



Understanding the Regulatory Environment Admissions & Campus Climate

Your Presenters



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Topics

1. Big priorities and recent settlements
2. Readyng for investigation
3. Data best practices
4. Telling your story



What are the big priorities we're
seeing from this administration
for higher ed?

Highlighted Risk Areas

- Federal agencies interpret *Students for Fair Admissions v. Harvard* (2023) to extend beyond admissions to other university operations.
- Any university practice that discriminates on the basis on race, sex, color, national origin, or religion—e.g., scholarships, special programs, faculty hiring, training and promotion, and procurement activities—may violate federal anti-discrimination laws.
- Discriminatory practices may include those labeled as Diversity, Equity, and Inclusion (“DEI”).
- Universities with DEI programs and activities face heightened scrutiny, including significant risk of both civil and criminal investigations.
- Federal authorities may also withhold, delay, or freeze grants and contracts as an enforcement mechanism against universities.
- Universities face increasing risks of *qui tam* actions, private litigation, and other forms of whistleblowing.

Executive Orders: Highlights

EO 14151 (Ending Radical and Wasteful Government DEI Programs and Preferencing)

Requires agencies to terminate all DEI-related programs, positions, contracts, grants, and performance requirements.

January 20, 2025

EO 14168 (Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government)

Directs agencies to enforce sex-based distinctions; prohibits federal funding of programs that promote gender ideology.

January 20, 2025

EO 14173 (Ending Illegal Discrimination and Restoring Merit-Based Opportunity)

Requires federal contractors and grant recipients to certify that they do not operate unlawful DEI programs; directs DOJ and ED to issue guidance on SFFA compliance.

January 21, 2025

EO 14181 (Reforming Accreditation to Strengthen Higher Education)

Directs agencies to enforce anti-discrimination laws in higher education, including investigation of DEI programs and requirements.

April 23, 2025

What are some of the key outcomes of the settlements in higher ed?

Highlighted Resolutions

Columbia – \$221 million settlement to resolve investigations and restore federal funding. Establishes 3-year monitorship and semi-annual compliance reporting obligations.

Brown – \$50 million settlement to resolve investigations and restore federal funding. Provides monitoring rights to HHS OCR and ED OCR.

UVA – Agreement to hold investigations in abeyance and maintain funding eligibility. Requires quarterly compliance reports to DOJ Civil Rights and President-level certifications.

Cornell – \$60 million settlement to resolve investigations and restore federal funding. Requires quarterly admissions data reporting and President-level certifications.

Northwestern – \$75 million settlement to resolve investigations and restore federal funding. Requires quarterly reporting to DOJ Civil Rights and President-level certifications.

What can institutions expect during the investigations process?

Investigation Life Cycle

1

Scoping
&
Planning

2

Collecting
&
Preserving
Data /
Evidence

3

Fact Finding

4

Reporting

5

Remediation

How should institutions review and ready their data for the admissions process?

Data Considerations

- Consider all admissions data from all programs
 - Undergraduate, medical school, law school, other graduate programs
 - Centralize and standardize admissions data when possible
- Applicant demographic data
 - Require applicant demographic data
 - Use IPEDS definitions for race and ethnicity or be prepared to convert
 - Consider converting sex and gender fields to a single field (man, woman, other, not provided)
- Use automated systems to reduce subjective criteria to objective scores
 - Essay quality
 - Extracurricular activities
- Avoid using free-form text fields when possible
- Standardize high school GPAs for undergraduate applicants

Starting Data Analysis

- Questions your data could answer:
 - Does your acceptance rate by race or ethnicity change after SFFA?
 - Is academic rigor increasing in admissions?
 - Increasing average GPA
 - Increasing standardized test scores
 - Increasing AP tests and scores
 - For state schools – are in-state students given preference in accordance with state law?
- Analyze data over time—at least five years—to show before SFFA and after SFFA trends
 - Consider impacts of changes made to admissions process over this period

How can an institution communicate its story effectively if approached by the DOJ? Why are some institutions reaching more favorable settlement terms than others?

For those institutions that find themselves in a monitorship, what are the objectives and potential outcomes of the monitorship?

Preparing for Evolving Risks

- Have a plan
 - Investigations Playbook
 - Drills/mock internal investigations
- Focus on Compliance programs – Government always evaluates
 - Voluntary disclosure / Incentives for cooperation
 - Incentives for effective compliance programs & remediation
- Other



Contact

Thank you!

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