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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2013-14
(session year)

Assembly
(Assembly, Senate or Joint)

Committee on...
Government Operations and State Licensing (AC-GOSL) (Repealed 10-17-13)

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (December 2014)

2 October 2013

Assembly Committee on
Government Operations and State Licensing
Wisconsin Capitol
Madison, WI 53703

Re: Public Hearing on Assembly Bill 297

Dear Committee Members,

My name is Jason Fox and I have served for the past five years as the editor of the Berlin Journal Newspapers, during which time I've written several articles about the debate over racially-inspired team nicknames and even spoken on behalf of the Berlin Area District during the Department of Public Instruction's proceedings against the district two years ago. The words shared by those looking to uphold Berlin's longtime tradition of taking to the sporting fields as the "Indians" seemed at the time to have been little more than a formality, with the odds overwhelmingly favoring the DPI even before the start of the proceedings.

We have continued to cover the issue with the same level of commitment since day one, providing our readership with even the slightest of details in the event of updates affecting school districts like Berlin and Mukwonago. From our perspective as journalists, it's an important issue not only close to home, but all over the country. From the perspective of our readership area, or at least the vast number who've taken the time to share their views with our publication, the overwhelming consensus is clear—community members, even those of Native American descent, are not only in favor of maintaining the Indian tradition at Berlin High School, but vocally adamant about it.

It was with great anticipation, then, that the staff at the Berlin Journal Newspapers learned through a member of the local Save the Berlin Indian Committee earlier this week that twenty Wisconsin Republican legislators had brought forth a proposal that would take the burden of proof away from the school districts and eliminate the possibility of one individual forcing a mandated change. Speaking as not only the editor of the official local newspaper, but also a Berlin High School alumnus who proudly competed as an Indian for four years, I commend these men and women for their efforts toward turning the proposed Assembly Bill 297 into a long-overdue law in the near future.

The reaction to the news that the Berlin Indians' days might be numbered was both immediate and overwhelming, so two years ago the staff of the Berlin Journal Newspapers drafted a simple questionnaire asking readers if they were in favor or opposed to the idea of changing the Indians logo and moniker, as well as to offer any additional commentary. Conducted over the course of roughly one month, the survey drew a considerable response; with 10,652 surveys distributed throughout the publication area, more than one thousand were completed and returned for tabulation. The results of

the survey indicated that 971 respondents favored maintaining the Indian tradition, while only 30 expressed a desire for change.

Should viewing the actual completed surveys assist you in any way during the decision-making process over Assembly Bill 297, we at the Berlin Journal Newspapers would be happy to provide you with them in a timely manner.

As someone who grew up attending the Berlin schools and a member of my hometown's business community for the past fifteen years, the vast majority of which I've spent covering the Berlin High School sporting events and seen nothing but respect for the Indians name and imagery, I thank you for taking the time to consider this important decision. As can be seen from the local golf course (Mascoutin Golf Club), the high school annual (The Mascoutin) and even the local school bus company (Mascoutin Transportation), the Native American heritage of our community is one upheld with great pride. The people who work here or call Berlin home embrace that heritage, and taking even a small part of that away would be taking away a part of this community's identity.

I look forward with great interest to learning about the developments in this matter in the near future, and again offer my assistance to your committee members in any way possible.

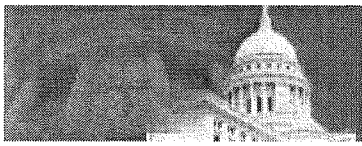
Sincerely,

Jason J. Fox

Editor, Berlin Journal Newspapers

P.O. Box 10, Berlin WI 54923

(920) 361-1515



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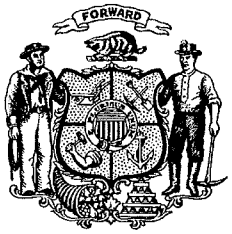


AB 297

Mikalsen, Mike

From: Dave Gneiser <sparkplugdave@gmail.com>
Sent: Wednesday, October 02, 2013 8:56 PM
To: Mikalsen, Mike
Subject: Written testimony on AB297

Assembly Committee on

Government Operations and State Licensing

Wisconsin Capitol

Madison, WI 53703

You should include a regarding line referencing "Assembly Bill 297" and begin your letter with

Dear Committee Members:

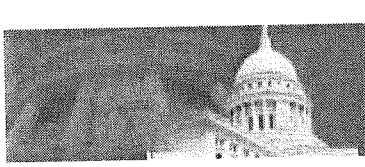
I support Assembly Bill 297 which replaces the very much unconstitutional Act 250. Under Act 250, the accused school district is automatically presumed guilty of racism and places the burden on the accused to prove innocence. This runs 180 degrees counter to our justice system where one is innocent until proven guilty by the accuser.

