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Litigation Update

Federal Litigation and Enforcement Trends for Colleges and Universities Part 1: Core Federal Enforcement Risks

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Colleges and universities — public and private alike — face an increasingly rigorous federal enforcement landscape. Agencies are closely scrutinizing how institutions administer federal funds, oversee research, conduct internal investigations, and structure governance and compliance programs. At the same time, enforcement authorities are advancing theories that transform regulatory noncompliance and governance gaps into civil and administrative exposure.

This alert is the first in a three-part series examining federal litigation and enforcement risks for higher education institutions. Part 1 addresses core federal enforcement priorities — including a focus on the False Claims Act, investigations related to civil rights and Title IX, and scrutiny on research compliance — as well as the growing prevalence of parallel proceedings. Part 2 will examine downstream litigation exposure, including athletics and Name, Image and Likeness (NIL) related claims, cybersecurity and data privacy litigation, whistleblower actions and practical mitigation strategies. Part 3 will analyze the Federal Trade Commission's evolving jurisdictional reach over nonprofit institutions, including the agency's increasing focus on data security standards and the extent to which modern university operations may be viewed as commercial in nature.

I. Federal Funding, False Claims Act and Grant Compliance Enforcement

DOJ enforcement demonstrates a clear focus on applying the FCA to institutional noncompliance with federal funding requirements, even where traditional fraud is not alleged. In higher education, this applies across Title IV student aid programs and federally funded research, with DOJ targeting certifications, disclosures and internal controls rather than individual transactions.

DOJ and relators have pursued theories that allege falsity in program participation agreements or ongoing eligibility certifications. Institutions can be exposed when they continue drawing federal funds while audits, program reviews or internal assessments identify significant compliance deficiencies. Under these theories, continued participation can be treated as an implied representation of compliance, making claims submitted during periods of known noncompliance potentially actionable.

We have seen DOJ pursue similar approaches in other sectors — including healthcare, defense contracting and financial services — filing FCA cases against entities that certified compliance while internal reviews revealed systemic control gaps. Across industries, DOJ emphasizes that institutional knowledge of compliance risk, rather than isolated fraudulent acts, can trigger FCA liability. This

underscores the need for universities to maintain contemporaneous documentation, such as audit reports, internal correspondence and risk assessments, and to remediate deficiencies promptly.

Federal research enforcement matters further illustrate these principles. In at least [one publicly reported matter](#), a major public university resolved FCA allegations arising from asserted failures to disclose certain foreign research affiliations and conflicts of interest in connection with federally funded grants, as well as alleged deficiencies in research compliance oversight and internal controls. The government's theory focused not on fabricated data or improper billing, but on whether the institution's grant-related certifications and compliance representations were accurate in light of information known to university personnel. The resolution underscores how disclosure lapses and control weaknesses — particularly in the research integrity and foreign influence context — can form the basis for FCA exposure even absent traditional indicia of fraud.

II. Federal Civil Rights and Title IX Enforcement in Higher Education

Civil rights enforcement in colleges has shifted from reactive, complaint-driven investigations to systemic, institution-focused oversight. The Department of Education (ED) and DOJ hold institutions accountable for policies or practices that systemically disadvantage students on the basis of sex.

A key tool is the Title IX Special Investigations Team (SIT), a joint ED-DOJ initiative designed to conduct rapid, coordinated investigations into institutional compliance. While the SIT addresses a range of sex discrimination issues, its primary focus in higher education is on policies and programs affecting female students, including athletics participation, access to facilities and grievance procedures.

Enforcement is institutional rather than individual. Investigations target systemic compliance failures, such as inconsistent athletic eligibility policies, incomplete implementation of student program guidance or gaps in grievance procedures. Federal scrutiny evaluates whether colleges maintain robust, uniform policies, adequate oversight and comprehensive documentation. Weak or inconsistent practices can result in corrective actions, formal enforcement proceedings or even the loss of federal funding.

Private litigation often mirrors these federal priorities. Claims alleging systemic mishandling of complaints or inconsistent application of policies highlight the convergence between federal enforcement and civil litigation risk. Together, these trends underscore that colleges must focus on enterprise-wide governance, policy review and documentation to manage institutional risk.

III. Research Integrity, Export Controls and Foreign Threat Mitigation

Universities' federally funded research programs are under heightened scrutiny due to executive branch policies aimed at mitigating foreign influence and national security risks. Institutions must proactively identify and manage risks related to foreign government funding, collaborations or researcher affiliations.

Recent enforcement activity includes publicly reported settlements involving allegations that universities failed to disclose certain foreign funding and research affiliations in connection with federally sponsored grants, as well as [investigations scrutinizing institutional oversight](#) of international collaborations. These matters reflect the government's position that research compliance risk is fundamentally institutional — implicating governance structures, disclosure systems and internal controls — rather than confined to the conduct of individual researchers.

Federal guidance directs universities to implement enterprise-wide monitoring of funding sources, collaborations and foreign affiliations, alongside cybersecurity measures to protect research infrastructure. Noncompliance can affect grant eligibility and trigger enforcement scrutiny. In practical terms, universities must treat research risk management as a core institutional responsibility, integrating oversight into compliance programs and senior leadership review.

Key Takeaways for Universities

Federal enforcement is intensifying, and parallel proceedings mean a single compliance issue can trigger overlapping FCA investigations, civil rights actions and private litigation. Colleges can stay ahead by strengthening governance, standardizing policies and rigorously documenting compliance.

- **FCA exposure is expanding.** Universities must strengthen internal controls, certifications and documentation for Title IV and federally funded research programs.
- **Civil rights enforcement focuses on systemic compliance.** Institutions should ensure policies are consistently applied, supported by training, and documented.
- **Research compliance and foreign risk remain priorities.** Universities must monitor funding, collaborations and affiliations that could pose national security concerns.
- **Parallel investigations are common.** Enterprise-level governance, cross-functional coordination and thorough documentation help manage simultaneous federal, whistleblower and private actions.
- **Proactive remediation and documentation are essential.** Contemporaneous records of risk assessments, corrective actions and oversight demonstrate institutional diligence and mitigate exposure.

Universities that integrate these lessons into compliance programs, audits and governance reviews will be better positioned to manage evolving enforcement risks. Part 2 of this series will examine downstream litigation exposure, including athletics and NIL-related claims, cybersecurity and data privacy litigation, whistleblower actions and practical strategies for mitigating risk once enforcement scrutiny begins.



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