

DOJ Announces New Civil Rights Fraud Initiative

May 21, 2025

On May 19, 2025, the U.S. Department of Justice announced the establishment of a new Civil Rights Fraud Initiative.¹ Under this initiative, DOJ will “vigorous[ly] enforce[]” the False Claims Act, 31 U.S.C. 3729 et seq. (the “FCA”), against federal contractors and recipients of federal funds that are alleged to have “knowingly violate[d] civil rights laws—including but not limited to Title IV, Title VI, and Title IX, of the Civil Rights Act of 1964—and falsely certifie[d] compliance with such laws.”² The Deputy Attorney General’s memorandum announcing the initiative cites antisemitism and gender identity-related policies, as well as diversity, equity and inclusion (“DEI”) programs as potential bases for FCA investigations against any federal contractors or recipients of federal funds, including universities and corporations.³

In the accompanying press release, Attorney General Pamela Bondi stated, “Institutions that take federal money only to allow anti-Semitism and promote divisive DEI policies are putting their access to federal funds at risk This Department of Justice will not tolerate these violations of civil rights—inaction is not an option.”⁴

The initiative is one of the ways in which DOJ is implementing President Trump’s Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633 (Jan. 21, 2025). Among other things, that Executive Order requires DOJ to “submit a report to the Assistant to the President for Domestic Policy containing recommendations for enforcing Federal civil-rights laws and taking

¹ U.S. Department of Justice Press Release, *Justice Department Establishes Civil Rights Fraud Initiative* (May 19, 2025), <https://www.justice.gov/opa/pr/justice-department-establishes-civil-rights-fraud-initiative> [hereinafter “DOJ Press Release”].

² “Memorandum for Office of the Associate Attorney General, Civil Division, Civil Rights Division, Criminal Division, Executive Office for United States Attorneys, All United States Attorneys: Civil Rights Fraud Initiative,” from Deputy Attorney General Todd Blanche, May 19, 2025, *available at* <https://www.justice.gov/dag/media/1400826/dl?inline> [hereinafter “Memorandum re Civil Rights Fraud Initiative”].

³ *Id.* at 1–2.

⁴ DOJ Press Release, *supra* note 1.

other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI” within 120 days. That deadline is today.

The False Claims Act. The FCA imposes liability on federal contractors and federal funds recipients that knowingly submit false claims, including by making materially false certifications to the government, thereby arguably defrauding the government.⁵ FCA lawsuits can be brought by DOJ itself or in *qui tam* actions by private citizens.⁶ There are strong financial incentives for private individuals to file *qui tam* actions: they can qualify for up to 30% of the funds recovered, often a significant amount given that the FCA allows for treble damages.⁷

Memorandum Announcing the Civil Rights Fraud Initiative. In its May 19 memorandum announcing the Civil Rights Fraud Initiative, DOJ included the following examples of civil rights violations that could serve as a basis for FCA claims:

- “[E]ncourag[ing] antisemitism” or “refus[ing] to protect Jewish students”;
- “[A]llow[ing] men to intrude into women’s bathrooms” or “requir[ing] women to compete against men in athletic competitions”; and
- “[K]nowingly engaging in racist preferences, mandates, policies, programs, and activities, including through [DEI] programs that assign benefits or burdens on race, ethnicity, or national origin.”⁸

The initiative will be co-led by DOJ’s Civil Division’s Fraud Section, which normally enforces the FCA, and DOJ’s Civil Rights Division, in coordination with the Criminal Division as well as the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of Labor and other agencies.⁹ In addition, each United States Attorney’s Office must “identify an Assistant United States Attorney to advance these efforts,” and the initiative will partner with state attorneys general and local law enforcement “to share information and coordinate enforcement actions.”¹⁰

⁵ See U.S. Department of Justice Civil Division, The False Claims Act (Jan. 15, 2025), <https://www.justice.gov/civil/false-claims-act>.

⁶ *Id.*

⁷ See U.S. Department of Justice, The False Claims Act: A Primer 10, 1 (Apr. 22, 2011), https://www.justice.gov/d9/civil/legacy/2011/04/22/C-FRAUDS_FCA_Primer.pdf.

⁸ Memorandum re Civil Rights Fraud Initiative, *supra* note 2, at 1.

⁹ *Id.* at 2.

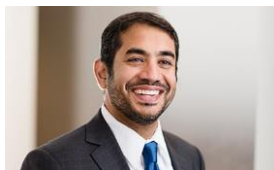
¹⁰ *Id.*

The memorandum notes that DOJ “strongly encourages” *qui tam* lawsuits by private parties and “encourages anyone with knowledge of discrimination by federal-funding recipients to report that information to the appropriate federal authorities.”¹¹

Impact and Takeaways

- The proposed use of the FCA to punish alleged violations of civil rights laws in this way is new, and the application of the FCA as it relates to certifications regarding DEI programs is likely to run into legal challenges, including with respect to materiality of the certification and knowledge requirement.
- The launch of the Civil Rights Fraud Initiative indicates that DOJ’s recent FCA investigations into universities are likely to expand, both to additional schools and to other targets, including corporations that are federal contractors and other federal funds recipients.
- By encouraging private-sector enforcement of the FCA through *qui tam* actions and emphasizing the financial incentives of such actions, DOJ is likely to increase the number of *qui tam* “whistleblower” claims that are predicated on alleged civil rights violations. Such actions remain sealed for 60 days while DOJ evaluates whether to intervene, making them more difficult to track in the short term.
- Federal contractors and recipients of federal funds should consider reviewing and, as needed, revising and enhancing their policies and procedures, including with respect to internal whistleblower channels for reporting violations, to ensure continued compliance with the FCA and federal civil rights laws.

¹¹ *Id.*



Jyotin Hamid
Partner, New York
+1 212 909 1031
jhamid@debevoise.com



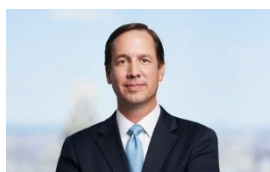
David A. O'Neil
Partner, Washington, D.C.
+1 202 383 8040
daoneil@debevoise.com



Winston M. Paes
Partner, New York
+1 212 909 6896
wmpaes@debevoise.com



Jane Shvets
Partner, New York | London
+1 212 909 6573
+44 20 7786 9163
jshvets@debevoise.com



Carter Burwell
Counsel, Washington, D.C.
+1 202 383 8149
cburwell@debevoise.com



Nicholas Folly
Counsel, San Francisco
+1 415 738 5754
nfolly@debevoise.com



Tricia Bozyk Sherno
Counsel, New York
+1 212 909 6717
tbsherno@debevoise.com



Sofia Squatriti Muno
Associate, New York
+1 212 909 6958
ssmuno@debevoise.com



Madeline Moran Silva
Associate, New York
+1 212 909 6656
mmsilva@debevoise.com