Yes, I know the Act 250 proponents believe that using any means, even an obviously unconstitutional one where one is guilty and must prove their innocence, is justified by their end goal. NO, it is not, nor should it ever be thus. This sets a dangerous legal precedent. It is bad law.

AB297 resolves what is wrong with Act 250, ends the tyranny of one complainer trumping the wishes of the rest of the school district taxpayers. We elect our school boards to run our local schools. The best government is that which is closest to the people represented. Restore the decision making processes to our locally elected school board members as to what sports team nicknames and logos we choose.

Thank you for your consideration,

David E. Gneiser
Berlin, WI.



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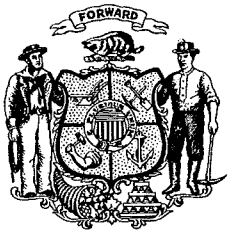


Save The Berlin Indian Committee

Barbara J. Resop, President • (920) 229-5856 • luvluv@charter.net • PO Box 414 • Berlin, Wisconsin 54923

October 2, 2013

Assembly Committee on

Government Operations and State Licensing

Wisconsin Capitol

Madison, WI 53703

RE: Assembly Bill 297

Dear Committee Members:

The following essay is a plea from the Berlin community to help us to save a piece of our heritage and community identity: the Berlin Indian nickname and logo. As you may know, the Wisconsin Department of Public Instruction (DPI) used Act 250 to hold Berlin and the Berlin Indian guilty until proven innocent of stereotyping and discriminating Native Americans. At Berlin's hearing in Madison, the DPI violated due process by stacking the hearing with prejudiced DPI members appointed by State Superintendent Tony Evers who already had their minds made up as to the fate of the Berlin Indian before testimonies were given. As it is our constitutional right, since our tax dollars are being used to pay the people who aimed to change our logo, and considering it will cost Berlin taxpayers thousands of dollars to do so, Berlin was entitled to have proper due process and a more meaningful voice in this matter.

Theory Driving DPI's Actions – *Political Correctness*

The People of Berlin, Wisconsin are confused. The tyranny in our society of sterilized and often state-mandated, words and symbols continues to reach its zenith. Political censorship and the destruction of free speech, expression, and choice that is done in the name of cultural sensitivity has been effective on national and local levels for at least the past two decades. Political correctness censors controversy. It also shames and litigates people into one way of thinking, speaking, and expressing themselves or others. As is the case with the Berlin Indian, political correctness strips us of the ability to make basic choices concerning our publicly-funded schools and our children.

The dominant ideology of political correctness in the United States resembles an uncritical straightjacket of government's officially-condoned truth, which flip-flops when politically advantageous. The proponents of a politically correct society say that the average person is too uneducated to understand the meaning of the words or symbols when he or she uses, and may

unintentionally or intentionally "harm" a person or group of people as a result. Rather than promoting robust discussion to educate and to discover history, meanings, and perspectives by using diverse terminology and symbology, proponents of the politically-correct agenda think and act on the premise that freedom of speech must be restricted because people cannot be trusted to choose and exercise their own words and symbols.

Berlin Indian – *Harmless to All, Meaningful to Berlin*

Contrary to the claim that the Berlin Indian logo stereotypes or discriminates Native Americans, if you ask any citizen in the Berlin area, including those of Native American heritage, to describe the identity of the Berlin Indian, citizens will not discuss the figure in a demeaning or unfair way. The average Berlinite will say the logo and nickname represents a Mascoutin or a member from one of the many other tribes historically and culturally integral to the identity of the Berlin Community. As early as 1675, European explorers visited the Mascoutin Village, now known as Berlin. When settlers arrived they became friends with the many tribes in the area including the Mascoutin, Ho-Chunk and Menominee. Despite hostilities occurring among Native Americans and Europeans in many instances across the continent, it should also be celebrated that there were also instances of peaceful trading, social celebrations, and cohabitation between Native Americans and Europeans. The interaction between Native Americans and French fur traders is one excellent example where two cultures had positive, meaningful interaction particularly in Wisconsin.

