



EQUALITY UNDER *the* LAW

P R = J E C T



DefendEquality.org

Dear Friend,

The right of equality—that is, the requirement that the government treat all individuals equally under the law—is our most fundamental right. All other rights are subordinate. Think of it this way—if only some Americans enjoyed the freedom of speech, would we truly be free? If only some Americans could exercise their right to worship, would we still have a freedom of religion?

No, of course not. **Equality is the cornerstone of liberty.**

But every day we see government officials dividing us up by race with new programs or policies. It is what the Supreme Court calls a “sordid business.” And that’s a good description.

Every time the government hands out benefits or burdens based on race, it demeans us all. It undermines human dignity and signals that our value derives from membership in a certain preferred group, rather than as an individual created by God, endowed by Him with certain unalienable rights.

Racial discrimination will not die out by itself—it must be systemically dismantled through lawsuits and policy reforms. This is demanding work and it is expensive, but it is within reach.

Since 2021, WILL’s Equality Under the Law Project has been a national leader in the fight for equal treatment. We have achieved promising results to date, but there is more work that must be done.

We invite you to join us. To leave our children and grandchildren an America based on equality under the law, we must be vigilant and persistent defenders of equality.

With gratitude,



Dan Lennington
WILL Deputy Counsel &
Director of the Equality Under the Law Project



NATIONAL REVIEW

POLITICS & POLICY

The Racialized 'Equity' Agenda in Biden's Infrastructure Bill

By DAN LENNINGTON | August 5, 2021

The deal's plan to spend hard-earned tax dollars in the name of equity undermines America's foundational principle of equality.



