

**STATE OF WISCONSIN
DEPARTMENT OF PUBLIC INSTRUCTION**

Carol S. Gunderson; Harvey S. Gunderson;)
< 13 names redacted to protect their privacy >)
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-----) **BRIEF IN SUPPORT**
-----) **OF**
-----) **COMPLAINT**
-----; individually and on)
behalf of all others similarly situated,)
 Petitioner(s),)
) Pursuant to Wisconsin Statute §118.134
Vs.)
) Case No. 10-LC-01 (Osseo-Fairchild)
Osseo-Fairchild School District;)
Osseo-Fairchild School Board;)
 Respondent(s).)
_____) _____

I

INTRODUCTION

The above named Petitioner(s) Pro Se (hereinafter referred to as “Petitioners”) have filed a Complaint pursuant to Wisconsin Statute § 118.134, and in support of said Complaint hereby file this Brief in Support of their Complaint now pending before the State of Wisconsin Department of Public Instruction (hereinafter referred to as “Department”).

The Petitioners, each and every one of them, allege that the Osseo-Fairchild School Board (hereinafter referred to as “Respondents”) acting under the color of state law and statutes authorized the use of a race-based nickname, logo and team nickname with associated references that violate Wisconsin Statute § 118.134.

The Osseo Fairchild School District has utilized a race-based nickname, logo and team nickname for many decades and have for several years, either through testimony or

through the submission of studies, been informed of the harmful effect such a race-based nickname and logo have on both Native and non-Native students and residents of the Osseo Fairchild School District and competing school districts. Respondents, although aware of the Petitioner(s) objection and evidence in support of the need to eliminate the nickname and logo, have chosen to intentionally ignore the negative ramifications such a stance has upon the Native and non-Native students and other members of these communities.

II

ISSUES PRESENTED

Petitioner(s) profer that there exist three (3) questions before the Department of Public Instruction (hereinafter referred to as “Department”) in regard to the Respondents’ use of a race based logo, mascot and team name:

1. Does use of the ‘chieftains’ nickname, logo, mascot or team name promote discrimination?
2. Does use of the ‘chieftains’ nickname, logo, mascot or team name promote pupil harassment?
3. Does use of the ‘chieftains’ nickname, logo, mascot or team name promote stereotyping?

III

ARGUMENTS

A. Race based logo(s), Mascot(s) and Team Nickname(s) do promote discrimination, pupil harassment and racial stereotyping

This brief and the supporting exhibits will demonstrate that relevant and credible evidence overwhelmingly supports the following three separate conclusions regarding Osseo-Fairchild’s athletic policy, namely that:

1. Use of the nickname or team name **does** promote discrimination;
2. Use of the nickname or team name **does** promote pupil harassment;

3. Use of the nickname or team name **does** promote stereotyping.

1. The research base clearly supports the above conclusions

While there is a large body of research evidence in peer-reviewed journals that each of these statements is true, there is a scarcity (and perhaps even a total absence) of peer-reviewed studies that reached the opposite conclusion.

In each research study, the researcher(s) examined the evidence regarding race-based athletic identities to answer the following question:

Does the evidence found in this study indicate that a race-based athletic identity (1) **does** or (2) **does not** promote discrimination/pupil harassment/stereotyping?

In **every** credible research study of which the Petitioner(s) are aware (and as several experts have testified, based on their knowledge and expertise), the conclusion of the study has been that the evidence supports the proposition that this Respondent School Board practice **does** promote discrimination/pupil harassment/stereotyping. When essentially **every** credible research study has reached the **same** conclusion, namely that the use of a race-based athletic identity in a public school **does** promote discrimination/pupil harassment/stereotyping, this indicates the presence of clear and convincing evidence that the **presumption** is **correct** that race-based nicknames, logos, mascots or team names **do** promote discrimination, pupil harassment and stereotyping. In light of this overwhelming existing body of evidence, complainants believe that the School Board will be unable to satisfy the requirement that they provide clear and convincing evidence that their athletic policy does not promote discrimination, pupil harassment and stereotyping.

There are at least 117 American Indian, educational, psychological, sociological, civil rights and religious organizations that have adopted resolutions opposing race-based athletic nicknames, especially in schools where students are at the critical stage of life where they are dealing with matters of identity formation. In contrast, no comparable

organization has expressed the opposite position and advocated for the general use of race-based athletic nicknames in schools. (Exhibits Nos. 1, 2)

(As a point of clarification, it is important to realize that the word “mascot” is used by different people and authors to mean different things. While it is true that many people use the word “mascot” exclusively to mean a live costumed person along the sidelines, many more use the word “mascot” to mean the team’s “nickname” or “moniker”. Still others use the word “mascot” to refer to the logo, while others use the word to refer to all of these entities combined. However, the word “mascot” has especially come to be used extensively throughout society as a synonym for “nickname” or “moniker”, so the reader must realize that as one studies this matter.).

2. The American Psychological Association Resolution of 2005

The resolution of the American Psychological Association (APA) from 2005 is especially important because it is based on empirical research, as reflected in the APA’s press release that said:

APA’s action, approved by the Association’s Council of Representatives, is based on a growing body of social science literature that shows the harmful effects of racial stereotyping and inaccurate racial portrayals, including the particularly harmful effects of American Indian sports mascots on the social identity development and self-esteem of American Indian young people. (Exhibit No. 3)

Moreover, the APA Summary of the action said:

Research has shown that the continued use of American Indian mascots, symbols, images, and personalities has a negative effect on not only American Indians students but all students by:

- **Undermining the educational experiences of members of all communities-especially those who have had little or no contact with Indigenous peoples.** The symbols, images and mascots teach non-Indian children that it's acceptable to participate in culturally abusive behavior and perpetuate inaccurate misconceptions about American Indian culture.
- **Establishes an unwelcome and often times hostile learning environment for American Indians students that**

affirms negative images/stereotypes that are promoted in mainstream society.

According to Dr. Stephanie Fryberg, University of Arizona, this appears to have a negative impact on the self-esteem of American Indian children. "American Indian mascots are harmful not only because they are often negative, but because they remind American Indians of the limited ways in which others see them. This in turn restricts the number of ways American Indians can see themselves."

- **Undermines the ability of American Indian Nations to portray accurate and respectful images of their culture, spirituality, and traditions.** Many American Indians report that they find today's typical portrayal of American Indian culture disrespectful and offensive to their spiritual beliefs.
 - **Presents stereotypical images of American Indians. Such mascots are a contemporary example of prejudice by the dominant culture against racial and ethnic minority groups.**
 - **Is a form of discrimination against American Indian Nations that can lead to negative relations between groups.**
- (Exhibit No. 4)

The APA Resolution strongly reflects this research base and the “*growing body of social science literature*” by the fact that the Resolution lists 34 references. (Exhibit No. 5)

Moreover, the important APA Justification Statement accompanying the APA Resolution lists 42 references, further emphasizing the role of research in establishing that the use of a race-based athletic identity in a public school **does** promote discrimination, pupil harassment and stereotyping.. (Exhibit No. 6).

3. Research and the Great Lakes Inter-Tribal Council, the Wisconsin Indian Education Association, and the National Indian Education Association

This psychological research was part of the basis for a Great Lakes Inter-Tribal Council (GLITC) Resolution adopted on January 30, 2006 which the Great Lakes Inter-Tribal Council mailed to all Wisconsin school districts on January 30, 2006 (1) requesting Wisconsin public schools to eliminate ‘Indian’ nicknames and (2) encouraging all other school districts to urge the few remaining school boards still using race-based nicknames to eliminate them since these athletic policies also harm students in other

competing school districts. The language of this GLITC Resolution is clear, so no Wisconsin school can claim that it has not been asked by the Great Lakes Inter-Tribal Council to eliminate its race-based athletic identity. (Exhibits Nos. 7, 8)

This letter and resolution from GLITC to school districts also included a supporting letter from the Wisconsin Indian Education Association (WIEA) that also highlighted the psychological research, further alerting Wisconsin school boards to the body of evidence that their race-based athletic policies were psychologically harmful to students. (Exhibit No. 9)

Prior to the 2006 resolution that focused on the research, the Great Lakes Inter-Tribal Council had also adopted a resolution on January 21, 1999 that concluded with:

... **NOW THEREFORE BE IT RESOLVED**, the Great Lakes Inter-Tribal Council, condemns the use of “Indian” logos as offensive and will work alone and in concert with other organizations to eliminate the use of depictions of and cultural references to American Indians as mascots, logos, and team nicknames in Wisconsin public schools.
BE IT FURTHER RESOLVED, that this form of racism which damages Native American children and cultures be removed from Wisconsin Public Schools before the new millennium. (Exhibit No. 10)

Inaction in response to this 1999 request by certain school boards including the Respondent(s) at Osseo-Fairchild then led to the plea made to the Wisconsin Legislature at the very first State of the Tribes Address, a plea to legislators to pass a law such as Act 250. At that first State of the Tribes Address delivered March 8, 2005, Ray DePerry, speaking as President of the Great Lakes Inter-Tribal Council, said:

My friends, approaching the last issue we wish to leave with you is not easy. It never is when you are trying to eliminate conditions which contribute to blatant discriminatory practices. It is up to all of us gathered here today, especially the elected representatives of this great state, to enact legislation that will eliminate from our public school system, once and for all, the use of Indian logos, mascots and any other sort of stereotypical images of American Indians. While we applaud the numerous school boards and school districts that have voluntarily took the corrective steps in eradicating this type of institutional discrimination against our native brothers and sisters, there still are approximately 40 public schools that retain some reference to American Indians. It is unfortunate that we must ask our state legislature to enact legislation

outlawing such practices in our public schools, but it is even more painful that local school boards and public school administrators allow such a practice to continue. As tribal leaders, we are strong proponents for local control, but when local control becomes a device used by school boards to preserve discriminatory practices, then it's time for our state legislators to end such discrimination. ... (Exhibit No. 11)

More recently, the National Indian Education Association (NIEA) adopted another important resolution focusing on the research and again asking public schools to eliminate these race-based athletic identities. (Exhibit No. 12) It says in part that:

WHEREAS, there is a growing base of support calling for the elimination of Indian logos, mascots and names as evidenced by endorsements from professional organizations, for example the American Psychological Association; educational advocacy organizations, such as the National Education Association; human rights organizations, like the National Association for the Advancement of Colored People; and sports regulatory agencies, i.e. the National Collegiate Athletic Association; and

WHEREAS, research conducted by Stephanie A. Fryberg finds:

- Exposure to race-based Indian stereotypes harms American Indian students,
- Attractive stereotypes cause as much harm as cartoon caricatures,
- American Indian students who approve the use of Indian logos, mascots and names experience more harm than do American Indian students who oppose the use of such imagery,
- Euro-Americans experience a boost to self-esteem when exposed to the same race-based Indian stereotypes; and

WHEREAS, Dr. Fryberg's research has been expanded upon and replicated in the social psychological arena and the research base has grown in other academic fields; and

WHEREAS, educational institutions should not be the vehicles of institutionalized racism.