Several examples of the codependency of Native American and European heritage follow. First, Chief Poegonah (Big Soldier) was a Menominee (Winnebago) chief. His son, Big Thunder, always wore a stovepipe hat and became affectionately known as Chief Highknocker by Berlinites. Berlin was known as a fur and leather city and manufactured a high-quality glove known as the "Highknocker." Second, Berlin schools' annual yearbook has been called "The Mascoutin" since the first 1918 edition. In 1925 Superintendent Carl Wolf decided to use the Indian nickname and logo when he organized the first B-Club for boy athletes. During the game in the gym it was announced, that since Berlin wants to remember and to honor the Mascoutin, the school district was adopting the name "Berlin Indians" to honor all tribes of the area. Attending Native Americans cheered this decision. Third, since 1930 the local golf course has been called the "Mascoutin Country Club." Fourth, since school buses started taking children to school, the bus company has been called the "Mascoutin Transportation Company." Fifth and most recently –within the last five years-the City of Berlin named its new recreation trail the "Mascoutin Trail." *Please note:* Berlin proclaiming itself as the fur and leather city capital of Wisconsin does not discriminate against other communities and people manufacturing fur and leather any more than Berlin choosing to be labeled as "Indian Country" is derogatory to Native Americans. It's absurd.

Berlin's Grievances – *Violation of Due Process, Destruction of Identity*

Regarding the legal process, the Berlin Indian should not be discriminated against and subsequently banned unless the community of Berlin at the very least is able to exercise due process in a fair and balanced manner. The Berlin Area School District was deemed guilty and had the burden of proving innocence at a biased hearing stacked with a predetermined agenda by Tony Evers and the DPI. That was unjust. If the Berlin Indian is to be annihilated without due process, Wisconsin would not be protecting the identity of Native Americans or fighting racism by destroying a harmful stereotype as proposed. Instead, the State of Wisconsin would be discriminating against the Berlin community and sponsoring the dictated elimination of a positive, community-supported, idealized cultural icon representing Native American and European heritage.

Native Americans or American Indians themselves have diverse views concerning their name, symbolic representation, and identity. The U.S. Census of 1990 (prior to the influence of political correctness) asked a question of preference to American Indians concerning racial or ethnic

terminology and 47.76% preferred "American Indian" while 37.35% chose "Native American." Another 3.66 preferred other terms while 3.51% chose "Alaska Native." A total of 5.72% of Native Americans surveyed had no preference. We are also aware of the terms "Aboriginal Indians," "First Nations," as well as other Indian references to the people of the western hemisphere. Some people prefer to be referred only by their tribal name. However, as the U.S. Census survey demonstrates, most Native Americans desire labeling themselves with the comprehensive – daresay stereotyped-term "American Indian."

Likewise, the term "Indian," as in "Berlin Indian," is simply a practical term used to conceptualize a group of people. This proud minority represented by the Berlin Indian symbol are the former and current Native Americans of the Berlin area as well as the present-day Berlin community – or tribe if you will. Stated again, one must first rip the Berlin Indian logo and nickname out of its socio-historical context in order to incorrectly twist its meaning and then negatively apply it to Native Americans for our caricature to be considered a racist or discriminatory statement to the Native America ethnicity.

In Conclusion – *A Plea for Justice*

Berlin schools enroll all races, ethnic groups, foreign exchange students and the citizens feel the attack on the Berlin Indian by one reasonless person in a biased theater is an unfair destruction of community identity and the traditional grassroots approach to public education. The Berlin Area School District already follows all the State of Wisconsin educational guidelines set forth by Act 31 regarding education concerning Native Americans and there are already laws and procedures to cover student situations.

There are many graduates of Native American heritage who want Berlin's Indian logo and nickname to represent them. There are also many Native Americans outside the Berlin school district who are afraid to speak up against their elders for fear of facing reprisal from some in control who will fight to maintain their monopoly on casinos. Certain powers controlling the multi-billion-dollar casino industry would rather destroy Berlin's small-community Indian logo than risk the fact it might draw questions as to why Native Americans still have this monopoly, despite the fact that their lifestyles are very similar to other Americans. The fact remains that there are entire tribes that have publicly stated they support Indian nickname and logo use.

We thank you for your time and respectfully request your endorsement of Assembly Bill 297.

Sincerely,

Save the Berlin Indian Committee

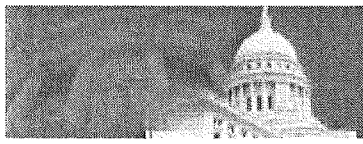
Barbara Resop, President: 143 Water St Apt 108, Berlin WI 54923

Catherine Kuble, Secretary: 115 East Moore St, Berlin WI 54923

Peter Nicholas, Treasurer: W733 Oak DR, Berlin WI 54923

David Gneiser: N401 30th DR, Berlin WI 54923

Jack Butler: W2563 Puchyan RD, Berlin WI 54923



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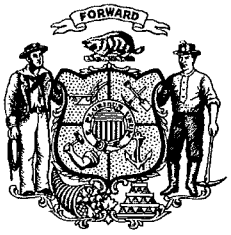

DAVID CRAIG

STATE REPRESENTATIVE

Assembly Committee on Government Operations and State Licensing
Public Hearing, October 3, 2013
Assembly Bill 297 Testimony

Chairman August and Members of the Committee,

Thank you for taking the time to hear testimony on this legislation AB-297, and its recently introduced substitute amendment. For the sake of clarity, I will be speaking to the substitute amendment when referencing AB-297 throughout my testimony.

As you know, 2009 Wisconsin Act 250 created a system for a single individual to challenge the nickname, logo, mascot or team name of a school or school district based on their belief that it is race-based and discriminatory. While some may see Act 250 as a noble attempt to end perceived discrimination, there are serious flaws in the methods used to determine discrimination under Act 250.

Those flaws include:

- A presumption of guilt until proven innocent when a mascot is claimed to be discriminatory.
- The unilateral ability of the State Superintendent to determine what constitutes discrimination.
- The ability of a single individual to claim discrimination without any requirement of the complainant to provide evidence of such discrimination, or even the requirement that the complainant shows that they are a member of the group being discriminated against.

To put Act 250 in perspective, it is the equivalent of an IT professional filing a workplace discrimination complaint on behalf of a salesman at their firm, without consulting as to whether the salesman believes he or she was even discriminated against. Further, under the Act 250 standards, the firm would be presumed guilty of this unconfirmed discrimination until they prove that they did not discriminate against the salesperson, who may or may not even know that a discrimination complaint was filed.

As you can see from this example, Act 250 clearly violates the basic foundations of due process that our nation holds so dearly. For this reason, a circuit court judge struck down Act 250 as applied against the Mukwonago School District in 2011, a decision that was not reversed on merit but simply because an appellate court did not believe two residents of the Mukwonago School District had standing to challenge the law.

Due to the serious flaws in Act 250, we introduced AB-297. Under this bill, no longer can a single individual force an entire school district to spend tens of thousands of dollars to challenge unsubstantiated claims of discrimination. Under this bill, no longer does the accused have a

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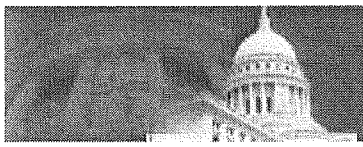
presumption of guilt. Under this bill, no longer can an individual with no connection to a so-called discriminated group make a discrimination complaint even if the so-called discriminated group publicly states that no discrimination is occurring.

Instead, AB-297 does the following:

- Requires the signatures of multiple residents of a school district, equal to 10% of the student body of the school district, before a discrimination complaint can be made.
- Shifts the burden of proof from the school district to those making the discrimination complaint.
- Requires and moves the hearing process away from the state agency that the circuit court already ruled is bias on this subject.
- Provides that a school board can enter into an agreement with an American Indian tribe with historic ties to Wisconsin to demonstrate that their mascot is not discriminatory.
- Provides that an interscholastic athletic association cannot be used to circumvent the intent of AB-297.

Thank you for your time. I would be happy to answer any questions you may have.



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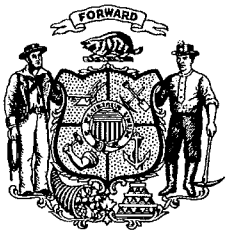


WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION

Tony Evers, PhD, State Superintendent

October 3, 2013
Assembly Committee on Government Operations and State Licensing

Wisconsin Department of Public Instruction
Testimony on Assembly Bill 297

I want to thank Chairman August and members of the committee for the opportunity to testify before you today on Assembly Bill 297 (AB 297) . My name is David O'Connor, and I am the American Indian Studies Program Consultant for the Department of Public Instruction (DPI). With me today is Jennifer Kammerud, the department's Legislative Liaison. We are here on behalf of State Superintendent Tony Evers to testify in opposition to AB 297.

Under 2009 Wisconsin Act 250 the Department of Public Instruction was charged by the legislature with implementing the provisions of section 118.134 of the Wisconsin Statutes, which allows those objecting to a school district's use of an ethnic name, nickname, logo, or mascot to file a discrimination complaint directly with the state superintendent. The department also was required to develop administrative rules to implement this section, which the legislature subsequently approved in 2010.

