

January 7, 2026

Testimony in Support of AJR 102 & SJR 94

I am Dan Lennington, Vice President and Deputy Counsel at the Wisconsin Institute for Law & Liberty. I direct WILL's Equality Under the Law Project, which advocates for a colorblind society through litigation and policy reforms.

Today I am pleased to support the Equality Amendment, now on second consideration. If approved by the Legislature and then the voters in 2026, this constitutional amendment would explicitly prohibit any form of race discrimination in public employment, education, contracting, and administration. This amendment would also ban government-sponsored preferential treatment based on race: affirmative action, racial quotas or goals, racial balancing, and race-conscious programs under the label of Diversity, Equity, and Inclusion (DEI) (or more recently, "Inclusion and Belonging").

The United States Constitution and the Wisconsin Constitution are built on a foundation of racial equality. No one may be granted a preference or denied a benefit based on race. All laws must be colorblind to ensure the American Dream for all individuals; otherwise, America will devolve into a racialized society with some racial groups punishing others based on perceived historical grievances. That's not the American Dream, but a nightmare of violence, poverty, and oppression.

Despite the clear and unequivocal mandate of legal equality in our state and federal constitutions, race-based programs, quotas, and preferences persist both at the state and local levels. These programs hurt Wisconsin individuals and businesses every day. Rooting out this racial discrimination will take a lot of work, but a constitutional amendment will go a long way to advance the cause of equality.

In August 2023, we released a report—the Equality for All Agenda—that identified about twenty specific state laws and another twenty agency programs that discriminate based on race.¹ These discriminatory laws and programs include grants, loans, scholarships, healthcare benefits, drug treatment, busing, housing, and employment opportunities.

One notable example of a racially discriminatory program is the Wisconsin Supplier Diversity Program, which governs how the state purchases goods and services. In the most recently reported fiscal year (2023), the State spent over \$3.3 billion on contractors. This entire procurement system is infected with

¹ Equality for All Agenda, Wisconsin Institute for Law & Liberty (Aug. 2023), <https://will-law.org/wp-content/uploads/2023/07/Equality-for-All-July-5-2023-v-7.pdf>.

discrimination. At least eleven state laws impose racial quotas or preferences on how this money is spent. According to these laws, a certain percentage of spending must be set aside for businesses owned by minorities, and businesses owned by minorities are also granted a 5% price preference, meaning they do not have to be the lowest bidder. According to the Department of Administration, in fiscal year 2023, Wisconsin paid out over \$200 million to so-called “diverse suppliers” under this program.² Several agencies actually spent over 25% of all their contracting dollars with “diverse suppliers.”

Although the Supplier Diversity Program may be the largest annual race-based expenditure in Wisconsin, it is not the only racially discriminatory program or policy in Wisconsin. To give you an idea of the breadth of Wisconsin’s problem with race, let me briefly recount some of the worst discriminatory policies, programs, or practices going on right now in Wisconsin.

1. **The Universities of Wisconsin and technical colleges** offer scholarships and loans to minority students while excluding white students and almost all Asian students because of their race.³ The University of Wisconsin-Madison offers dozens separate racially exclusive scholarships, including one for whites only.⁴ And the Wisconsin Attorney General and the Evers Administration have both taken the position at the Wisconsin Supreme Court that the Wisconsin Constitution actually permits race-based scholarships.⁵
2. **The Wisconsin Department of Health Services** issues grants to improve health outcomes, including for alcohol and drug abuse, limited to non-white and non-Asian racial groups.⁶
3. **The Wisconsin Department of Public Instruction** discriminates based on race in its regulation of gifted-and-talented programs,⁷

² Supplier Diversity Report FY 2023, Wisconsin Department of Administration, <https://supplierdiversity.wi.gov/PublishingImages/Pages/AnnualReports/FY23/FY%2023%20Supplier%20Diversity%20Report%20%28Updated%29.pdf>.

³ Wis. Stat. §§ 36.34, 39.44, 39.40, 39.34.

⁴ Title VI Complaint Against the University of Wisconsin-Madison, Wisconsin Institute for Law & Liberty Inc., (Jan. 14, 2025) (on file with OCR U.S. Dep’t of Educ.), <https://will-law.org/wp-content/uploads/2025/01/Title-VI-Complaint-Against-UW-Madison-FINAL-1.pdf>.

⁵ See *Rabiebna v. HEAB*, No. 2022AP2026 (Wis. 2026).

⁶ Wis. Stat. §§ 46.975, 46.65, 250.20.

⁷ Wis. Stat. § 118.35.

charter school programs,⁸ transfer aid,⁹ and enrollment and district reorganization.¹⁰ DPI also supervises multiple “equity” and other racially discriminatory training programs that encourage teachers to treat students differently based on race.