NOW THEREFORE BE IT RESOLVED that the National Indian Education Association calls for the immediate elimination of race-based Indian logos, mascots, and names from educational institutions throughout the Nation; ... (Exhibit No. 12)

4. Research of Dr. Stephanie A. Fryberg

The research studies of Dr. Stephanie A. Fryberg have been widely recognized for their significance in documenting the harmful psychological effects of race-based athletic identities. Her 2002 research was a major factor in the development and adoption of the 2005 APA Resolution. We present several versions of her research to aid the reader(s) of

this brief so that they can gain a quick overview and follow that with a more in-depth presentation in other exhibits. (Exhibits Nos. 13, 14, 15, 16, 17)

Research by Dr. Fryberg determined that exposure to ‘Indian’ athletic identities:

- lowers the self-esteem of American Indian students, reduces American Indian students’ belief that their community has the power and resources to resolve problems (community efficacy), and reduces the number of achievement-related future goals that American Indian students see for themselves (achievement-related possible selves)
- artificially “boosts” the self-esteem of European American students
- particularly affects American Indian students who support the use of these symbols since they experience significantly greater psychological harm than do American Indian students who oppose the use of race-based nicknames, logos, and mascots
- has the same psychological impact whether the ‘Indian’ image is “respectful” or a distasteful caricature.

As Dr. Fryberg wrote,

“This harm is real and substantive, with the significance rising far beyond the conventional argument related to ‘offensiveness’, especially when it occurs within an educational environment, an environment that has consequences for future life chances (college and employment).”

Because her research findings are fundamental to understanding the subtleties of the psychological effects on both Native and European Americans, we insert here in spite of its length a portion of Exhibit 13 while requesting the reader(s) to thoroughly understand all five exhibits (i.e., Exhibits Nos. 13, 14, 15, 16, 17)

. While Exhibit 13 is a brief executive summary of the affidavit of Dr. Fryberg, Exhibit 14 presents the complete affidavit which is a very thorough but also concise and understandable presentation of the ramifications of her research at the local school board level. Exhibits 15, 16 and 17 are included for completeness because they are critical publications reflected in Exhibits 13 and 14 and elsewhere. Here is the brief executive summary of the affidavit statement of Dr. Fryberg:

I conducted five studies (three with American Indian students, one with European American students, and one content analysis of the media) that examined the psychological impact of social representations on American Indians. Before discussing the results in depth, I will briefly describe the five studies and highlight the findings as they relate to the situation in [a] School District with its “Indian” nickname and logo/mascot.

My research provides empirical evidence that exposure to social representations like the [school ‘Indian’ nickname/logo/mascot] (1) lowers the self-esteem of American Indian students, (2) reduces American Indian students’ belief that their community has the power and resources to resolve problems (community efficacy), and (3) reduces the number of achievement-related future goals that American Indian students see for themselves (achievement-related possible selves). My research also demonstrates that while exposure to these social representations lowers self-esteem for American Indian students, it raises the self-esteem of European American students.

My research also addresses two other relevant claims about the use of American Indian mascots. The first claim is that no one American Indian mascot is better, or less harmful, than another. [My research determined that] there were no significant differences from one mascot to another—they were all equally influential. This research, therefore, discredits any claims the...School Board may make that their nickname/logo is harmless on the basis that they (1) do not use a caricature, (2) use a real person, or (3) use a “respectful” mascot—there is nothing respectful about a mascot that causes psychological harm.

The second claim is that if American Indians support or agree with the use of American Indian mascots, then the mascots must be good. ... [My research] tested whether attitudes about the use of American Indian mascots protected or inoculated participants from the effects of being exposed to the mascot. ... [This study examined the impact on] community efficacy (the belief that one’s community has the power and resources to improve itself) ... But, when exposed to an American Indian mascot, it was those who agreed with the use of American Indian mascots who reported depressed community efficacy scores compared to those who disagreed. Thus, claims on the part of [the] School Board that American Indians like being used as mascots should not be used to justify the use of American Indian mascots in schools. The issue for the School Board should not be about attitudes or preferences, but about whether their mascot causes psychological harm to American Indian students.

In my professional judgment, based on the research presented herein which demonstrates race-based psychological harm, the...School Board’s use of the race-based [‘Indian’] nickname/logo creates (1) a harmful

learning environment for American Indian students and (2) a harmful public accommodation environment for American Indian youth and adults. This harmful education and public accommodation environment negatively affects not only American Indian students and adults in the...School District but also affects American Indian students and adults from other school districts which interact with [the school].

The studies presented here fit in the category of stereotyping studies and, consistent with previous research, they reveal that stereotypes have negative consequences for self and identity. However, linking these findings only to stereotyping does not illuminate the challenge to identity construction that race-based 'Indian' mascots pose. We have used the broader term social representations because stereotypes, as examined in the social psychology literature, are uniformly regarded as negative. ... In fact, most observers agree that contexts purged of these negative stereotypes would be desirable.

The American Indian mascot representations, however, are a somewhat different case. ... Many pro-logo/mascot advocates (natives and non-natives alike) claim that the image of American Indians as warrior-like, as tough and noble, are not negative or disrespectful, but rather complimentary and honorific. This research suggests, however, that American Indian mascots have negative consequences not because they are inherently negative, but because in the contexts where they appear, there are relatively few alternate characterizations of American Indians. As such, these logos/mascots become powerful communicators, to natives and non-natives alike, of how American Indians should look and behave. That is, they remind American Indians of the limited way in which others see them, and this in turn may limit the number of ways in which American Indians can see themselves. In a school district, ...the logo/mascot provides institutionalized daily reminders to American Indian students (as well as American Indian employees and adult native visitors to the public accommodations of school facilities) of the small number of socially acknowledged ways to be an American Indian in the schools.

Finally, the use of American Indians as logos/mascots is more than an issue of whether someone is offended, who is offended, how many people are offended, and why people are offended. Previous debate has, in fact, relied on anecdotal evidence rather than "measurable evidence" or "proof." This research provides empirical evidence that psychological harm is occurring through lower self-esteem, reduced community efficacy, and a reduced number of "future selves" or goals envisioned by the students. This harm is real and substantive, with the significance rising far beyond the conventional argument related to "offensiveness", especially when it occurs within an educational environment, an environment that has consequences for future life chances (college and employment). I am

not aware of research that provides empirical evidence of American Indian mascots leading to positive psychological benefits for American Indian students. **Without this evidence, the...School Board cannot justify retaining the ['Indian' nickname/logo/mascot] and cannot dispute these findings of racial discrimination.**

... Study 3 attempted to replicate Study 2 with a different student population ... and a different dependent measure, namely community efficacy, which involves feelings about membership in the group and about the group's capacity to overcome difficulties. ... The replication in Study 3 of the prior study's results adds to the credibility of the research findings in Study 2 and their applicability to the...School District's nickname/logo.

In Study 3, participants were also asked whether they agree or disagree with having American Indian mascots. Analysis showed that attitudes toward using American Indians as mascots impacted the relationship between the conditions and community efficacy. In fact, students who opposed using American Indians for logos/mascots were inoculated or buffered from the effect of exposure to the [racial sports representation], whereas American Indian students who supported using American Indians for nickname/logo/mascots experienced a statistically significant decrease in community efficacy compared to both control groups,

... The assumption behind these polls is that no harm can be done if American Indians themselves endorse the use of American Indians for nicknames/logos/mascots. Notably, however, this research shows that it is the very people who liked or agreed with the idea of American Indians being used as mascots who suffer the greatest psychological harm ... **This research provides empirical evidence to discredit the claim that the continued use of the ['Indian'] nickname/logo is justified by the existence of polls showing that there are American Indians who support using 'Indian' nicknames and logos.**

Similarly, the...School Board argument that the existence of individual American Indian supporters justifies continuing the use of the [race-based] nickname/logo is equally problematic. My research suggests, in fact, that asking whether American Indians support 'Indian' nicknames or logos is the wrong question and the wrong focus. The right question and the right focus involves determining the effect such social representations have on people, or in this case on students. **This research provides empirical evidence that the continued use of the race-base...nickname/logo cannot be justified by the existence of American Indians who say they support the nickname/logo and that the rationale for keeping the ['Indian'] nickname/logo should be focused on psychological consequences, not on attitudes or preferences.**

...Achievement-related possible selves are defined as “the ideal selves that people would like to become, or the selves that people might become or are afraid of becoming.” ... Participants in each of the three mascot conditions reported fewer achievement-related possible selves ($p < .01$) ...

... There were no significant differences in the magnitude of the psychological impact associated with the three different mascot conditions. This provides empirical evidence that the psychological harm arising from the type of logo, whether it was a caricature, a “real person” or a “respectful drawing” does not depend on the type of mascot, but rather the use of American Indians as mascots more generally.

... The European American students in each of the three social representations of American Indians conditions reported heightened self-esteem when compared to European Americans in the no-prime control condition. The increase in self-esteem was statistically significant for all three representations: ...

.... While European Americans benefit from a boost in self-esteem from exposure to these race-based “Indian” social representations, they obtain this benefit only at a cost to American Indian students, who report a statistically significant decrease in self-esteem. The fact that European Americans experience a self-esteem boost from these “Indian” nickname/logos may explain why some European American...School Board members and other European American community members may have difficulty comprehending the legitimacy of claims by American Indians and others that these race-based nickname/logos are harmful.

This research provides empirical evidence to discredit the...School Board’s claim that the [‘Indian’] nickname/logo does not discriminate against American Indian students based on race. First, this research has provided evidence that European American students may benefit from the School Board’s choice (1) to explicitly use race (rather than other viable alternatives like an animal, bird, occupation, extinct culture) as the primary basis for the school nickname/logo and then (2) to use American Indians...rather than some other race for their nickname/logo/mascot. Second, this research has provided evidence that American Indian students at [the school] and other competition schools may receive statistically significant psychological harm from that School Board choice. When the...School Board voluntarily and explicitly chooses to use race as the basis for their decision, where that usage has been shown to benefit majority European American students but simultaneously harm the American Indian minority students whose race was targeted by the School Board’s race-based decision, **this research provides evidence that [this race-based] educational policy does constitute harmful discrimination against American Indian students based on their race. Moreover, this**

research provides evidence that this...School policy treats American Indian students differently based on their race.

.... Many who support the use of Indians as sports team nickname/logo/mascots commonly argue that these are positive social representations that honor native people. ... The mascot elicits positive feelings and associations for majority group fans, and thus makes it difficult for them to understand why the image can elicit a negative reaction for those individuals who are the target of the representation. American Indians, who are the targets of these social representations, may find the available representations of their group to be confining and unpleasant.

...Community efficacy is the belief that one's community has the power and the resources to improve itself. ... more central to self-functioning for American Indians ..., all three social representations of American Indians significantly depressed community efficacy

... Possible selves have been defined as the ideal selves that people would like to become. They are also the selves that people might become or are afraid of becoming ...

... the three Indian mascots...all led to fewer achievement-related possible selves. However, the three Indian mascots did not differ from one another, ... The data did not support the hypothesis that Chief Wahoo elicits negative psychological consequences because he is a caricature rather than a real person or that Chief Wahoo elicits negative psychological consequences because he is an out-group's representation of American Indians, but rather provided evidence that in general, using American Indians as mascots has psychological costs for American Indians.

