

# New Guidance for Federally Funded Entities Regarding Discrimination

A Practical Guidance® Article by Gymmel Trembly, Vedder Price



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On July 29, 2025, Attorney General Pam Bondi, published a [memorandum](#) (the “Memo”) to all federal agencies providing guidance on how recipients of federal funds can prevent unlawful discrimination. The Memo offers insight into the Department of Justice’s broad legal interpretation of existing federal anti-discrimination protections and its enforcement priorities. The following non-exhaustive list highlights what the Memo deems as potentially unlawful discriminatory practices by federally funded entities.

## Preferential Treatment Based on Protected Characteristics

- **Race-exclusive scholarships or programs.** Programs establishing scholarships for specific racial groups or reserving spots in internships, mentorship programs, or leadership initiatives for racial groups.
- **Preferential hiring or promotion practices.** Policies that prioritize admitting, hiring, or promoting “underrepresented” individuals of a protected group and bypass qualified candidates who are not “underrepresented.”
- **Access to Facilities or Resources Based on Race or Ethnicity.** Initiatives designating a “safe space” or lounge exclusively for persons of a specific racial or ethnic group.

## Using Proxies to Provide Preferential Treatment

- **“Cultural Competence.”** Screening applicants based on “cultural competence,” “lived experience,” or “cross cultural skills,” to evaluate racial or ethnic backgrounds.
- **Geographic or Institutional Targeting.** Adopting recruitment strategies which target specific geographic areas, institutions, or organizations based on their racial or ethnic composition, not other legitimate factors.
- **Overcoming Obstacles” Narratives or “Diversity Statements.”** Requiring statements about diversity or obstacles an individual overcame to identify and advantage candidates with experiences inextricably tied to a specific racial or ethnic groups.

## Segregation Based on Protected Characteristics

- **Raced-Based Trainings.** Separating training participants by race for specific sessions.
- **Segregating Facilities or Resources.** Designating spaces for use by specific groups based on protected characteristics (such as “BIPOC-only”), even if the space is technically open to all. (Inapplicable to singles sex facilities segregated based on biological sex to protect privacy/safety).
- **Race-Based “Diverse Slate” Policies in Hiring.** Requiring interviewees to be from a specific racial group, setting racial benchmarks or mandating demographic representation in candidate pools.
- **Sex-Based Selection for Contracts.** Implementing a policy prioritizing contract awards to women- or minority owned businesses.

## DEI Training Programs

- **Trainings that Promote Discrimination Based on Protected Characteristic.** Requiring training that includes statements stereotyping individuals based on protected characteristics, such as “all white people are inherently privileged” and “toxic masculinity.”

To assist with compliance, the Memo suggests creating programing that focuses on skills and qualifications and discontinuing those designed to achieve influence representation in certain demographics; eliminating diversity quotas; and establishing strong anti-retaliation procedures and practices. Employers, among other institutions receiving federal funds, whose programs do not comply with federal anti-discrimination laws or who knowingly fund a third party's unlawful program or practice may lose grant funding and face other legal consequences.

Entities receiving federal funds should evaluate their existing policies and practices to evaluate compliance with the guidelines outlined in the Memo.

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- [Trump Transition Resource Kit](#)

### State Law Surveys & Regulatory Trackers

- [Trump Administration Higher Education and Select Other Institutions Federal Grant Reductions Tracker](#)

### Statutes & Regulations

- [Memorandum for All Federal Agencies from Pam Bondi, Atty. General, Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination \(July 29, 2025\)](#)

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Ms. Trembly focuses her practice on representing private and public employers in litigation matters including claims of discrimination, harassment, retaliation and wage and hour issues.

Beyond litigation, Ms. Trembly helps California employers navigate federal, state, and local employment laws to ensure compliance and minimize risk. She advises employers on all aspects of labor and employment law, including employee discipline, accommodations, and union-related issues such as collective bargaining, grievance arbitration and unfair labor practice charges.

Ms. Trembly frequently conducts trainings and participates in seminars on employment law developments and best practices. As a fluent Spanish speaker, Ms. Trembly works closely with California employers managing predominantly Spanish-speaking workforces, offering tailored workplace training.

Ms. Trembly was recognized as a 2024 Rising Star by *Super Lawyers*.

Outside of her legal practice, Mr. Trembly is deeply committed to community service. She serves as Board Chair of the Sonoma County Secure Families Collaborative, leading efforts to provide free legal defense and social services to immigrant families in Sonoma County.

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