

STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY

YOUNG AMERICA'S FOUNDATION
11480 Commerce Park Drive, 6th Floor
Reston, VA 20191

CITIZENS DEFENDING LIBERTY
1241 North Franklin Place
Milwaukee, WI 53202

Declaratory Judgment
Case Code: 30701
Case No. 26-CV-

Plaintiffs,

v.

DR. ERIC WILCOTS, *Interim Chancellor,*
University of Wisconsin-Madison
163 Bascom Hall, 500 Lincoln Drive
Madison, WI 53706

JOHN ZUMBRUNNEN, *Provost,*
University of Wisconsin-Madison
150 Bascom Hall, 500 Lincoln Drive
Madison, WI 53706

JULIE STUBBS, *Director of the Office of*
Undergraduate Academic Awards, University of
Wisconsin-Madison
108 Ingraham Hall, 1155 Observatory Drive
Madison, WI 53706

PHIL ASBURY, *Director of the Office of Student*
Financial Aid, University of Wisconsin-Madison
333 East Campus Mall, #9701
Madison, WI 53715

SHANE MALONEY, *Associate Director for Federal,*
Institutional, & State Aid, University of Wisconsin-
Madison
333 East Campus Mall, #9701
Madison, WI 53715

Defendants.

SUMMONS

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 515 West Moreland Boulevard, Waukesha, WI 53188, and to the Wisconsin Institute for Law & Liberty, Plaintiff's attorneys, whose address is 1241 North Franklin Place, Milwaukee, Wisconsin 53202. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: July 27, 2026

Respectfully Submitted,

WISCONSIN INSTITUTE
FOR LAW & LIBERTY

*Electronically signed by Rebecca C.
Furdek*

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Defendants.

COMPLAINT

Plaintiffs Young America’s Foundation and Citizens Defending Liberty, by their undersigned attorneys at the Wisconsin Institute for Law & Liberty, state their Complaint against Defendants as follows:

INTRODUCTION

1. University of Wisconsin-Madison (“UW-Madison”) administers scholarships and grants to undergraduate students based upon the color of their skin—labeling these “identity-conscious awards.”

2. But 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.” *Rabiebna v. Higher Educ. Aids Bd.*, 2026 WI 20, ¶ 23.

3. As such, state programs with racial classifications are “odious” and “inherently invidious, regardless of how benign or laudable” they may appear. *Id.* ¶ 24 (citations omitted); *see also Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007) (Thomas, J., concurring) (“[S]tate entities may not experiment with race-based means to achieve ends they deem socially desirable.”).

4. State programs with racial classifications must therefore satisfy each of the rigorous equal-protection standards outlined 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).

5. With respect to “applicable laws and policies,” including but not limited to the Equal Protection Clause, UW-Madison publicly represents that “[c]ompliance is a shared responsibility, with every member of the University understanding their responsibilities and being accountable for their actions.”¹

6. This is a civil rights action challenging the race-based, discriminatory scholarship and grant programs that UW-Madison leadership knowingly administers, in violation of the U.S. Constitution.

7. As a student group at UW-Madison and Wisconsin taxpayers, respectively, Plaintiffs seek a declaration that such race-based scholarships and grants violate the U.S. Constitution, a declaration that Wis. Stat. § 36.34 authorizing one such grant violates the U.S. Constitution, and an injunction barring the continued administration of all such scholarships and grants by Defendants, within their respective official capacities at UW-Madison.

PARTIES

8. Plaintiff Young America’s Foundation (“YAF”) is a nationwide student organization that seeks to educate students, provide educational and social opportunities, and promote traditional conservative values. YAF has an active student chapter on the UW-Madison campus. Members of that chapter are eligible for one or more scholarships offered and administered by UW-Madison that employ race, national origin, or alienage as a factor.

¹ *Office of Compliance*, Univ. of Wis. (last accessed July 17, 2026), [available here](#).

9. Plaintiff Citizens Defending Liberty is an unincorporated association of taxpayers organized under the laws of the State of Wisconsin. “In Wisconsin, taxpayers may challenge the illegal expenditures of public funds.” *Rabiebna*, 2026 WI 20, ¶ 18. 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.” *Id.* (quoting *S.D. Realty Co. v. Sewerage Comm’n of City of Milwaukee*, 15 Wis. 2d 15, 21–23 (1961)).

