

2013 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB317)

Received: 10/15/2013 Received By: fknepp
Wanted: As time permits Same as LRB:
For: Dale Schultz (608) 266-0703 By/Representing: Todd
May Contact: Jim Tenuta Drafter: fknepp
Subject: Education - miscellaneous Addl. Drafters:
Extra Copies: TKK
PG

Submit via email: YES
Requester's email: Sen.Schultz@legis.wisconsin.gov
Carbon copy (CC) to: fern.knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

New complaint process for objecting to use of race-based mascot

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 10/15/2013	jdyer 10/15/2013	jmurphy 10/15/2013	_____			
/1	fknepp 10/15/2013			_____	sbasford 10/15/2013	sbasford 10/15/2013	
/2		evinz	jmurphy	_____	lparisi	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		10/15/2013	10/15/2013	_____	10/15/2013	10/15/2013	

FE Sent For:

<END>

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New complaint process for objecting to use of race-based mascot ✓

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/?	fknepp 10/15/2013	jdyer 10/15/2013	jmurphy 10/15/2013	_____			
/1		12 eeV 10/15/13	12 eeV 10/15/13	_____	sbasford 10/15/2013	sbasford 10/15/2013	

FE Sent For:

<END>

Handwritten notes:
Jm
eeV
KTB
10/15

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No specific pre topic given

Topic:

New complaint process for objecting to use of race-based mascot ✓

Instructions:

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	fknepp	10/15 jld	Am 10/15	Am 10/15			

FE Sent For:

<END>

The DPI shall identify all school districts currently using a logo, mascots, or team names that is potentially race-based. After making that identification, DPI shall require those school districts to conduct a review to determine whether the logo, mascot or team name promotes discrimination, harassment or stereotyping.

The DPI shall establish a procedure for accepting evidence from interested parties in each affected school district on the question of whether the school district's nickname, logo or mascot promotes discrimination, harassment or stereotyping.

Upon being notified of the review requirement, the school board shall establish a review process that includes the following:

- a. A public notification that the district is required to determine whether the use of the nickname or team name by the school board, alone or in connection with a logo or mascot, promotes discrimination, harassment or stereotyping. The public notice shall include a description of the review process.
- b. An initial comment period. Interested parties may submit evidence on the question of whether or not the practice promotes discrimination, harassment or stereotyping to either the DPI or the local school board. At the conclusion of the initial comment period, DPI and the school board shall exchange all evidence received in order to create complete body of all evidence received in a uniform format that does not substantively alter the significance of the evidence. Formats may include, but are not limited to paper, digitalized imagery and photos.
- c. A secondary comment period. The complete and uniform body of evidence shall be made available to the public for review and interested parties shall have a reasonable time period established by rule to submit additional comments.
- d. At the conclusion of the secondary comment period, the school board shall have a reasonable amount of time established by rule to review all the evidence and issue a decision on whether the logo, mascot or team name promotes discrimination, harassment or stereotyping.

A school district decision may be appealed to the division of hearings and appeals for a contested case hearing at the request of 10% of the district's membership, or an organization designated by the Great Lakes Inter-Tribal Council to represent the interests of all Wisconsin Tribes.

A school board may continue to use its logo or a modified version of its logo if it enters into an agreement with an organization designated by the Great lakes Inter-Tribal Council to represent the interests of all Wisconsin Tribes.

From: Jim Tenuta
608-239-9293

Handwritten notes and stamps:
- "terminate w/in 12w"
- Stamp: "100% (10/11) made"
- Stamp: "100% (10/11) made"
- Stamp: "100% (10/11) made"



State of Wisconsin
2013 - 2014 LEGISLATURE

NOW



LRBs0145/1
FFK:jld:jm

50159/1

↑ RMWR

KEEP

SENATE SUBSTITUTE AMENDMENT,
TO SENATE BILL 317

x Regen

1 AN ACT *to repeal and recreate* 118.134 of the statutes; **relating to:** race-based
2 nicknames, logos, mascots, and team names, ~~and~~ granting rule-making
3 authority, and providing a penalty

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 118.134^x of the statutes is repealed and recreated to read:

5 118.134 Race-based nicknames, logos, mascots, and team names. (1)

6 In this section:

7 (a) "Council" means the Great Lakes Inter-Tribal Council, Inc.

