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July 31, 2026

Tony Evers
Governor, State of Wisconsin
115 East, State Capitol
Madison, WI 53702

Tammie DeVooght Blaney
Executive Secretary, State of Wisconsin Higher Educational Aids Board
P.O. Box 7885
Madison, WI 53707-7885

VIA EMAIL

Re: Illegality of Wisconsin Minority Teacher Loan Program

Dear Governor Evers and Executive Secretary DeVooght Blaney,

The Wisconsin Institute for Law & Liberty (WILL) is a nonprofit organization dedicated to advancing the public interest in the rule of law, individual liberty, and constitutional government. As part of that work, WILL is committed to promoting equality under the law, including by eliminating unlawful race discrimination.

In accordance with its mission, WILL is alerting you to the fact that the Wisconsin Minority Teacher Loan Program (the “MTL Program”) is unconstitutional, violating the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. The MTL Program is nearly identical to the race-based scholarship program recently struck down as unconstitutional in a unanimous ruling by the Wisconsin Supreme Court. We ask that you suspend the taxpayer-funded, unconstitutional MTL Program immediately.

I. The MTL Program is only made available to certain racial minorities.

HEAB administers the MTL Program, authorized by Wis. Stat. § 39.40 and further defined in § HEA 11.01 *et seq.* Through the MTL Program, the State of Wisconsin offers loans to students enrolled in an educational program leading to a teacher’s license in a discipline deemed a teacher shortage area in Wisconsin by the U.S. Department of Education.¹ According to HEAB guidance,² disciplines experiencing shortages for the upcoming 2026-2027 academic year include a wide range of important disciplines:

¹ *Wisconsin Minority Teacher Loan Program Information*, Wis. Higher Educ. Aids Board (last accessed July 31, 2026), [available here](#).

² *See id.*

<u>Standard Disciplines:</u>	<u>Special Education:</u>	<u>Career and Technology Education:</u>
English as a Second Language	Cognitive Disabilities	Business Education
Bilingual Education	Cross Categorical	Family and Consumer Education
Foreign Languages	Deaf and Hard of Hearing	Technology Education
Library Media	Early Childhood-Special Education	
Mathematics	Emotional/Behavioral Disorders	
Music	Learning Disabilities	
Reading	School Speech and Language	
Sciences	Disabilities	
	Visual Disabilities	

To qualify, a student must be a sophomore, junior, or senior undergraduate enrolled at least half-time at a University of Wisconsin System institution or a non-profit, independent college or university in Wisconsin.³ In addition, a qualifying student must have an overall GPA of 3.0 or above based on a 4.0 scale, be enrolled in a program that leads to a license in a qualifying “discipline identified as a teacher shortage area,” and agree to teach in a public or private elementary or secondary school, or a tribal school, in a Wisconsin school district with a 40% or higher minority student population.⁴

However, even if meeting all of these qualifications, a student is only eligible for the MTL Program if he or she also happens to be a member of a “minority population,” defined as a Black American, an American Indian or Alaskan native, a Hispanic,⁵ a person of Asian or Pacific Island origin, or a “person whose ancestry includes 2 or more races.”⁶ In other words, a white student with the qualifying GPA, year in school, and intention to teach in a school district with a 40% or higher minority student population is categorically disqualified. Similarly, a minority student not identifying with the closed list of ethnicities or origins is categorically disqualified. Notably, however, under the plain terms of Wis. Stat. § 39.40(1)(e), a student whose ancestry “includes 2 or more races”—even races not on the list—may qualify.