... when European Americans are overtly primed with images of American Indians, they will report increased self-esteem. ... European Americans benefit from stereotype lift (i.e., they feel better in the presence of another group's stereotype) when American Indians are used as mascots.

... When primed with these social representations of American Indians, European Americans experienced a boost in self-esteem compared to European Americans in the control (no prime) condition.

...these images, while similarly presented in the context, are producing different associations and different meanings for American Indians and European Americans. Specifically, ... the American Indian social representations were associated with lower self-esteem for American Indians and higher self-esteem for European Americans.

General Discussion

...American Indian social representation[s]...depressed how American Indian participants felt about themselves (self-esteem), their community (community efficacy), and what they want to become or are able to become (possible selves). ... European Americans, who were not the target of these social representations, ...experienced a psychological boost (increased self-esteem) from these American Indian social representations. ...

In terms of school districts...controlled by European American school board members, administrators, teachers, students and voters, those in the controlling majority can lack the motivation to change a race-based nickname/logo/mascot in spite of requests from the minority community or empirical evidence that an “Indian” nickname/logo/mascot harms American Indian students.

For example, given that the mascot image makes European Americans feel better about themselves, they may not be able to understand why this image makes the target of the representation feel bad and, for reasons they may not be able to calibrate, they may not be motivated to cease using the image. Thus, the power of these social representations is a societal problem, not an individual one, and the onus to change these representations lies within all of society—not just within those who are the target of the representation.

... [The] use of the [‘Indian’] nickname and logo... creates a hostile environment for American Indian students in the...School District [and] creates a hostile environment for American Indian students in other school districts which may compete against the...School District in athletics or use their facilities [and] creates an environment which precludes equal enjoyment by American Indians of the facilities in the...School District.

Notarized signature: [Stephanie Ann Fryberg] states that all the above statements are true and accurate to the best of her knowledge.
(Exhibit No. 13)

Again, it is recommended that the reader(s) understand especially the longer complete version of Dr. Fryberg in Exhibit No. 14. Moreover, the original documents are included as Exhibits Nos. 16-17.

5. “Looking for an ‘Indian’”/“Looking for a ‘chief’”/“Looking for a ‘tribe’”

Across Wisconsin and the United States, it is very common to hear a supporter of race-based sports identities including school board members try to defend their position by saying something like, “John Doe is an American Indian and he says he hasn’t been harmed”, or “John Doe is an American Indian and supports our nickname”, or “John Doe is an American Indian and he feels honored.” This phenomenon which is often called “looking for an Indian” is also often called “looking for a chief” because there are many examples of people falsely calling someone a chief who is not a chief in an attempt to convey more credibility to the individual as providing “rationale” in their own mind to “justify” retention of the race-based nickname in the face of such overwhelming opposition from at least 117 American Indian, educational, psychological, civil rights and religious organizations.

This is also often called “looking for an Indian” or “looking for a tribe” because school boards have often tried to imply that one American Indian can “speak for” all other American Indians or that one American Indian tribe can “speak for” all other American Indian tribes. No American Indian would claim to “speak for” all other American Indians nor would any American Indian tribe claim to “speak for” another American Indian tribe. Yet we repeatedly see school boards using the argument that “John Doe is an American Indian, and he supports our nickname” or “The Seminole tribe in Florida agreed to let Florida State call their team the Seminoles” as though those unitary examples justify every race-based nickname everywhere in the nation, in every school, college, professional team, etc.

In fact, the National Collegiate Athletic Association (NCAA) reported that when they in 2002 surveyed the over 500 tribes, 99% of responding tribes asked the NCAA to eliminate race-based athletic identities from college sports. That’s 99% versus 1%. Therefore, the Florida Seminoles are “the exception” and not “the rule”. (Exhibit No. 18)

Now, while it is true that 99% is not 100%, the existence of the other 1% who take a different view doesn't provide valid justification for a predominately-White school to use a race-based team nickname any more than the fact the not all African Americans find use of the N-word repulsive should be used to justify a White person's use of the N-word. If 99% of African American organizations opposed use of the N-word, would a school board support using the N-word based on the existence of the 1% that didn't oppose it? Of course not.

The Seminole tribe in Florida that gave "approval" to Florida State University to call their teams "the Seminoles" is the smaller of the two federally recognized Seminole tribes. The much larger Seminole Nation of Oklahoma have taken an official position opposing race-based athletic identities as reflected in the July 14, 2001 resolution by the Five Civilized Tribes [Chickasaw, Choctaw, Cherokee, Muscogee (Creek), and Seminole Nations] which said that "the Five Civilized Tribes joins the United States Commission on Civil Rights call to eliminate the stereotypical use of American Indian names and images as mascots in sports and other events". (Exhibit No. 19)

The Seminole tribe in Florida that "approved" only gave "approval" to one specific school and that was for their tribe's own specific name to be used by that one school's athletic nickname. It is important to note that even that tribe did not give "approval" for use of pan-Indian nicknames (i.e., that apply to all tribes) such as "Indians", "redmen", "chiefs", "chieftains", "flying arrows", etc.

Similarly, there are 564 federally recognized tribes. Moreover, the Seminole tribe of Florida is only one of the 564 federally recognized tribes. Imagine if a school board surveyed 564 African American individuals (or groups) and found that one of the 564 surveyed African Americans (or groups) thought it was "fine" for a White person to use the N-word, does that justify the practice? Of course not. Saying that "John Doe is an African American, and he says he isn't offended" is not a legitimate "excuse" for using the N-word. Moreover, even if several of the 564 surveyed African Americans (or groups) said they "weren't negatively affected" when Whites use the term, does the

existence of several out of 564 justify a harmful practice deemed harmful by the others?
Of course not.

Thus, a statement like “What about the Florida State Seminoles?” is as meaningless and as ridiculous as a statement like “John Doe’s an African American, and he says he isn’t offended by my using the N-word” or “John Doe’s an American Indian, and he feels honored by our school’s use of an ‘Indian’ nickname.”

The people who make such uninformed statements are typically those who are unaware of or don’t understand the facts regarding the research. It merits repeating the following statements from Dr. Fryberg:

I am not aware of research that provides empirical evidence of American Indian mascots leading to positive psychological benefits for American Indian students. **Without this evidence, the...School Board cannot justify retaining the [‘Indian’ nickname/logo/mascot] and cannot dispute these findings of racial discrimination.**

... Notably, however, this research shows that it is the very people who liked or agreed with the idea of American Indians being used as mascots who suffer the greatest psychological harm ... **This research provides empirical evidence to discredit the claim that the continued use of the [‘Indian’] nickname/logo is justified by the existence of polls showing that there are American Indians who support using ‘Indian’ nicknames and logos.**

... **This research provides empirical evidence that the continued use of the race-base...nickname/logo cannot be justified by the existence of American Indians who say they support the nickname/logo and that the rationale for keeping the [‘Indian’] nickname/logo should be focused on psychological consequences, not on attitudes or preferences. ...**

This research provides empirical evidence to discredit the...School Board’s claim that the [‘Indian’] nickname/logo does not discriminate against American Indian students based on race. ... When the...School Board voluntarily and explicitly chooses to use race as the basis for their decision, where that usage has been shown to benefit majority European American students but simultaneously harm the American Indian minority students whose race was targeted by the School Board’s race-based decision, **this research provides evidence that [this race-based]**

educational policy does constitute harmful discrimination against American Indian students based on their race. Moreover, this research provides evidence that this...School policy treats American Indian students differently based on their race. (Exhibit No. 13)

In light of the endorsement of Dr. Fryberg's research by the American Psychological Association and numerous experts in the field of psychology and education, it seems beyond comprehension that a school board member could imagine how the school board could show by clear and convincing evidence that their race-based athletic policy does not promote discrimination, pupil harassment or stereotyping.

6. The minimal evidentiary value of anecdotal statements stating support

The fact is that that research has determined that this race-based policy that targets a specific minority group, American Indians, has the impact of **benefiting** the racial **majority** by "boosting" their self-esteem while **harming** the targeted racial **minority** by lowering self-esteem and with other psychological harms. A race-based policy that has this disparate impact fits the definition of harmful discrimination based on race.

Moreover, no informed school board member should seriously believe that approval of an American individual would justify retention of a race-based athletic identity when all available research evidence shows that those American Indians who support these race-based policies are actually "the greatest victims", on average, and are not consciously aware of the psychological impact because it occurs beneath the conscious level.

In a similar fashion, we therefore believe that the Department should do what is best for students, and that would require the Department to ignore any attempt by a school board to retain its race-based athletic identity on the basis that the school board was able to find an individual (or group of individuals) willing to endorse the school's harmful practice targeting American Indian students, because their testimony about an effect that is **subconscious** is of minimal credibility in the wake of validated psychological studies that pierce beneath the veneer of the conscious level and measure

the subconscious effects of which the individual is not consciously aware. Hence, anecdotal statements that “I support the nickname and I haven’t been negatively affected” are of minimal evidentiary value because the person cannot be aware of subconscious effects that only scientific studies are able to detect and measure. Thus, such anecdotal statements from individual(s) are quite meaningless and should have little evidentiary significance in the matter now before the Department.

7. Research of Dr. Chu Kim Prieto et al: the increased stereotyping of other racial minorities

American Indians are not the only racial minorities affected by the use of ‘Indian’ athletic identities. An important new referred journal article by Chu Kim-Prieto, L. Goldstein, S. Okazaki & B. Kirschner was published this spring in the *Journal of Applied Social Psychology*. This article has important implications for Wisconsin school districts that still use ‘Indian’ athletic identities because it provides even **more** empirical evidence that ‘Indian’ athletic identities promote stereotyping.

While many researchers have written about the increased stereotyping of American Indians due to use of ‘Indian’ nicknames and logos, this new research has provided evidence of a whole **new** area of concern, namely that ‘Indian’ nicknames and logos promote increased stereotyping of **other** racial minorities. The title of the article is clear: “Effect of Exposure to an American Indian Mascot on the Tendency to Stereotype a Different Minority Group”. (Exhibit No. 20)

Kim-Prieto et al conducted two studies, one at a school that used an ‘Indian’ athletic identity and then a second at another school without an ‘Indian’ athletic identity. In both cases, the researchers found that students exposed to the ‘Indian’ athletic identity demonstrated an increased tendency to accept negative stereotype characteristics about Asian Americans. Because the stereotypes about Asian Americans and Americans are least similar, the researchers indicate that other racial minorities are likely similarly affected. Kim-Prieto et al wrote:

The results from Studies 1 and 2 indicate that exposure to an American Indian sports icon increased the tendency to endorse stereotypes about a different racial minority group.

The results extend the current body of knowledge and provide evidence that exposure to stereotypes about one racial minority group results in heightened stereotyping of a different racial minority group, a group with a different set of stereotype content. That is, one's reliance on stereotypes appears to be heightened with increased exposure to stereotypes, regardless of whom the stereotype is portraying. ...