The Department of Public Instruction has long raised concerns about the the impact of race-based logos and mascots on children and the educational environment, a position held by the last four State Superintendents of Public Instruction.

A growing body of research highlighted the negative educational outcomes associated with the use of American Indian mascots, logos and nicknames regardless of intent. In addition to the research available on this topic, the American Psychological Association adopted a resolution in 2005 calling upon schools to end the use of American Indian mascots, symbols, images, and personalities for their athletic teams. The resolution was based on research showing a clear link between the use of American Indian mascots, logos, and nicknames and psychological harm.

Based on a review of the research literature and the concerns expressed to the department about experiences in Wisconsin schools, the department concluded that stereotypical American Indian logos interfere with a school's efforts to provide accurate, authentic instruction on the history, culture, and tribal sovereignty of American Indian nations. That is whythe department advocated for 2009 Senate Bill 25, which became 2009 Wisconsin Act 250, as a means for people to address their concerns over the use of race-based logos and mascots.

Assembly Substitute Amendment 1 creates barriers that would, for all practical purposes, take away this complaint process. Requiring signatures of 10 percent of a school district's membership to file a complaint is setting an acceptable level of discrimination in state statute. Moreover, the language is requiring other people in the community to validate someone else's experiences and feelings. In what other situation does anyone who feels discriminated against

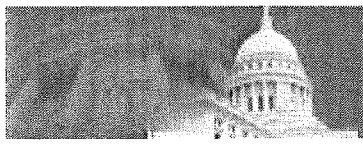
required to gather signatures in order for a hearing to be held or the matter considered?

Additionally, the state superintendent is elected and charged with overseeing public education. This includes pupil nondiscrimination. The substitute amendment would divorce the department's oversight of all matters related to alleged discrimination in Wisconsin schools and instead require the Department of Administration's Division of Hearing and Appeals to hold a hearing on complaints related to mascots and logos. This division follows the same requirements that the DPI's hearing officers do in conducting a hearing.

The department has resolved four complaints pursuant to the provisions of s. 118.134 and the requirements of Chapter 227 of the Wisconsin Statutes, which covers the procedures agencies must follow in conducting hearings. In each instance the department adhered to the relevant statutory provisions in resolving the complaints. Each district was provided notice of the complaint along with copies of the relevant statute and administrative rule. Each district was permitted to participate in determining scheduling for the hearing within the 45 day timeframe required by the statute. Each district was permitted to call witnesses and present evidence at hearing. Each district was also permitted to be represented by legal counsel at the hearing. The assigned hearing officer examined the facts of each case separately and applied those facts to the relevant law before issuing a written decision within the 45 day timeframe required by the statute. Each district was notified of its right to request a rehearing and/or seek circuit court review of the department's determination of the matter. The department fully complied with all the procedural and substantive requirements of the statute.

State Superintendent Evers seeks to ensure a quality education for every child through attention to and respect for diversity, including differences in race and culture. This bill, by effectively taking away recourse, runs counter to that effort

Thank you for the opportunity to testify before you today. At this time we would be happy to answer any questions you may have.



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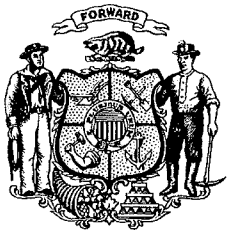


To Representatives:Nass, Craig, Vos

My name is Sue Haase. I am a lifelong resident of Berlin and have served for 28 years as a member of the Berlin Area School Board. All three of my sons graduated from Berlin.

The "Indian" nickname has always been a symbol of pride for Berlin. We have a rich Indian history which we value and respect.

I testified on Berlin's behalf at the DPI hearing in Madison in 2012. I feel that the process was unfair. Because of one persons' objection to our use of the Indian nickname, the overwhelming majority of our community was going to be forced to change a rich tradition that we have been proud of for 70 years.

I personally feel this is not only about the Indian nickname, it is about allowing one person to dictate change in a district even though it is contrary to the desire of the majority.

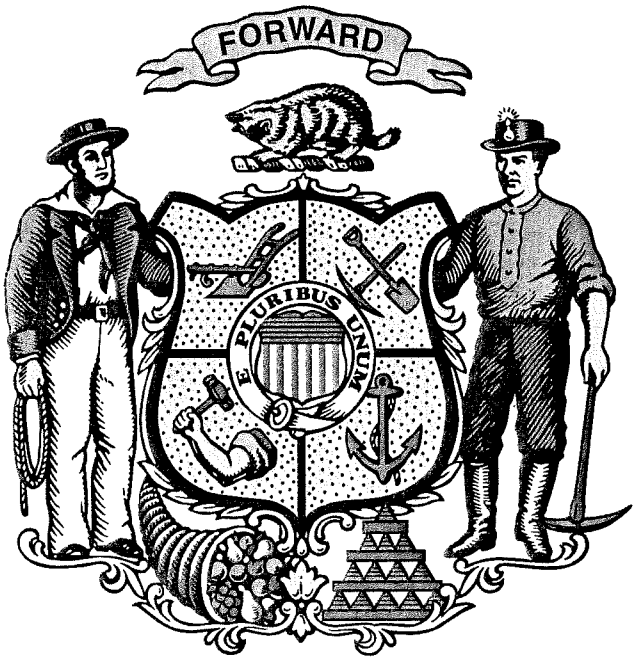
Please allow us the discretion to make choices that we feel are in the best interest of our district by passing Assembly Bill 297.

Respectfully submitted,

Sue Haase

Sue Haase

Berlin Area School Board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October 3, 2013

Members of the Assembly Committee on
Government Operations & State Licensing
Wisconsin Capitol
Madison, WI 53703

RE: AB 297 – Wisconsin Indian Nicknames and Logos

Dear Committee Members:

My law firm and I represent the Mukwonago Area School District with regard to issues surrounding its use of an "Indians" nickname and logo. Mukwonago High School has used its Indians nickname and logo for over 100 years. I support this proposed bill since it requires a fair and impartial hearing before any district is compelled to spend taxpayer money to change the nickname or logo.

There is not (nor has there been) a problem with racial harassment or discrimination within Mukwonago High School. Instead, the actions taken by DPI against Mukwonago under current law have been based on the nickname alone – without any evidence of specific harassment or discrimination occurring inside of the halls of Mukwonago High School. The DPI took action against Mukwonago, despite even the Obama Administration's recognition that the use of Indians nicknames, standing alone, does not even allow for an inference (much less prove) that racial discrimination or harassment is occurring within a school (*See* enclosed OCR Correspondence Regarding Michigan Schools).

Importantly, the Waukesha County Circuit Court has already concluded that the existing law was unconstitutionally applied against the Mukwonago School District. Specifically, Judge Donald Hassin, Jr., who by all accounts is a fair and non-partisan judge, found that the DPI officials showed an impermissible risk of bias and that the DPI was not prepared, ***under any circumstances***, to rule in favor of the Mukwonago School District. Additionally, Green Lake County Circuit Court Judge Mark Slate issued an injunction related to some of the same issues that occurred during the Berlin School District's hearing. While the Court of Appeals eventually ruled that taxpayers did not have standing to file lawsuits on this issue, the substantive findings of these judges were never questioned by the appellate court.

Not only does the law, as currently enforced, require DPI officials who have already clearly articulated their opposition to Indians nicknames to be the decision-makers, but it also allow for

DPI officials with little to no knowledge of adequate constitutional protections to preside over the hearings. In Mukwonago's hearing in front of DPI, it sought to question the one and only person who filed a complaint against it; however, the DPI did not permit the District to confront its accuser and question him regarding the allegations made in his complaint. This was incredibly important to the Mukwonago School District because it felt that the complainant was using the Act 250 process to essentially get back at the District for completely unrelated issues that developed while the complainant was a student at the high school, as opposed to any true concerns of stereotyping, harassment or discrimination.

The existing law also violates the equal protection clause of the 14th Amendment in that it allows one person in a school district to subject that school district to an adversarial hearing over a nickname and logo that is identically used in other school districts, which face no such scrutiny. The complaint plus petition mechanism contained in this proposal satisfies this issue since it requires the same 10% of petitioners from each school district.

This, however, does not mean that DPI has no role in this issue. The proposal before the Committee simply provides that DPI not conduct and decide contested hearings, but instead relies on the State's division of hearings and appeals – examiners trained in due process - to conduct the hearing and issue rulings. However, complaints are still filed with the DPI and that initial investigation and review is still conducted by DPI. This proposal simply inserts a fair and impartial decision maker into the adversarial process.

The issue of racial harassment and discrimination, involving Native Americans or any other races, should not be taken lightly and this bill does not do so. Given the limited scope of the current law, in that it does not address gender, sexual orientation, disabilities and other suspect classes - I would argue that current law should not even truly be considered a discrimination law at all. However, even if it is, to the extent that racial harassment or discrimination occurs in our schools, whether because of a school nickname or not, state and federal law adequately provide guidance and legal remedies.

