1241 N FRANKLIN PLACE
MILWAUKEE WI 53202
WILL-LAW.ORG
414.727.9455

August 27, 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

Shekar N. Kurpad, MD, PhD
President and CEO, Medical College of Wisconsin
8701 Watertown Plank Rd.
Milwaukee, WI 53226

VIA EMAIL

Re: Unconstitutional Race-Based Admissions Quotas at the Medical College of Wisconsin

Dear Governor Evers, Executive Secretary DeVooght Blaney, and Dr. Kurpad,

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 Wis. Stat. § 39.15(1)(c) is unconstitutional. This statute requires the Medical College of Wisconsin (MCW) to "make every effort to ensure that at least 5 percent of the total enrollment" consists of "minority" students. Wis. Stat. § 39.15(1)(c). However, doing so amounts to a race-based admissions quota, violating not only the Equal Protection Clause of the 14th Amendment to the U.S. Constitution, but federal civil rights law, U.S. Supreme Court precedent, and a recent, unanimous ruling by the Wisconsin Supreme Court striking down a race-based educational program as unconstitutional.

We demand that MCW immediately suspend such efforts, and that the State of Wisconsin, through the Higher Educational Aids Board's (HEAB) annual approval

process, immediately suspend compliance with this statute as a requirement for MCW to receive state funding.

I. Wis. Stat. § 39.15(1)(c) requires MCW to engage in a race-based admissions quota in order to receive state funding.

State funding is annually appropriated to MCW pursuant to Wis. Stat. § 20.250(1)(a) based on a per capita formula reflecting the number of Wisconsin residents enrolled at MCW and paying full tuition. *See* Wis. Stat. § 39.155(1). Each year, MCW submits to the HEAB for its approval the list of such students. *See* Wis. Stat. § 39.155(2). Upon the HEAB's approval of that list, the State of Wisconsin makes semiannual payments to MCW from its annual appropriation. *See id*.

However, as a condition to receive state funding under Wis. Stat. § 20.250, MCW "shall make every effort to ensure that at least 5 percent of the total enrollment of the college consists of minority students." *See* Wis. Stat. § 39.15(1)(c). At the discretion of the state auditor or the joint legislative audit committee, the Wisconsin Legislative Audit Bureau (the Bureau) "shall postaudit expenditures under s. 20.250 so as to assure the propriety of expenditures and compliance with legislative intent." *See id*.

Taken together, Wisconsin taxpayer funds are used towards research and training at MCW—but only if MCW agrees to engage in a race-based admissions quota, enforced by the State of Wisconsin, to ensure that enrollment consists of a certain number of "minority students."

II. Wis. Stat. § 39.15(1)(c) Violates the Equal Protection Clause of the 14th Amendment to the U.S. Constitution and Title VI of the Civil Rights Act of 1964.

In a recent, unanimous ruling striking down the Wisconsin Minority Undergraduate Retention Grant 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." *Rabiebna v. Higher Educ. Aids Bd.*, 2026 WI 20, ¶ 23. As a result, any state program with racial classifications—such as an admissions quota—is "odious" and "inherently invidious, regardless of how benign or laudable" it may appear. *Id*. ¶ 24 (citations omitted). Any such 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*, which struck down race-based admissions programs, 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).

Wis. Stat. § 39.15(1)(c) does not identify even *one* compelling government interest to justify imposing a race-based admissions quota, let alone satisfy *all* independent tests set forth in *SFFA* and *Callais*. 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 statute, the race-based admissions quota 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 is no apparent rationale to use race as a "negative" or a "stereotype," or any stated reason why the quota does not have a "logical end point." *See id*. at 218, 221. Since this quota cannot even satisfy one—let alone all five—independent rationales, this practice is unconstitutional.

The "imprecise" nature of the statute—the second of the five *SFFA* tests—is particularly glaring. The Bureau has repeatedly acknowledged for over 20 years that the statute "does not define 'minority student.'"[1] As a result, the Bureau has historically

[1] *See* Letter Report at 4, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Sept. 2011), available here; *see also* Letter Report at 4, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Sept. 2009), available here; Letter Report at 3, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Sept.

used the definition in Wis. Stat. § 39.44—the statute struck down in *Rabiebna*—and Wis. Stat. § 39.40, which is substantively identical to Wis. Stat. § 39.44 and the subject of a recent demand letter to Governor Evers and the HEAB.[2] The Bureau thus deems a student a "minority" if he or she identifies as a Black American, an American Indian or Alaskan native, a Hispanic,[3] a person of Asian or Pacific Island origin, or a "person whose ancestry includes 2 or more races."[4] However, the Bureau has repeatedly stated that MCW "does not have information readily available concerning the number of students from or having ancestors from Laos, Vietnam, or Cambodia," and therefore bases its audit on "the number of students who identified themselves as African American, Hispanic, or Native American"—excluding entirely students of "Asian or Pacific Island origin."[5]

The Bureau then has historically concluded, based on this percentage and other statements by MCW, that MCW has sufficiently "enlarge[d] the total pool of qualified minority applicants."[6] For example, in 2011 (the most recent publicly-available Report), the Bureau reported that "Medical College staff indicated that the increase in minority enrollment is the result of ongoing recruiting efforts by the Office of Student Affairs and Diversity," listing three such programs targeting high school and college students.[7] Taken together, imposing and perpetuating a race-based admissions quota violates the Equal Protection Clause, as is the underlying statute purporting to authorize it.