8 (b) "Identified nickname, logo, mascot, or team name" means a nickname, logo,
9 mascot, or team name that the state superintendent determines may be race-based
10 under sub. (2).

1 (2) No later than June 30, 2014, and annually thereafter, the state
2 superintendent shall identify each school board that uses a nickname, logo, mascot,
3 or team name that the state superintendent determines may be race-based.

4 (3) Except as provided in sub. (6) (a), a school board identified under sub. (2)
5 shall conduct a review process to determine whether the school board's use of an
6 identified nickname, logo, mascot, or team name promotes discrimination,
7 harrassment, or stereotyping that includes all of the following:

8 (a) Issuance of a public notice stating that the school board is required to
9 conduct a review process under this subsection and that provides a description,
10 including a timeline, of the review process.

11 (b) An initial comment period during which interested parties may submit to
12 the school board or to the state superintendent evidence related to whether the
13 school board's use of an identified nickname, logo, mascot, or team name promotes
14 discrimination, harrassment, or stereotyping.

15 (c) A 2nd comment period during which all evidence received by the school
16 board and the state superintendent under par. (b) is made available to the public for
17 review and during which interested parties may submit additional comments to the
18 school board.

✓
(a) 19 (4) After completing the review process required under sub. (3), a school board
20 shall review all of the evidence received by the school board and the state
21 superintendent and shall issue a decision on whether the identified nickname, logo,
22 mascot, or team name promotes discrimination, harrassment, or stereotyping. If the
23 school board finds that the identified nickname, logo, mascot, or team name
24 promotes discrimination, harrassment, or stereotyping, the school board shall

INS
3-2

1 terminate its use of the identified nickname, logo, mascot, or team name within 12
2 months of the decision.

3 (5) (a) Upon receipt of a petition containing at least a number of signatures of
4 school district electors equal to 10 percent of the school district's membership, as
5 defined in s. 121.004 (5), in the previous school year, or at the request of an entity
6 designated by the council to represent the interests of all of the federally recognized
7 American Indian tribes and bands in this state, the division of hearings and appeals
8 shall schedule a contested case hearing to hear an appeal of a school board decision
9 under sub. (4) no later than 30 days after the petition or request is filed and shall
10 issue a decision and order on the matter no later than 45 days after the hearing. For
11 purposes of hearing an appeal under this paragraph, the division of hearings and
12 appeals shall consider a school board to be an agency, as defined in s. 227.01 (1).

13 (b) Decisions under this subsection are subject to judicial review under ch. 227.

14 (6) (a) Notwithstanding sub. (3), the state superintendent may not require a
15 school board to conduct a review process to determine whether the school board's use
16 of an identified nickname, logo, mascot, or team name promotes discrimination,
17 harrassment, or stereotyping if the school board has entered into an agreement with
18 an entity designated by the council to represent the interests of all of the federally
19 recognized American Indian tribes and bands in this state under which the entity
20 designated by the council approves the school board's use of the identified nickname,
21 logo, mascot, or team name.

22 (b) Notwithstanding subs. (4) and (5), a school board identified under sub. (2)
23 may continue to use or reinstate the use of an identified nickname, logo, mascot, or
24 team name if the school board enters into an agreement with an entity designated
25 by council to represent the interests of all of the federally recognized American

1 Indian tribes and bands in this state under which the entity designated by council
2 approves the school board's use of the identified nickname, logo, mascot, or team
3 name.