Assembly Bill 297 does not foreclose the possibility that a school may be compelled to eliminate a nickname or logo. This proposal simply renders an existing law constitutional and levels the playing field to ensure that a school district gets a fair hearing. If those opposed to these nicknames and logos truly believe that the nicknames are so clearly discriminatory, then why are they fearful of allowing due process?

I am of Native American descent and am a member of the National Native American Bar Association. While my own Native American heritage takes me back to my parents' childhood on the East Coast, I am cognizant of the rich Native American heritage here in Wisconsin. Throughout the nearly three years that I have been involved with this issue, I am grateful to have had the opportunity to speak with many regular Native Americans. Almost without exception, these Native Americans have confided that they are indeed not offended by the use of Indians-

related nicknames. It was no surprise to me that the University of Pennsylvania conducted a large national poll of Native Americans and ***only 9% of those Native Americans indicated that they believed that the "Redskins" nickname is offensive***. I can tell you that those opposed to this bill certainly do not represent a majority of this State and, in fact, they don't even represent a majority of Native Americans.

Many Native Americans, like me, believe that the use of these nicknames provides an important opportunity to teach Native American history and culture to young students in a way that students can relate to and feel a part of. We live in a society where very few of our nation's history books were written by Native Americans. A majority of the time, Native American history and heritage is taught from the European-immigrant's perspective. The respectful use of these nicknames in our schools keeps local Native American history alive and provides an important opportunity for tribal members to become involved in educating students who currently reside on the land that they first nourished. Mukwonago and the other impacted school districts around the State that I have worked with, look forward to a day that the state's tribes are willing to work with them to use this nickname and logo issue to better the educational opportunities of their students.

This proposal simply protects the constitutional rights of school districts and taxpayers and I urge prompt passage of this bill on that basis.

Very truly yours,

SAMUEL C. HALL, JR.

Enclosure

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

600 SUPERIOR AVENUE EAST, SUITE 750
CLEVELAND, OH 44114-2611

MAY 29 2013

Daniel M. Levy, Esq.
Director of Law and Policy
Michigan Department of Civil Rights
3054 W. Grand Boulevard, Suite 3-600
Detroit, Michigan 48202

Re: OCR Docket #15-13-1120 thru #15-13-1154

Dear Mr. Levy:

On February 8, 2013, the U.S. Department of Education (the Department), Office for Civil Rights (OCR), received the complaints you filed against 35 school districts (the Districts), alleging discrimination on the basis of race, color, or national origin (American Indian). Specifically, your complaints allege that the continued use of American Indian mascots, names, and other associated imagery by the Districts creates a hostile environment based on race, color, or national origin and denies American Indian students equal access to the Districts' programs and activities.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, at 34 C.F.R. Part 100, which prohibits discrimination on the basis of race, color, or national origin by recipients of Federal financial assistance from the Department. As recipients of such assistance, the Districts are subject to Title VI and its implementing regulation.

During the evaluation of your complaints, OCR determined that we needed further information and clarification in order to determine whether we had a sufficient basis to initiate an investigation of your complaints. By letter dated March 4, 2013, OCR outlined the type of information we needed before we could determine whether to open your complaints for investigation. On March 18, 2013, OCR staff contacted you by telephone, during which call you explained the information set forth in your complaints and responded to OCR's March 4 letter. You also provided OCR a written response with numerous attached documents on April 1, 2013.

After carefully reviewing all of the information you provided in support of your complaints, OCR is dismissing your complaints for the reasons explained below.

Under OCR's case processing procedures, OCR will not initiate an investigation unless a complaint provides sufficient detail (i.e., who, what, where, when, how) for OCR to infer that discrimination under one of the laws we enforce may have occurred or is occurring.

As OCR informed you in its March 4 letter, in complaints involving mascots, names, and other associated imagery, OCR examines whether the complaint allegations are sufficient to constitute a racially hostile environment. A racially hostile environment is one in which racially harassing conduct takes places that is sufficiently severe, pervasive or persistent to limit a student's ability to participate in or benefit from the recipient's programs or services.

In response to OCR's request for clarification of your complaints, you assert that empirical evidence supports that race-based athletic nicknames and associated activities, including the use of American Indian mascots, are psychologically harmful to American Indian students attending schools with race-based nicknames and that their use denies such students equal access to educational opportunities. You further assert that, given this empirical evidence, OCR should not require identification of specific students or individuals who have been harmed to support a claim. You did not provide to OCR any specific examples of race-based incidents nor identify any students or individuals who have suffered specific harm because of the alleged discrimination at any of the named school districts.

