

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	June 3, 2025	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department:	County Attorney
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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion for:

- A) **Board Direction** addressing Executive Order (EO) 14168 and EO 14173 regarding the President of the United States’ (President) position on “gender identity” prohibiting federal funds to be used to “promote gender ideology” and prohibiting grant recipients from having “illegal” race- and sex-based diversity, equity and inclusion (DEI) and/or diversity, equity, inclusion, and accessibility (DEIA) programs and complying with federal grants incorporating EO 14168, EO 14173, and other EOs; and
- B) **Approval** of a waiver of the notice requirements of Section 125.66(2), Florida Statutes, declaring that an emergency exists and that the immediate enactment of an Emergency Ordinance is necessary; and
- C) **Approval of an EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE III, DIVISION 2, PART C OF THE PALM BEACH COUNTY CODE, PERTAINING TO THE EQUAL BUSINESS OPPORTUNITY PROGRAM; PROVIDING FOR COMMERCIAL NONDISCRIMINATION POLICY; PROVIDING FOR SUSPENSION OF PALM BEACH COUNTY DIVERSITY EQUITY AND INCLUSION (“DEI”) PROGRAMS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AND EFFECTIVE DATE. Four-fifths vote is required for approval.**

Summary: Staff is requesting approval of an Emergency Ordinance to incorporate changes to respond to recent EOs prohibiting “illegal DEI Programs”. On January 20, 2025, the President signed EO 14168 opposing “gender identity” and prohibiting federal funds to be used to “promote gender ideology.” On January 21, 2025, the President signed EO 14173 stating opposition to “so-called diversity, equity and inclusion (DEI) or diversity, equity, inclusion, and accessibility (DEIA)” programs. Countywide (MM) Summary Continued on Page 3

Background and Policy Issues: This item seeks BCC approval of an Emergency Ordinance in light of recent EOs and federal policy guidance requiring recipients of federal grants to, among other things, certify that they do not operate any “illegal” DEI programs and that they recognize “sex” as an individual’s immutable biological classification as either male or female. Background and Policy Issues Continued on Page 3

- Attachments:**
- 1. Executive Orders 14168 and 14173
 - 2. Emergency Ordinance
 - 3. DOT letter
 - 4. Attorney General Memorandum

Recommended By:		
	COUNTY ATTORNEY	Date

Approved By:	N/A	
	COUNTY ADMINISTRATOR	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2025	2026	2027	2028	2029
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget:	Yes	<u> X </u>	No	<u> </u>
Is this item using Federal Funds:	Yes	<u> </u>	No	<u> X </u>
Is this item using State Funds:	Yes	<u> </u>	No	<u> X </u>

Budget Account No:

Fund	Dept	Unit	Revenue Source
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B. Recommended Sources of Funds/Summary of Fiscal Impact:

This item carries no fiscal impact.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

ABDell 5/22/25
OFMB OS 5/22/25 OS 5/22/25

Kendi Bracke 5/23/25
Contract Development and Control

B. Legal Sufficiency:

Anne Helgeson 5-22-25
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Summary Continued from Page 1

On April 24, 2025, the Secretary of the United States Department of Transportation (DOT) issued a letter addressed to “All Recipients of U.S. Department of Transportation Funding” indicating that “any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve so-called ‘diversity, equity, and inclusion,’ or ‘DEI,’ goals, presumptively violates Federal law.”

The letter “provides notice of the Department’s existing interpretation of Federal law” and “failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize [the grant recipient’s] continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT”. EO 14173, EO 14168 and other EOs are being incorporated expressly by reference in federal government grant agreements.

The Justice Department has launched an initiative targeting grant recipients with False Claims Act (“FCA”) prosecution for violation of the terms of the federal grants that incorporated the EOs. There are numerous courts across the country that have received challenges of the EOs that are incorporated in the federal grant awards.

This item requests that the BCC approve an Emergency Ordinance regarding continued receipt of grant funding and asks the BCC to approve an Emergency Ordinance suspending certain Palm Beach County (County) ordinances or portions thereof, policies and programs to limit legal liability and preserve the County’s access to federal funding pending further interpretation and clarification of federal law as it relates to recent EOs and federal grant requirements.

The approval of an Emergency Ordinance best preserves the County’s access to federal funding sources, and limits potential civil and criminal liability. This option requires BCC direction to modify current policies to ensure race and gender neutral policies are in effect throughout the County. The proposed Emergency Ordinance suspends portions of the County’s Equal Business Opportunity Ordinance to return to a small business enterprise program with no enforcement or utilization of preferences or distinctions based on sex or race. In addition, reporting related to not hiring individuals of certain underrepresented race and/or gender pursuant to the Equal Employment Opportunity/Affirmative Action Plan is suspended pending further guidance by the federal government. The Office of Diversity, Equity and Inclusion will be eliminated which will have no impact as it has never been staffed. Staff, with the assistance of the County Attorney’s Office, may need to amend applicable Policy and Procedures Memoranda (PPMs) and other ordinances to ensure consistency with the requirements of the Emergency Ordinance. Approval of the Emergency Ordinance requires a waiver of the Notice Requirements of Section 125.66(2). The BCC must declare that an emergency exists and the immediate enactment of the Emergency Ordinance is necessary. The County is in receipt of federal grant opportunities that incorporate the EOs. These grants must be accepted and executed within limited time constraints, and there is insufficient time to follow the customary process outlined in Section 125.66(2). **The Emergency Ordinance must be approved by a four-fifths vote of the BCC.**