Qualifying students may receive loans of up to \$10,000 annually under the MTL Program for up to three years, for a total of \$30,000.⁷ After graduating, the HEAB forgives 25 percent of a loan and 25% interest on that loan for each school year, to the extent the recipient: (1) is employed full-time in a high-demand area related to the recipient’s discipline; (2) is employed at a qualifying school in which minority students constitute at least 40% of the membership; and (3) receives a qualifying performance rating at his or her employment.⁸ The MTL Program is

³ See Wis. Stat. § 39.40(2); *see also id.*

⁴ *See id.*

⁵ “Hispanic” is defined to include “a person of any race whose ancestors originated in Mexico, Puerto Rico, Cuba, Central America or South America or whose culture or origin is Spanish.” (citing Wis. Stat. § 16.287).

⁶ *See* Wis. Stat. § 39.40(1); *see also supra*, n. 1.

⁷ Wis. Stat. §§ 39.40(2m), (3).

⁸ *See* Wis. Stat. § 30.40(3). If a student does not meet these criteria, the recipient must repay the loan at a five percent interest rate, with such payments deposited into the general fund as general purpose revenue. *See* Wis. Stat. §§ 39.40(3)(a), (4).

subsidized by Wisconsin taxpayers, as the MTL Program is funded through state appropriations, pursuant to Wis. Stat. § 20.235(1)(cr).⁹

II. The MTL Program Violates the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

In a recent, unanimous ruling striking down the Wisconsin Minority Undergraduate Retention Grant (“MURG”) Program and its corresponding statute as unconstitutional, the Wisconsin Supreme Court reaffirmed that the Equal Protection Clause of the U.S. Constitution “requires all individuals to be treated equally without regard to one’s race, ancestry, origin, or ethnicity.” *Rabiebn v. Higher Educ. Aids Bd.*, 2026 WI 20, ¶ 23. As a result, any state program with racial classifications—such as the MTL Program—is “odious” and “inherently invidious, regardless of how benign or laudable” it may appear. *Id.* ¶ 24 (citations omitted). Any state program must therefore independently satisfy each of the rigorous equal protection standards outlined by the U.S. Supreme Court in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* (“*SFFA*”), 600 U.S. 181 (2023) and *Louisiana v. Callais*, 146 S. Ct. 1131 (2026).

In *SFFA*, the Court laid out five independent tests that a racial classification must survive to pass constitutional scrutiny. First, the government must identify one of two compelling governmental interests: “remediating specific, identified instances of past discrimination that violated the Constitution or a statute” or “avoiding imminent and serious risks to human safety in prisons, such as a race riot.” 600 U.S. at 207. Second, the program must be narrowly tailored and cannot rely on “imprecise,” “overbroad,” or “underinclusive” racial categories. *Id.* at 216–17. Third, race can never be used as a “negative.” *Id.* at 218–19. Fourth, race can never be used as a “stereotype.” *Id.* at 220–21. And fifth, all race-based programs must have a “logical end point.” *Id.* at 221–22. In *Callais*, earlier this year, the Supreme Court emphasized two additional requirements for a state institution to establish a compelling interest. First, the institution “must identify the specific instances of past discrimination that it aims to remediate, and in light of that specification, must determine the precise scope of the injury it seeks to remedy.” 146 S. Ct. at 1153 (citation omitted). “Second, after identifying the specific instance of discrimination, the institution that makes the racial distinction must have a strong basis in evidence to conclude that its remedial action is necessary.” *Id.* (citation omitted) (cleaned up).

Neither Wis. Stat. § 39.40, § HEA 11.01 *et seq.*, nor the online guidance issued by HEAB identify even *one* compelling government interest to support race-based criteria, let alone satisfy *all* independent tests set forth in *SFFA* and *Callais*. If anything, the race-based criteria imposed by the MTL Program thwarts Wisconsin’s ability to address the federally-designated “teacher shortage areas” identified in Wis. Stat. § 39.40(2)(bm) by limiting the financial aid incentive for future teachers in these crucial disciplines. While undoubtedly frustrating for otherwise-qualified teachers, it is arguably our K-12 students experiencing those shortages who suffer the most from this race-based barrier.

⁹ See Wis. Stat. § 39.40(3)(a) (citing Wis. Stat. § 20.235(1)(cr)).

