

From: "Schilling, Nicholas (OLP)" <(b) (6)>
To: "Weekly Leadership Reports (ODAG)" <(b) (6)>
Cc: "Fox, Jordan (ODAG)" <(b) (6)>, "Jag, Rachel (ODAG)" <(b) (6)>, "Nieves, Brian (ODAG)" <(b) (6)>, "Day, Sean C. (OAG)" <(b) (6)>

Subject: OLP Weekly Component Chart for ODAG - May 8, 2025

Date: Thu, 08 May 2025 22:03:33 -0400

Importance: Normal

Attachments: 2025.05.08_Final_Weekly_Leadership_Report_-_OLP.pdf

Good evening,

Attached is OLP's weekly component chart.

Nicholas Schilling Jr.

U.S. Department of Justice

Office of Legal Policy, Chief of Staff

(b) (6)

Cell: (b) (6)

OLP 5/8/2025	Weekly Component Chart <i>Internal / FOUO</i>
Date Occurred or Expected	Items to Report

Removed per scoping agreement

5/8/2025 and 5/13/2025	Collecting Data for President Trump's EO 14281, <i>Restoring Equality of Opportunity and Meritocracy</i>: OLP is gathering responsive information from DOJ components and Executive Branch agencies on disparate-impact liability regulations and state laws; OLP plans to submit report next week; deadline to transmit to President is 5/23/2025
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Removed per scoping agreement

From: "Schilling, Nicholas (OLP)" <(b) (6)>
To: "Day, Sean C. (OAG)" <(b) (6)>, "Jag, Rachel (ODAG)" <(b) (6)>, "Nieves, Brian (ODAG)" <(b) (6)>, "Bhirud, Ketan (ODAG)" <(b) (6)>, "Gamble, Nathaniel (ODAG)" <(b) (6)>, "Harwood, Stacy (OAG)" <(b) (6)>
Cc: "Haviland, Aaron (OLP)" <(b) (6)>
Subject: EO 14281 Report Due to WH 5/23 - ECATS-2025-379101
Date: Thu, 15 May 2025 12:32:24 -0400
Importance: Normal
Attachments: EO_14281_-_Action_Memo_-_05.15.2025_(reitz_sig).pdf; EO_14281_-_Report_-_Final_05.15.2025.pdf; EO_14281_-_Appendix_A_-_Final_05.15.2025.pdf; EO_14281_-_AG_Transmittal_-_Final_05.15.2025.docx; EO_14281_Restoring_Equality_of_Opportunity_and_Meritocracy_90_FR_17537.pdf; EO_14281_-_Report_-_Final_05.15.2025.docx

All,

For your awareness, OLP submitted a package into ECATS this morning, which contained the Department's initial response to EO 14281, *Restoring Equality of Opportunity and Meritocracy*. The Department's deadline to submit the report to the President is Friday, May 23. This report relates to Section 5, which directed the Attorney General, within thirty days of the EO, to report to the President through the Assistant to the President for Domestic Policy all regulations, guidance, rules, or orders that impose disparate-impact liability as well as state laws that impose the same.

Attached for your convenience are:

1. The action memo
2. The report (in PDF and Word formats)
3. Appendix A to the report, which lists the regulations, guidance, rules, or orders identified by other agencies.
4. A draft transmittal letter for OAG to review and for the AG to sign
5. The EO

Thank you for your attention to this matter,

Nicholas Schilling Jr.
U.S. Department of Justice
Office of Legal Policy, Chief of Staff
(b) (6)
Cell: (b) (6)



U.S. Department of Justice

Office of Legal Policy

Washington, D.C. 20530

May 15, 2025

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

FROM: Aaron Reitz
Assistant Attorney General

AARON
REITZ

Digitally signed by
AARON REITZ
Date: 2025.05.15
10:58:54 -04'00'

SUBJECT: Proposed Justice Department Report Pursuant to Executive Order (EO) 14281, *Restoring Equality of Opportunity and Meritocracy*

PURPOSE: To review and approve the “Ending Disparate-Impact Liability” report, which will be submitted to the President, through the Assistant to the President for Domestic Policy, in accordance with EO 14281.

AG DECISION REQUESTED BY: EXPEDITED—THURSDAY, MAY 22

REQUIRED DUE DATE: The proposed report must be transmitted to the President through the Assistant to the President for Domestic Policy by Friday, May 23, as required by EO 14281.