Background and Policy Issues Continued from Page 1:

Due to these EOs, new federal grant requirements and recent interpretations of applicable law by federal regulatory agencies, it is recommended the County adhere to race- and gender-neutral policies. New federal grant requirements along with implementing guidance memoranda have threatened civil and criminal penalties under the FCA for false certifications on grant documents. Under the FCA, any person who knowingly makes, uses or causes to be made or used a false record or statement material to a false or fraudulent claim or conspires to make such a claim is liable for treble damages, civil penalties and costs, as well as criminal penalties. The FCA allows private individuals to bring lawsuits on behalf of the government. On May 19, 2025, the Deputy Attorney General issued a memorandum for all United States Attorneys stating “the most effective way to accomplish this objective [enforcement of grant certifications] is through vigorous enforcement of the False Claims Act, 31 U.S.C. section 3729 et seq., against those who defraud the United States.”

Although staff believes all County policies, programs, and ordinances are consistent with the current interpretation of federal law by the courts with jurisdiction, the new interpretation of federal law by federal regulatory agencies, raise concerns and could subject the County, the BCC,

Background and Policy Issues Continued:

and staff to potential legal liability under the FCA. Pending further clarification of federal law through court decisions and regulatory guidance as it relates to DEI and DEIA Programs as well as other EOs, staff recommends that the BCC enact the Emergency Ordinance, which should preserve the County's ability to receive federal funding and reduce the risk of legal liability. For fiscal year 2025, the County has received approximately \$329,600,248 in federal grant funds.

Attachment 1
Executive Orders 14168 and 14173

LEGAL STATUS

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The OFR/GPO partnership is committed to presenting accurate and reliable regulatory information on FederalRegister.gov with the objective of establishing the XML-based Federal Register as an ACFR-sanctioned publication in the future. While every effort has been made to ensure that the material on FederalRegister.gov is accurately displayed, consistent with the official SGML-based PDF version on govinfo.gov, those relying on it for legal research should verify their results against an official edition of the Federal Register. Until the ACFR grants it official status, the XML rendition of the daily Federal Register on FederalRegister.gov does not provide legal notice to the public or judicial notice to the courts.

LEGAL STATUS

Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

A Presidential Document by the Executive Office of the President on 01/30/2025

PUBLISHED CONTENT - DOCUMENT DETAILS

Agency: Executive Office of the President
Document Citation: 90 FR 8615
Document Number: 2025-02090
Document Type: Presidential Document
Presidential Document Executive Order
Type:
EO Citation: EO 14168
Pages: 8615-8618 (4 pages)
Publication Date: 01/30/2025

READER AIDS - EXECUTIVE ORDER DETAILS

Executive order notes are compiled and maintained by the Office of the Federal Register editors.

EO Citation: EO 14168
EO Notes:

Rescinds: EO 13988, January 20, 2021; EO 14004, January 25, 2021; EO 14021, March 8, 2021; EO 14075, June 15, 2022

See: EO 14183, January 27, 2025; EO 14185, January 27, 2025; EO 14201, February 5, 2025

President: Donald J. Trump

Signing Date: January 20, 2025

PUBLISHED DOCUMENT: 2025-02090 (90 FR 8615)

(□ printed page 8615) Executive Order 14168 (/executive-order/14168) of January 20, 2025

Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7301 of title 5, United States Code (<https://www.govinfo.gov/link/uscode/5/7301>), it is hereby ordered:

Section 1 . Purpose. Across the country, ideologues who deny the biological reality of sex have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers. This is wrong. Efforts to eradicate the biological reality of sex fundamentally attack women by depriving them of their dignity, safety, and well-being. The erasure of sex in language and policy has a corrosive impact not just on women but on the validity of the entire American system. Basing Federal policy on truth is critical to scientific inquiry, public safety, morale, and trust in government itself.

This unhealthy road is paved by an ongoing and purposeful attack against the ordinary and longstanding use and understanding of biological and scientific terms, replacing the immutable biological reality of sex with an internal, fluid, and subjective sense of self unmoored from biological facts. Invalidating the true and biological category of “woman” improperly transforms laws and policies designed to protect sex-based opportunities into laws and policies that undermine them, replacing longstanding, cherished legal rights and values with an identity-based, inchoate social concept.

Accordingly, my Administration will defend women's rights and protect freedom of conscience by using clear and accurate language and policies that recognize women are biologically female, and men are biologically male.

Sec. 2 . Policy and Definitions. It is the policy of the United States to recognize two sexes, male and female. These sexes are not changeable and are grounded in fundamental and incontrovertible reality. Under my direction, the Executive Branch will enforce all sex-protective laws to promote this reality, and the following definitions shall govern all Executive interpretation of and application of Federal law and administration policy:

(a) "Sex" shall refer to an individual's immutable biological classification as either male or female. "Sex" is not a synonym for and does not include the concept of "gender identity."

(b) "Women" or "woman" and "girls" or "girl" shall mean adult and juvenile human females, respectively.

(c) "Men" or "man" and "boys" or "boy" shall mean adult and juvenile human males, respectively.

(d) "Female" means a person belonging, at conception, to the sex that produces the large reproductive cell.

(e) "Male" means a person belonging, at conception, to the sex that produces the small reproductive cell.

(f) "Gender ideology" replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true. (□ printed page 8616) Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one's sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.

(g) "Gender identity" reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.

Sec. 3 . Recognizing Women Are Biologically Distinct From Men. (a) Within 30 days of the date of this order, the Secretary of Health and Human Services shall provide to the U.S. Government, external partners, and the public clear guidance expanding on the sex-based definitions set forth in this order.

(b) Each agency and all Federal employees shall enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes. Each agency should therefore give the terms “sex”, “male”, “female”, “men”, “women”, “boys” and “girls” the meanings set forth in section 2 of this order when interpreting or applying statutes, regulations, or guidance and in all other official agency business, documents, and communications.

(c) When administering or enforcing sex-based distinctions, every agency and all Federal employees acting in an official capacity on behalf of their agency shall use the term “sex” and not “gender” in all applicable Federal policies and documents.

(d) The Secretaries of State and Homeland Security, and the Director of the Office of Personnel Management, shall implement changes to require that government-issued identification documents, including passports, visas, and Global Entry cards, accurately reflect the holder's sex, as defined under section 2 of this order; and the Director of the Office of Personnel Management shall ensure that applicable personnel records accurately report Federal employees' sex, as defined by section 2 of this order.

(e) Agencies shall remove all statements, policies, regulations, forms, communications, or other internal and external messages that promote or otherwise inculcate gender ideology, and shall cease issuing such statements, policies, regulations, forms, communications or other messages. Agency forms that require an individual's sex shall list male or female, and shall not request gender identity. Agencies shall take all necessary steps, as permitted by law, to end the Federal funding of gender ideology.

(f) The prior Administration argued that the Supreme Court's decision in *Bostock v. Clayton County* (2020), which addressed Title VII of the Civil Rights Act of 1964, requires gender identity-based access to single-sex spaces under, for example, Title IX of the Educational Amendments Act. This position is legally untenable and has harmed women. The Attorney General shall therefore immediately issue guidance to agencies to correct the misapplication of the Supreme Court's decision in *Bostock v. Clayton County* (2020) to sex-based distinctions in agency activities. In addition, the Attorney General shall issue guidance and assist agencies in protecting sex-based distinctions, which are explicitly permitted under Constitutional and statutory precedent.

(g) Federal funds shall not be used to promote gender ideology. Each agency shall assess grant conditions and grantee preferences and ensure grant funds do not promote gender ideology.

Sec. 4 . *Privacy in Intimate Spaces.* (a) The Attorney General and Secretary of Homeland Security shall ensure that males are not detained in women's prisons or housed in women's detention centers, including through amendment, as necessary, of Part 115.41 of title 28, Code of Federal Regulations (<https://www.ecfr.gov/current/title-28>) and interpretation guidance regarding the Americans with Disabilities Act.

(□ printed page 8617)

(b) The Secretary of Housing and Urban Development shall prepare and submit for notice and comment rulemaking a policy to rescind the final rule entitled “Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs” of September 21, 2016, 81 FR 64763 (/citation/81-FR-64763), and shall submit for public comment a policy protecting women seeking single-sex rape shelters.

(c) The Attorney General shall ensure that the Bureau of Prisons revises its policies concerning medical care to be consistent with this order, and shall ensure that no Federal funds are expended for any medical procedure, treatment, or drug for the purpose of conforming an inmate's appearance to that of the opposite sex.

(d) Agencies shall effectuate this policy by taking appropriate action to ensure that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity.

Sec. 5 . *Protecting Rights.* The Attorney General shall issue guidance to ensure the freedom to express the binary nature of sex and the right to single-sex spaces in workplaces and federally funded entities covered by the Civil Rights Act of 1964. In accordance with that guidance, the Attorney General, the Secretary of Labor, the General Counsel and Chair of the Equal Employment Opportunity Commission, and each other agency head with enforcement responsibilities under the Civil Rights Act shall prioritize investigations and litigation to enforce the rights and freedoms identified.

Sec. 6 . Bill Text. Within 30 days of the date of this order, the Assistant to the President for Legislative Affairs shall present to the President proposed bill text to codify the definitions in this order.

Sec. 7 . Agency Implementation and Reporting. (a) Within 120 days of the date of this order, each agency head shall submit an update on implementation of this order to the President, through the Director of the Office of Management and Budget. That update shall address:

(i) changes to agency documents, including regulations, guidance, forms, and communications, made to comply with this order; and

(ii) agency-imposed requirements on federally funded entities, including contractors, to achieve the policy of this order.

(b) The requirements of this order supersede conflicting provisions in any previous Executive Orders or Presidential Memoranda, including but not limited to Executive Orders 13988 of January 20, 2021, 14004 of January 25, 2021, 14020 and 14021 of March 8, 2021, and 14075 of June 15, 2022. These Executive Orders are hereby rescinded, and the White House Gender Policy Council established by Executive Order 14020 (/executive-order/14020) is dissolved.

