

Publications

Department of Justice Announces False Claims Act Crackdown on DEI Policies

Related Professionals

Joseph M. Brunner

Jeffrey A. Miller

Victor A. Walton, Jr.

Related Services

False Claims Act and Qui Tam

Litigation and Appeals

CLIENT ALERT | 5.21.2025

The United States Department of Justice recently announced that it would begin “vigorous enforcement” of the False Claims Act against recipients of federal funds for their use of diversity, equity and inclusion programs. The False Claims Act is the government’s signature, most effective anti-fraud law and punishes those who submit false or fraudulent claims for money to the federal government. While the False Claims Act has traditionally been used in the areas of government procurement and health care fraud, the DOJ’s recent announcement could mean a drastic expansion of potentially ruinous False Claims Act liability.

In a memo dated May 19, 2025 Deputy Attorney General Todd Blanche announced the creation of a Civil Rights Fraud Initiative that 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.” Such laws include Title IV (educational discrimination and desegregation), Title VI (discrimination based on race, color, or national origin), and Title IX (sex-based discrimination in education) of the Civil Rights Act of 1964. The memo lists some examples of the government’s view of what constitutes violating these federal civil rights laws, such as:

- an educational institution accepting federal funds while encouraging antisemitism and refusing to protect Jewish students;
- an educational institution “allow[ing] men to intrude into women’s bathrooms, or require[ing] women to compete against men in athletic competitions”; and
- recipients of federal funding “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[.]”

This Initiative will be co-led by the Fraud Section of the Civil Division and the Civil Rights Division, in coordination with United States Attorneys’ Offices nationwide and other federal agencies such as the

Departments of Education, Health and Human Services, Housing and Urban Development, and Labor.

In addition, the memo points out that the False Claims Act contains a whistleblower provision that permits private individuals with knowledge of potential fraud on the government to file their own suits on behalf of the government. Whistleblowers, also known as relators, are incentivized to file such suits because they can share in up to 25% of all money recovered for the government. The memo states that the DOJ “strongly encourages these lawsuits[,]” which could lead to a flood of private individuals filing suit in the name of the United States.

A violation of the False Claims Act can impose substantial consequences on a defendant, including the award of treble damages and a penalty for each false claim submitted to the government. A defendant’s total liability can quickly and easily reach astronomic figures. Vorys has deep experience defending against False Claims Act suits, in all industries and for a wide range of defendants. If you or your business are sued under the False Claims Act, do not hesitate to contact your Vorys attorney.