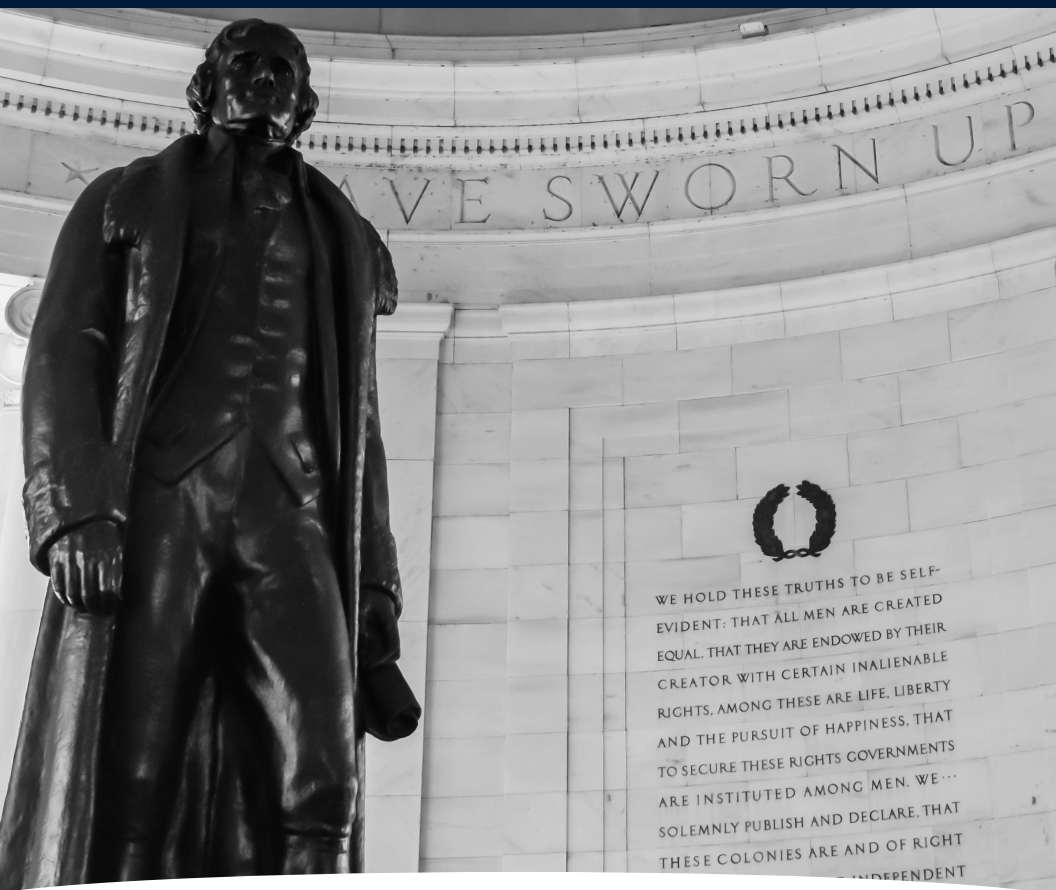
NATIONAL REVIEW

NR **PLUS** | POLITICS & POLICY

Why We Must Fight Biden's Equity Agenda

By RICK ESENBERG & DAN LENNINGTON | April 16, 2022

In the president's initiative, 'equity' is simply code for reverse discrimination.



Diversity, Equity and Inclusion

The principle of equality is under attack once again. Under the guise of “diversity,” “equity,” and “inclusion,” Americans are being told that we are not all created equal. We are created, they say, into groups of “privileged” and “oppressed.” We are told that people of color can never succeed because an invisible “system” of racism exists everywhere. We are told that the government must distribute benefits based on race, using present-day race discrimination in the hopes of somehow making up for past discrimination. We have replaced equality of opportunity with the “equity” of proportional outcomes and the moral imperative of non-discrimination with a discriminatory “anti-racism” which treats all of us on the basis of our skin color.

Discrimination is Discrimination

On June 29, 2023, the United States Supreme Court decided that colleges and universities may no longer use race as a factor in admissions. This practice, commonly called “affirmative action,” was declared unconstitutional in *Students for Fair Admissions v. Harvard*.

The decision, however, has much broader implications: it confirms – once again - that our Constitution is “colorblind” and that governments may not treat their citizens differently based on race. The Court explained that the Constitution demands “absolute equality of all citizens.” In the Court’s words, “eliminating racial discrimination means eliminating all racial discrimination.”

Additionally, the Court’s broad language implicates practices outside the bounds of the Constitution—namely, private affirmative action programs or “diversity, equity, and inclusion” initiatives.

The Court concluded that this statute contains the same protections against discrimination as the Constitution’s Equal Protection Clause, and that Harvard’s use of race in admitting students was unlawful under that statute.

The Students for Fair Admission decision, therefore, has the potential to upend not only government-sanctioned discrimination, but even race-based private conduct pursued in the name of “diversity, equity, and inclusion.” **Put simply, the decision calls into question a whole panoply of race-based programs in the public and private sectors.**



RealClear Politics

Dems, Biden Embrace Racial Hatred & Resentment

Rick Esenberg, American Mind May 9, 2021



President Joe Biden and Vice President Kamala Harris deliver remarks during a stop at Emory University in Atlanta, Ga., March 19, 2021. (Carlos Barria/Reuters)

NATIONAL REVIEW

WHITE HOUSE

The Biden Administration's Threat to Equality under the Law

By DAN LENNINGTON | June 20, 2021

The president's focus on 'equity' is already corrupting our political system. But it's possible to fight back.



NR PLUS | EDUCATION

Affirmative Action Has No Place at Military-Service Academies

By DAN LENNINGTON & SKYLAR CROY | February 11, 2024

The military doesn't possess a 'national security' trump card to evade equal rights. Our service academies must join the rest of American higher education.

Freedom from Discrimination

- ## Freedom of Speech

- ## Freedom of Religion

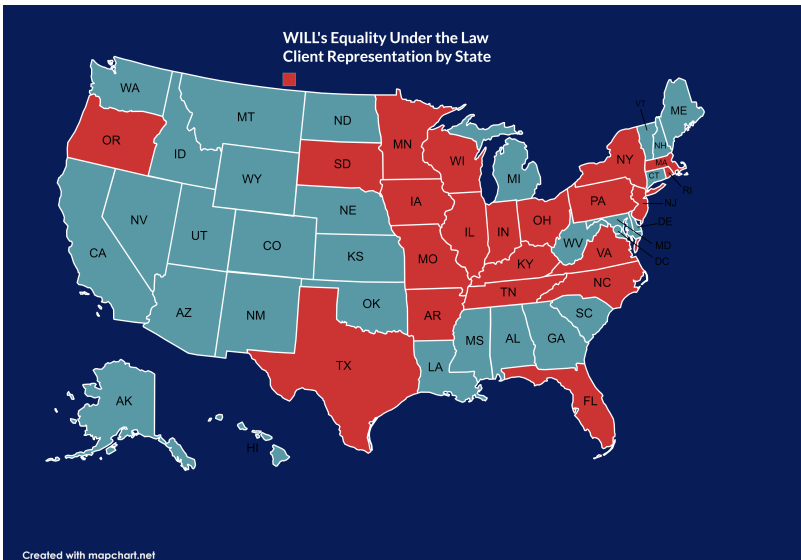
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How WILL is Fighting Back

