

Assessing the Constitutionality of MSI Program Criteria Under the Equal Protection Clause

< LFAA RESOURCES < PUBLICATIONS & RESEARCH

Publications & Research

17 Jul 2026

On September 10, 2025, the United States Department of Education (“Department”) charged with implementing funding programs under the Minority-Serving Institutions Program (“MSI Program”) discontinued funding, claiming that the programs contain “racial quotas” violative of the equal-protection component of the 5th Amendment’s Due Process Clause. The Department’s action followed on the heels of a Solicitor General letter to Congress making the same assertion about the Hispanic-Serving Institutions Program, premised on the Department of Justice’s interpretation of *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). Thereafter, the Office of Legal Counsel issued its opinion about the constitutionality of the MSI Program. It, unsurprisingly, agreed with and expounded on the Solicitor General’s determination. The Department’s elimination of funding for MSI does grave disservice to over 5 million mostly low income and first-generation college students educated at these institutions. This memo analyzes the constitutionality of the MSI Program criteria.

Working Groups

Education

LFAA is not a law firm and does not provide legal services or referrals. The contents of this resource do not constitute legal advice and the user of this resource agrees that no attorney-client relationship is being formed between the user and any person or entity, including LFAA and the lawyers or law firms that drafted the resource. LFAA makes no representation regarding the accuracy of any information included in this resource.

Attachments

Memo Defending Constitutionality of MSI

LFAA is not a law firm and does not provide legal services or referrals to individuals, legal services organizations or public interest agencies. If you believe you need a lawyer, please contact your local bar association or go to www.lawhelp.org.

