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False Claims Act Reimagined: DOJ Pursues Civil Rights Fraud in Higher Education and Government Contracts

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On May 19, 2025, the U.S. Department of Justice (DOJ) unveiled the Civil Rights Fraud Initiative, a new enforcement strategy aimed at leveraging the False Claims Act to hold colleges, universities, government contractors, and other federal funding recipients accountable for violations of civil rights laws. Announced by Deputy Attorney General Todd Blanche, this initiative seeks to investigate and pursue claims against entities that knowingly violate federal civil rights laws, such as Titles IV, VI, and IX of the Civil Rights Act of 1964, while receiving federal funds. The DOJ's Memorandum specifically states that a college or university "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The False Claims Act, originally enacted in 1863 to combat fraud against the Union Army during the Civil War, is a powerful tool that allows the government to recover treble (i.e., three times the amount of) damages and statutory penalties from those who submit false claims for federal funds. It also allows the government to pursue criminal charges against violators. Traditionally used to address financial fraud, the DOJ's new Civil Rights Fraud Initiative expands the False Claims Act's application to enforce compliance with civil rights laws. The initiative will be co-led by the DOJ's Civil Division's Fraud Section and the Civil Rights Division, with each of the 93 U.S. Attorney's Offices designating an Assistant U.S. Attorney to support these efforts.

The DOJ emphasized that false certifications of compliance with civil rights laws, particularly in the context of diversity, equity, and inclusion programs, could constitute violations of the False Claims Act. For instance, if a university promotes policies that are discriminatory under federal law while certifying compliance to receive federal funds, it could be subject to False Claims Act enforcement actions. The Civil Rights Fraud Initiative aligns with President Donald Trump's Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," issued on January 21, 2025. The order mandates that federal agencies ensure recipients of federal funds certify they do not

operate programs that violate anti-discrimination laws. By linking compliance with civil rights laws to the receipt of federal funds, the administration aims to enforce civil rights through financial accountability.

Entities that receive federal funding must now take a hard look at their policies and practices to ensure they comply with federal civil rights laws. In light of the DOJ's newly launched Civil Rights Fraud Initiative, colleges and universities, in particular, should act swiftly to assess and align their operations with legal standards to avoid liability under the False Claims Act. A critical area of focus will be diversity, equity, and inclusion or similar initiatives. Institutions should ensure that these programs do not allocate benefits or impose burdens based on race, ethnicity, or national origin, as such practices may violate federal law. A thorough audit of diversity, equity, and inclusion or similar policies, student conduct codes, housing and restroom access policies, and athletic participation rules is essential to identify and correct any potentially discriminatory elements. Legal counsel should be involved in reviewing policies to ensure they reflect current legal interpretations and court rulings. Additionally, administrators should be trained on the requirements for maintaining compliance with federal civil rights laws and priorities, particularly when certifying eligibility for federal funding. By taking these proactive steps, colleges and universities can significantly reduce the risk of False Claims Act enforcement actions.

The DOJ's Civil Rights Fraud Initiative marks a significant shift in civil rights enforcement, using the financial power of the False Claims Act to hold institutions accountable. Colleges and universities must remain vigilant and stay informed as legal standards continue to evolve—failing to do so could put the institution's federal funding at considerable risk. For guidance or more information, contact your Vorys attorney.