DefendEquality.org

Since January 2021, WILL has represented 58 clients from 21 states who are standing up for equality under the law.



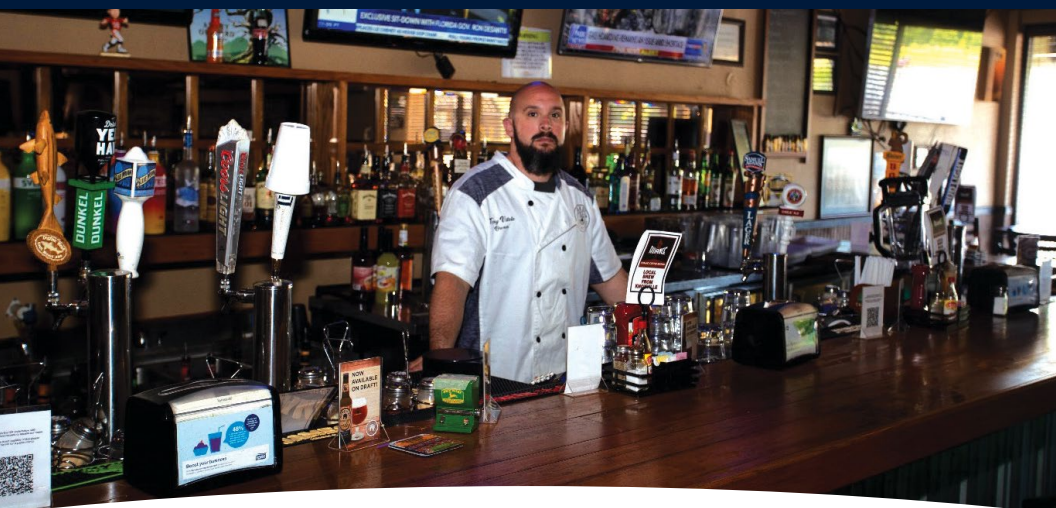


Faust, et al. v. Vilsack

WILL SUED BIDEN ADMINISTRATION FOR RACE DISCRIMINATION IN FARMER LOAN FORGIVENESS PROGRAM

The first official lawsuit filed in this project was filed in the Eastern District of Wisconsin on behalf of thirteen farmers from nine states. WILL challenged the USDA Farmer Loan Forgiveness Program, part of the American Rescue Plan Act (ARPA), which planned to forgive loans only to non-white farmers. On June 9, 2021, WILL obtained a first-in-the-nation injunction prohibiting the USDA from implementing the program. Following this and other court orders, Congress repealed the program and replaced it with a narrower program focusing only on the actual victims of discrimination perpetrated by the USDA.





Vitolo v. Guzman

WILL REPRESENTS TENNESSEE RESTAURANT OWNER WHO WOULD BE ELIGIBLE FOR FUNDS, BUT FOR HIS RACE AND SEX

Filed in the Eastern District of Tennessee, on behalf of twelve restaurant owners from six states, WILL challenged the race-based preferences in the \$28.6 billion Restaurant Revitalization Fund. On May 27, 2021, the Sixth Circuit Court of Appeals granted WILL's motion for an emergency injunction and put a stop to the racial preferences. The Small Business Administration (SBA) then abandoned their program.



NR **PLUS** | LAW & THE COURTS

The Struggle for Legal Equality Isn't Over Yet

By RICK ESENBERG & DAN LENNINGTON | July 20, 2023

After *SFFA v. Harvard*, the purveyors of affirmative action can run, but they can't hide.