10. Defendant Dr. Eric Wilcots serves as the Interim Chancellor at UW-Madison, which is the flagship campus of the University of Wisconsin System and a public university located in Madison, Wisconsin. As Interim Chancellor, Dr. Wilcots acts as the chief executive officer of UW-Madison, overseeing both its academic and operational missions for both its undergraduate and graduate programs. He is sued in his official capacity.

11. Defendant John Zumbrunnen serves as Provost and Executive Vice Chancellor for Academic Affairs at UW-Madison. In that role, Mr. Zumbrunnen serves as the deputy to the chancellor and as chief executive officer in the absence of a chancellor. He also oversees both undergraduate and graduate academic programs, student financial aid, and budget planning. He is sued in his official capacity.

12. Defendant Phil Asbury serves as Director of the Office of Student Financial Aid at UW-Madison, which advises undergraduates on financial aid programs and processes. He is sued in his official capacity.

13. Defendant Julie Stubbs serves as Director of the Office of Undergraduate Academic Awards at UW-Madison, which advises undergraduates on campus-wide scholarship opportunities and matches students with potential scholarship opportunities. She is sued in her official capacity.

14. Defendant Shane Maloney is the Associate Director for Federal, Institutional, & State Aid at UW-Madison. Mr. Maloney leads a team tasked with providing opportunities and access to higher education while ensuring institutional compliance with applicable regulations. He is sued in his official capacity.

JURISDICTION AND VENUE

15. This is an action for declaratory and injunctive relief under Wis. Stat. §§ 806.04 and 813.01.

16. Jurisdiction in this Court is proper pursuant to Wis. Stat. §§ 753.03 and 806.04.

17. Venue in this Court is proper pursuant to Wis. Stat. §§ 801.50(2) and 801.50(3)(a).

BACKGROUND

18. UW-Madison has a long history of race-based admissions practices, including administering at least 60 race-based scholarships and grants as recently as the 2024-2025 academic year.²

² See Letter, Daniel Lennington and Erin Gamble to Office for Civil Rights on Behalf of Young America's Foundation Regarding Title VI Complaint Against the University of Wisconsin Madison (Jan. 12, 2026), [available here](#).

19. Beginning in 2023, to comply with the landmark U.S. Supreme Court ruling that year in *SFFA*, many public universities across the nation ended race-based admissions practices.

20. In *SFFA*, the Court reaffirmed that “racial discrimination in public education is unconstitutional,” and as such, “no State has any authority under the equal-protection clause of the Fourteenth Amendment to use race as a factor in affording educational opportunities among its citizens.” 600 U.S. at 204 (quoting *Brown v. Board of Educ.*, 349 U.S. 294, 298 (1955); Tr. of Oral Arg. at 7, *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954) (No. 8)).

21. Race-based scholarship administration has accordingly generated significant federal government scrutiny and enforcement. For example, in December 2025, the U.S. Department of Justice’s (“DOJ”) Office of Legal Counsel (“OLC”) analyzed the constitutionality of multiple race-based scholarships, finding them unconstitutional and concluding that “[a]ny allocation of benefits and burdens based on a person’s race is anathema to the U.S. Constitution.” See *Constitutionality of Race-Based Department of Education Programs*, 49 Op. O.L.C. at 2 (slip. op. Dec. 2, 2025). Relatedly, the Office of Civil Rights within DOJ has initiated investigations into multiple public universities regarding alleged administration of race-based scholarships.

22. While UW-Madison has abandoned several race-based scholarships and grants since 2023,³ UW-Madison has resisted abandoning them entirely.

23. For example, UW-Madison continues to partially administer the Undergraduate Minority Retention Grant Program (the “Lawton Program”) through UW System Administrative Policy 170, which is authorized by Wis. Stat. § 36.34 and nearly identical to the grant program that the unanimous Wisconsin Supreme Court recently found unconstitutional in *Rabiebna*.

