

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 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 (APA) 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 why the 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 unacceptable 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 is 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 three 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.