Rabiebna, et al. v. Higher Educational Aids Board

HIGHER EDUCATIONAL AIDS BOARD
OFFERS SCHOLARSHIPS WITH NARROW
RACIAL CATEGORIES

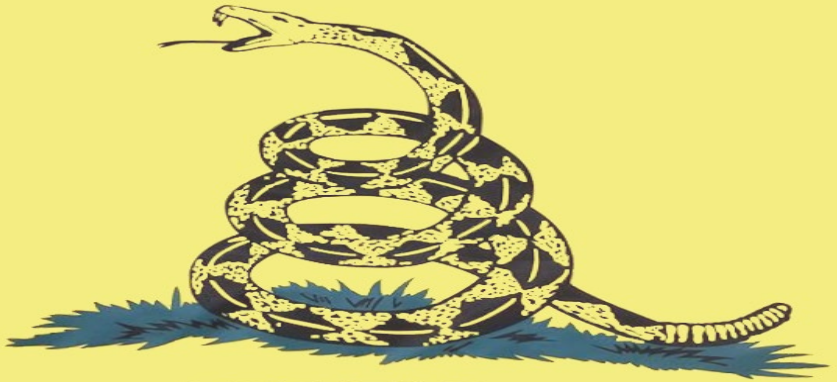
In this lawsuit, WILL challenged a state-sponsored scholarship available only to certain races. Most Asians and all white students are barred from the program. The trial court granted summary judgment for the state, holding that “diversity” was a compelling state interest. The case is on appeal. Because this case involves “diversity,” it will be impacted by the Supreme Court admission case against Harvard, which outlawed states from using that as a justification for race discrimination.

THE CAP TIMES

Rick Esenberg and Daniel Lennington: Wisconsin's race-based scholarships amount to state-sponsored race discrimination

By Rick Esenberg and Daniel Lennington | general counsel/president and deputy counsel | Wisconsin Institute for Law & Liberty

Apr 29, 2021



DONT TREAD ON ME



Blaska v. City of Madison

**WILL SUES CITY OF MADISON FOR
UNCONSTITUTIONAL RACE DISCRIMINATION**

WILL challenged the City of Madison's racial quotas, which were used to appoint members of the Police Civilian Oversight Board. In response to our lawsuit, the City repealed its illegal ordinance and settled, paying damages to our client and attorney fees to WILL.



OPINION

Here's how woke banking is deciding your loans

Woke banks are advancing 'equity' and targeting customers based on race

By **Daniel Lennington** **OPINION** **Fox News**

Published March 18, 2024 5:00am EDT



Moses v. Comcast WILL SETTLES WITH CABLE GIANT

WILL represented four small businesses from Indiana, Pennsylvania, Tennessee, and Massachusetts in this federal lawsuit against Comcast for a racially discriminatory small business program. The program, called “Comcast RISE,” provided numerous benefits to small businesses, but the program was only open to non-white business owners. Facing important deadlines in the fall of 2022, Comcast disbanded the program, instituted a race-neutral program, and signed a confidential settlement with WILL.

WSJ | OPINION

OPINION

COMMENTARY

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Why I Sued Comcast for Discrimination

My wife and I were shut out of the RISE small-business program solely due to my race and sex.

By Christopher Moses

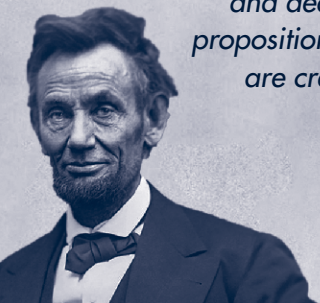
April 17, 2022 4:32 pm ET

“Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”

**ABRAHAM
LINCOLN**

“I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character.”

**MARTIN LUTHER
KING, JR.**





Nuziard, et al. v. Minority Business Development Agency

**FEDERAL JUDGE BLOCKS RACE
DISCRIMINATION BY THE
BIDEN ADMINISTRATION**

WILL sued the Biden Administration over its “Minority Business Development Agency,” the first federal agency devoted to helping Americans of some races, but not other races. WILL represented clients from Texas, Wisconsin, and Florida in this lawsuit, who were not eligible for MBDA services because of their race. After obtaining a preliminary injunction prohibiting the agency from discriminating against WILL’s clients, we obtained a final judgment opening the agency to all Americans in March 2024. The following month, the Court further ordered the United States to pay WILL nearly \$360,000 in attorneys’ fees and costs.