24. The Lawton Program was authorized by the Wisconsin state legislature in 1985, with the 1986-1987 biennial budget including \$1.5 million to “provide financial assistance to statutorily designated . . . minority undergraduate students to improve their opportunities for retention and graduation and lessen the burden of student debt.”⁴

25. Wis. Stat. § 36.34 designates a “minority undergraduate” as an undergraduate student who is a “Black American,” an “American Indian,” a “Hispanic” as defined in Wis. Stat. § 16.287(1)(d),⁵ or “a person who is admitted to the United States after December 31, 1975, and who either is a former citizen of Laos,

³ See *supra*, n. 2 at 3.

⁴ *Lawton Undergraduate Minority Retention Grant Program*, Univ. of Wis. (last accessed July 17, 2026), [available here](#).

⁵ Wis. Stat. § 16.287(1)(d) defines “Hispanic” to mean one “whose ancestors originated in Mexico, Puerto Rico, Cuba, Central America or South America or whose culture or origin is Spanish.”

Vietnam or Cambodia or whose ancestor was or is a citizen of Laos, Vietnam or Cambodia.” *See* Wis. Stat. § 36.34(a)(1).

26. The only students eligible are those among the “statutorily designated minority students who enroll in and complete at least twenty-four credits per academic year, and who are in good academic standing and making satisfactory academic progress.”⁶

27. Thus, white students are categorically ineligible for the Lawton Program, even if they otherwise meet the stated criteria for total credits, academic standing, and academic progress. In addition, because Wis. Stat. § 36.34(a)(1) creates a closed list of what constitutes a “minority,” minority students not identifying with the ethnicities or origins listed are also categorically ineligible for the Lawton Program. Students whose ancestors originated from any number of Middle-Eastern or Asian nations—ranging from Iraq to Indonesia, for example—are ineligible, even though individuals from these backgrounds are commonly identified as racial or ethnic minorities in the United States.

28. Upon information and belief, Defendants are aware that administering the Lawton Program conflicts with the unanimous Wisconsin Supreme Court ruling in *Rabiebnā*. On July 6, 2026, UW-Madison issued an interim policy, UW System

⁶ *See supra*, n. 4.

Administrative Policy 100-Interim 14 (the “Interim Policy”), to “temporarily rescind” the Lawton Program, updating its webpage for the Lawton Program accordingly.⁷

29. The Interim Policy expires on July 1, 2027 or upon the permanent rescission of the prior UW-Madison policy governing the Lawton Program, whichever comes first.⁸ According to the Interim Policy, the Lawton Program *might* permanently end on July 1, 2027—but if not, the Lawton Program will fully resume on that date.

30. Thus, the Lawton Program is far from currently “rescinded.” In addition, the Interim Policy only applies to grants awarded on or after June 18, 2026. All grants awarded prior to June 18, 2026 continue to be administered by Defendants.⁹

31. Plaintiff YAF’s membership at UW-Madison includes students who would otherwise qualify for the Lawton Program, including through completing at least 24 credits per academic year, remaining in good academic standing, and making satisfactory academic progress. However, such students are categorically ineligible because of their race.

32. Plaintiff Citizens Defending Liberty is an association whose members have paid, and continue to pay, taxes that fund the administration of the Lawton Program.

⁷ See *Interim: Lawton Undergraduate Minority Retention Grant Program Rescission and Fund Reallocation*, Univ. of Wis., (last accessed July 17, 2026), [available here](#).

⁸ See *supra*, n. 4.

⁹ See *id.*

33. The Lawton Program is far from the only race-based scholarship or grant at UW-Madison. Through Defendants’ leadership, UW-Madison currently administers at least 20 race-based scholarships in both the undergraduate and graduate schools, many of which lack the same level of public transparency as the Lawton Program.¹⁰

34. While the full eligibility terms of many such scholarships are not made publicly available, UW-Madison’s method for administering such scholarships reveals that many such scholarships rely on the student’s race, ethnicity, or national origin.

35. In apparent response to *SFFA*, UW-Madison employs the “Pool & Match” method as an attempted workaround to continue administering race-based, or “identity-conscious,” financial aid. Through that method, instead of determining eligibility based on race from the outset, UW-Madison now includes one facially-neutral threshold step before doing so.