(c) Each agency head shall promptly rescind all guidance documents inconsistent with the requirements of this order or the Attorney General's guidance issued pursuant to this order, or rescind such parts of such documents that are inconsistent in such manner. Such documents include, but are not limited to:

(i) "The White House Toolkit on Transgender Equality";

(ii) the Department of Education's guidance documents including:

(A) "2024 Title IX Regulations: Pointers for Implementation" (July 2024);

(B) "U.S. Department of Education Toolkit: Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students";

(C) "U.S. Department of Education Supporting LGBTQI+ Youth and Families in School" (June 21, 2023);

(D) “Departamento de Educación de EE.UU. Apoyar a los jóvenes y familias LGBTQI+ en la escuela” (June 21, 2023);

(E) “Supporting Intersex Students: A Resource for Students, Families, and Educators” (October 2021);

(F) “Supporting Transgender Youth in School” (June 2021); (□ printed page 8618)

(G) “Letter to Educators on Title IX’s 49th Anniversary” (June 23, 2021);

(H) “Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families” (June 2021);

(I) “Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*” (June 22, 2021);

(J) “Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students” (June 9, 2021); and

(K) “Back-to-School Message for Transgender Students from the U.S. Depts of Justice, Education, and HHS” (Aug. 17, 2021);

(iii) the Attorney General’s Memorandum of March 26, 2021 entitled “Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972”; and

(iv) the Equal Employment Opportunity Commission’s “Enforcement Guidance on Harassment in the Workplace” (April 29, 2024).

Sec. 8 . General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

(https://img.federalregister.gov/TRUMP/TRUMP_original_size.png)

THE WHITE HOUSE, January 20, 2025. Filed 1-29-25; 11:15 am]
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LEGAL STATUS

Ending Illegal Discrimination and Restoring Merit-Based Opportunity

A Presidential Document by the Executive Office of the President on 01/31/2025

PUBLISHED CONTENT - DOCUMENT DETAILS

Agency: Executive Office of the President
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Type:
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Publication Date: 01/31/2025

READER AIDS - EXECUTIVE ORDER DETAILS

Executive order notes are compiled and maintained by the Office of the Federal Register editors.

EO Citation: EO 14173
EO Notes:
Revokes: EO 11246, September 24, 1965; EO 12898, February 11, 1994; EO 13583, August 18, 2011; EO 13672, July 21, 2014; Memo. of October 5, 2016

President: Donald J. Trump
Signing Date: January 21, 2025

PUBLISHED DOCUMENT: 2025-02097 (90 FR 8633)

(□ printed page 8633) Executive Order 14173 (/executive-order/14173) of January 21, 2025

Ending Illegal Discrimination and Restoring Merit-Based Opportunity

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1 . Purpose. Longstanding Federal civil-rights laws protect individual Americans from discrimination based on race, color, religion, sex, or national origin. These civil-rights protections serve as a bedrock supporting equality of opportunity for all Americans. As President, I have a solemn duty to ensure that these laws are enforced for the benefit of all Americans.

Yet today, roughly 60 years after the passage of the Civil Rights Act of 1964, critical and influential institutions of American society, including the Federal Government, major corporations, financial institutions, the medical industry, large commercial airlines, law enforcement agencies, and institutions of higher education have adopted and actively use dangerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called “diversity, equity, and inclusion” (DEI) or “diversity, equity, inclusion, and accessibility” (DEIA) that can violate the civil-rights laws of this Nation.

Illegal DEI and DEIA policies not only violate the text and spirit of our longstanding Federal civil-rights laws, they also undermine our national unity, as they deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system. Hardworking Americans who deserve a shot at the American Dream should not be stigmatized, demeaned, or shut out of opportunities because of their race or sex.

These illegal DEI and DEIA policies also threaten the safety of American men, women, and children across the Nation by diminishing the importance of individual merit, aptitude, hard work, and determination when selecting people for jobs and services in key sectors of American society, including all levels of government, and the medical, aviation, and law-

enforcement communities. Yet in case after tragic case, the American people have witnessed first-hand the disastrous consequences of illegal, pernicious discrimination that has prioritized how people were born instead of what they were capable of doing.

The Federal Government is charged with enforcing our civil-rights laws. The purpose of this order is to ensure that it does so by ending illegal preferences and discrimination.

Sec. 2 . Policy. It is the policy of the United States to protect the civil rights of all Americans and to promote individual initiative, excellence, and hard work. I therefore order all executive departments and agencies (agencies) to terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements. I further order all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.

Sec. 3 . Terminating Illegal Discrimination in the Federal Government. (a) The following executive actions are hereby revoked: (□ printed page 8634)

(i) Executive Order 12898 (/executive-order/12898) of February 11, 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations);

(ii) Executive Order 13583 (/executive-order/13583) of August 18, 2011 (Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce);

(iii) Executive Order 13672 (/executive-order/13672) of July 21, 2014 (Further Amendments to Executive Order 11478 (/executive-order/11478), Equal Employment Opportunity in the Federal Government, and Executive Order 11246 (/executive-order/11246), Equal Employment Opportunity); and

(iv) The Presidential Memorandum of October 5, 2016 (Promoting Diversity and Inclusion in the National Security Workforce).

(b) The Federal contracting process shall be streamlined to enhance speed and efficiency, reduce costs, and require Federal contractors and subcontractors to comply with our civil-rights laws. Accordingly:

(i) Executive Order 11246 (/executive-order/11246) of September 24, 1965 (Equal Employment Opportunity), is hereby revoked. For 90 days from the date of this order, Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025.

(ii) The Office of Federal Contract Compliance Programs within the Department of Labor shall immediately cease:

(A) Promoting “diversity”;

(B) Holding Federal contractors and subcontractors responsible for taking “affirmative action”; and

(C) Allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

(iii) In accordance with Executive Order 13279 (/executive-order/13279) of December 12, 2002 (Equal Protection of the Laws for Faith-Based and Community Organizations), the employment, procurement, and contracting practices of Federal contractors and subcontractors shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate the Nation's civil rights laws.

(iv) The head of each agency shall include in every contract or grant award:

(A) A term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and

(B) A term requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.

(c) The Director of the Office of Management and Budget (OMB), with the assistance of the Attorney General as requested, shall:

(i) Review and revise, as appropriate, all Government-wide processes, directives, and guidance;

(ii) Excise references to DEI and DEIA principles, under whatever name they may appear, from Federal acquisition, contracting, grants, and financial assistance procedures to streamline those procedures, improve speed and efficiency, lower costs, and comply with civil-rights laws; and

(iii) Terminate all “diversity,” “equity,” “equitable decision-making,” “equitable deployment of financial and technical assistance,” “advancing equity,” and like mandates, requirements, programs, or activities, as appropriate.

Sec. 4 . Encouraging the Private Sector to End Illegal DEI Discrimination and Preferences. (a) The heads of all agencies, with the assistance of the (□ printed page 8635) Attorney General, shall take all appropriate action with respect to the operations of their agencies to advance in the private sector the policy of individual initiative, excellence, and hard work identified in section 2 of this order.

(b) To further inform and advise me so that my Administration may formulate appropriate and effective civil-rights policy, the Attorney General, within 120 days of this order, in consultation with the heads of relevant agencies and in coordination with the Director of OMB, shall submit a report to the Assistant to the President for Domestic Policy containing recommendations for enforcing Federal civil-rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI. The report shall contain a proposed strategic enforcement plan identifying:

(i) Key sectors of concern within each agency's jurisdiction;

(ii) The most egregious and discriminatory DEI practitioners in each sector of concern;

(iii) A plan of specific steps or measures to deter DEI programs or principles (whether specifically denominated “DEI” or otherwise) that constitute illegal discrimination or preferences. As a part of this plan, each agency shall identify up to nine potential civil compliance investigations of publicly traded corporations, large non-profit corporations or

associations, foundations with assets of 500 million dollars or more, State and local bar and medical associations, and institutions of higher education with endowments over 1 billion dollars;

(iv) Other strategies to encourage the private sector to end illegal DEI discrimination and preferences and comply with all Federal civil-rights laws;

(v) Litigation that would be potentially appropriate for Federal lawsuits, intervention, or statements of interest; and

(vi) Potential regulatory action and sub-regulatory guidance.

Sec. 5 . Other Actions. Within 120 days of this order, the Attorney General and the Secretary of Education shall jointly issue guidance to all State and local educational agencies that receive Federal funds, as well as all institutions of higher education that receive Federal grants or participate in the Federal student loan assistance program under Title IV of the Higher Education Act, 20 U.S.C. 1070

(<https://www.govinfo.gov/link/uscode/20/1070>) *et seq.*, regarding the measures and practices required to comply with *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

Sec. 6 . Severability. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

Sec. 7 . Scope. (a) This order does not apply to lawful Federal or private-sector employment and contracting preferences for veterans of the U.S. armed forces or persons protected by the Randolph-Sheppard Act, 20 U.S.C. 107

(<https://www.govinfo.gov/link/uscode/20/107>) *et seq.*

(b) This order does not prevent State or local governments, Federal contractors, or Federally-funded State and local educational agencies or institutions of higher education from engaging in First Amendment-protected speech.

(c) This order does not prohibit persons teaching at a Federally funded institution of higher education as part of a larger course of academic instruction from advocating for, endorsing, or promoting the unlawful employment or contracting practices prohibited by this order.

Sec. 8 . General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or
(□ printed page 8636)

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(https://img.federalregister.gov/TRUMP/TRUMP_original_size.png)

THE WHITE HOUSE, January 21, 2025. Filed 1-30-25; 8:45 am]
[FR Doc. 2025-02097 (/d/2025-02097)]

Billing code 3395-F4-P

PUBLISHED DOCUMENT: 2025-02097 (90 FR 8633)

Attachment 2
Emergency Ordinance

ORDINANCE NO. 2025-

AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE III, DIVISION 2, PART C OF THE PALM BEACH COUNTY CODE, PERTAINING TO THE EQUAL BUSINESS OPPORTUNITY PROGRAM; PROVIDING FOR COMMERCIAL NONDISCRIMINATION POLICY; PROVIDING FOR SUSPENSION OF PALM BEACH COUNTY DIVERSITY EQUITY AND INCLUSION (“DEI”) PROGRAMS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AND EFFECTIVE DATE.

WHEREAS, on January 20, 2025, the President of the United States signed Executive Order 14168 (“EO 14168”) stating the administration’s opposition to “gender identity” and prohibiting federal funds to be used to “promote gender ideology;” and

WHEREAS, on January 21, 2025, the President of the United States signed Executive Order 14173 (“EO 14173”) stating the administration’s opposition to “so-called ‘diversity, equity and inclusion’ (DEI) and ‘diversity, equity, inclusion, or accessibility’ (DEIA)” and declared such policies “illegal”; and

WHEREAS, EO 14173 directed the head of each Federal agency to include in every contract or grant award a term requiring the counterparty or grant recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws; and

WHEREAS, on April 24, 2025, the Secretary of Transportation transmitted a letter (the “letter”) to “[a]ll recipients of US. Department of Transportation Funding [“DOT”]” that “any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve so-called ‘diversity, equity, and inclusion,’ or ‘DEI,’ goals, presumptively violates Federal law” and “[a]ny discriminatory actions in [the grant recipients’] policies, programs, and activities based on prohibited categories constitute a clear violation of Federal law and the terms of your grant agreements;” and

WHEREAS, the letter “provides notice of the Department’s existing interpretation of Federal law” and “failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize [the grant recipient’s] continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT”; and

WHEREAS, Palm Beach County (the “County”) maintains that all of its ordinances and

programs are legal under federal law; and

WHEREAS, in fiscal year 2025, the County has received approximately \$329,600,248.00 in federal grant funds; and

WHEREAS, in the abundance of caution to avoid the cessation of millions of dollars of essential federal funds used by the County to provide and maintain critical services to the County's residents, and potential civil and criminal monetary penalties and prosecution under the False Claims Act, the County is hereby suspending certain portions of programs, ordinances, policies, and practices until further action by the Board of County Commissioners awaiting court interpretation and consistent federal regulatory guidance concerning said Executive Orders; and

WHEREAS, the County shall continue to ensure that no person shall, on the grounds of race, color, and national origin in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4); creed and sex per 49 U.S.C. 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted by the County; and

WHEREAS, the County shall continue to comply with all federal laws prohibiting discrimination on the basis of race, color, national origin, or sex in the award and performance of any federally-assisted contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
that:

SECTION 1. COMMERCIAL NONDISCRIMINATION POLICY. Section 2-

80.24 of the Palm Beach County Code is hereby amended to read as follows:

(a) *Statement of Policy.* It is the policy of the County not to enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, ~~gender identity or expression~~, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects

of discrimination that have occurred or are occurring in the relevant marketplace for Palm Beach County.

(b) *Policy Implementation.* The Office of EBO shall implement this policy by periodically conducting outreach and by distributing educational materials to the County's contracting and vendor community and related trade associations to advise such contractors, vendors and prospective respondents or bidders of this policy and the procedures to be followed in submitting complaints alleging violations of this policy. In addition, the County Administrator, the Director of Purchasing, and the Office of the County Attorney shall ensure that the following commercial nondiscrimination clause language is set forth in, and incorporated into, all the County contracts that result from Formal Solicitations:

Every contract and subcontract issued shall reflect the Commercial Nondiscrimination Policy and contain words that are similar in meaning to the following:

As a condition of entering into this agreement, the company represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution ____ - ____ as amended. As part of such compliance, the company shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, ~~gender identity or expression~~, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

All Formal Solicitations issued shall reflect the Commercial Nondiscrimination Policy and contain words that are similar in meaning to the following:

The undersigned Respondent or Bidder hereby certifies and agrees that the following information is correct:

In preparing its response on this Solicitation, the respondent or bidder has considered all proposals submitted from qualified, potential Subcontractors and suppliers, and has not engaged in "discrimination" as defined in the County's Commercial Nondiscrimination Policy as set forth in Resolution ____ - ____ as amended, to wit: discrimination in the solicitation, selection or commercial treatment of any Subcontractor, vendor, supplier or commercial customer on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, ~~gender identity or expression~~, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the County's relevant marketplace of Palm Beach County. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation for responses on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the County to reject the response submitted by the respondent or bidder for this Solicitation, and to terminate any contract awarded based on the response. As part of its response, the respondent or bidder shall provide to the County a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the respondent or bidder discriminated against its Subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken. As a condition of submitting a response to the County, the respondent or bidder agrees to comply with the County's Commercial Nondiscrimination Policy as described in Resolution ____ - ____ as amended.

SECTION 2. SUSPENSION OF PALM BEACH COUNTY DIVERSITY EQUITY AND INCLUSION ("DEI") PROGRAMS. Section 2-80.31 of the Palm Beach County Code is

hereby amended to read as follows:

The Palm Beach County Board of County Commissioners suspends the following ordinances, or portions thereof, and applicable programs, policies, and practices:

- a. Enforcement of the race- and/or gender-conscious portions of chapter 2, article III, division 2, Part C of the Palm Beach County Code and Policies and Procedures Manual

CW-O-043 (the “Equal Business Opportunity Program”). Enforcement shall include, but is not limited to, the following:

- i. Establishing race- and/or gender-conscious affirmative procurement initiatives;
- ii. Enforcing race- and/or gender- conscious subcontracting goals; and
- iii. Certifying businesses as minority- or women-owned.

Notwithstanding the above, the race- and gender-neutral portions of Equal Business Opportunity Program will continue to be enforced.

- b. Written justifications for hiring positions identified to have underrepresentation pursuant to any Equal Employment Opportunity/Affirmative Action Plan.
- c. Reporting and identifying the race and gender makeup of Palm Beach County boards and committees.
- d. Utilization of references to “gender identity or expression” or similar terms in County ordinances, resolutions, programs, and policies.
- e. Any other ordinance, program, policy, and/or practice presumptively considered to be a DEI and/or DEIA program. Notwithstanding any provision of this Ordinance to the contrary, nothing in this Ordinance shall be construed as repealing or suspending any policy or program required by federal law.

The foregoing ordinances or portions thereof, programs, policies, and practices are suspended until further action of the Board of County Commissioners or two (2) years from the Effective Date, whichever comes first.

SECTION 3. REPEAL OF LAWS IN CONFLICT.

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict. Notwithstanding the foregoing, laws and ordinances suspended by this Ordinance shall not be repealed unless specifically repealed by the Board of County Commissioners.

