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April 22, 2025

Via Email

Dr. Jill Underly
State Superintendent
Wisconsin Department of Public Instruction
201 West Washington Avenue
Madison, Wisconsin 53703

Re: DPI Should Immediately Certify its Commitment to Nondiscrimination

Dear Superintendent Underly:

We write to urge the Wisconsin Department of Public Instruction (DPI) to immediately reverse course and sign the certification form requested by the U.S. Department of Education (ED) confirming compliance with Title VI of the Civil Rights Act of 1964. DPI's stated refusal to submit this certification is not only legally unsound, but also an abdication of its duty to the students and school districts it should be supporting.

The "Request for Certification" is entirely reasonable. It arises under Executive Order (EO) 14190 which is entitled "Ending Radical Indoctrination in K-12 Schooling." EO 14190 was issued in January 2025 and directs federal agencies to withhold funding from K-12 schools that promote racially discriminatory "equity" ideologies and assess whether recipients of federal funds are complying with applicable non-discrimination statutes, including Title VI of the Civil Rights Act of 1964. Title VI is a bedrock of federal civil rights law. *See* 42 U.S.C. § 2000d. It prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin. Compliance with Title VI is not optional—it is a longstanding legal condition for receiving federal funds.

What ED is requesting is neither novel nor burdensome. It is a certification of compliance with existing civil rights law. It is a reminder of legal obligations and request for certification under Title VI and *SFFA v. Harvard*. Title VI assurances are already required by law as a condition of receiving federal funds. Refusal by DPI to sign the certification form places those funds in jeopardy—for seemingly political reasons.

DPI has stated that the certification process circumvents federal rulemaking and infringes on local control. This stated objection is unsupported by law or logic. ED is not creating new substantive obligations; it is merely confirming that

Wisconsin is following the law—something DPI and school districts are already required to do under existing federal statutes and regulations.

The intent behind Executive Order 14190, and the certification requirement, is straightforward. It seeks to ensure that public education focuses on student achievement, not radical ideology. DPI's refusal to cooperate with this lawful directive undermines that goal and threatens real harm to students across the state.

The Wisconsin Institute for Law & Liberty has recently documented multiple instances of Title VI violations in Wisconsin school districts, making federal oversight more, not less, urgent. Refusal by DPI to submit the certification form is particularly alarming in light of the instances of racial discrimination right here in our state.

In the Green Bay Area Public School District, a student with dyslexia was recently [denied access to reading interventions because he is white](#). He was denied essential learning supports due to a policy saying the school prioritizes additional help for students based on race. This is a textbook violation of Title VI.

In the Wauwatosa School District, the district [announced plans to shut down its high-performing charter school](#), Wauwatosa STEM, and two additional STEM programs and opportunities, because the student populations at these schools were too white. These actions demonstrate a willingness to sacrifice academic achievement for racial balancing, in clear violation of federal law.

These are not isolated nor are they hypothetical. They are real and recent, and they occurred under the supervision of DPI. In this context, DPI's refusal to confirm compliance with Title VI is not only indefensible, but also deeply troubling.

If DPI does not reverse course by April 24, more than half a billion dollars in federal education funding could be withheld. These funds include essential Title I dollars that support schools serving high percentages of low-income students. For some school districts and independent charter schools, federal funds make up more than 15% of their total budgets.

Loss of these funds would not be a minor disruption—it would be a crisis. Services for students with disabilities, English language learners, and low-income families would be slashed. School districts would be forced to cut staff, eliminate programs, and likely seek additional taxpayer support via referenda. The consequences of DPI's legal gamble will fall hardest on the students and families most in need.

DPI has spent years lobbying the Wisconsin Legislature for increased K–12 funding. It is therefore inexplicable that the agency would now take a position that

threatens existing funding, all for the sake of avoiding a basic certification of compliance with the law.

DPI's refusal to sign a Title VI certification is made even more problematic by its own conduct. The agency continues to promote race-conscious materials and programming that raise serious Title VI concerns. DPI cannot simultaneously claim that ED's certification request is overreaching, while also endorsing practices that may violate the very law in question. This contradiction only underscores the necessity of federal oversight and DPI's obligation to affirm its compliance.

This is not a political issue. It is a legal and moral one. DPI's refusal to submit the required Title VI certification violates its legal obligations and jeopardizes the futures of students across Wisconsin. DPI should immediately reverse course, submit the required certification, and publicly affirm a commitment to treating individuals in educational settings equally without regard to race.

Compliance with federal civil rights laws is not optional. Refusing to confirm that Wisconsin is following the law is unjustified and unacceptable. DPI should sign and submit the certification form by the April 24 deadline to prevent catastrophic consequences for Wisconsin schools and students.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.



Dan Lennington
Managing Vice President &
Deputy Counsel



Cory Brewer
Education Counsel

cc: Attorney Benjamin Jones (*via email*)