

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3280/1dn
FFK:cjs:jf

September 27, 2013

To Tom:

Because this draft transfers the state superintendent of public instruction's statutory duty to hold a hearing on a complaint about a race-based nickname, logo, mascot, or team name to a DOA-attached division it may be subject to a challenge based on article X, section 1, of the Wisconsin Constitution, which requires that the supervision of public instruction be vested in the state superintendent. See *Thompson v. Craney*, 199 Wis. 2d 674 (1996). It is not clear whether a court would find that holding a hearing and determining whether a race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping is "the supervision of public instruction" for purposes of article X, section 1, of the Wisconsin Constitution.

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