OPINION

Federal court delivers major blow to Biden's radical equity agenda

Here's the goal of the equity agenda: racial preferences for preferred races

By **Daniel Lenington** **OPINION** **Fox News**

Published June 21, 2023 6:00am EDT



NATIONAL REVIEW

NR PLUS | LAW & THE COURTS

DEI's Achilles' Heel

By DAN LENNINGTON | March 24, 2024

The U.S. government's racial-classification system is nonsensical – and courts are increasingly noticing.

***Digital Desk v. Bexar County***

EMPOWERED BY RECENT SCOTUS RULING,
WILL CONTINUES ITS PROJECT CHALLENGING
RACE-BASED DISCRIMINATION EVERYWHERE

WILL sued Bexar County (San Antonio) over a \$10 million race-based small business program in the Western District of Texas in July of 2023. WILL's client, Digital Desk, applied for the program but was excluded because it is owned by a white male. This case is currently on appeal at the Fifth Circuit Court of Appeals.

***Suhr v. Dietrich***

STATE BAR ABANDONS DEI PROGRAM AFTER
WILL LAWSUIT

WILL reached a settlement agreement ending discriminatory DEI practices at the State Bar. Our client's mandatory and annual State Bar dues will no longer fund internships and policies primarily based on race, but rather on merit and diversity of viewpoint.



Mid-America Milling Company v. U.S. Dep't of Transportation

WILL OPENS NEW FRONT IN ANTI-DISCRIMINATION BATTLE

Filed in the Eastern District of Kentucky in 2023, WILL challenged the federal Disadvantaged Business Enterprise (DBE) program, which provides a race and gender preference in highway contracting.

The DBE program was most recently reauthorized in November 2021, when President Biden signed the Infrastructure Investment and Jobs Act. Congress mandated that 10% of all new surface transportation funding—over \$37 billion—“shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.” It is the largest and oldest affirmative action program in the U.S.

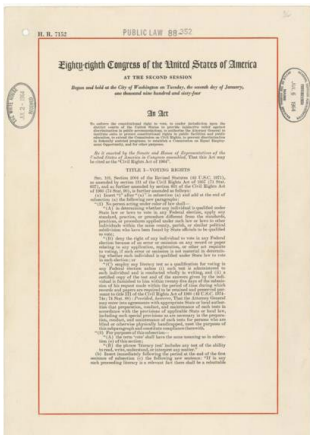
The preliminary injunction argument was held in April of 2024 and a ruling is expected as this publication goes to print.

Article XIV.

...ns born or naturalized in the United States, a
 tion thereof, are citizens of the United States and
 side. No State shall make or enforce any law w
 privileges or immunities of citizens of the United Stat
 ive any person of life, liberty, or property, without
 to any person within its jurisdiction the equal pro

Our nation has a long history of striving toward the ideal of equality and we cannot afford to lose ground.

The similarities between Article XIV and the Civil Rights Act lie in their shared ambition of guaranteeing equality before the law. They are rooted in the belief that our nation is strongest **when we embrace our diversity and guarantee equal opportunity for all.**



In 1964, President Lyndon B. Johnson signed the Civil Rights Act. Title VI of the Act was designed to protect all Americans from discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance. It has been violated repeatedly by countless institutions of higher learning. And it must be stopped.



NATIONAL REVIEW

NR **PLUS** EDUCATION

Appeasing the Pro-Hamas Protesters Puts Universities in Legal Peril

By DAN LENNINGTON | May 9, 2024

The promise of scholarships, faculty positions, and resources based on national origin is a violation of civil-rights law.

In May of 2024, working with our friends at Young America's Foundation, WILL filed Title VI complaints against Northwestern University and Rutgers University, representing YAF chapters on those campuses. Both universities chose to appease pro-Hamas campus protesters by making illegal promises of scholarships and space for student organizations designed to benefit Palestinian students and faculty. But providing a benefit based on a student's race or national origin is illegal.