Based on the foregoing, OCR concludes that the information you provided is not sufficient for OCR to infer that racial discrimination has occurred or is occurring. OCR is therefore dismissing your complaints as of the date of this letter.

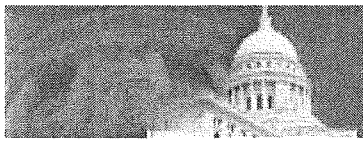
There may be state and local laws relevant to your complaints. You may wish to consult with a private attorney, local legal aid organization, and/or state or local bar association, which may be able to assist you further.

We regret that we were unable to assist you in this matter. If you have questions or concerns about this letter, please contact OCR staff members Mr. Jason Katz at (216) 522-4977 or Ms. Denise C. Vaughn at (216) 522-7574.

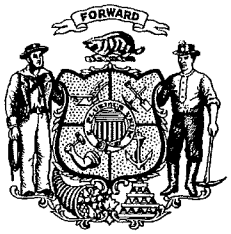
Sincerely,

Catherine D. Criswell

Catherine D. Criswell
Director



WISCONSIN STATE LEGISLATURE



WISCONSIN CATHOLIC CONFERENCE

TO: Members, Assembly Committee on Government Operations and State Licensing

FROM: John Huebscher

DATE: October 3, 2013

RE: AB 297, School Mascots

On behalf of the Wisconsin Catholic Conference, I wish to share our views for information only regarding Assembly Bill 297, as drafted in Substitute Amendment 1.

Fundamentally, this issue of mascots is about respecting those who are different from the majority. As a society, we need to ask: Do we make members of minority groups feel welcome or not? Are we open to hearing their voices? Do we make it easier or more difficult for them to ask the majority to respect them?

Our current law regarding school mascots and other symbols, while not perfect, represents a reasonable effort to make sure our schools are welcoming communities that don't stigmatize or marginalize members of minority populations. We urge you to assess AB 297 in light of its impact on that policy objective.

We are concerned that, in some key respects, this bill does not further that objective.

The provision in Section 2 of the Substitute Amendment is particularly worrisome. Section 2 requires that those who wish to challenge any mascot or symbol obtain the signatures of 10 percent of the school district on any challenge. This places a severe burden on any minority group. Given that challenges primarily involve Indian names, the fact that few, if any, schools have Native American populations to generate sufficient signatures is problematic.

We suggest that the Catholic experience in Wisconsin is relevant to this discussion. No such "numbers" requirement existed when Catholic parents in the Edgerton School District filed their challenge to the practice of reading the King James Bible in public schools in 1890. The practice was wrong whether the majority agreed with it or not.

Other examples are also relevant. Nine girls were enough to challenge the segregation in the public schools of Little Rock. One man was sufficient to challenge the "whites only" tradition of the University of Mississippi. In the twenty-first century, Wisconsin should not impose a higher barrier when the issue is one of asking our public school system to address race-based symbols.

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We also have reservations about Section 19, which prevents the Superintendent of Public Instruction from creating a presumption of what constitutes discrimination. Creating such a presumption can offer useful guidance to schools and the Division of Hearing and Appeals as to the kinds of mascots that have traditionally been viewed as prejudicial or intolerant.

We do not equate race-based school symbols with the harsh aspects of past discrimination. But that does not mean the impact of such symbols is trivial. Injuries caused by police dogs, water cannons, and billy clubs are visible and explicit. Other wounds, though less apparent, are wounds nonetheless.

The pain caused by a symbol that demeans or ridicules is real. In some respects, it can be more lasting than physical hurt. Symbols that serve to undermine a person's sense of worth can inflict damage that endures for years. This is especially true if the symbol is reinforced by policies that suggest a person is wrong to feel the pain, or that actively discourage him or her from asking society to recognize that pain and address its causes.

In opposing race-based mascots, we make no judgment about the communities whose schools may have them. We presume no ill intent is involved. We also understand that when a practice goes unchallenged for a long time it can be difficult to grasp why it seems wrong now. But the longevity of a policy is not always a measure of its wisdom.

Here too, our experience with Bible reading in public schools may be relevant. It is probable that Catholics resented the practice long before they made an issue of it in the late 1880's. It is likely they needed time to be comfortable as Americans and distanced enough from the era of church burnings, before they were sufficiently confident to assert their right not to be proselytized in public schools. Our experience as a religious minority helps us grasp that Native Americans or other minorities may only now be comfortable challenging what has long troubled them.

We ask you to consider whether the public interest may best be served by retaining current law.

Thank you for your consideration in this matter.