4 (7) The state superintendent shall promulgate rules necessary to implement
5 and administer this section, including rules related to all of the following:

6 (a) A procedure to accept evidence from interested parties related to whether
7 a school board's use of an identified nickname, logo, mascot, or team name promotes
8 discrimination, harrassment, or stereotyping.

9 (b) A procedure for a school board and the state superintendent to exchange and
10 compile all evidence received during an initial comment period under sub. (3) into
11 a complete single exhibit of evidence that is in a uniform format and is accessible to
12 the public before the beginning of the 2nd comment period.

13 (c) A minimum and maximum time period for the initial and 2nd comment
14 period under sub. (3).

15 (d) The maximum number of days that a school board may review evidence
16 received during the review process before issuing a decision under sub. (4).[✓]

17

(END)

Ins 4-16

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0150
FFK:.....

INS 3-2

1 (b) 1. In this paragraph, "extenuating circumstances" includes circumstances
2 in which the costs of terminating the use of an identified nickname, logo, mascot, or
3 team name pose an undue financial burden on the school district and circumstances
4 in which the work or the requirements for bidding a contract to complete the work
5 required to terminate the use cannot be completed within 12 months after the
6 issuance of the decision under par. (a).

7 2. a. If, after a decision is issued under par. (a), the school board presents
8 evidence to the state superintendent that extenuating circumstances render
9 termination of the use of the identified nickname, logo, mascot, or team name within
10 12 months after the issuance of that decision impossible or impracticable, the state
11 superintendent may issue an order to extend the time within which the school board
12 must terminate its use of the identified nickname, logo, mascot, or team name.
13 Except as provided in subd. 2. b., the extension may not exceed 24 months and shall
14 apply only to those portions of the decision and order to which extenuating
15 circumstances apply.

16 b. The state superintendent may extend the time granted to a school board
17 under subd. 2. a. if the school board presents evidence to the state superintendent
18 that terminating the use of the identified nickname, logo, mascot, or team name may
19 be accomplished through a regularly scheduled maintenance program and that the
20 cost of compliance with that portion of the decision and order exceeds \$5,000. The
21 extension granted under this subd. 2. b. may not exceed 96 months and applies only
22 to the termination of the school board's use of the identified nickname, logo, mascot,



1 or team name[✓] that will be accomplished through the regularly scheduled
2 maintenance program and that costs more than \$5,000.[✓]

3 (c) Decisions of the state superintendent under this subsection[✓] are subject to
4 judicial review under ch. 227.[✓]

History: 2009 a. 250; 2011 a. 32.

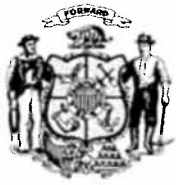
END INS 3-2

INS 4-16

5 (8) Any school board that uses a race-based nickname, logo, mascot, or team
6 name[✓] in violation of sub. (4)[✓] shall forfeit not less than \$100 nor more than[✓] \$1,000.
7 Each day of use of the race-based nickname, logo, mascot, or team name in violation
8 of sub. (4) constitutes a separate violation.[✓]

History: 2009 a. 250; 2011 a. 32.

END INS 4-16



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0150/1
FFK:jld/jm

Now

In 70-15

1/2
1/10/14
JCV

**SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL 317**

1 **AN ACT to repeal and recreate** 118.134 of the statutes; **relating to:** race-based
2 nicknames, logos, mascots, and team names, granting rule-making authority,
3 and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 118.134 of the statutes is repealed and recreated to read:

5 **118.134 Race-based nicknames, logos, mascots, and team names. (1)**

6 In this section:

7 (a) "Council" means the Great Lakes Inter-Tribal Council, Inc.

8 (b) "Identified nickname, logo, mascot, or team name" means a nickname, logo,
9 mascot, or team name that the state superintendent determines may be race-based
10 under sub. (2).

1 (2) No later than June 30, 2014, and annually thereafter, the state
2 superintendent shall identify each school board that uses a nickname, logo, mascot,
3 or team name that the state superintendent determines may be race-based.

