

NEW CIVIL RIGHTS FRAUD INITIATIVE PUTS MORE PRESSURE ON HIGHER ED AND K-12 SCHOOLS RECEIVING FEDERAL FUNDING: WHAT TO DO IN RESPONSE

Insights
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Federal officials on Monday launched a new Civil Rights Fraud Initiative aimed at schools receiving federal funding, the next step in the Trump administration's aggressive enforcement posture against transgender rights, DEI, and campus antisemitism. The Department of Justice's (DOJ's) Civil Fraud and Civil Rights Divisions will lead the Initiative, using the False Claims Act (FCA) to investigate and pursue claims against recipients of federal funds that knowingly violate federal civil rights laws. The result? Aggrieved individuals – or simply those who believe a school has run afoul of the administration's policies – are now able to file their own federal lawsuits against higher education institutions and K-12 schools for alleged violations. What should you school do to respond to this new development?

The Basics of the Initiative

[Speaking about the Initiative](#), Attorney General Pamela Bondi stated that "institutions that take federal money only to allow anti-Semitism and promote divisive DEI policies are putting their access to federal funds at risk." Deputy Attorney General Todd Blanche stated, "Colleges and universities cannot accept federal funds while discriminating against their students," citing civil rights laws such as Title IV, Title VI, and Title IX of the Civil Rights Act of 1964.

[In a memorandum published on Monday](#), Blanche instructed that a school accepting federal funds could violate the False Act if it:

- encourages antisemitism

Related People



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- refuses to protect Jewish students
- allows men to intrude into women’s bathrooms
- requires women to compete against men in athletic compe

More specifically, the memo says the FCA is implicated “whenever federal-funding recipients . . . 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.”

Why Your School Needs to Take This Seriously

The stakes are high. As part of the Initiative, the DOJ has stated that it strongly encourages anyone with knowledge of such discrimination to consider filing a “qui tam” action under the FCA – potentially opening the door to a flood of private litigation against educational institutions.

- Qui tam actions are lawsuits brought by private individuals on behalf of the government, generally against someone who has allegedly defrauded the government.
- They differ from agency enforcement actions because they are initiated by private individuals, not the government, and can proceed even if the government declines to participate.
- Under the new Initiative, these lawsuits don’t even need to be filed by students or families educated by these institutions – they could simply be filed by an individual who has purported “knowledge” of the school’s alleged violation.
- The government then has a set time period during which it decides whether to intervene in the lawsuit.
- The individual filing the action often is entitled to a share of any recovered funds and/or a reward.
- Violations of the FCA can result in treble damages and significant penalties.

The DOJ also is encouraging anyone with knowledge of discrimination to file a report to federal authorities. [The](#)



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[agency's announcement reminded the public that it maintains a website](#) for individuals to make such a report.

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What Your School Should Do Right Now

Blanche further stated that “many corporations and schools continue to adhere to racist policies and preferences-albeit camouflaged with cosmetic changes that disguise their discriminatory nature.” So it might not be enough to re-name programs or initiatives at your institution and carry on as usual. This development should cause you to look anew at the substance of your activities.

- For K-12 independent schools who have not determined whether they receive federal financial assistance, you should be having those detailed discussions with legal counsel regarding your specific funds.
- To the extent you have not already done so, schools that receive federal funding should review all of their DEI policies and programs with legal counsel to ensure that they are lawful and identify any potential conflicts with state or local laws.
- You also should encourage any employees or students with concerns regarding these issues to speak with a point person at your school who can respond to any concerns.
- You should also review [our Insight about three things to do to ensure you don't lose federal funding](#) in the wake of the administration's new efforts.

Conclusion

Please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Education Team](#) or [Higher Education Team](#) to obtain practical advice and guidance related to this new Initiative. Visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources, and make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.