Finally, the results suggest possible implications for the continued use of American Indian mascots by athletic teams across the nation. To date, there appears to be only one experimental study that has directly tested the impact of Indian mascots on psychological functioning (Fryberg, 2003), despite the widespread use of American Indian mascots by school and professional athletic teams. The results are especially noteworthy because the icon used in the studies (i.e., Chief Illiniwek) is said to be a respectful, positive symbol that honors American Indians (Connolly, 2000; Gone, 2002; King, 2004; Spindel, 2000; Stapleton, 2001).

However, our results indicate that even if the intention of the depiction may have been to honor and respect, the ramification of exposure to the portrayal is heightened stereotyping of racial minorities.

The current study provides much-needed evidence to empirically evaluate the effects of Native American mascots on creation of a hostile environment. The evidence suggests that the effects of these mascots have negative implications not just for American Indians, but for all consumers of the stereotype. (Exhibit No. 20, pp. 544-547)

It should be noted that each of the two Kim-Prieto et al studies was an empirical study that involved an experimental group and a control group, with participants randomly assigned to the groups, and with a quantitative measure which enables scientific testing of statistical significance, as was also the case with Dr. Fryberg's multiple studies. These types of empirical studies that use a quantitative measure are sometimes called "the gold standard" in research studies. Moreover, the replication of results with the same result in replicated studies using different populations is also further evidence of the validity of the conclusions in all of the Fryberg and the Kim-Prieto et al studies.

Moreover, the fact that the second study by Kim-Prieto et al was conducted at a different school without an 'Indian' athletic identity and yielded the same result of increased stereotyping of other minority races provides further evidence that the harm

does not stop at the boundaries of the school district but also negatively affect students at other schools. So, as applied to Wisconsin public schools, this indicates that it is not only the minority students attending the 35 remaining Wisconsin schools with race-based identities that are affected but that all other public schools across Wisconsin are affected when exposed to the race-based athletic identities of the 35 remaining Wisconsin schools, whether through non-conference, conference or tournament competition up through the state championships that are even broadcast statewide and available inside every homes across the entire state.

Department of Public Instruction (DPI) data shows that the size of the racial minority group targeted by school board policies with 'Indian' athletic identities is small, with American Indians constituting only 1.5% of Wisconsin public school students. The Kim-Prieto et al studies have enormous implications for Wisconsin schools statewide because these studies indicate that it is not only this 1.5% of Wisconsin students that are being subjected to stereotyping because of the race-based policies of the 35 remaining Wisconsin schools, but that **all** racial minority students are potentially affected by the race-based policies of these 35 school boards.

DPI data shows that while 1.5% of Wisconsin public school students are American Indian, 24% of Wisconsin public school students are non-White, so almost a quarter of Wisconsin's public school students are being potentially victimized by these 35 school boards. (Exhibit No. 21)

This research result is not surprising to many but simply provides empirical evidence that confirms what has been previously believed based on observation and experience. Members of other racial minority groups are increasingly joining American Indians in opposition to these race-based athletic identities since their racial group is also being affected, as shown in this recent article in *Indian Country Today*:

The study, published by Chu Kim-Prieto, a psychologist with the College of New Jersey, suggests stereotyping of American Indians is a psychological process that actually encourages a broader attitude that

affects all minority communities, not just the ones being actively stereotyped.

“In other words, my stereotype is your stereotype, too,” Jenn Fang, an Asian American advocate, summarized in a recent blog post regarding the study.

...

“We usually think about racism as something that’s motivated by racial hatred of a targeted ethnic group,” Fang blogged about the findings.

“Instead, this study tells us that even exposure to racial stereotypes appears to encourage an overall more black-and-white (pardon the pun) outlook on the world – even against unrelated groups.”

...

Fang, meanwhile, sees a way for minorities to unite over the findings of the study.

“What more evidence do we need that in combating racism, coalition-building between minority communities is not only beneficial, but necessary?” she asked in a recent blog post.

“For too long, we’ve approached the struggle to end the racism (or other -isms) that we face as an individual battle. We’ve seen plenty of examples of divisive in-fighting that pits one minority group against another – as if we’re competing to prove which of us is ‘most oppressed.’ But here’s convincing data to demonstrate that we’re all up against the same problem. Despite all ideas to the contrary, we’re really all in this anti-racism boat together.” (Exhibit No. 23)

With this important new line of research, school boards face an even greater task if they are to seriously assert that their race-based athletic policies do not promote stereotyping. Other explanations of the significance of this research provide additional insight. (Exhibits Nos. 22, 24)

8. Research of Dr. Jesse A. Steinfeldt

Dr. Jesse A. Steinfeldt has engaged in several new ways of researching the psychological effects of this practice of using the identity and culture of a racial minority group as a school board athletic policy. His research documents analytically the types of stereotyping that occurs when the issue of policy appropriateness is brought up at a school. The comments made on internet sites often reflect not only stereotypes but reflect the hostile environment in the educational environment that is promoted by the school using race for its athletic identity. (Exhibit Nos. 25, 26)

... In spite of the prevalence of these *denigration*-themed posts, it is possible that this domain is underrepresented in the analysis because of the role of the online editor.

There were references in the online forum to a number of posts that were deleted. Despite apparent efforts by online editors to monitor the discussion, a contributor to the online forum (not an online editor for the specific periodical) posted the following: *I agree. WAY out of hand . . . I will never, ever write a letter to the editor and I will not blog here ever again. I am ashamed at how cruel and awful people are here. I have managed online communities as a profession for almost 8 years now and I have never seen anything like this.*

This sentiment was found in other posts in the online forum, which may be considered an indictment on the tone of the discussion. Posts that were deleted by the online editor (and those that were outright rejected before ever being posted) that contributed to this characterization of cruelty would have likely been categorized in the *denigration* category. Thus, it is reasonable to assume that the posts that we identified as the most racially virulent may represent a partially censored version of the attitudes that are expressed about American Indians. ...

Future exploration of such attitudes and behaviors may be valuable in understanding and developing more efficacious strategies to employ in the pursuit of educating majority culture participants about American Indians, while also attempting to end the misappropriation of American Indian culture brought about by the presence of Native-themed mascots, nicknames, and logos.

Conclusions

When taken together, the results of this study indicate that American Indians are subjected to not only continued societal ignorance and misinformation about their culture, they are also being actively excluded from the process of prioritizing which issues they need to address. Furthermore, the presence of a Native-themed nickname and logo can facilitate the posting of virulent racist rhetoric in online forums, a practice which may flourish in a domain that exists between frontstage and backstage performances (Picca & Feagin, 2007). A daily ritual such as reading the newspaper can subject American Indians to distressing stereotypic representations of their culture. Contexts that activate stereotypic representations of racial groups are likely to threaten group members' psychological functioning (Fryberg et al., 2008). Thus, the results of this study provide support to the findings of Fryberg and colleagues (2008) and LaRocque (2004) that indicate the presence of a Native-themed nickname or logo (i.e., *Fighting Sioux*) can negatively

affect the psychological well-being of American Indians on campus at UND, in the North Dakota community, and beyond.

Although some of the online forum comments do utilize the words *honor* and *respect* in text, the results of this study indicate that the sentiment underlying and surrounding these comments does not reflect a genuine sense of honor or respect. Instead, the online forum comments convey a sense of entitlement, privilege, power, and even subjugation and oppression. If sports fans believe that creating and supporting a hyper-aggressive and inaccurate stereotypic image allows them to honor American Indians, they are ignoring the probability that they are imposing their own attitudes and norms upon American Indian culture (Williams, 2006). The ultimate power is the ability to define reality for another group of people (Sue, 2005). Majority culture participants are defining the reality of American Indians by choosing to honor them on their terms, not on the terms of American Indians. (Exhibit No. 25)

Dr. Steinfeldt further wrote in part that:

In sum, research indicates that the stereotypic use of American Indian culture and imagery for sports-related purposes has negative psychological effects on both American Indians and majority culture participants. ...

With all this emerging evidence through scientific psychological research mounting, it is a reasonable question to ask—in 30 years, how will we look back at this period of history, and how will we judge our continued engagement in this racist practice of appropriating another culture for use as sports mascots, nicknames, and logos? Similarly, it seems so obviously objectionable when we now look back at the period in history when Blacks were not allowed to drink from the same drinking fountain as Whites. However, that also was a practice that was seen by the majority of people as part of the normal order of society. This affidavit presented perspectives, theory, and research that can help explain the psychological impact of using Native-themed mascots, nicknames, and logos. My research also involves constructing educational interventions that I utilize (and that can be utilized by others) in order to enlighten people about the nature and severity of this issue. Using education to encourage people to engage in social justice activism can assist in helping ensure that the practice of appropriating and marginalizing another race through the use of Native-themed mascots becomes a historical footnote about stereotypes and civil rights violations, rather than an ongoing practice of stereotyping and violating the civil rights of a group of people.

...

Your affiant states that he believes that due to research indicating the ability of the internet to quickly and effectively disseminate information the use of the “Chieftains” nickname, logo, mascot and/or symbol by the Osseo-Fairchild School District promotes discrimination, pupil harassment, and stereotyping on a wide-ranging level. Since Osseo Fairchild has a school website (and results of extracurricular activities are reported in a newspaper with an online function), the results of the Steinfeldt et al. (in press) study indicate that the presence of Osseo-Fairchild’s race-based “Chieftains” nickname and logo can negatively impact the psychological functioning of American Indians who access the internet and are subsequently exposed to discrimination, racism, and prejudicial rhetoric. (Exhibit No. 26)

9. Research of Dr. Cornel D. Pewewardy

Dr. Cornel D. Pewewardy has written extensively on the issue of the psychological impact of the use of these school athletic policies, and his list of publications is included in Exhibit No 276. He wrote in part that:

Based on my research, study, training and observation, it is clear that “Indian” images and nicknames such as the Osseo-Fairchild “Chieftains” nickname and logo negatively affect Native children within the school where the nickname and logo is used. However, they also negatively affect Native children from outside the school who may be athletes or fans of teams competing against the logo school. They also negatively affect Native adults if they attend a game or go to a meeting held in a basketball arena with an “Indian” logo on the wall or with the “Chieftains” or “Indians” or “Warriors” nickname written across the floor. (Exhibit No 27, p. 35)

As long as such nicknames, logos and mascots remain within the arena of school activities, both Indigenous and non-Indigenous children are learning to tolerate racism in schools. They constitute a type of cultural violence present in the Osseo-Fairchild schools. Ultimately, the use of Indian mascots, logos, nicknames and symbols create a hostile environment in schools. (Exhibit No 27, p. 42)

10. Research of Dr. John Gonzalez

The American Psychological Association has endorsed the significance of the 2005 dissertation of Dr. John Gonzalez, titled “In-Group/Out-Group Dynamics of Native

American Mascot Endorsement (NAME))” by including it on the APA website. (i.e., at <http://www.apa.org/pi/oema/resources/native-american-mascot.pdf>). His research especially confirms the hostile environment and pupil harassment that occurs when American Indian students dare to speak out against their race being used for an athletic good luck charm.

A few of the highlights are:

The primary question addressed in this study is this: “does opposition to Native American team names and mascots place Native people at greater risk of prejudice and discrimination?” ... Research regarding the adverse outcome of such negative stereotypes on the functioning of minorities in America is voluminous (see Spencer & Dornbusch, 1990, for an overview). Nowhere are such negative appraisals of minority groups more blatant than in the mascots and Native American names of sports teams that proliferate in the American education system. While other minority groups in America must endure negative stereotypes, Natives are the only minority group that continues to have these stereotypes advertised in federally and state funded colleges and universities. Furthermore, this relationship suggests the continued use of the Fighting Sioux name and logo is a form of Social Dominance, and the University of North Dakota is endorsing and promoting a form of institutional racism and discrimination. ... This suggests that sports culture at UND is promoting and engaging in social injustices toward Native students on the UND campus.... This study was the first attempt to provide an objective empirical, quantitative data on what the impact may be on Native students at UND. The data from this study provides objective evidence that Native students are subjected to more prejudice and discrimination, and that prejudice and discrimination varies in relation to the Fighting Sioux name and logo. ... In order for a Native student to be valued, honored, and respected, the Native student has to endorse the Fighting Sioux name/logo. In addition, the White student who opposes the Fighting Sioux name/logo is still valued more than the Native student is. That is racism.

Based on these data, the continued use of the Fighting Sioux name and logo indicates that the University of North Dakota is engaging in and promoting institutional discrimination and racism. (Exhibits Nos. 28, 29)

11. Research of Dr. Angela LaRocque

In summary, Dr. Angela LaRocque's research addressed the hostile environment when American Indians challenge the race-based practices. (Exhibits Nos. 30, 31)

LaRocque (2001) conducted a study examining the differences between non-Indian and American Indian college students' attitudes, beliefs, and reactions to the Fighting Sioux nickname and logo at UND. Participants filled out a survey on attitudes, beliefs, and reactions to the "Fighting Sioux" logo/nickname and its surrounding controversy.

Results for the American Indians revealed:

- the nickname did not honor UND or the Lakota/Dakota/Nakota people.
- it was used in a disrespectful manner and that it should be changed.
- historically and recently there has been an atmosphere at UND that promotes discrimination.
- they have experienced discrimination.
- they felt their personal safety was threatened.
- they have experienced cultural clashes from the controversy that lead to levels of tension in classrooms.
- they have greater levels of stress and tension resulting from the nickname issue.

Results for the non-Indians were the complete opposite of the American Indian results.

They were in support of its continued use and were not affected by the controversy surrounding its use. (Exhibit No. 30)

12. The American Sociological Association Resolution of 2007

Another especially significant research-based resolution is that of the American Sociological Association (ASA). The American Sociological Association Statement on Discontinuing the Use of Native American Nicknames, Logos and Mascots in Sport was adopted March 6, 2007 and lists 48 references. The ASA resolution is especially important because it is also based on empirical research, as reflected in the ASA's press release that said:

As part of its mission to promote sociological research findings for the benefit of society, the American Sociological Association (ASA) recognizes that racial prejudices, stereotypes, individual discrimination and institutional discrimination are socially created phenomena that are harmful to people of color.

Recent social science research and scholarship have shown that the

continued use of Native American nicknames, logos, and mascots in sport reflects and reinforces misleading stereotypes of Native Americans in both past and contemporary times. Such usage also communicates implicit disrespect for spiritual and cultural practices.

In continuing with ASA's mission to eradicate racism, ASA calls for the discontinuation and elimination of the use of Native American nicknames, logos, and mascots in sport. (Exhibit No. 32)

Moreover, the ASA Resolution said in part that:

... **WHEREAS** social science scholarship has demonstrated that the continued use of Native American nicknames, logos and mascots in sport reflect and reinforce misleading stereotypes of Native Americans in both past and contemporary times;

WHEREAS the stereotypes embedded in Native American nicknames, logos and mascots in sport undermine education about the lives of Native American peoples;

WHEREAS social science scholarship has demonstrated that the continued use of Native American nicknames, logos and mascots in sport harm Native American people in psychological, educational, and social ways; ... (Exhibit No. 33)

The ASA Resolution strongly reflects this "*social science research and scholarship*" by the fact that the ASA Bibliography lists 48 references. (Exhibit No. 33)

13. Research of Dr. Laurel R. Davis-Delano

Dr. Laurel R. Davis-Delano, one of the key sports sociologist sociologists in the nation dealing with this issue, compiled the bibliography for the American Sociological Association Resolution on Native American Sport Mascots, as shown in the ASA's press release that said:

ASA member Laurel R. Davis-Delano, who researched the basis for the resolution, said upon release of the official ASA statement, "Native American sport mascots reinforce racial stereotypes of Native Americans, and have negative psychological, educational and social effects. Negative psychological outcomes for Native youth include lowered self-esteem,

lowered views of one's future potential, and more negative views of one's own Native people. In terms of educational effects, these mascots create a hostile school environment for some Native children, and teach all children stereotypes rather than realities about Native people. In terms of wider social effects, the stereotypes reinforced by the mascots create barriers to real understanding of Native peoples, and this limited understanding hinders the development of policies and practices that help rather than harm Native Americans." (Exhibit No. 32)

Her affidavit represents a very comprehensive review of the literature on this subject, so her comments about how decision makers should focus on research rather than "opinion" are significant. (Exhibit No. 34)

I am submitting this affidavit as comment on the Osseo-Fairchild High School Chieftains nickname and logo. In this affidavit, I will demonstrate that social science research supports elimination of the Osseo-Fairchild Chieftains name and logo because this name/logo constitutes a racial stereotype and discrimination that contributes to racial harassment and discrimination.

The material discussed in this affidavit is based on my review of all the published academic research that I can find that focuses on "Native American" sport names/logos. Researchers who have studied the "Native" name/logo issue have utilized a variety of data collection techniques, including: opinion polls, questionnaires, interviews, experiments, participant observation, and document analysis. Regardless of the particular technique utilized to collect data, research published in academic journals is based on careful and systematic collection and analysis of data, and is rigorously reviewed by other scholars prior to publication. Opinions, regardless of their source, are not as carefully or systematically created and reviewed as published academic research, thus individuals or groups making policy decisions about Native American names/logos, or any other issues, should focus on research findings (published in academic journals) rather than opinions. (Exhibit No. 34, p. 8)

In my extensive review of the academic publications on "Native" nicknames/logos, I am unable to find any research that demonstrates that these names/logos have positive consequences. Nor does any of the research demonstrate that these names/logos are neutral: All research documents problems with these names/logos. And, as previously stated, policy makers should rely on the research findings, rather than opinions, since research findings are derived from systematic and careful collection

and analysis of data. Thus, I urge decision makers to eliminate the Osseo-Fairchild nickname/logo. (Exhibit No. 34, p. 16)

As stated before, as other researchers such as Dr. Fryberg found, Dr. Davis-Delano was “unable to find any research that demonstrates that these names/logos have positive consequences”, which again indicates that the evidence is very heavily weighted on the side of those who argue that race-based athletic policies **do** promote discrimination, pupil harassment and stereotyping and therefore supports the presumption that Osseo-Fairchild’s chieftains nickname does promote discrimination, pupil harassment and stereotyping.

14. Research of Dr. Ellen J. Staurowsky

Dr. Ellen J. Staurowsky has written extensively on the issue of the use of these school athletic policies, and her list of publications is included in Exhibit No 35. She wrote in part that:

As a matter of concern for the educational interests of American Indian and non-American Indian children and the welfare of our democracy, I have concluded after several years of intense study that American Indian sport imagery as used by schools poses a serious threat to the health and well-being of American Indian children and promotes a generalized ignorance on the part of the public overall about American Indians. I have reached this conclusion after examining the history of these images, considering the recommendations of American Indian and non-American Indian educators, policy makers, psychologists, and researchers, and observing first-hand the behavior of people in communities confronted with requests to cease using this kind of imagery. This report will proceed to provide a brief overview of the history of these images and recent challenges to them. The final section will address three related questions:

- whether American Indian sport imagery creates a racially hostile environment for American Indian children.
- Whether American Indian sport imagery constitutes a form of institutional racism that encourages and promotes insensitivity to American Indians and ignorance about American Indians.

- Whether American Indian sport imagery prevents school systems from complying with identified state education standards. (Exhibit No 35, p. 24-25)

Dr. Ellen J. Staurowsky's thorough analysis of her own research and the research of others clearly demonstrates that race-based athletic policies **do** promote discrimination, pupil harassment and stereotyping.

15. Research of Dr. C. Richard King

Dr. C. Richard King has written extensively on the issue of the use of these school athletic policies, and his list of publications is included in Exhibit No 36. He wrote in part that:

Native American mascots hurt American Indians. When referring to Native American mascots, I not only mean the individual who dons a costume and plays at being Indian to entertain and excite the crowd, but I also refer to a whole of associated beliefs and behaviors, including the use of Indianness to name and represent sports teams, the creation of visual representations in school logos, student performances at half-time, the antics of fans, the cheers, placards, and demeanor of opposing players and fans, and the proliferation of spirit boosting events and iconography throughout the local community.

I come to this conclusion after dedicating nearly a decade to the study of Native American mascots. I have written extensively on the history and significance of Indian iconography (naming, imagery, and rituals) in sports. I have written or co-written over 15 articles on the Native American mascot controversy, while also co-editing an award winning anthology of essays on the subject and co-authoring a study of race and racism in college athletics that examines mascots along with other forms of racialization. My inquiry into this area led me to the conclusion that Native American mascots injure American Indian students, communities, and futures. (Exhibit 36, pp. 22-23)

In his affidavit, Dr. King also wrote "*The harms associated with Native American mascots can be enumerated as follows...*" and "*Evidence of these harms is far too numerous to note here, but includes the following...*". As is the case with other researchers and affiants, Dr. King's list of publications and presentations are extensive, and underpin these statements. When all the publications and documentation included in

bibliographies and vitas are combined from the materials herewith submitted, they compose a vast and highly documented mountain of evidence that race-based athletic policies **do** promote discrimination, pupil harassment and stereotyping.

16. Research of Dr. Christian L. Kraatz

Dr. Christian L. Kraatz has written extensively on the issue of the use of these school athletic policies, and his list of publications is included in Exhibit No 37. He wrote in part that:

As an educator and an active researcher, I am therefore considered by my peers and colleagues to be exceptionally well acquainted with identifying and eliminating potential academic and cultural barriers which are threatening or harmful to the successful education of students. Logos, nick-names, and sports team mascots of American Indian theme constitute just such a barrier; they impede the acquisition of knowledge that is accurate and truthful, they hinder students' (Indian and non-Indian) abilities to learn well, and they make good relationships with peers unnecessarily difficult or impossible. The statement which follows is an explanation of the unavoidability of these conclusions. (Exhibit No 37, page 6)

Dr. Kraatz addressed how Osseo-Fairchild's Logo Use Policy actually indicates **acknowledgement** by the Osseo-Fairchild School Board that their race-based athletic policy **does** promote discrimination, pupil harassment and stereotyping. If the School Board members weren't aware that their race-based athletic policy **did** promote such thing, the provisions in the Logo Use Policy wouldn't exist because there wouldn't be a need. However, the existence of the provisions implicitly indicates the presence of awareness and acknowledgement that the race-based nickname and logo **do** promote discrimination, pupil harassment and stereotyping. Dr. Kraatz wrote in part that:

Some public school boards have actually acknowledged and anticipated the racial intimidation that will result from their Indian team logos, and yet they continue to defend their logos anyway. A prime example of this concession that such images create racial hostilities can be found in the Logo Use Policy of the Osseo-Fairchild School District in Wisconsin. As stated in their Logo Use Policy (formally adopted on April 12, 2004), the

Osseo-Fairchild team name and logo fit precisely the stereotypic portrayal of sacred vestments that we have been examining here:

The name of the School District, its teams, and student groups shall be “Chieftains”. The official Osseo-Fairchild School District “Chieftain Logo” shall be a Ho-Chunk Indianhead with a headdress.

Moreover, Osseo-Fairchild’s Logo Use Policy mandates the formation of what they call “A Chieftain Ambassador committee.” The role of this committee is specifically to request that neighboring schools not use the “Chieftain” name and logo as the basis of disrespectful behavior. As stated in the district’s policy:

These ambassadors, in pairs or larger groups, will visit each school in our conference to educate them on this logo use policy and ask their help in preventing and controlling all actions that may be viewed as being disrespectful to Native Americans or go beyond the bounds of good sportsmanship and healthy competition.

This policy is revealing in that it makes very clear the school board’s understanding of how this team name and logo will function within the community. No one would ask for “help in preventing and controlling all actions that may be viewed as being disrespectful to Native Americans” unless they believed that such disrespectful actions were at least possible. And no school district would bother forming such a committee, with the specific task of addressing such things, unless they believed that these disrespectful actions were highly probable. It is inconceivable that such an “ambassador committee” would be formed in a school district where no one really believed that the logo would instigate racial hostilities. Let Osseo-Fairchild’s Logo Use Policy itself, therefore, stand as testimony to the great potential for harm that these images present to our students and our communities.

Racism harms everyone involved. This harm becomes deep-seated indeed when it is officially endorsed by public institutions, and it is unavoidably perpetuated when those public institutions are charged with educating our future generations. This is precisely the situation at hand when public schools adopt and defend logos, nick-names, and mascots of American Indian theme. Images such as these impede the acquisition of knowledge that is accurate and truthful, they hinder students’ abilities to learn well, and they make good relationships with peers difficult or perhaps even impossible. Everyone will benefit in abiding by the words of the United States Civil Rights Commission:

Schools that continue the use of Indian imagery and references...have simply failed to listen to the Native groups, religious leaders, and civil rights organizations that oppose these

symbols...[T]he use of the imagery and traditions, no matter how popular, should end when they are offensive. (Exhibit No 37, p. 9)

As Dr. Kraatz so eloquently establishes, the Osseo-Fairchild School Board clearly was aware that their race-based athletic policy **does** promote discrimination, pupil harassment and stereotyping but continued their policy in spite of knowing of the ongoing harm.

17. Research of Carol Spindel

Carol Spindel has written extensively on the issue of the use of these school athletic policies, and her list of publications is included in Exhibit No 38. Her research has documented the pupil harassment as well as harassment of American Indian adults that so commonly occurs when any American Indian speaks out against the use of a race-based athletic identity used by their community's public school. She wrote in part that:

The following is based on my own experience conducting research for the book, *Dancing at Halftime: Sports and the Controversy Over American Indian Mascots*, which was published by New York University Press in 2000 and in a revised, updated paperback edition by NYU Press in 2002. This research was qualitative in nature and consisted of interviewing over a hundred people who have had direct experience with American Indian mascots, or who could offer an informed perspective on some aspect of the controversy. My informants included high school teachers and principals, tribal leaders, professors of law, Native students and their parents, boosters actively trying to retain Indian-theme imagery and symbols, community activists working to eliminate them, one linguist, scholars of Native American history, a filmmaker who had made a film on the subject, a graduate student studying stereotypes of American Indians in children's literature, and many others. ...

When a controversy over the mascot erupts in the school and spreads to the town, it is impossible for Native students to keep their identity from being politicized. Simply by being Indian they are viewed as having taken sides, and are therefore attacked verbally by the opposing side. When a middle school Shoshone-Bannock student spoke at a "dialogue" organized by the University of Illinois about its mascot, and his comments were televised, criticism of him and his family became so heated that his family eventually sent him away to finish the school year at a Native school hundreds of miles away. As the only visible Native American person in the community, this child (whose parents were not

Native) became a target in the emotional and vociferous debate. Opponents frequently try to discount Native American voices by offering reasons why this particular person or group of persons does not have standing in this particular case. (Examples: this person is not full-blooded, does not practice Native religion, is not native to the area, belongs to the wrong tribe, remained silent in the past, graduated from the school without speaking out, etc.). In the case of the middle school student and his family, it was rumored that the family had adopted their son and moved to Champaign in order to oppose the university sports mascot.

Although many students recounted suffering harassment and verbal abuse after they spoke up against a mascot, some students expressed the sentiment that it made them feel better about the situation to speak up. This sentiment was also expressed by many parents, who said they would have felt worse had they not acted to protect their children's cultural identity.

Native students also suffer when their school, an institution they have previously trusted and relied on, does not support them. Native students are aware that stereotyping of other cultures and religions is not tolerated in modern America. Native parents and children often spoke of feeling invisible and marginalized even when race is the topic of discussion in a community. A number of parents recounted experiences in which their Native children's grades suffered and their children were reluctant to attend school after they spoke out against a mascot and received no support from administrators or teachers. (Exhibit No. 38, pp. 5-7)

This phenomenon has occurred in several Wisconsin communities where American Indian families felt it best for them to move out and leave the community because the environment had become toxic for them. School boards and administrators could reduce the chance of this toxic environment by acting as educational leaders and lead their communities to proactively establish a new identity. However, all too often, this leadership is thwarted by local zealots determined to retain the race-based identity, regardless of the facts about harm to students and the educationally unsound environment. This happened in Osseo-Fairchild.

18. Research of Dr. Ezra J. Zeitler

Dr. Ezra J. Zeitler has conducted the most comprehensive and definitive compilation and analysis of the status including frequencies and geographic distribution

of race-based as well as other athletic identities in secondary schools in the entire United States. (Exhibit No. 41) He also conducted a rigorous analysis of the origins of and motivation for race-based athletic identities. Among his many findings was the following:

An analysis of school nicknames in the directory reveals that the ten most popular names are, in order of frequency, *Eagles, Tigers, Bulldogs, Panthers, Wildcats, Warriors, Lions, Cougars, Indians* and *Trojans* (Table 5.1). Seven of these names are wild predatory animals, and *Trojans* (as they are depicted in high school iconography) and *Warriors* are persons trained to kill, or human predators. The presence of *Indians* on this list indicates that those selecting the nicknames perceived America's Indigenous people to be hostile and predatory and should be feared. (Exhibit No. 41, p. 128)

As other researchers have found, Dr. Zeitler also established that there is no study in existence that he could find that concluded that there was a justification for retaining race-based athletic identities. In particular, he wrote:

Finally, it should be noted that a study which champions the status quo has yet to be published. (Exhibit No. 39, p. 237)

Therefore, three major experts (Dr. Fryberg, Dr. Davis-Delano and Dr. Zeitler) have stated that they were unable to find even a single credible study that school boards could offer to DPI to support a school board position that their school's race-based athletic identity **does not** promote discrimination, pupil harassment and stereotyping.

19. Research regarding the “chieftains” and “chiefs” nicknames

Dr. Zeitler also analyzed the nicknames of “chieftains” and “chiefs” based on his comprehensive nationwide census of high school nicknames.

In the course of my recent research I examined nicknames used in every high school in the United States. I found that, in 2005, there were exactly 39 high schools that used the nickname of “*Chieftains*” and 67 that used the nickname “*Chiefs*.” In every instance where a high school used the nickname of “*Chieftains*” or “*Chiefs*,” that nickname was determined

to be an Indigenous-based nickname. In other words, there was not a single circumstance that I encountered of a high school in the United States where the nickname “*Chieftains*” or “*Chiefs*” was used that had an alternative meaning. Therefore, in the context of high school athletic nicknames in the United States, the words “*Chieftains*” and “*Chiefs*” have only one meaning – that of an American Indian “chieftain” or “chief.” While it is true that the words “chieftain” and “chief” have alternative meanings routinely used in other contexts, they simply do not exist in America’s high schools.

In notable contrast, the nickname of “*Warriors*” does have alternative meanings within the context of high school athletic nicknames, such as that of a knight in shining armor, a knight mounted on a horse, a Roman warrior, a Spartan or Trojan warrior, etc. Because the word “warrior” has accepted historical alternative meanings as a high school athletic nickname, a “*Warriors*” nickname is not inherently a race-based nickname which enables a successful redefinition of such a nickname into an alternative nickname not involving race. The same is true for a nickname of “*Blackhawks*” or “*Black Hawks*” where many high schools use that nickname to mean a black colored bird. The nicknames of “*Raider*” and “*Red Raider*” similarly have accepted historical alternative definitions within the context of high school athletic nicknames. And it is therefore common practice for high schools to be able to satisfactorily redefine the nicknames of “*Warriors*,” “*Blackhawks*,” “*Raiders*,” and “*Red Raiders*” into a specific alternative definition not involving race. Because these nicknames have alternative historical meanings within the context of high school athletic nicknames, a person listening to a sports report on television or reading the sports page does not automatically assume that the usage of any of those nicknames infers that an American Indian is the team’s mascot. In contrast, because the nicknames of “*Chieftains*” and “*Chiefs*” have only one accepted and universal historical meaning within the context of high school athletics in the United States in the year 2010, I do not believe that it is possible for a high school to try to claim that it can satisfactorily redefine either of these names and thereby eliminate the historical connotation of race in the minds of those who are exposed to the nickname, whether alumni within their own school district, or students or adults in competing school districts, or people elsewhere in Wisconsin who may hear of the nickname on a sports report. Due to the connections between the nicknames “chieftains” and “chiefs” are tightly defined with images of Native Americans in high school athletic nicknames, I believe that it is disingenuous for a school district to try to claim it has the ability to redefine either of these nicknames in a manner such that it will satisfactorily end the relationship with race and stop the promotion of discrimination, pupil harassment and stereotyping that is so inherent with the use of these two nicknames within the context of high school athletics.

A survey administered to 260 students at the University of Wisconsin-Eau Claire in May of 2010 supports this assertion. ...

Discussion

There are many observations that can be drawn from this survey, but the most important finding is that it is difficult to divorce the word “Chieftain” from Indigenous peoples and cultures. Seventy-nine percent of respondents associated the word with Native Americans and 84% of them feel that most people would do the same. It is also important to note that schools using Indigenous-based team names, mascots, and imagery affect students in other schools as well as those in the home school. In other words, the use of the *Chieftains* nickname by the Osseo-Fairchild School District has an effect on student dispositions towards Indigenous peoples in area schools as well. (Exhibit No. 40, pp. 9-11)

20. The Dakota Sioux history of the Osseo-Fairchild School District versus the “false history” being promulgated

Dr. Zeitler also has analyzed the American Indian geographic history of the Osseo-Fairchild School District and addressed the “false history” used by the School District to rationalize a race-based athletic nickname policy.

I visited Osseo-Fairchild High School when I began my research on this topic in 2006, and I remember seeing a narrative of the Ho-Chunk history under an Indian head logo on a wall that defined the community as “Ho-Chunk territory,” implying that the area encompassed by the Osseo-Fairchild School District was historically Ho-Chunk land. I find this statement to be contrary to the historical geographical record. Treaty maps indicate that the geographic area encompassed by the Osseo-Fairchild School District lies entirely in what was established to be Dakota Sioux territory by the Treaty of Prairie du Chien as negotiated between the tribes and the United States in 1825. The Ho-Chunk territory was determined by the Treaty of Prairie du Chien to lie south of the Black River, while Dakota Sioux territory lay north of the Black River and included the land that is now the Osseo-Fairchild School District. The representation of the Osseo-Fairchild community as “Ho-Chunk territory” is incorrect and represents a “false history” as taught by the Osseo-Fairchild School District to its students. Academic institutions, whether a university or high school or elementary school, must maintain academic integrity, and a part of that academic integrity is reflected by teaching the truth in terms of history rather than creating a false history to justify the use of race for an athletic nickname policy. I believe that it is fair to say that all educators,

regardless of the type of educational institution, would and should be appalled that a school district and school board would facilitate the teaching of a false history with regard to the history of the school district in order to facilitate the continued use of race for an athletic nickname policy. Such a practice by a school board strikes at the very heart of what education should be all about. Sadly, it is all too common to see that athletic decisions and preferences drive academic decisions and practices within schools in the United States.

If it is a fact that Osseo-Fairchild has a display implying that the history of the Osseo-Fairchild School District is tied to the Ho-Chunk rather than the Dakota Sioux, it is important that any such false history be corrected as part of the process of eliminating the race-based *Chieftain* nickname and logo and to restore academic integrity to the education in the School District. To only go back 75 years from 2005 (as I understand was the case in the “historical” narrative that was approved by the Osseo-Fairchild School Board) and represent that period as a “true history” is unfair to the harsh realities suffered by so many Native peoples prior to 1930. Ignoring the historic dispossession and removal of the Dakota Sioux people from the area in and surrounding the Osseo-Fairchild school district is a second travesty aimed at the Dakota Sioux whose history has been ignored and replaced by a romanticized version of post-1930, void of the tragedy imposed on the Dakota Sioux in earlier times. (Exhibit No. 40, pp. 12)

Dr. Zeitler’s statements that the Osseo-Fairchild School District is in what was Dakota Sioux territory under the 1825 Treaty of Prairie du Chien is confirmed by the map prepared by Dr. Zoltan Grossman. (Exhibit No. 41) With the Dakota Sioux relinquishing title to their Wisconsin lands in 1837, the Osseo-Fairchild School District was never, at least since 1825, considered “Ho-Chunk Territory”.

This phenomenon of falsifying history to create a myth that, at least in the minds of nickname-supporters, “justifies” the ongoing use of American Indians as the basis for an athletic identity is amazingly common. Several other Wisconsin schools have adopted such mythologies to convince themselves that they are justified in using another race of people in this manner.

21. The Harm of Native Stereotyping – Facts and Evidence

“The Harm of Native Stereotyping – Facts and Evidence” is an excellent website compiled by Rob Schmidt that examines stereotyping arising from these race-based athletic policies. Exhibit No. 42 presents some excerpts from that website.

22. Research of Dr. Harvey S. Gunderson and Carol S. Gunderson (Oneida), M.A. - Stereotyping at the 2009 WIAA State Championship Football Games

Exhibit No. 43 is a document titled “Documentation of Audio & Visual Occurrences of Race-based Team Nicknames and Associated References during the Statewide Broadcast of 2009 WIAA State Championship Football Games”. In 2009, three of the seven WIAA State championship football games (Divisions 1, 2 and 4) included a team with a race-based nickname. The Division 4 game involved two such teams, so four of the 14 teams appearing in the statewide television broadcasts had race-based nicknames (Menomonee Falls High School - the “Indians”; Waunakee High School - the “warriors” with a definition as an American Indian “warrior” as defined by associated references; Big Foot High School - the “chiefs”; and Kewaunee High School - the “Indians”). Because television coverage of the WIAA State championship football games is a statewide broadcast, the race-based athletic references are beamed into virtually every living room across the entire state.

The psychological harm resulting from use of race-based athletic nicknames and associated references has been thoroughly documented by empirical research (e.g., Fryberg, Kim-Prieto, etc.). While the games were held at Camp Randall stadium in Madison, because of the television broadcast, the psychological harm resulting from use of race-based athletic nicknames and associated references didn’t stop at the walls of Camp Randall but extended across the entire state of Wisconsin.

The DVD for each game was purchased and analyzed to compile the types and frequency of audio and visual race-based stimuli being broadcast into homes across the entire state. Many visual appearances of the nicknames and logos on signs, clothing or helmets appear repeatedly on the screen throughout a game. Such appearances after the

first observation are not recorded here each subsequent time they occur on screen, which results in a significant understatement of the number of visual appearances of race-based references.

Results were that such stimuli occurred at least 36 times in every game, and up to over 68 times, with an average of 53.75 occurrences for each team. There was a race-based athletic reference every 2.25 minutes on average.

As shown in Exhibit No. 43 along with a time-line, the following were observed:

In addition, the following were observed:

- Students at three of the four race-based nickname schools (Big Foot, Kewaunee, Menomonee Falls) used face paint in a manner that, when done by students attending a race-based nickname school, is extremely offensive and inappropriate in a public school because such face painting has important religious or spiritual significance to American Indians in many tribes.
- Students at two of the four race-based nickname schools (Big Foot and Waunakee) wore a head band and fake feathers, which is extremely inappropriate given the fact that these imitate eagle feathers which have religious and cultural significance in most tribes and are only to be worn by American Indian people who have earned the right to wear such culturally significant items.
- Students at one of the four race-based nickname schools (Waunakee) engaged in the stereotypical “tomahawk chop” on three video clips.
- Students at one of the four race-based nickname schools (Big Foot) had a large sign approximately four foot square with a drawing of a stereotypical Indian head on it.
- In what appears to be a traditional athletic practice at one of the four race-based nickname schools (Big Foot), a person holds a metal plaque approximately two feet square engraved with an Indian head on it and with letters saying “PLAY LIKE A CHAMPION” as a football player runs past and slaps the Indian head with his hand as he runs onto the field, apparently for good luck. This demonstrates that students at that school are being taught by the school district that it’s acceptable to treat living human beings (American Indians) and their culture as a common good luck charm.

- A large Big Foot sign said “WE ARE THE CHIEFS”, which is a form of identity theft that trivializes the role of chief in real American Indian tribes by implying that:
 1. all students enrolled in the school are American Indian ‘chiefs’, *and*
 2. all it requires to qualify to become an American Indian chief is to become a freshman at a certain school.
- Students at one of the four race-based nickname schools (Big Foot) had a large banner (approximately eight feet long) that said “TOO MANY CHIEFS NOT ENOUGH INDIANS”, apparently because the Big Foot “chiefs” were competing against the Kewaunee “Indians”. This tasteless race-based expression is offensive to many American Indians.
- Students at one of the four race-based nickname schools (Big Foot) had a huge banner (approximately eighteen feet long) saying “WE RUN THIS TRIBE”, also apparently because the Big Foot “chiefs” were competing against the Kewaunee “Indians”.
- In two of the three games (Divisions 1 and 4), a race-based athletic logo appears on the helmet of each team member. Therefore, because a team appears on screen approximately half the time, a race-based reference appears on the television screen during approximately half the total televised time in these two games. (Exhibit No. 43)

This provides additional evidence that race-based athletic identities promote a hostile environment for American Indians watching the games in Wisconsin and evidence that such identities promote stereotyping and what many American Indians would consider a hostile environment.

23. Research of Carol S. Gunderson (Oneida), M.A. and Dr. Harvey S. Gunderson - “Race-based School Athletic Nicknames – Catalysts for Community Violence Against American Indians”

This paper presented at the Annual Conference of the Native American & Indigenous Studies Association (NAISA), May 20-22, 2010, discusses the threats and intimidation that is so common to American Indian families who dare to speak out against their school boards athletic policy based on race, using the Osseo-Fairchild School District as a case study. It describes the hostile environment and the harassment

of students and adults that typically occur in so many communities nationwide over this educational civil rights issue. (Exhibit No. 44)

24. “Opinion polls” contrasted with research studies

It is important to differentiate between "polls" and "research studies". One of the reasons why this differentiation is important is that school boards and other supporters of retaining race-based athletic identities in public schools often refer to two “opinion polls” conducted by Sports Illustrated in 2002 and by the Annenberg Institute in 2004.

The reason supporters of "Indian" nicknames so often refer to these two polls is apparently because these two “polls” are about the only written resources of any sort available for them to refer to, whether or not the polls have any credibility. In regard to credibility, most supporters of race-based nicknames who refer to these two polls as a justification of their position are unaware of the fact that experts have repeatedly attacked the credibility of these two polls, often doing so via credible peer-reviewed entities and by scholars who are experts in the matter of "Indian" nicknames and logos. (Exhibits Nos. 45, 46, 47)

“Opinion polls” are as inappropriate for decision making on matters of race as are community referendums or student votes. Yet, school boards often attempt to rationalize their continued use of the race-based nickname on the basis that "most of the people in our community support the policy". In communities that are overwhelmingly White, these “opinion polls” and community referendums or student votes fit into the category of what is often called "the tyranny of the majority" wherein so many members of the majority race are unable or unwilling to grasp the negative impact of a race-based policy on members of a minority race.

Such "polls" often take the form of asking the respondent whether or not they “feel” that athletic nicknames and logos are "offensive". In a study titled "Use of Native American Names and Imagery in Sports: A Cross-Cultural Survey of Offensiveness",

Fraser Leveay, Coy Callison, and Ann Rodriguez conducted a very extensive research study done without the methodological flaws of the Sports Illustrated poll or the Annenberg poll. The results of this study further discredit the assertions made in the Sports Illustrated poll and the Annenberg poll. Their conclusion was:

The argument that American Indians dismiss this issue can be put to rest as this study details that Native Americans do believe the use of these cultural names, images and logos to be offensive. (Exhibit No. 47, p. 11)

That having been said, arguing over what percentage of American Indians support 'Indian' athletic nicknames is really a waste of time and effort, because Dr. Stephanie Fryberg's validated peer-reviewed research found that those American Indians who support race-based nicknames suffer the greatest reduction in self-esteem, greater than the reduction in self-esteem suffered by American Indians who oppose race-based nicknames. Accordingly, American Indians who support race-based nicknames can be appropriately described as "the greatest victims" because they suffer the greatest psychological harm and it's a subconscious psychological harm so they are unaware they have been impacted. Hence, anecdotal statements from individual American Indians (or people claiming to be) asserting that "I haven't been psychologically affected" are meaningless because they wouldn't be aware of subconscious effects.