36. On a webpage with an introductory section titled “UW-Madison Administration of Identity-Conscious Awards,” UW-Madison explains how it uses the “Pool & Match” method to administer such scholarships.¹¹

¹⁰ This total and list of individual scholarships are not publicly available on UW-Madison’s website, but rather, is a list compiled upon UW-Madison’s response to a recent public records request by the Wisconsin Institute for Law & Liberty. *See supra*, n. 2 at 2.

¹¹ *Pool & Match*, Office of Student Financial Aid, Univ. of Wis.-Madison (last accessed July 17, 2026), [available here](#).

37. The method has two steps. First, in the Pool, “the specific level of funding offered to a particular student” is determined using “non-identity based characteristics.” Second, in the Match, the “commitment to the student is fulfilled using funding from a variety of sources,” i.e., the Pool, “which may include awards with identity criteria.”¹²

38. At that second step, if a student is ineligible for a particular scholarship containing race-based—or “identity-conscious”—criteria, he or she then receives the promised total amount of funding from another source of university funding within the Pool.

39. This second step ultimately separates students for eligibility based on their race (“identity”) and matches them to race-based scholarships, leaving non-minority students to be funded by the remaining sources within the Pool.

40. UW-Madison emphasizes that the Pool & Match method “does not advantage or disadvantage a recipient,” as the students are ultimately treated equally by receiving the sum of money they were initially promised from the Pool.¹³

41. However, the U.S. Supreme Court has long recognized that even when “racial distinctions . . . were argued to have no palpable effect” in practice, or were “in form merely nominal,” the U.S. Constitution is clear: “Separate cannot be equal.”

¹² *See id.*

¹³ *See id.*

SFFA, 600 U.S. at 203 (quoting *McLaurin v. Okla. State Regents for Higher Ed.*, 339 U.S. 637, 640–42 (1950)).

42. UW-Madison scholarships, including those containing race-based requirements, are administered with support from taxpayer funds.

43. Plaintiff YAF’s membership includes students who are eligible for scholarships and students who currently receive scholarships, but are categorically ineligible for certain scholarships UW-Madison administers because of their race.

44. Plaintiff Citizens Defending Liberty is an association whose members have paid, and continue to pay, taxes that fund the administration of race-based scholarships at UW-Madison.

CAUSE OF ACTION

VIOLATION OF THE FOURTEENTH AMENDMENT (EQUAL PROTECTION CLAUSE)

45. Plaintiffs reallege and incorporate all preceding allegations of the Complaint.

46. “At the heart of the Equal Protection Clause is the principle that race-, national origin-, ancestry-, or alienage-based discrimination is unconstitutional except in the most extraordinary instances where such a remedy is required.” *Rabiebna*, 2026 WI 20, ¶ 23.

47. In *SFFA*, the U.S. Supreme 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.

48. Just this year, in *Callais*, the Supreme Court emphasized two more 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).

49. Race-based scholarships and grants administered by UW-Madison discriminate based on race by excluding some students from the benefits of such scholarships solely because of their race or ethnicity.

50. One such race-based grant is the Lawton Program, even though just weeks ago, the Wisconsin Supreme Court declared a nearly-identical grant to violate the Equal Protection Clause. *See Rabiebna*, 2026 WI 20, ¶ 61.

51. Specifically, just like the grant struck down in *Rabiebna*, the Lawton Program was enacted by the Wisconsin state legislature in 1985 and restricts its eligibility to a statutorily-defined “minority.” *See id.* ¶ 6; *see* Wis. Stat. § 36.34(a)(1). In other words, “[s]tudents who are not Black American, Hispanic, American Indian, Laotian, Cambodian, or Vietnamese are categorically ineligible[.]” *Rabiebna*, 2026 WI 20, ¶ 7. Applying *SFFA*, in which the U.S. Supreme Court affirmed that each student “must be treated based on his or her experiences as an individual—not on the basis of race,” the Wisconsin Supreme Court struck down that nearly-identical grant. *See id.* ¶ 23 (quoting *SFFA*, 600 U.S. at 231), ¶ 61.