EXECUTIVE SUMMARY: President Trump issued EO 14281, *Restoring Equality of Opportunity and Meritocracy*, on April 23, 2025, attached. In Section 5(b) of the EO, the President directed the Attorney General to submit a report to him, through the Assistant to the President for Domestic Policy, discussing: “(i) all existing regulations, guidance, rules, or orders that impose disparate-impact liability or similar requirements, and detail agency steps for their amendment or repeal, as appropriate under applicable law; and (ii) other laws or decisions, including at the State level, that impose disparate-impact liability and any appropriate measures to address any constitutional or other legal infirmities.” The Office of Legal Policy (OLP) drafted the report in conference with the Civil Rights Division, as well as with multiple entities inside and outside the Department. OLP now presents to you a proposed report for your review and approval.

DISCUSSION AND TIMELINE:

Date	Action
Apr. 25	OLP tasked with leading the drafting effort of the report required by Section 5(b) of the EO.
Apr. 28	OLP emailed the following agencies and Department of Justice components instructing them to review all their regulations and guidance documents, determine whether they satisfy the criteria of EO § 5(b), and report their findings to OLP by May 8: - Department of Agriculture (USDA)

#2074.1

Subject: Proposed Justice Department Report Pursuant to Executive Order (EO) 14281, *Restoring Equality of Opportunity and Meritocracy*

Date	Action
	- Department of Commerce (DOC) - Department of Defense (DOD) - Department of Education (ED) - Department of Energy (DOE) - Department of Health and Human Services (HHS) - Department of Homeland Security (DHS) - Department of Housing and Urban Development (HUD) - Department of the Interior (DOI) - Department of Labor (DOL) - Department of States (DOS) - Department of Transportation (DOT) - Department of the Treasury (Treasury) - Department of Veterans Affairs (VA) - Consumer Financial Protection Bureau (CFPB) - Environmental Protection Agency (EPA) - Equal Employment Opportunity Commission (EEOC) - Federal Trade Commission (FTC) - General Services Administration (GSA) - Small Business Administration (SBA) - Department of Justice Antitrust Division (ATR) - Department of Justice Civil Division (CIV) - Department of Justice Criminal Division (CRM) - Department of Justice Civil Rights Division (CRT) - Department of Justice Energy and Natural Resources Division (ENRD) - Department of Justice Executive Office of U.S. Attorneys (EOUSA) - Department of Justice Federal Bureau of Investigation (FBI) - Department of Justice Office of Access to Justice (OAJ) - Department of Justice Office of Community Oriented Policing Services (COPS) - Department of Justice Office of Justice Programs (OJP) - Department of Justice Office of Violence Against Women (OVW)
May 8–14	Most of the above components and agencies provided inputs responsive to Section 5(b) of the EO. (b) (5)
May 14	OLP provided the first draft of proposed report to the Office of the Deputy Attorney General (ODAG).

CONSULTATION: ATR, CIV, CRM, CRT, ENRD, EOUSA, FBI, OAJ, COPS, OJP, OVW.

Subject: Proposed Justice Department Report Pursuant to Executive Order (EO) 14281, *Restoring Equality of Opportunity and Meritocracy*

OTHER STAKEHOLDERS: USDA, DOC, DOD, ED, DOE, HHS, DHS, HUD, DOI, DOL, DOS, DOT, Treasury, VA, CFPB EPA, EEOC, FTC, GSA, SBA.

RECOMMENDATION: OLP recommends that you approve the proposed report and route it, along with the transmittal cover letter, to the President, through the Assistant to the President for Domestic Policy, no later than May 23.

Subject: Proposed Justice Department Report Pursuant to Executive Order (EO) 14281, *Restoring Equality of Opportunity and Meritocracy*

APPROVE: _____

Concurring Component(s):

n/a

Non-Concurring Component(s):

n/a

DISAPPROVE: _____

OTHER: _____

Attachment(s)

- Executive Order 14281, *Restoring Equality of Opportunity and Meritocracy* (Apr. 26, 2025).
- Draft proposed report, *Ending Disparate-Impact Liability*.
- List of existing rules, guidance, rules, or orders that impose disparate-impact liability or similar requirements. These items are responsive to Section 5(b) of the EO and are referred to as Appendix A to the report.
- Draft transmittal letter from the Attorney General to the President, through the Assistant to the President for Domestic Policy.

Presidential Documents

Executive Order 14281 of April 23, 2025

Restoring Equality of Opportunity and Meritocracy

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.* A bedrock principle of the United States is that all citizens are treated equally under the law. This principle guarantees equality of opportunity, not equal outcomes. It promises that people are treated as individuals, not components of a particular race or group. It encourages meritocracy and a colorblind society, not race- or sex-based favoritism. Adherence to this principle is essential to creating opportunity, encouraging achievement, and sustaining the American Dream.

