

# “Defending DEI programs against DOJ's civil rights fraud initiative,” *Westlaw Today*

## Publications

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In an article published on *Westlaw* via *Reuters*, Partners Carolyn Small and Betsy Henthorne and Associate Rebekah Lee examine the Department of Justice’s newly launched Civil Rights Fraud Initiative and the growing enforcement risks it poses for organizations that receive federal funding and operate diversity, equity, and inclusion (DEI) programs.

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The authors analyze the DOJ’s novel use of the False Claims Act (FCA) against recipients of federal funds allegedly violating civil rights laws. As they explain, recipients of federal funds may now face FCA scrutiny based on DEI-related certifications—marking a significant shift from the statute’s traditional focus on financial fraud.

The article outlines how organizations can defend against this new line of enforcement by relying on established FCA elements: falsity, scienter, and materiality.

“Organizations should act promptly to develop a comprehensive defense strategy, including documenting good-faith compliance efforts, preserving evidence of how DEI programs were implemented and disclosed, and preparing to challenge each element of the government's case,” the authors conclude.

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