SECTION 4. SAVINGS CLAUSE.

Notwithstanding Section 3, Repeal of Laws in Conflict, all administrative and county orders, fines, and pending enforcement shall remain in full force and effect unless otherwise stated in this Ordinance.

SECTION 5. SEVERABILITY CLAUSE.

If any section, paragraph, sentence, clause, phrase or word of this Ordinance, or the application thereof, to any person or circumstance is for any reason held by a Court of competent

jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Ordinance or the application of any other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

SECTION 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 7. CAPTIONS.

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

SECTION 8. EFFECTIVE DATE.

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2025.

**JOSEPH ABRUZZO
CLERK OF THE CIRCUIT
COURT & COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Maria G. Marino, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 2025.

Attachment 3
DOT letter



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

April 24, 2025

To All Recipients of U.S. Department of Transportation Funding:

The U.S. Department of Transportation (Department or DOT) distributes substantial Federal financial assistance for thousands of projects, programs, and activities operated or initiated by diverse entities, including but not limited to State and local governments. The Department administers this Federal financial assistance to support the development and maintenance of the Nation's transportation infrastructure, pursuant to statutory authority and in accordance with binding contractual agreements in the form of Federal financial assistance agreements, usually grants, cooperative agreements, and loans. Accordingly, I write to clarify and reaffirm pertinent legal requirements, to outline the Department's expectations, and to provide a reminder of your responsibilities and the consequences of noncompliance with Federal law and the terms of your financial assistance agreements. It is the policy of the Department to award and to continue to provide Federal financial assistance only to those recipients who comply with their legal obligations.

As recipients of such DOT funds, you have entered into legally enforceable agreements with the United States Government and are obligated to comply fully with all applicable Federal laws and regulations. These laws and regulations include the United States Constitution, Federal statutes, applicable rules, and public policy requirements, including, among others, those protecting free speech and religious liberty and those prohibiting discrimination and enforcing controls on illegal immigration. As Secretary of Transportation, I am responsible for ensuring recipients of DOT financial assistance are aware of and comply with all applicable legal obligations.

The Equal Protection principles of the Constitution prohibit State and Federal governmental entities from discriminating on the basis of protected characteristics, including race. Indeed, as the Supreme Court declared in *Students for Fair Admission, Inc. v. Harvard (SFFA)*, 600 U.S. 181, 206 (2023), "[t]he clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." The Court further noted that "[o]ne of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities." *Id.* at 220. In ruling that race-based admissions programs at universities violated the Equal Protection Clause, the Court made clear that discrimination based on race is, has been, and will continue to be unlawful, except in rare circumstances. *Id.* at 220-21. Similarly, sex-based classifications violate the Equal Protection Clause absent "exceedingly persuasive" justification. *See United States v. Virginia*, 518 U.S. 515, 533 (1996).

These constitutional principles are reinforced by the Civil Rights Act of 1964, which prohibits discrimination based on protected characteristics in the Federal funding and employment contexts in Title VI (42 U.S.C. § 2000d *et seq.*) and Title VII (42 U.S.C. § 2000e-2), as well as the applicable non-discrimination clauses in the Federal Aid Highway Act of 1973 (23 U.S.C. §§ 140 and 324 *et seq.*), the Airport and Airway Improvement Act of 1982, (49 U.S.C. § 47123), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 *et seq.*).

Based on binding Supreme Court precedent and these Federal laws, DOT is prohibited from discriminating based on race, color, national origin, sex, or religion in any of its programs or activities. Moreover, because DOT may not establish, induce, or endorse prohibited discrimination indirectly,¹ it must ensure that discrimination based on race, color, national origin, sex, or religion does not exist in the programs or activities it funds or financially assists.

These same principles apply to recipients of Federal financial assistance from DOT, as both a matter of Federal law and by virtue of contractual provisions governing receipt of DOT funding. Accordingly, DOT recipients are prohibited from engaging in discriminatory actions in their own policies, programs, and activities, including in administering contracts, and their employment practices.

Whether or not described in neutral terms, any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve so-called “diversity, equity, and inclusion,” or “DEI,” goals, presumptively violates Federal law. Recipients of DOT financial assistance must ensure that the personnel practices (including hiring, promotions, and terminations) within their organizations are merit-based and do not discriminate based on prohibited categories. Recipients are also precluded from allocating money received under DOT awards—such as through contracts or the provision of other benefits—based on suspect classifications. Any discriminatory actions in your policies, programs, and activities based on prohibited categories constitute a clear violation of Federal law and the terms of your grant agreements.

In addition, your legal obligations require cooperation generally with Federal authorities in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law. DOT has noted reported instances where some recipients of Federal financial assistance have declined to cooperate with ICE investigations, have issued driver’s licenses to individuals present in the United States in violation of Federal immigration law, or have otherwise acted in a manner that impedes Federal law enforcement. Such actions undermine Federal sovereignty in the enforcement of immigration law, compromise the safety and security of the transportation systems supported by DOT

¹ See *SFFA*, 600 U.S. at 230; *Norwood v. Harrison*, 413 U.S. 455, 465 (1973).

financial assistance, and prioritize illegal aliens over the safety and welfare of the American people whose Federal taxes fund DOT's financial assistance programs.

