

The Department of Justice Slams Open the Door for False Claims Act Enforcement of DEI Initiatives

Barbara E. Hoey, Mark A. Konkol, Benjamin Gilman

May 21, 2025

The Trump Administration has continued to target diversity, equity and inclusion ("DEI") initiatives as an affront to civil rights legislation. In a [previous post](#), we discussed President Trump's Executive Order 14173 – titled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" – which signaled the government's plan to use the False Claims Act ("FCA") to police perceived violations of federal anti-discrimination laws. Now, the Department of Justice ("DOJ") has made clear it will utilize the FCA to target recipients of federal funds that promote "divisive DEI policies[.]"

The Civil Rights Fraud Initiative, [announced](#) on Monday, May 21, plans to "investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws." Deputy Attorney General Todd Blanche noted that the purpose of the new initiative is to "identify and root out instances in which recipients of federal funds fail to uphold their basic obligations under federal civil rights laws."

The new initiative has two significant impacts on employers receiving federal funding. First, the DOJ has made clear that it will treat violations of federal civil rights laws as potential fraud under the FCA. In conjunction with Executive Order 14173, the DOJ plans to target federal contractors and grantees that certify compliance with antidiscrimination laws, but promote DEI based on protected characteristics, as falsely certifying such legal compliance. Violations under the FCA include treble damages and significant penalties.

Second, the Civil Rights Fraud Initiative explicitly promotes whistleblowers and third parties to report discriminatory practices, including the aforementioned divisive DEI policies. The FCA permits employees and third parties to bring qui tam actions, which, if successful, allow whistleblowers to receive a portion of the monetary recovery.

Employers receiving federal funding must (i) check whether they have certified compliance with antidiscrimination laws, and (ii) regardless of certification, ensure all company policies do not discriminate based on race, gender or any other protected characteristics. If you have any questions about the new Civil Rights Fraud Initiative, FCA compliance or any of the other rapid developments involving DEI, please reach out to Kelley Drye's Labor and Employment team for assistance.