

The False Claims Act Enters the School Zone

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On May 19, 2025, the U.S. Department of Justice (DOJ) announced the launch of a [Civil Rights Fraud Initiative](#), which will use the False Claims Act (FCA) as a basis for investigating the diversity, equity, and inclusion (DEI) practices of recipients of federal funds, including colleges and universities who receive Title IV student financial aid and research grants. Calling out academic institutions specifically, the Civil Rights Fraud Initiative will invoke the FCA “against those who defraud the United States by taking its money while knowingly violating civil rights laws.”

The announcement of the new initiative comes just days after [reports](#) that the DOJ launched an FCA investigation against Harvard University based on whether its admission policies comply with the recent Supreme Court decision ending affirmative action. Our colleagues [forecasted](#) the use of the FCA as a weapon against DEI after President Donald Trump issued [Executive Order 14173](#), titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” directing the federal government to take numerous specific actions to terminate all DEI and diversity, equity, inclusion, and accessibility (DEIA) initiatives. The initiative also was previewed in a memo issued by Attorney General Pam Bondi on February 5, titled “Ending Illegal DEI and DEIA Discrimination and Preferences,” which directed the DOJ’s Civil Rights Division to “investigate, eliminate, and penalize illegal DEI and DEIA preferences, mandates, policies, programs, and activities in the private sector and in educational institutions that receive federal funds.” The memo cited the 2023 Supreme Court decision, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023), which held that the admissions practices of Harvard and the University of North Carolina violated the Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment because they resulted in admission decisions based on a person’s race.

The initiative and the DOJ’s new investigation into Harvard demonstrate a willingness to use the FCA in unique contexts as a tool to further the administration’s priorities. The significant financial penalties available to the government under the FCA — including treble damages and per-claim penalties — signal how seriously the DOJ is taking its efforts to end allegedly discriminatory DEI programs. All recipients of federal funds and government contractors should evaluate their DEI or DEIA programs now to identify and remediate any areas of potential risk.

Understanding the FCA

The FCA serves as the primary mechanism for the DOJ to combat fraud against the federal government. The FCA, codified at 31 U.S.C. § 3729 et seq., is a federal statute that imposes civil liability on individuals or entities that knowingly submit, or cause to be submitted, false claims for payment to the federal government. Violations can result in treble damages and significant penalties. The FCA also includes *qui tam* provisions, allowing private individuals (known as relators or whistleblowers) to file actions on behalf of the government and share in any

recovery.

Notably, the FCA applies not only to companies that receive government grants, but also to contractors and subcontractors that cause the submission of false payment claims, even if they do not get paid directly by the government.

The Civil Rights Fraud Initiative

In his May 19, 2025, memorandum, Deputy U.S. Attorney General Todd Blanche explained that the initiative will be co-led by the Civil Division's Fraud Section, which enforces the FCA, and the Civil Rights Division, which enforces civil rights laws. He directed each of the 93 U.S. attorney's offices to identify an assistant U.S. attorney to work on the initiative. Blanche explained that other federal agencies, as well as state attorneys general and local law enforcement, will be enlisted to help.

Because FCA violations are premised on the receipt of federal funds, the initiative will focus on federal contractors and grant recipients that knowingly violate civil rights laws and falsely certify compliance with these laws, particularly through DEI programs that the memorandum alleges result in racial discrimination. Consequently, any entity or company that contracts with the federal government and/or receives government funds will be at risk of an FCA investigation or a *qui tam* lawsuit if it has policies in place that might be construed as promoting DEI or DEIA as the memorandum now interprets those terms.

Blanche strongly encouraged private individuals to act as whistleblowers under the FCA and to report violations to the DOJ. If the government's FCA theory is successful, the DOJ will seek to leverage that success into large settlements based on the substantial amount of federal funding that colleges, universities, and federal contractors and grant recipients receive.

Considerations for Recipients of Federal Funds

The initiative, executive order, AG memo, and the investigation create heightened FCA risk for clients that participate in government programs and scrutiny of the DEI practices of recipients of federal funds, especially academic institutions. Given the legal and financial consequences of any DOJ investigation, and especially one initiated under the FCA, organizations should review their DEI policies and practices now to ensure they align with federal civil rights requirements and do not give rise to potential liability under the FCA. This review should include:

1. Auditing DEI programs and practices to ensure compliance with civil rights laws.
2. Establishing robust reporting mechanisms to address potential violations and encourage potential whistleblowers to report their concerns internally.
3. Implementing training programs to educate staff on the legal implications of DEI initiatives and the requirement not to retaliate against whistleblowers.
4. Considering work with legal counsel to navigate the complexities of FCA compliance and address any potential liabilities.

While health care remains a primary focus of FCA enforcement actions, the initiative and this investigation represent examples of the broad reach of the FCA and the administration's willingness to use it in new contexts.

Troutman Pepper Locke is closely monitoring the administration's and the DOJ's evolving priorities and guidance. If you have questions on how these priorities impact your business/organization or wish to begin evaluating your existing compliance programs and policies and procedures, please do not hesitate to contact a member of our White Collar Litigation and Government Investigations team.

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