

August 4, 2025

## **CLIENT ALERT**

### **Department of Justice's DEI Guidance for Recipients of Federal Funding**

On July 29, 2025, the U.S. Department of Justice ("DOJ") issued new guidance for recipients of federal funding, including educational institutions, state and local governments, and public and private employers, regarding potentially "discriminatory practices" in the operation of Diversity, Equity, and Inclusion ("DEI") programs. The guidance outlines the DOJ's legal position that the use of preferences based on "race, color, national origin, sex, religious or other protected characteristics," in decisions involving scholarships, employment, allocation of resources, training, and other programs, are unlawfully discriminatory, with limited exceptions.

#### **Key Takeaways:**

- **Non-Binding Best Practices:** The DOJ guidance suggests best practices to help organizations avoid legal risk; these best practices are advisory and not mandatory.
- **Contracting Guidance:** The DOJ recommends including "explicit nondiscrimination clauses in grant agreements, contracts, [and] partnership agreements," and monitoring third-party compliance when federal funds are involved.
- **Use of Protected Characteristics:** Decisions involving hiring, admissions, or resource allocation based on protected characteristics may violate federal law, unless the decisions meet "very narrow exceptions."
- **Enforcement Warning:** Violations of federal antidiscrimination laws may lead to enforcement actions, including revocation of federal funding.

**Read the full DOJ memo:** [Memo from Attorney General Bondi: Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination](#)

#### **How Can We Help?**

If you have any questions on the new DOJ guidance, please let us know. We would be more than happy to help.

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