Title VI of the Civil Rights Act of 1964 embodies the same principles as the U.S. Constitution and applies to institutions that receive federal funding. MCW received over $428 million in federal funding in fiscal year 2025 to cover research, teaching, and related purposes.[8] MCW therefore must comply with Title VI, which prohibits discrimination on the grounds of race, color, or national origin.[9] Any ruling that MCW's

---

2007), available here; Letter Report at 2, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Aug. 2005), available here.

[2] *See* Letter, Rebecca Furdek and Daniel Lennington to Gov. Tony Evers and Exec. Sec. DeVooght Blaney (July 31, 2026), available here.

[3] "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).

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

[5] *See supra*, n. 1. In only the 2005 report (not the 2007, 2009, or 2011 reports cited in footnote 1), the Bureau explicitly stated: "Therefore, for the purpose of our analysis, we did not include students whose applications to [MCW] indicated Asian or Pacific Island heritage." *See* Letter Report at 2–3, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Aug. 2005), available here.

[6] *See* Letter Report at 3, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Aug. 2005), available here.

[7] *See* Letter Report at 5, *Medical Education Contract, Medical College of Wisconsin, Inc.*, WIS. LEGIS. AUDIT BUREAU (Sept. 2011), available here;

[8] *See Medical College of Wisconsin Federal Funding Data*, MED. COLLEGE OF WIS. (last accessed Aug. 17, 2026), available here.

[9] *See* 42 U.S.C. 2000d-4a(2)(A).

race-based admissions quota practice is unconstitutional under the Equal Protection Clause may also reflect a Title VI violation.

Notably, the U.S. Department of Justice (DOJ) increasingly scrutinizes medical schools that may be failing to comply with federal anti-discrimination law. In June 2026, DOJ opened fifteen new Title VI investigations into potential race discrimination in medical school admissions after concluding that two prominent medical schools had illegally used race in admissions.[10] In its accompanying press release, DOJ leadership observed: "Many of America's top medical schools appear more concerned about the demographics of their incoming classes than training students to succeed in the profession."[11] Relatedly, President Trump signed an executive order (EO) last year focused on anti-discrimination law compliance within higher education accreditation.[12] That EO explicitly called out the Liaison Committee on Medical Education (LCME), the sole medical school accreditor, declaring that "standards for training tomorrow's doctors should focus solely on providing the highest quality care, and certainly not on requiring unlawful discrimination."[13]

III. Wisconsin Taxpayers Should Not Be Forced to Fund an Illegal Practice.

In addition to reaffirming that state programs with "odious" racial classifications are only justifiable by a compelling government interest, the Wisconsin Supreme Court also 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)).

MCW receives millions of dollars per year in state funds, which thus permits Wisconsin state taxpayers to challenge such expenditures. Like the race-based program struck down in *Rabiebna*, administration of the race-based admissions quota at MCW is taxpayer-funded. Like the program in *Rabiebna*, the race-based admissions quota at MCW is administered under a state statute and with no identified compelling government interest. Like the program in *Rabiebna*, the race-based admissions quota at MCW is defined to benefit "minority" students, prioritizing such students over others solely due to their race, ethnicity, or national origin. And here, even worse than in *Rabiebna*, the race-based admissions quota at MCW does not even define "minority."

---

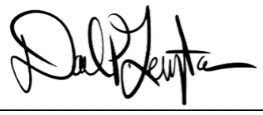
[10] Press Release, *Justice Department Expands Admissions Investigations into 15 Additional Medical Schools*, U.S. DEP'T OF J. (June 4, 2026), available here.
[11] *See id.*
[12] Exec. Order No. 14279, 90 Fed. Reg. 17529 (Apr. 23, 2025), available here.
[13] *See id.* Notably, the LCME has since reportedly eliminated its diversity, equity, and inclusion requirements. *See A Welcome Setback for Medical DEI*, WSJ (Mar. 23, 2026), available here.

Wisconsin faces a physician shortage, with MCW recently publishing a study estimating a shortfall of 745 primary care doctors by 2035.[14] Another recent nationwide study paints an even more grim picture, projecting that by 2030, Wisconsin will be short 2,263 doctors, with primary care alone projecting a 942-provider shortage.[15] It is troubling to many Wisconsinites that the State of Wisconsin weaponizes taxpayer funds to force MCW to enroll a certain number of students based on race. Receiving quality medical care is literally a matter of life or death. Why is Wisconsin prioritizing abstract "diversity" goals above ensuring we can attract the best and brightest future physicians to practice in Wisconsin, regardless of race, ethnicity, or national origin? To better understand the extent to which this has been occurring, we are eager to receive the results of a recent public records request sent to the Bureau, attached as Exhibit A.

We urge MCW to immediately suspend its compliance with Wis. Stat. § 39.15(1)(c), and urge the State of Wisconsin, upon HEAB's annual approval, to immediately suspend its requirement that MCW engage in a race-based admissions quota. If no such action is taken by September 30, 2026, we anticipate that Wisconsin taxpayers will be forced to file a lawsuit to put an end to this unconstitutional practice, which is akin to the race-based practice struck down in *Rabiebna*. Wisconsin taxpayer dollars should be used to attract and retain the most promising medical students, regardless of race and ethnicity, to provide valuable medical care for Wisconsinites.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.



Daniel P. Lennington
Managing Vice President & Deputy Counsel

Rebecca C. Furdek
Deputy Counsel

cc: Wisconsin Legislative Audit Bureau
Wisconsin Attorney General Josh Kaul

[14] *Continuing to Address the Shortage of Family Medicine Physicians*, MED. COLL. OF WIS. (Feb. 7, 2024), available here.
[15] *Wisconsin Physician Shortage*, CICERO INST. (Mar. 25, 2024), available here.