52. In leading the administration of scholarships at UW-Madison, Defendants attempt to evade what *SFFA* commands through their description of the “Pool & Match” method. A UW-Madison webpage explaining this method states: “Prior to the 2023 U.S. Supreme Court decision in [*SFFA*], identity characteristics were one element considered in admissions and financial aid. Following *SFFA*, . . . a new approach to distributing identity-conscious scholarships was implemented to comply with the law while still meeting donor preferences.”¹⁴

53. That same webpage further states that UW-Madison “has generated a significant pool of donor funds” for scholarships “containing terms specified at the

¹⁴ *See supra*, n. 11.

time of gifting through a Memorandum of Award (MOA).” Specifically, [s]ome of the MOAs restrict awards based on identity characteristics of the recipients.”¹⁵

54. In other words, UW-Madison leadership fully acknowledges that “the law” does not permit it to administer scholarships based on race, despite compliance with “applicable laws” at UW-Madison being a “shared responsibility, with every member of the University . . . being accountable for their actions.”¹⁶

55. Yet, “donor preferences” appear to be Defendants’ sole rationale for committing a constitutional violation as a public institution. Ultimately it is UW-Madison, not individual, private donors, that knowingly administers race-based scholarships.

56. Recent federal agency guidance has contemplated this exact rationale—and dismissed it. In July 2025, DOJ clarified in a Memorandum, “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination,” that an area of “significant legal risk” for such recipients is “third-party funding,” cautioning recipients to “ensure federal funds do not support third-party programs that discriminate.”¹⁷ That same guidance urges institutions to “[d]iscontinue any program

¹⁵ *See id.*

¹⁶ *See supra*, n. 1.

¹⁷ *See* Memorandum from Pam Bondi, *Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination* at 2, U.S. Dep’t of J. (July 29, 2025).

or policy designed to achieve discriminatory outcomes, even those using facially neutral means.”¹⁸

57. And crucially, Defendants have not identified a single compelling government interest to support race-based criteria. The only stated apparent interest, “donor preferences,” is insufficient. 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 Rabiebnna*, 2026 WI 20, ¶ 41. Neither is present here.

58. Even if Defendants were able to articulate a compelling interest, the race-based scholarships still fail to pass constitutional muster, as they are not narrowly tailored and cannot rely on “imprecise,” “overbroad,” or “underinclusive” racial categories, such as a mere requirement that “minorities” receive the scholarship. *SFFA*, 600 U.S. at 216–17. And Defendants can offer no evidence defending their use of race as a “negative,” or a “stereotype,” or why the race-based scholarships appear to have “no logical end point.” *See id.* at 218, 221.

59. Under any one (and here, all) of these five rationales, race-based scholarships and grants administered by UW-Madison are therefore unconstitutional under the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. Similarly, Wis. Stat. § 36.34 violates the Equal Protection Clause of the 14th

¹⁸ *Id.* at 8.

Amendment to the extent it affords different treatment to or concerning any students based on race.

REQUEST FOR RELIEF

Plaintiffs therefore request the following relief:

A. A declaration that any race, national origin, and alienage classifications, preferences, or requirements in any UW-Madison undergraduate and graduate student scholarships, including but not limited to those specifically listed herein and those administered under the “Pool & Match” method, are unconstitutional under the Equal Protection Clause of the 14th Amendment to the U.S. Constitution;

B. A related declaration that Wis. Stat. § 36.34 is unconstitutional under the Equal Protection Clause of the 14th Amendment to the U.S. Constitution, to the extent it affords different treatment to or concerning any students based on race;

C. A permanent injunction enjoining Defendants from enforcing any such stated classifications, preferences, or requirements in any UW-Madison undergraduate and graduate student scholarships, including but not limited to those specifically listed herein and those administered under the “Pool & Match” method;

D. An award of costs, attorney’s fees, and any such other relief as the Court deems appropriate.

Dated: July 27, 2026

Respectfully Submitted,

WISCONSIN INSTITUTE FOR
LAW & LIBERTY

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