

DOJ Announces Civil Rights Fraud Initiative Targeting Federal Fund Recipients' Use Of DEI

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On May 19, 2025, the Department of Justice (“DOJ”) announced its plan to use the False Claims Act to investigate and pursue claims of civil rights violations against federal fund recipients. The plan, entitled the Civil Rights Fraud Initiative (the “Initiative”), seeks to target universities’ and government contractors’ use of diversity, equity, and inclusion (“DEI”) programs.

The DOJ has yet to file any formal complaints related to the Initiative. Currently, the DOJ is in the process of “standing up” the Initiative, which will be co-led by the Civil Division’s Fraud Section, responsible for enforcing the False Claims Act, and the Civil Rights Division, responsible for enforcing civil rights laws. Both divisions will appoint a team of attorneys and an Assistant United States Attorney in each of the 93 United States Attorney’s Offices to advance these efforts. In a Memorandum outlining the initiative, the Deputy Attorney General (“DAG”) explained that liability for any such violations could result in “treble damages and significant penalties.” The theme of the initiative is that “[t]he federal government should not subsidize unlawful discrimination.”

The Initiative will rely on the False Claims Act to enforce violations of civil rights laws, including but not limited to Title IV, Title VI, and Title IX of the Civil Rights Act of 1964. The Memorandum outlines the following examples of prohibited behavior:

- “[A] university that accepts federal funds ... when it encourages antisemitism, refuses to protect Jewish students, allows men to intrude into women’s bathrooms, or requires women to compete against men in athletic competitions.”
- “[W]henever federal-funding recipients or contractors certify compliance with civil rights laws while knowingly engaging in racist preferences, mandates, policies, programs, and activities, including through diversity, equity, and inclusion (DEI) programs that assign benefits or burdens on race, ethnicity, or national origin.”

False Claims Act

The False Claims Act (“FCA”), 31 U.S.C. §§ 3729 et seq., has historically been used to address fraud against the Government, particularly in areas like healthcare and defense contracting. Indeed, the DOJ’s most recently announced complaint (*U.S. v. eHealth Inc., et al.*, No. 21-cv-11777, ECF No. 41 (D. Mass. May 1, 2025)) filed under the FCA sought penalties against health insurance companies for knowingly making false claims for payment to the government.

In addition to empowering the Government to bring actions for “false claims,” the FCA authorizes private citizens, or a “relator,” to file suit on behalf of the Government using a mechanism called a *qui tam* suit. Once a relator has filed a *qui tam* suit, the Government can choose to intervene as a plaintiff and take over the action. If the Government does not intervene, the relator can continue to direct the litigation for the Government’s benefit without the Government’s input. A relator who brings a successful *qui tam* suit may receive a portion of the Government’s recovery.

In the Memorandum regarding the Initiative, the DAG strongly encouraged private parties to file such lawsuits and as such, private parties may benefit in sharing any monetary recovery. The DAG also encouraged “anyone with knowledge of discrimination by federal-funding recipients to report that information to the appropriate federal authorities so the Department may consider the information and take any appropriate action.”

Related Administrative Announcements

The Memorandum cites to a previous Executive Order (“EO”) 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, signed on January 21, 2025. The EO charges the Attorney General and the Secretary of Education with issuing guidance to agencies and higher education institutions receiving federal funds that they must remediate their practices to gain compliance. Importantly, the EO requires each counterparty to be awarded a contract or grant to certify that it does not operate any program promoting DEI that violates applicable Federal anti-discrimination law.

The Initiative, in conjunction with the EO, creates a legal framework that requires federally funded institutions to certify that they do not engage in unlawful DEI programs and enables the DOJ to act under the FCA for institutions that do not comply.

Interagency Coordination

The Civil Fraud Section and the Civil Rights Division will undertake regular meetings to coordinate information about potential violations. These agencies are also directed by the DAG to establish partnerships with state attorneys general and local law enforcement to share information and coordinate enforcement actions.

In addition to coordination between the Civil Fraud Section and the Civil Rights Division, the Initiative explains that enforcement and investigation efforts will be coordinated with the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Labor.

Resources

Civil Rights Fraud Initiative Memorandum.

CATEGORIES: Civil Enforcement, Compliance, DOJ, False Claims Act, USAO, Whistleblower

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