

DOJ announces Civil Rights Fraud Initiative signaling heightened risk of FCA exposure for federal fund recipients based on alleged unlawful discrimination

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The U.S. Department of Justice (DOJ) has signaled that it will use the False Claims Act (FCA) as a tool against diversity, equity, and inclusion (DEI) policies that discriminate against certain groups. On May 19, 2025, Deputy Attorney General Todd Blanche released a [memo](#) to announce the Civil Rights Fraud Initiative, a new blueprint that will be co-led by the Civil Division's Fraud Section and the Civil Rights Division, to investigate any false certification of compliance with civil rights laws. The program is an extension of the Trump administration's mission to eliminate what it considers "illegal DEI" programs and its executive order that required federal contracts and grants to include a term of compliance with all applicable federal anti-discrimination laws as "material" to the government's payment decision, as discussed in an earlier [Winston alert](#).

The FCA imposes civil liability on individuals or entities that knowingly submit, or cause to be submitted, fraudulent claims for payment from the government. As consistently one of the largest sources of recoveries for the government, the FCA is a critical tool for combating fraud in federal programs and contracts.

The new DOJ memo states that engaging in "racist preferences, mandates, policies, programs, and activities" such as some DEI programs can implicate the FCA. The memo raises as an example a university that "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" in potential violation of the FCA. As a result, the memo explains that attorneys under the Civil Rights Fraud Initiative—including an assistant U.S. attorney in each of the 93 regional Attorney's Offices—will pursue FCA claims in such circumstances. Further, the memo "strongly encourages" private parties known as qui tam relators to file FCA claims on behalf of the government if they identify any organizational policies that violate civil rights laws.

Recent developments under the Trump administration point to a heightened risk of FCA litigation from the government and qui tam relators in relation to certain DEI programs. For example, the DOJ reportedly notified Harvard University of an FCA investigation into its admission policies. Recipients of federal grants and those involved in federal contracts or programs should assess their DEI programs and internal policies to maintain an effective compliance system. To do so, they should work closely with their counsel to ensure that their policies and their internal and public-facing documents comply with applicable laws and regulations.

If you have any questions regarding this or related subjects, or if you need assistance, please contact the authors of this article (Suzanne Jaffe Bloom, Larry Block, Jeremy Chu), any member of the DEI Compliance Task Force, or your Winston & Strawn relationship attorney. You can also visit our [Government Program Fraud, False Claims Act & Qui Tam Litigation Playbook](#); our [Government Program Fraud, False Claims Act & Qui Tam Litigation](#) practice webpage; or our [DEI Compliance Task Force webpage](#) for more information on this and related subjects.

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Authors

[Suzanne Jaffe Bloom](#)

[Lawrence “Larry” Block](#)

[Nag Young Chu](#)

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