4. **The City of Milwaukee** runs multiple discriminatory programs including the Office of African American Affairs, specifically designed to only assist African Americans.¹¹
5. **Milwaukee County** is currently using a Racial Equity Budget Tool to spend money, which considers the impact on various races and endeavors to racially balance outcomes.¹²
6. **Local school districts** actively and aggressively use race to discriminate against students, faculty, and even parents. Wauwatosa is closing a STEM school because it is too white;¹³ Sun Prairie offers special mentoring opportunities to black students only;¹⁴ Green Bay targets only black and “First Nation” students with disabilities, helping them before others;¹⁵ Madison specifically evaluates teachers on whether they are prioritizing black students above all others.¹⁶

⁸ Wis. Stat. § 118.40(1m)(b)(9).

⁹ Wis. Stat. §§ 121.845–121.87, 121.86(2).

¹⁰ Wis. Stat. § 118.51(7), 117.15(6).

¹¹ City of Milwaukee, Office of African American Affairs, <https://city.milwaukee.gov/Office-of-African-American-Affairs> (last visited Oct. 31, 2025).

¹² Milwaukee County 2026 Budget Cycle Racial Equity Budget Tool, <https://county.milwaukee.gov/files/county/administrative-services/PSB/BudgetsCopy-1/2026-Budget/REBT/109---Office-of-Equity-REBT.pdf>.

¹³ Title VI Complaint Against Wauwatosa School District, Wisconsin Institute for Law & Liberty Inc. (Dec. 13, 2024) (on file with the OCR U.S. Dep’t of Educ.), <https://will-law.org/will-files-federal-civil-rights-complaint-against-wauwatosa-school-district-for-race-discrimination/>.

¹⁴ Chris Rickert, Wisconsin State Journal, *Sun Prairie school used race to prioritize which students got extra attention* (Sept. 23, 2025), <https://archive.ph/eAeiZ>.

¹⁵ WBAY News staff, *U.S. Department of Education opens civil rights investigation into Green Bay Area Public School District*, WSAW (May 29, 2025, 10:38 AM), <https://www.wsaw.com/2025/05/29/us-department-education-opens-civil-rights-investigation-into-green-bay-area-public-school-district/> (last visited Oct. 31, 2025).

¹⁶ Federal Title VII Charge of Discrimination Against Madison Metropolitan School District (Race/Color Discrimination), Wisconsin Institute for Law & Liberty Inc. (Aug. 14, 2025) (on file with the EEOC and ERD), <https://will-law.org/wp-content/uploads/2025/09/MMSD-EEOC-Complaint-FINAL.pdf>.

These are just a few examples of race discrimination that would be explicitly prohibited under the Equality Amendment. While current caselaw clearly indicates race discrimination is already unconstitutional under Wisconsin law, a specific constitutional amendment is necessary to call attention to the pervasive and existing practices that persist in our state and local governments.

The tide is clearly turning towards race neutrality and away from race-based DEI and affirmative action. At least 20 states have banned DEI in the government setting,¹⁷ and 28 states have banned DEI in the educational setting.¹⁸ Six states explicitly banned affirmative action through constitutional amendment or statewide referendum.¹⁹

Public opinion strongly supports equality. A recent poll by the Wisconsin Institute for Law & Liberty indicates that over 60% of likely Wisconsin voters support the Equality Amendment, including 65% of Democrats.²⁰ Similar nationwide polls from Marquette University indicate that 77% of Americans support ending race-based affirmative action,²¹ including 63% of African Americans, 73% of Hispanic Americans, and 64% of Democrats.

WILL strongly supports this proposed amendment to make explicit what we already know: all Americans deserve to be treated equally by their government.

Thank you for your time today, and I'd be happy to answer any questions.

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¹⁷ Movement Advancement Project. July 2024. *Dismantling DEI: A Coordinated Attack on American Values*, www.mapresearch.org/2024-DEI-report (last visited Oct. 31, 2025).

¹⁸ Chronicle of Higher Education. July 2025. *DEI Legislation Tracker*, available at: <https://www.chronicle.com/article/here-are-the-states-where-lawmakers-are-seeking-to-ban-colleges-dei-efforts> (last visited Aug. 28, 2025), archived also [here](#).

¹⁹ Battotopedia.org, *Affirmative Action Ballot Measures*, https://ballotpedia.org/Affirmative_action_ballot_measures#important2024datesbanner-spanstylefontsize105statesspan-2 (last visited Oct. 31, 2025).

²⁰ Equality Amendment Polling Memo, *Broad Electoral Support for Equality Amendment*, Wisconsin Institute for Law & Liberty (Sept. 12, 2024), <https://will-law.org/wp-content/uploads/2025/10/Equality-Amendment-Polling-Memo.pdf>.

²¹ Marquette Law School Supreme Court Poll, *C17: Favor/Oppose race in college admissions* (Nov. 2–7, 2023), <https://law.marquette.edu/poll/2023/11/14/detailed-results-of-the-marquette-law-school-supreme-court-poll-november-2-7-2023/>.