Under the Constitution, Federal law is "the supreme Law of the Land." U.S. Const. Art. VI. That means that where Federal and State legal requirements conflict, States and State entities must follow Federal law. Declining to cooperate with the enforcement of Federal immigration law or otherwise taking action intended to shield illegal aliens from ICE detection contravenes Federal law and may give rise to civil and criminal liability. *See* 8 U.S.C. § 1324 and 8 U.S.C. § 1373. Accordingly, DOT expects its recipients to comply with Federal law enforcement directives and to cooperate with Federal officials in the enforcement of Federal immigration law. The Department also expects its recipients to ensure that the Federal financial assistance they receive from DOT is provided only to subrecipients, businesses, or service providers that are U.S. Citizens or U.S. Nationals and Lawful Permanent Residents (LPRs) or legal entities allowed to do business in the U.S. and which do not employ illegal aliens.

This letter provides notice of the Department's existing interpretation of Federal law. The Department will vigorously enforce the law on equal terms as to all its recipients and intends to take appropriate measures to assess their compliance based on the interpretation of Federal law set forth in this letter. Adherence to your legal obligations is a prerequisite for receipt of DOT financial assistance. Noncompliance with applicable Federal laws, or failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize your continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT.

The Department retains authority, pursuant to its oversight responsibilities and the terms of your agreements, to initiate enforcement actions, such as comprehensive audits and possible recovery of funds expended in a manner contrary to the terms of the funding agreement. DOT may also terminate funding in response to substantiated breaches of the terms of the agreement, or if DOT determines that continued funding is no longer in the public interest. These steps, within DOT's discretion, are intended to ensure accountability and protect the integrity of Federal programs.

To assist grant recipients in meeting their legal obligations, DOT offers technical guidance and support through its program offices. Should you require clarification regarding your obligations, you are encouraged to contact your designated DOT representative promptly. Proactive engagement is strongly advised to prevent inadvertent noncompliance.

DOT remains committed to advancing a transportation system that serves the public interest efficiently and unleashes economic prosperity and a superior quality of life for American families. This mission depends upon your strict adherence to the legal framework governing our partnership, and I trust you will take all necessary steps to comply with Federal law and satisfy your legal obligations.

Sincerely,

A handwritten signature in black ink, appearing to read 'S.P. Duffy', with a stylized flourish at the end.

Sean P. Duffy

Attachment 4
Attorney General Memorandum



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

May 19, 2025

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

FROM: THE DEPUTY ATTORNEY GENERAL *For Blanche*
SUBJECT: Civil Rights Fraud Initiative

Under Attorney General Bondi's leadership, "[t]he Department of Justice is committed to enforcing federal civil rights laws and ensuring equal protection under the law." Attorney General Memorandum, *Ending Illegal DEI and DEIA Discrimination and Preferences* (Feb. 5, 2025). One of the most effective ways to accomplish this objective is through vigorous enforcement of the False Claims Act, 31 U.S.C. § 3729 et seq., against those who defraud the United States by taking its money while knowingly violating civil rights laws.

The False Claims Act is the Justice Department's primary weapon against government fraud, waste, and abuse. Liability results in treble damages and significant penalties. It is implicated when a federal contractor or recipient of federal funds knowingly violates civil rights laws—including but not limited to Title IV, Title VI, and Title IX, of the Civil Rights Act of 1964—and falsely certifies compliance with such laws. Accordingly, a university that accepts federal funds 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. Colleges and universities cannot accept federal funds while discriminating against their students.

The False Claims Act is also implicated whenever federal-funding recipients or contractors 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. While racial discrimination has always been illegal, the prohibition on such policies became clear after the Supreme Court stated that "[e]liminating racial discrimination means eliminating all of it." *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181, 205 (2023).

President Trump reinforced that principle in Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, 90 Fed. Reg. 8633 (Jan. 21, 2025), explaining that racist policies “violate the text and spirit of our long-standing Federal civil-rights laws.” Nevertheless, many corporations and schools continue to adhere to racist policies and preferences—albeit camouflaged with cosmetic changes that disguise their discriminatory nature.

The federal government should not subsidize unlawful discrimination. To that end, I am standing up the Civil Rights Fraud Initiative. This Initiative will utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws. This Initiative will be co-led by the Civil Division’s Fraud Section, which enforces the False Claims Act, and the Civil Rights Division, which enforces civil rights laws. Each division will identify a team of attorneys to aggressively pursue this work together. Each of the 93 United States Attorney’s Offices will identify an Assistant United States Attorney to advance these efforts.

To ensure a comprehensive approach, the Civil Fraud Section and the Civil Rights Division will engage in regular coordination meetings and share relevant information about potential violations. The Civil Fraud Section and the Civil Rights Division will also engage with the Criminal Division, as well as with other federal agencies that enforce civil rights requirements for federal funding recipients, including the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Labor. The Civil Fraud Section and the Civil Rights Division will also establish partnerships with state attorneys general and local law enforcement to share information and coordinate enforcement actions.

The Department recognizes that it alone cannot identify every instance of civil rights fraud. Congress likewise has recognized as much and, as a result, has authorized private parties to protect the public interest by filing lawsuits and litigating claims under the False Claims Act—and, if successful, sharing in any monetary recovery. *See* 31 U.S.C. § 3730. The Department strongly encourages these lawsuits. The Department also encourages anyone with knowledge of discrimination by federal-funding recipients to report that information to the appropriate federal authorities so that the Department may consider the information and take any appropriate action. Please visit <https://www.justice.gov/civil/report-fraud> for more information.