WILL also filed a Title VI complaint against the American Bar Association (ABA) for several discriminatory programs, including its "Judicial Clerkship Program" and "Judicial Intern Opportunity Program," which offer premier, exclusive opportunities to candidates based on race. The complaint also names three universities that have conspired with the ABA to run its clerkship program: South Texas College of Law Houston, the University of the Pacific, and Willamette University.



NATIONAL REVIEW

NR **PLUS** | POLITICS & POLICY

Republicans Are Letting DEI in through the Back Door

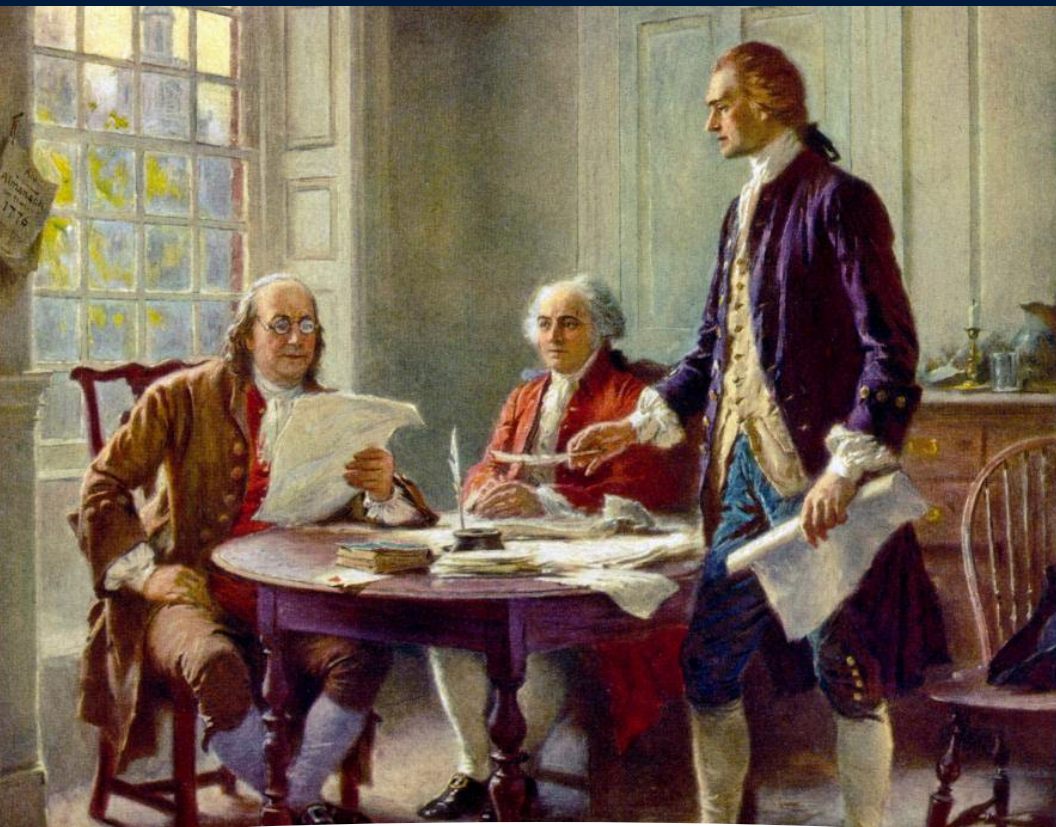
By DAN LENNINGTON | June 9, 2024

The congressional GOP isn't paying close enough attention to the DEI provisions hidden in big bipartisan bills.

While these are just highlights of some of our higher profile cases, WILL has had numerous successes by issuing demand letters. By sending a letter with applicable law we achieved the following:

- University of Wisconsin La Crosse suspended a DEI mandate for the YAF student organization.
- University of Wisconsin System removed race-based qualifications from non-statutory scholarships.
- With our Equality for All Agenda, we developed a legislative agenda to make Wisconsin law colorblind with both houses passing a bill addressing many of the issues in higher education. Both houses also passed the equality amendment which will add nondiscrimination provisions to the Wisconsin Constitution.
- Appleton East High School agreed to open freshmen orientation night to include all students, not just "students of color."
- SSM Health System immediately suspended their practice of monoclonal antibody treatments (Covid-19 treatment) based on race after receiving our letter.

