



**SENATE SUBSTITUTE AMENDMENT 2,  
TO 2009 SENATE BILL 25**

April 6, 2010 - Offered by Senator OLSEN.

1     **AN ACT to create** 118.134 of the statutes; **relating to:** the use of race-based  
2             nicknames, logos, mascots, and team names by school boards and providing a  
3             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 created to read:

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

6             (a) Notwithstanding s. 118.13, a school district resident may object to the use of a  
7             race-based nickname, logo, mascot, or team name by the school board of that school  
8             district by filing a complaint with the school board. The school board shall schedule  
9             a hearing within 45 days after the complaint is filed.

10            (b) At the hearing, the school board shall determine whether the use of the  
11            race-based nickname, logo, mascot, or team name by the school board promotes

1 discrimination, pupil harassment, or stereotyping. The school board shall issue a  
2 written decision within 45 days after the hearing and shall include the reason for its  
3 decision.

4 (c) If the school board finds that the race-based nickname, logo, mascot, or team  
5 name promotes discrimination, pupil harassment, or stereotyping, the school board  
6 shall terminate its use of the nickname, logo, mascot, or team name within 12 months  
7 after issuing the decision.

8 **(2)** (a) The school district resident under sub. (1) (a) may appeal the school  
9 board's decision under sub. (1) (b) to the state superintendent by submitting a  
10 written notice of appeal together with the written decision of the school board to the  
11 state superintendent. The state superintendent shall notify the school board of the  
12 receipt of the appeal and schedule a hearing within 45 days after the appeal is filed.

13 (b) At the hearing, the state superintendent shall determine whether the use  
14 of the race-based nickname, logo, mascot, or team name promotes discrimination,  
15 pupil harassment, or stereotyping.

16 (c) The state superintendent shall issue a decision and order within 45 days  
17 after the hearing. If the state superintendent finds that the use of the race-based  
18 nickname, logo, mascot, or team name does not promote discrimination, pupil  
19 harassment, or stereotyping, the state superintendent shall dismiss the appeal.  
20 Except as provided in sub. (3), if the state superintendent finds that the use of the  
21 race-based nickname, logo, mascot, or team name promotes discrimination, pupil  
22 harassment, or stereotyping, the state superintendent shall order the school board  
23 to terminate its use of the nickname, logo, mascot, or team name within 12 months  
24 after issuance of the order.

1 (d) Decisions of the state superintendent under this subsection are subject to  
2 judicial review under ch. 227.

3 (3) (a) In this subsection, “extenuating circumstances” includes circumstances  
4 in which the costs of compliance with an order issued under sub. (2) pose an undue  
5 financial burden on the school district and circumstances in which the work or the  
6 requirements for bidding a contract to complete the work required to bring the school  
7 district into compliance with the order issued under sub. (2) cannot be completed  
8 within 12 months after the issuance of the order.

9 (b) If, at the hearing under sub. (2) (b) or after a decision and order have been  
10 issued under sub. (2) (c), the school board presents evidence to the state  
11 superintendent that extenuating circumstances render full compliance with the  
12 decision and order within 12 months after the issuance of that decision and order  
13 impossible or impracticable, the state superintendent may issue an order to extend  
14 the time within which the school board must terminate its use of the race-based  
15 nickname, logo, mascot, or team name. The extension authorized under this  
16 paragraph may not exceed 24 months and applies only to those portions of the  
17 decision and order to which extenuating circumstances apply.

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

20 (4) Any school board that uses a race-based nickname, logo, mascot, or team  
21 name in violation of an order issued under sub. (2) (c) or (3) (b) shall forfeit not less  
22 than \$100 nor more than \$1,000. Each day of use of the race-based nickname, logo,  
23 mascot, or team name in violation of an order issued under sub. (2) (c) or (3) (b)  
24 constitutes a separate violation.

25 **SECTION 2. Initial applicability.**