4 (3) Except as provided in sub. (6) (a), a school board identified under sub. (2)
5 shall conduct a review process to determine whether the school board's use of an
6 identified nickname, logo, mascot, or team name promotes discrimination,
7 ^Gharr~~assment~~ssment, or stereotyping that includes all of the following:

8 (a) Issuance of a public notice stating that the school board is required to
9 conduct a review process under this subsection and that provides a description,
10 including a timeline, of the review process.

11 (b) An initial comment period during which interested parties may submit to
12 the school board or to the state superintendent evidence related to whether the
13 school board's use of an identified nickname, logo, mascot, or team name promotes
14 ^Gdiscrimination, harr~~assment~~ssment, or stereotyping.

15 (c) A 2nd comment period during which all evidence received by the school
16 board and the state superintendent under par. (b) is made available to the public for
17 review and during which interested parties may submit additional comments to the
18 school board.

19 (4) (a) After completing the review process required under sub. (3), a school
20 board shall review all of the evidence received by the school board and the state
21 superintendent and shall issue a decision on whether the identified nickname, logo,
22 ^Gmascot, or team name promotes discrimination, harr~~assment~~ssment, or stereotyping. If the
23 school board finds that the identified nickname, logo, mascot, or team name
24 ^Gpromotes discrimination, harr~~assment~~ssment, or stereotyping, the school board shall

1 terminate its use of the identified nickname, logo, mascot, or team name within 12
2 months of the decision.

3 (b) 1. In this paragraph, “extenuating circumstances” includes circumstances
4 in which the costs of terminating the use of an identified nickname, logo, mascot, or
5 team name pose an undue financial burden on the school district and circumstances
6 in which the work or the requirements for bidding a contract to complete the work
7 required to terminate the use cannot be completed within 12 months after the
8 issuance of the decision under par. (a).

9 2. a. If, after a decision is issued under par. (a), the school board presents
10 evidence to the state superintendent that extenuating circumstances render
11 termination of the use of the identified nickname, logo, mascot, or team name within
12 12 months after the issuance of that decision impossible or impracticable, the state
13 superintendent may issue an order to extend the time within which the school board
14 must terminate its use of the identified nickname, logo, mascot, or team name.
15 Except as provided in subd. 2. b., the extension may not exceed 24 months and shall
16 apply only to those portions of the decision and order to which extenuating
17 circumstances apply.

18 b. The state superintendent may extend the time granted to a school board
19 under subd. 2. a. if the school board presents evidence to the state superintendent
20 that terminating the use of the identified nickname, logo, mascot, or team name may
21 be accomplished through a regularly scheduled maintenance program and that the
22 cost of compliance with that portion of the decision and order exceeds \$5,000. The
23 extension granted under this subd. 2. b. may not exceed 96 months and applies only
24 to the termination of the school board’s use of the identified nickname, logo, mascot,

1 or team name that will be accomplished through the regularly scheduled
2 maintenance program and that costs more than \$5,000.

3 (c) Decisions of the state superintendent under this subsection are subject to
4 judicial review under ch. 227.

5 (5) (a) Upon receipt of a petition containing at least a number of signatures of
6 school district electors equal to 10 percent of the school district's membership, as
7 defined in s. 121.004 (5), in the previous school year, or at the request of an entity
8 designated by the council to represent the interests of all of the federally recognized
9 American Indian tribes and bands in this state, the division of hearings and appeals
10 shall schedule a contested case hearing to hear an appeal of a school board decision
11 under sub. (4) no later than 30 days after the petition or request is filed and shall
12 issue a decision and order on the matter no later than 45 days after the hearing. For
13 purposes of hearing an appeal under this paragraph, the division of hearings and
14 appeals shall consider a school board to be an agency, as defined in s. 227.01 (1).

15 (b) Decisions under this subsection are subject to judicial review under ch. 227.

16 (6) (a) Notwithstanding sub. (3), the state superintendent may not require a
17 school board to conduct a review process to determine whether the school board's use
18 of an identified nickname, logo, mascot, or team name promotes discrimination,
19 harassment, or stereotyping if the school board has entered into an agreement with
20 an entity designated by the council to represent the interests of all of the federally
21 recognized American Indian tribes and bands in this state under which the entity
22 designated by the council approves the school board's use of the identified nickname,
23 logo, mascot, or team name.

24 (b) Notwithstanding subs. (4) and (5), a school board identified under sub. (2)
25 may continue to use or reinstate the use of an identified nickname, logo, mascot, or

1 team name if the school board enters into an agreement with an entity designated
2 by council to represent the interests of all of the federally recognized American
3 Indian tribes and bands in this state under which the entity designated by council
4 approves the school board’s use of the identified nickname, logo, mascot, or team
5 name.

6 (7) The state superintendent shall promulgate rules necessary to implement
7 and administer this section, including rules related to all of the following:

8 (a) A procedure to accept evidence from interested parties related to whether
9 a school board’s use of an identified nickname, logo, mascot, or team name promotes
10 discrimination, ^harassment, or stereotyping.

11 (b) A procedure for a school board and the state superintendent to exchange and
12 compile all evidence received during an initial comment period under sub. (3) into
13 a complete single exhibit of evidence that is in a uniform format and is accessible to
14 the public before the beginning of the 2nd comment period.

15 (c) A minimum and maximum time period for the initial and 2nd comment
16 period under sub. (3).

17 (d) The maximum number of days that a school board may review evidence
18 received during the review process before issuing a decision under sub. (4).

19 (8) Any school board that uses a race-based nickname, logo, mascot, or team
20 name in violation of sub. (4) shall forfeit not less than \$100 nor more than \$1,000.
21 Each day of use of the race-based nickname, logo, mascot, or team name in violation
22 of sub. (4) constitutes a separate violation.

(END)

[LVS
5-22] →

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0150/2ins
FFK:.....

INS 5-22

1 (9) (a) No school district is required to comply with a decision and order issued
2 under s. 118.134 (3), 2011 stats., (on or) before the effective date of this subsection
3 [LRB inserts date], to terminate the use of a race-based nickname, logo, mascot, or
4 team name.

5 (b) The state superintendent may not assess or collect a forfeiture for a school
6 board's use of a race-based nickname, logo, mascot, or team name that that violates
7 a decision and order issued under s. 118.134 (3), 2011 stats., before the effective date
8 of this paragraph [LRB inserts date].

9 SECTION ~~11~~ 118.51 (13) of the statutes is amended to read:

10 118.51 (13) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS. Except as provided
11 in s. 118.134 (3m), a pupil attending a public school in a nonresident school district
12 under this section has all of the rights and privileges of pupils residing in that school
13 district and is subject to the same rules and regulations as pupils residing in that
14 school district.

History: 1997 a. 27, 41, 164; 1999 a. 117, 118; 2001 a. 16, 104; 2003 a. 55; 2005 a. 258; 2007 a. 222; 2009 a. 185, 250, 303, 304; 2011 a. 32, 114, 258; 2013 a. 20; s. 13.92
(2) (i).

15 SECTION ~~2~~ Nonstatutory provisions.

END INS 5-22

SENATE BILL 317

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(1) A complaint objecting to the use of a race-based nickname, logo, mascot, or team name filed with the state superintendent of public instruction before the effective date of this subsection for which a decision and order has not been issued under section 118.134 (3) of the ²⁰¹¹ statutes is void.

SECTION 25. Initial applicability.

↑ 2011 stats. ↑

(1) The treatment of section 118.134 (1) (intro.), (a), and (b), (1m) (a) (intro.), 1., 2., and 3., and (2) (a) and (b) of the statutes first applies to a complaint objecting to the use of a race-based nickname, logo, mascot, or team name filed with the state superintendent of public instruction on the effective date of this subsection.

(END)