But a pernicious movement endangers this foundational principle, seeking to transform America's promise of equal opportunity into a divisive pursuit of results preordained by irrelevant immutable characteristics, regardless of individual strengths, effort, or achievement. A key tool of this movement is disparate-impact liability, which holds that a near insurmountable presumption of unlawful discrimination exists where there are any differences in outcomes in certain circumstances among different races, sexes, or similar groups, even if there is no facially discriminatory policy or practice or discriminatory intent involved, and even if everyone has an equal opportunity to succeed. Disparate-impact liability all but requires individuals and businesses to consider race and engage in racial balancing to avoid potentially crippling legal liability. It not only undermines our national values, but also runs contrary to equal protection under the law and, therefore, violates our Constitution.

On a practical level, disparate-impact liability has hindered businesses from making hiring and other employment decisions based on merit and skill, their needs, or the needs of their customers because of the specter that such a process might lead to disparate outcomes, and thus disparate-impact lawsuits. This has made it difficult, and in some cases impossible, for employers to use bona fide job-oriented evaluations when recruiting, which prevents job seekers from being paired with jobs to which their skills are most suited—in other words, it deprives them of opportunities for success. Because of disparate-impact liability, employers cannot act in the best interests of the job applicant, the employer, and the American public.

Disparate-impact liability imperils the effectiveness of civil rights laws by mandating, rather than proscribing, discrimination. As the Supreme Court put it, “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”

Disparate-impact liability is wholly inconsistent with the Constitution and threatens the commitment to merit and equality of opportunity that forms the foundation of the American Dream. Under my Administration, citizens will be treated equally before the law and as individuals, not consigned to a certain fate based on their immutable characteristics.

Sec. 2. *Policy.* It is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.

Sec. 3. *Revoking Certain Presidential Actions.* The following Presidential approvals of the regulations promulgated under 42 U.S.C. 2000d–1 are hereby revoked:

(a) the Presidential approval of July 25, 1966, of the Department of Justice Title VI regulations (31 *Fed. Reg.* 10269), as applied to 28 C.F.R. 42.104(b)(2) in full; and

(b) the Presidential approval of July 5, 1973, of the Department of Justice Title VI regulations (38 *Fed. Reg.* 17955, FR Doc. 73–13407), as applied to the words “or effect” in both places they appear in 28 C.F.R. 42.104(b)(3), and as applied to 28 C.F.R. 42.104(b)(6)(ii) and 28 C.F.R. 42.104(c)(2) in full.

Sec. 4. *Enforcement Discretion to Ensure Lawful Governance.* Given the limited enforcement resources of executive departments and agencies (agencies), the unlawfulness of disparate-impact liability, and the policy of this order, all agencies shall deprioritize enforcement of all statutes and regulations to the extent they include disparate-impact liability, including but not limited to 42 U.S.C. 2000e–2, 28 C.F.R. 42.104(b)(2)–(3), 28 C.F.R. 42.104(b)(6)(ii), and 28 C.F.R. 42.104(c)(2).

Sec. 5. *Existing Regulations.* (a) As delegated by Executive Order 12250 of November 2, 1980 (Leadership and Coordination of Nondiscrimination Laws), the Attorney General shall initiate appropriate action to repeal or amend the implementing regulations for Title VI of the Civil Rights Act of 1964 for all agencies to the extent they contemplate disparate-impact liability.

(b) Within 30 days of the date of this order, the Attorney General, in coordination with the heads of all other agencies, shall report to the President, through the Assistant to the President for Domestic Policy:

(i) all existing regulations, guidance, rules, or orders that impose disparate-impact liability or similar requirements, and detail agency steps for their amendment or repeal, as appropriate under applicable law; and

(ii) other laws or decisions, including at the State level, that impose disparate-impact liability and any appropriate measures to address any constitutional or other legal infirmities.

Sec. 6. *Review of Current Matters.* (a) Within 45 days of the date of this order, the Attorney General and the Chair of the Equal Employment Opportunity Commission shall assess all pending investigations, civil suits, or positions taken in ongoing matters under every Federal civil rights law within their respective jurisdictions, including Title VII of the Civil Rights Act of 1964, that rely on a theory of disparate-impact liability, and shall take appropriate action with respect to such matters consistent with the policy of this order.

(b) Within 45 days of the date of this order, the Attorney General, the Secretary of Housing and Urban Development, the Director of the Consumer Financial Protection Bureau, the Chair of the Federal Trade Commission, and the heads of other agencies responsible for enforcement of the Equal Credit Opportunity Act (Public Law 93–495), Title VIII of the Civil Rights Act of 1964 (the Fair Housing Act (Public Law 90–284, as amended)), or laws prohibiting unfair, deceptive, or abusive acts or practices shall evaluate all pending proceedings that rely on theories of disparate-impact liability and take appropriate action with respect to such matters consistent with the policy of this order.

