freedom of speech.

"If Florida truly believes we live in a post-racial society, then let it make its case," Walker ruled. "But it cannot win the argument by muzzling its opponents."

However, DeSantis shrugged off the early trial court loss, noting that the U.S. Court of Appeals for the Eleventh Circuit and the U.S. Supreme Court have a majority of conservative appointees, as well as most of the state appellate courts. He expects them to support the legality of the law.

And on Friday, DeSantis touted his policies for the unemployment rate in Florida dropping to 2.7%, a level only reached three times since the Sunshine State began recording unemployment data in 1976.

But in the lawsuit filed by the NAACP on behalf of students and educators, Fajana noted that the law has contributed to the teacher crisis in the state, pointing to the act's alleged violation of the due process clause's "prohibition against vagueness."

In addition, Fajana alleged the act violated the equal protection clause because the governor allegedly enacted the law to "discriminate against Black instructors."

Fajana said these Black educators collectively have hundreds of years of experience engaged in scholarship on racial disparity issues. She added: "What the 'Stop Woke Act' does is it says there is no space for views like that in public education in Florida."

Case 4:22-cv-00304-MW-MAF Document 1 Filed 08/18/22 Page 1 of 92

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA TALLAHASSEE DIVISION

LEROY PERNELL, DANA THOMPSON
DORSEY, SHARON AUSTIN, SHELLEY
PARK, JENNIFER SANDOVAL, RUSSELL
ALMOND, MARVIN DUNN, and JOHANA
DAUPHIN,
Plaintiffs,

v.

FLORIDA BOARD OF GOVERNORS OF
THE STATE UNIVERSITY SYSTEM,
BRIAN LAMB, ERIC SILAGY, TIMOTHY
M. CERIO, RICHARD CORCORAN,
AUBREY EDGE, PATRICIA FROST,
NIMNA GABADAGE, EDWARD
HADDOCK, KEN JONES, DARLENE
LUCCIO JORDAN, ALAN LEVINE,
CHARLES H. L. DECKER, CRAIG
MATEER, STEVE PAGE, SCOTT A. JAM
SELF, AND KEN TERRYSON,
Official Committee as members of the Florida

Case No.: 4:22-cv-304

Read the complaint: