

Chapter PI 45

USE OF RACE-BASED NICKNAMES, LOGOS, MASCOTS, AND TEAM NAMES

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PI 45.01 Purpose. (1) Section 118.134 (1), Stats., allows a school district resident to object to the use of a race-based nickname, logo, mascot, or team name by the school board of that school district by filing a complaint with the state superintendent.

(2) Under s. 118.134 (4), Stats., the state superintendent is required to promulgate rules necessary to implement and administer this provision.

(3) Under s. 118.134 (2), Stats., rules must define whether the use of the race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping.

(4) This chapter identifies specific nicknames or team names that used alone or with a combination of logos or mascots are unambiguously race-based and presumed to promote discrimination, pupil harassment, or stereotyping unless the school district produces clear and convincing evidence refuting this presumption. The rules also establish procedural timelines as to when and what information must be submitted to the state superintendent by a school board and when a contested case hearing may or may not be scheduled.

History: EmR1018: emerg. cr., eff. 6-1-10; CR 10-074: cr. Register November 2010 No. 659, eff. 12-1-10.

PI 45.02 Definitions. In this chapter:

(1) "Approval by a specific, federally recognized American Indian tribe" means approval by the governing body of that tribe for the specific use of a nickname, logo, mascot, or team name which is a reference to, or depiction or portrayal of, or the name of the tribe and which is factually traced to and claimed exclusively by that tribe.

(2) "Bias" means an inclination for or against a person or group of persons based, in whole or in part, on race that inhibits impartial or objective judgment affecting pupils.

(3) "Board" means the school board in charge of the public schools of a district.

(4) "Department" means the Wisconsin department of public instruction.

(5) "Discrimination" means any action, policy, or practice, including bias, stereotyping, and pupil harassment, which is detrimental to a person or group of persons and differentiates or distinguishes among persons, or which limits or denies a person or group of persons opportunities, privileges, roles, or rewards based, in whole or in part, on race, or which perpetuates the effects of past discrimination based in whole or in part on race.

(6) "Logo" means any written, printed, graphic, photographic, badge, emblem, caricature, image, statue, artifact or other symbolic depiction representative of or in any way connected to the identity of a school, district, or board.

(7) "Mascot" means a person, costume, insignia, dance, song, rhythmic beat, or any other object or thing representative of or in any way connected to the identity of a school, district, or board.

(8) "Nickname" means any name, title, label, word, or any other designation of any kind representative of or in any way connected to the identity of a school, district, or board, but does not include the official name of a school or school district.

(9) "Pupil harassment" means behavior towards pupils based, in whole or in part, on race, which substantially interferes with a

pupil's school performance or creates an intimidating, hostile, or offensive school environment.

(10) "School district" has the meaning defined under s. 115.01 (3), Stats.

(11) "Specific, federally recognized American Indian tribe" means a tribal entity recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of its status as an Indian tribe.

(12) "Stereotyping" means attributing behaviors, abilities, interests, values, and roles to a person or group of persons on the basis, in whole or in part, of their race.

(13) "Use" includes adoption of nicknames, logos, mascots, or team names by a school district board as representative of or in any way connected to the identity of a school, district, or board or the display of nicknames, logos, mascots, or team names at any school or school sponsored event.

History: EmR1018: emerg. cr., eff. 6-1-10; CR 10-074: cr. Register November 2010 No. 659, eff. 12-1-10.

PI 45.03 Complaint procedures. (1) A complaint filed under s. 118.134 (1), Stats., shall be submitted to the state superintendent in writing and include all of the following information:

(a) The complainant's contact information.

(b) A statement that the complainant is a resident of the school district to which the complaint is directed.

(2) Upon receipt of a complaint, the state superintendent shall notify the school district of the complaint. A complaint received under this section shall include a review by the department of all nicknames, logos, mascots, or team names in use in the school district.

(3) (a) Within 10 business days of receiving the notice under sub. (2), the school board shall submit to the state superintendent a list of all nicknames or team names in use in the school district and a photograph, copy, or other accurate description or depiction of any logo or mascot in use in the school district. Upon receipt of this information, the state superintendent shall notify the school board of the state superintendent's determination regarding whether the use of the nickname or team name alone or in connection with a logo or mascot is unambiguously race-based.

(b) If applicable, within 10 days of receiving the notice under sub. (2), the school board shall submit evidence that it has received approval from a specific, federally recognized American Indian tribe to use the nickname, logo, mascot, or team name in a specific manner used by the school board and in the manner to which the school district resident objects in the complaint filed under sub. (1) and that the tribe has not rescinded that approval.

(4) (a) Except as specified under par. (b), the state superintendent shall schedule a contested case hearing within 45 days after the complaint is filed.

(b) Under s. 118.134 (1m) (a), Stats., the state superintendent may determine that no contested case hearing is necessary or that a hearing date may be postponed for the purpose of obtaining additional information under sub. (3) (b) from the school board.

History: EmR1018: emerg. cr., eff. 6-1-10; CR 10-074: cr. Register November 2010 No. 659, eff. 12-1-10.

PI 45.04 Discrimination, harassment or stereotyping. (1) The use of any of the unambiguously race-based nick-

names or team names listed under this section is presumed to promote discrimination, pupil harassment, or stereotyping unless the school district produces clear and convincing evidence refuting this presumption.

(2) A nickname or team name is unambiguously race-based if it includes any of the following terms:

- (a) The full or partial name of any specific, federally recognized American Indian tribe.
- (b) Indians.
- (c) Braves.
- (d) Redmen.

(3) (a) A nickname or team name is unambiguously race-

based if it includes any of the terms arrows, blackhawks, chiefs, chieftains, hatchets, raiders, red raiders, warriors, or warhawks and is used in connection with any of the following logos or mascots:

- 1. A depiction of an American Indian person or persons.
- 2. Feathers or feather headdress.
- 3. Arrows, bows, spears, tomahawks, stone hatchets, or other historical or traditional American Indian weapons or tools.
- 4. Historical or traditional American Indian drums, pipes, beadwork, clothing, or footwear.

History: EmR1018: emerg. cr., eff. 6-1-10; CR 10-074: cr. Register November 2010 No. 659, eff. 12-1-10.