(c) Within 90 days of the date of this order, all agencies shall evaluate existing consent judgments and permanent injunctions that rely on theories of disparate-impact liability and take appropriate action with respect to such matters consistent with the policy of this order.

Sec. 7. *Future Agency Action.* (a) In coordination with other agencies, the Attorney General shall determine whether any Federal authorities preempt State laws, regulations, policies, or practices that impose disparate-impact liability based on a federally protected characteristic such as race, sex,

or age, or whether such laws, regulations, policies, or practices have constitutional infirmities that warrant Federal action, and shall take appropriate measures consistent with the policy of this order.

(b) The Attorney General and the Chair of the Equal Employment Opportunity Commission shall jointly formulate and issue guidance or technical assistance to employers regarding appropriate methods to promote equal access to employment regardless of whether an applicant has a college education, where appropriate.

Sec. 8. Severability. If any provision of this order, or the application of any provision to any individual or circumstance, is held to be invalid, the remainder of this order and the application of its other provisions to any other individuals or circumstances shall not be affected thereby.

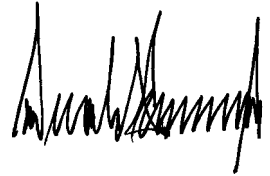
Sec. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

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

(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.



THE WHITE HOUSE,
April 23, 2025.

From: "Reitz, Aaron (OLP)" <(b) (6)>
To: (b)(6) Vincent Haley
Cc: (b)(6) Scott Centorino
(b)(6) Clark Milner, "Schilling, Nicholas (OLP)"
<(b) (6)>, "Mizelle, Chad (OAG)" <(b) (6)>,
"Fox, Jordan (ODAG)" <(b) (6)>, "Jag, Rachel (ODAG)"
<(b) (6)>, "Haviland, Aaron (OLP)" <(b) (6)>, "Day,
Sean C. (OAG)" <(b) (6)>

Subject: DOJ Report Responsive to Executive Order 14281 (Restoring Equality of Opportunity and Meritocracy)

Date: Fri, 23 May 2025 16:02:50 -0400

Importance: Normal

Attachments: Letter_to_the_President_-_EO_14281.pdf; EO_14281_-_Appendix_A.pdf; EO_14281_-_Report.pdf

Vince,

Attached is DOJ's report responsive to Section 4(b) of Executive Order 14281, *Restoring Equality of Opportunity and Meritocracy*. In it, we provide an overview of the regulations, guidance, rules, and orders that impose disparate-impact liability, as well as the steps for their amendment or repeal.

(b) (5)

Let me know if there is anything more you need from us.

Best,

Aaron F. Reitz
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
Work: (b) (6)
Cell: (b) (6)

From: "Milner, Clark EOP/WHO" <(b) (6)>
To: "Reitz, Aaron (OLP)" <(b) (6)>
Cc: "Centorino, Scott G. EOP/WHO" <(b) (6)>, "Schilling, Nicholas (OLP)" <(b) (6)>, "Mizelle, Chad (OAG)" <(b) (6)>, "Fox, Jordan (ODAG)" <(b) (6)>, "Jag, Rachel (ODAG)" <(b) (6)>, "Haviland, Aaron (OLP)" <(b) (6)>, "Day, Sean C. (OAG)" <(b) (6)>, "Haley, Vincent M. EOP/WHO" <(b) (6)>, "Hamilton, Gene EOP/WHO" <(b) (6)>, "Vaseliou, Thomas EOP/WHO" <(b) (6)>

Subject: [EXTERNAL] RE: DOJ Report Responsive to Executive Order 14281 (Restoring Equality of Opportunity and Meritocracy)

Date: Mon, 26 May 2025 09:20:43 -0400

Importance: Normal

Thanks, Aaron. This is great. The appendix will be extremely helpful in ensuring agencies follow through on implementation.

Clark

From: Reitz, Aaron (OLP) <(b) (6)>
Sent: Friday, May 23, 2025 4:03 PM
To: Haley, Vincent M. EOP/WHO <(b) (6)>
Cc: Centorino, Scott G. EOP/WHO <(b) (6)>; Milner, Clark EOP/WHO <(b) (6)>; Schilling, Nicholas (OLP) <(b) (6)>; Mizelle, Chad (OAG) <(b) (6)>; Fox, Jordan (ODAG) <(b) (6)>; Jag, Rachel (ODAG) <(b) (6)>; Haviland, Aaron (OLP) <(b) (6)>; Day, Sean C. (OAG) <(b) (6)>
Subject: DOJ Report Responsive to Executive Order 14281 (Restoring Equality of Opportunity and Meritocracy)

Duplicative Information - See Document ID #874.1