The lack of any articulable compelling government interest is hardly surprising. As the Wisconsin Supreme Court recently reaffirmed, the U.S. Supreme Court has only “recognized two compelling interests justifying the governmental use of racial classifications”: (1) avoiding race riots in prisons; and (2) “remediating specific identified instances of government-sanctioned discrimination.” *See Rabiebna*, 2026 WI 20, ¶ 41. Neither applies in this instance. But even if a compelling interest was listed in the underlying statute, regulation, or agency guidance, the MTL Program still is unconstitutional, as it appears to rely on “imprecise,” “overbroad,” or “underinclusive” racial categories defining eligible minorities. *See SFFA*, 600 U.S. at 216–17. In addition, there does not appear to be any rationale for using race in the MTL Program as a “negative” or a “stereotype,” or any stated reason for why the MTL Program does not have a “logical end point.” *See id.* at 218, 221. As a result, since the MTL Program cannot even satisfy one—let alone all five—independent rationales, the MTL Program is unconstitutional.

III. Wisconsin Taxpayers Should Not Be Forced to Fund an Unconstitutional Program.

In addition to reaffirming that state programs with “odious” racial classifications are only justifiable by a compelling government interest, the Wisconsin Supreme Court also recently reaffirmed in *Rabiebna* that state taxpayers may challenge the illegal expenditures of public funds. This is because “[a]ny illegal expenditure of public funds . . . results either in the governmental unit having less money to spend for legitimate governmental objectives, or in the levy of additional taxes to make up for the loss resulting from the expenditure.” *Rabiebna*, 2026 WI 20, ¶ 18 (quoting *S.D. Realty Co. v. Sewerage Comm’n of City of Milwaukee*, 15 Wis. 2d 15, 21–23 (1961)).

The MTL Program is funded through state appropriations and is ripe for legal challenge by Wisconsin state taxpayers. Like the MTL Program, the MURG Program struck down weeks ago in *Rabiebna* was taxpayer-funded. Like the MTL Program, the MURG Program was administered under a state statute and with no identified compelling government interest. Like the MTL Program, the MURG Program was limited to only certain “minority” students, leaving otherwise-qualifying students ineligible solely due to their race, ethnicity, or national origin.

And to the extent the MTL program is truly meant to address teacher shortages in critical disciplines, it is troubling to many Wisconsinites that this taxpayer-supported financial incentive is only available to Wisconsin’s future teachers who happen to be of a particular race, ethnicity, or national origin. “Reading” is one such identified discipline facing a teacher shortage, and reading scores in Wisconsin continue to decline in the last several years—with Wisconsin reportedly now ranked 30th out of 35 states with data in post-COVID reading recovery between 2022 and 2025.¹⁰ Why is Wisconsin limiting this financial incentive for future teachers to pursue these critical disciplines only if they happen to be of a particular race, ethnicity, or national origin?

¹⁰ Corrinne Hess, *Wisconsin ranks 33rd in math and 30th in reading recovery among states*, Wis. Pub. Radio (May 13, 2026), [available here](#).

Is Wisconsin prioritizing abstract “diversity goals” above adequately staffing our state’s classrooms?

We urge the HEAB and the State of Wisconsin to immediately suspend, and then begin to terminate as appropriate, the MTL Program. To the extent no such action is taken on or before August 21, 2026, we anticipate that Wisconsin taxpayers will be forced to file a lawsuit to put an end to this unconstitutional program, which is akin to the program struck down in *Rabiebnna*. Not only do Wisconsin taxpayers deserve to have their hard-earned dollars go towards lawful aid programs, but students facing teacher shortages across a range of disciplines deserve better from our state government.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.



Daniel P. Lennington
Managing Vice President & Deputy Counsel



Rebecca C. Furdek
Deputy Counsel

cc: Wisconsin Attorney General Josh Kaul