WILL WON'T STOP



WHAT WOULD OUR FOUNDING FATHERS SAY ABOUT DEI?

Our nation's Founding Fathers crafted a system of government that protected the God-given rights of life, liberty, and the pursuit of happiness for all.

DEI programs, with their focus on group identity and collective rights, threaten the very foundation of our individual freedoms and are a direct assault on the Founding Fathers' vision of a nation where all persons are created equal and where each person is free to pursue their own dreams and aspirations without the constraints of identity politics. **In keeping with their vision, WILL intends to extinguish DEI wherever we find it.**

RealClear Education

Critical Race Theory Has No Place in American Schools

By Rick Esenberg & Daniel Lennington
June 14, 2021



NATIONAL REVIEW

LAW & THE COURTS

Why 'Equity' Is a Bad Fit for Our Legal System

By RICK ESENBERG | April 11, 2021

... Despite its growing popularity, however, equity remains a poor fit for the American **legal system**. This recent shift is more accurately described as a call *for* discrimination.



EDUCATION

The ACLU Has It Backward: Schools Should Worry About Being Sued For Teaching Critical Race Theory

BY: RICK ESENBERG | AUGUST 12, 2021 | ⌚ 5 MIN READ

Another Racist Biden Program Looks To Help Anyone But Whites

BY: RICK ESENBERG AND DAN LENNINGTON
OCTOBER 10, 2022
⌚ 5 MIN READ

Dear Friend,

I invite you to partner with us, to become part of a team that continues to deliver meaningful progress in law and policy for every citizen of our beloved nation. Help us in our fight to extinguish DEI initiatives and to oppose the racialization of our public and private lives in a way that have threatened our American values and our way of life.

Our country began as a grand experiment in which all would be free and equal before the law. We have struggled to live up to that commitment, but we are closer today than we ever have been. Now, more than ever, America is a land of opportunity, where anyone, regardless of their background or circumstances, can achieve success through hard work and determination.

But our hard-earned progress is under threat. Whether you call it DEI, critical race theory or multiculturalism, there is a strong movement urging that American life be “re-racialized.” It promotes the idea that we should judge individuals primarily by their race, gender, or sexual orientation, rather than the content of their character.


The idea that this will magically redeem our past is a fantasy. Instead of promoting unity and harmony, this divisive approach pits Americans against one another and fosters resentment and bitterness. It replaces the equality and liberty of individuals with the demands of so-called “identity” groups.

Instead of encouraging excellence and meritocracy, DEI initiatives tend to lower standards and promote mediocrity by emphasizing equal outcomes. This not only undermines the innovative free-market economy which has been the engine of America’s prosperity, it subordinates the opportunity and equality of the individual in favor of group “representation.”

Our colleges and universities, once the strongholds of free inquiry, are now hotbeds of ideological conformity and intellectual groupthink. The fear of offending certain groups or the need to pose as an “enlightened disciple” of what has been called the “woke religion” stifles open debate and the exchange of ideas. The campus protests of 2024 are a prime example of what this indoctrination looks like. As you have seen, WILL has responded.

Stand with us as we embrace the timeless values that have made us great: hard work, personal responsibility, and the belief that we are all created equal, with unalienable rights endowed by our Creator.

In liberty!



Rick Esenberg
WILL Founder, President & General Counsel



The Equality Under the Law Team

While everyone at WILL plays a part in our Equality Under the Law efforts,
the team below drives this initiative and is getting real results.

WILL researches, litigates, advises and educates.



Rick Esenberg, J.D.
President & General Counsel



Dan Lennington, J.D.
Deputy Counsel & EUL Director



Cara Tolliver, J.D.
Associate Counsel



Skylar Croy, J.D.
Associate Counsel



Nathalie Burmeister, J.D.
Associate Counsel



Kyle Koenen
Director of Policy



DefendEquality.org



FOR YOUR KIDS, AND THEIR KIDS AND ALL FUTURE GENERATIONS

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