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Justice Department Launches Initiative Targeting Contractors' and Grantees' DEI Programs, Anti-Semitism, and Transgender Policies

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On May 19, 2025, Deputy Attorney General Todd Blanche issued a memorandum (the "Memorandum") establishing the Department of Justice's "Civil Rights Fraud Initiative" (the "Initiative"). The program "will utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws," led by a team of attorneys from the DOJ's Civil Rights Division and Civil Division's Fraud Section who will "aggressively pursue this work together," while consulting with the DOJ's Criminal Division and other federal agencies.

Describing the False Claims Act ("FCA") as the "the Justice Department's primary weapon against government fraud, waste, and abuse," the Memorandum states that the FCA is "implicated when a federal contractor or recipient of federal funds knowingly violates civil rights laws—including but not limited to Title IV, Title VI, and Title IX, of the Civil Rights Act of 1964—and falsely certifies compliance with such laws."

The Initiative builds on President Trump's "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" Executive Order (the "Order"). The Order, among other things, requires federal agencies to include two provisions in every federal contract or grant award:

(A) A term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of [the FCA]; and

(B) A term requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.

The Administration has been issuing contract modifications incorporating these provisions which, as we discussed in a prior post, create significant risks for contractors. The Memorandum makes clear that the Justice Department is focused on relying on these provisions to pursue federal contractors and other recipients of federal funds that violate civil rights laws and provides instructive examples of the practices and entities that the Initiative will target.

For example, the Memorandum calls out universities, stating that "[c]olleges and universities cannot accept federal funds while discriminating against their students," and that "a university that accepts federal funds could violate the False Claims Act 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."

The Memorandum also states that the FCA is "implicated whenever 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." With respect to DEI programs, the Memorandum signals that the Justice Department will be looking for programs that are "camouflaged with cosmetic changes that disguise their discriminatory nature."

Finally, the Memorandum seeks the assistance of the public in this effort, "strongly encourag[ing]" *qui tam* claims, in which individuals file FCA claims on behalf of the government "and, if successful, shar[e] in any monetary recovery." The Justice Department also "encourages anyone with knowledge of discrimination by federal-funding recipients to report that information to the appropriate federal authorities so that the Department may consider the information and take any appropriate action."

We will continue monitor developments related to the Trump Administration's efforts with respect to DEI.

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