Some have asked "How many are offended?" which is equivalent to asking "How many 'greatest victims' are there?" An Indian Country Today poll found that 81% of respondents indicated they found such athletic references to be "predominately offensive". Therefore, the Indian Country Today poll found that at most 19% of American Indian respondents support race-based nicknames, or at most 19% of American Indians respondents were "greatest victims". In other polls, Sports Illustrated and an Annenberg poll reported that 81% and 90% respectively of American Indian respondents are "greatest victims".

In summary, while polls are all over the map and have projected anywhere from less than 19% to as high as 90% of American Indians being the "greatest victims", the

specific percentage is quite meaningless because even 19% of American Indian students being the “greatest victims” would be unacceptable. **No** American Indian student should be psychologically harmed by a race-based policy that specifically targets American Indians, especially in a public school. The Fryberg research paired with any of these three polls shows that it’s vital that public school boards immediately eliminate their race-based athletic policies that are psychologically harming innocent American Indian children enrolled in their own and competing schools.

25. Materials from the Wisconsin Indian Education Association ‘Indian’ Mascot & Logo Taskforce

“Common Themes” (Exhibit No. 48) and the Position Statement (Exhibit No. 49) of the Wisconsin Indian Education Association ‘Indian’ Mascot & Logo Taskforce have helped many people across the nation understand why these race-based athletic identities are harmful to both Native and non-Native students.

26. Harm to students in other school districts

One of the most amazing comments that one hears school board members make regarding this education civil rights matter of race-based athletic identities is their claim of a right to “local control”. It is so amazing because it really displays how uninformed many school board members are about the psychological harm from these athletic stereotypes, and it demonstrates their lack of realization that the harm does **not** stop at the boundaries of their own school district but harms students in **every** competing school district.

Students in the 35 remaining high schools with race-based nicknames compose 2% of total Wisconsin K-12 enrollment, and yet these 35 school boards harm the other 98% of Wisconsin students through interscholastic competition at the non-conference, conference and tournament levels, even being broadcast statewide via championship games (See section # 22 above and Exhibit No. 43) or via media coverage.

Even though parents, teachers, administrators and school boards in **other** school districts may want to provide a **stereotype-free** educational environment in **their** school district for **their** students, **their** stereotype-free environment is violated by the actions of **another** school board that forces their athletic stereotypes across school boundaries and unto **their** students through athletic competition. By arguing a right to “local control”, these school boards are defending their practice that harms students in **other** school districts.

Consequently, people in **other** school districts are increasingly expressing frustration that their **own** students are having these athletic stereotypes forced on them by unthinking or uncaring school board members who control the **other** school districts. A prime example of this is the effort engaged in by students and a teacher at Prescott High School. They have actively opposed the race-based athletic policies of school boards in competing school districts in their conference and have worked actively to support legislative changes in Wisconsin to eliminate race-based school athletic identities from all public schools.

These citizens from Prescott have stated the following:

Due to the inherent nature of interscholastic athletics, the effect of the stereotypes implicit in their race-based identities do not remain within the boundaries of their school district but affect every school they compete against in non-conference, conference and tournament competition up through and including the State championships. When a school like ours plays against Osceola, Baldwin-Woodville, Osseo-Fairchild or any of the other public schools in Wisconsin with race-based identities, our athletes and fans are subjected to the racial stereotypes and the harm that research has indicated arise from such exposure.

First, any American Indian students at schools like ours are subjected to the lower self-esteem and other psychological effects that research has found to occur (e.g., Fryberg research).

Second, students of **other** racial minorities at schools like ours are victimized by being subjected to the increased tendency to stereotype other racial minorities from exposure to race-based athletic identities, as has been determined by research (e.g., research of Kim-Prieto et al).

Third, *all* students at schools like ours (Native *and* non-Native) are being “taught” that it is “acceptable” to engage in racial stereotyping, as shown by the aforementioned research and others.

Fourth, this inherent racial stereotyping is educationally unsound and interferes with the efforts of our own Prescott School Board, our own administration, our own teachers and our own parents to provide a stereotype-free learning environment for students enrolled in this School District. The School Boards at Osceola, Baldwin-Woodville, Osseo-Fairchild and the other Wisconsin schools with race-based identities are forcing their racial stereotypes on another school district, on another school board, and on students enrolled outside their own school district. Hence, the harm does not stop at the boundaries of schools like Osseo-Fairchild but causes harm to students enrolled in other school districts like ours at Prescott, as shown by research. (Exhibit No. 50)

Moreover, they testify from personal experience of the hostility promoted by these race-based identities:

Moreover, we can testify to the fact that these race-based nicknames promote pupil harassment because students at our school have experienced such harassment. Because we object to other school boards forcing racial stereotypes onto us and other students at our school, we have engaged in educational protests against this race-based practice of other school boards by wearing t-shirts indicating opposition to their race-based school identities and associated references. Our students have experienced pupil harassment because we expressed that we do not condone the race-based practice of the other schools.

For example, students from Osceola threw small stones at a Prescott student, Zach Simones, when Zach was at Osceola and wearing his shirt opposing race-based nicknames. Another time, an Osceola student walked up so that his face was only a few inches from Zach’s face, and screams a stereotypical woo-woo-woo into Zach’s face.

If non-Native students experience this type of severe pupil harassment that’s promoted by a school having a race-based nickname when a non-Native student raises an objection to the race-based policy, then Native students enrolled within that school will clearly be targeted with similar pupil harassment or worse if they express an objection to their race being used for sports fun-and-games. (Exhibit No. 50)

The high regard that the American Indian community has expressed toward the efforts of these Prescott citizens is exemplified by a column by Tim Giago, one of the most respected American Indian journalists in the nation and a long-standing opponent of race-based athletic identities, who wrote in part that:

Why would a group of white Prescott High School students in Prescott, Wisc., fight for a bill to end the use of Native Americans as mascots, carry their concerns all of the way to the State Capitol in Madison and get Gov. James Doyle, a Democrat, to sign the bill into law on May 5?

... To be mimicked, ridiculed and aped at sporting events is not an honor and these white high school students “got it!”

... At the hearings leading up to the introduction of the bill, Native Americans from the different reservations in Wisconsin were in attendance and not a single one of them spoke out against the bill: They were all united behind the students....

After the victory, Maddie Smith, one of the students, said, “It is still hard to believe that it takes legislation to ensure that different cultures are treated with respect.” ...

Some of the folks that have been fighting this issue for nearly 30 years, people such as Charlene Teeters, an art instructor at the American Indian Art Institute, and Michael Haney, now deceased... would have stood and cheered the courage and dedication of these Prescott High School students.

These students did not go without sharp, and oftentimes, nasty criticism from their friends and neighbors in Wisconsin.

“Why in the hell are you doing this?” was one of the most frequent questions they encountered.

As Teeters, Haney and I know, they did it because they wanted to correct a blatant wrong, a wrong that most Americans have never made the effort to understand. American Indians are human beings and not mascots for America’s fun and games. (Exhibit No. 51)

Another opponent of race-based school athletic identities followed up on Tim Giago's column by writing the following in a "letter to the editor" in Giago's newspaper, *Native Sun Times*, which said in part that:

My name is Daniel Brown, and I am the vice president of the Ho-Chunk Nation.

I just read an article that was being circulated in the Ho-Chunk Nation's intranet. It was a copy of an article written by Tim Giago ...

I wish to extend my debt of gratitude to those students referenced in Giago's article. Thank you, Maddy Smith, Brenna Ryan, Zach Simones and all of the other students who took this issue to task all the way [to] the (Wisconsin) state capital.

Thank you, Jeff Ryan, for your conscientious teaching efforts that very likely led to these selfless actions. Your efforts are commendable and very much appreciated by many, many of us Ho-Chunk people who have been and continue to be perplexed and, yes, offended by the ongoing use of Indian mascots and nicknames in high school sports in Wisconsin. ...

I have always maintained an interest in this issue.

I consistently cheer against the Washington Redskins because of this issue. ... And though I have always maintained a great deal of interest in this matter, scanning the sports landscape for signs of change, I regret not being able to attend the historic signing of this bill on May 5.

Thus, I take a minute from my hectic schedule as an elected official of my nation, to say: "Thank you, Ryan and thank you, students for championing a very worthy cause and for being a part of a movement that will assist in ushering in an improved environment of sensitivity and tolerance in your home state. You should be proud of your social awareness, and you should be doubly proud of taking action on that awareness." (Exhibit No. 52)

27. Wisconsin educational leaders have repeatedly spoken out for elimination

While educational leaders from across Wisconsin have repeatedly asked Wisconsin school districts to abandon their use of race and athletic identities, 35 out of the original 65 schools still retain their race-based identities. The Wisconsin teachers have spoken out via a resolution adopted in 2004 officially opposing the use of "Indian" nicknames and associated references in Wisconsin schools. (Exhibit No. 53)

State of Wisconsin made national headlines in 1994 as shown in a New York Times story about the request from State Superintendent John Benson that school districts eliminate race-based nicknames. (Exhibit No. 54) Wisconsin State Superintendent John Benson wrote to the 65 school districts on April 1, 1994 that:

“The question then needs to be asked, “How can we be promoting the understanding of tribal history, culture and sovereignty in the classroom while we are, at the same time, promoting Indian stereotypes on the football field, on the basketball court, in the school newspaper, on school stationery and in other areas?”

I believe American Indian related mascots, logos and nicknames are entirely inappropriate for use in Wisconsin’s public schools. Again, I strongly encourage you to take steps to eliminate these [race-based nicknames and associated references] in your school district if you have not already done so. (Exhibit No. 55)

On December 27, 2005, Wisconsin State Superintendent Elizabeth Burmaster sent a letter to all Wisconsin school districts asking the remaining school boards still using such identities “to engage their communities in finding positive alternatives.” (Exhibit No. 56) Of particular note is that State Superintendent Burmaster sent along with her letter a copy of the American Psychological Association (APA) Resolution (Exhibit No. 5) and the APA Justification Statement (Exhibit No. 6), so Wisconsin school boards cannot deny that they have been made aware of the research that has documented the psychological harm to students arising from their race-based school board policies. As Burmaster wrote in part:

As you know, I believe that stereotypical American Indian logos do not support sound educational practice because they interfere with a school’s efforts to provide accurate information related to the history, culture, and tribal sovereignty of American Indian nations. In addition to ensuring sound educational practices, we need to ensure that all of our children feel welcome in our schools. The New Wisconsin Promise guarantees a quality education for every child through attention to and respect for diversity, including differences in race and culture. Stereotypical logos can hurt our children, albeit unintentionally. For all these reasons, I have consistently called for the elimination of these logos from our schools.

The eleven tribal governments in Wisconsin, the Great Lakes Inter-Tribal Council, the Wisconsin Indian Education Association, the Wisconsin Education Association Council, other Indian nations and organizations across the country, various national nonprofit and faith-based organizations, and most recently, the National Collegiate Athletic Association, have all called for the elimination of these logos, mascots, and nicknames.

I encourage those districts who continue to use American Indian logos and/or mascots to engage their communities in finding positive alternatives. (Exhibit No. 56)

Several Wisconsin groups and educational leaders issued press releases in support of the State Superintendent's action. The Wisconsin Indian Education Association press release said in part that:

This clearly worded statement with its rationale firmly rooted in the findings of the American Psychological Association, the wishes of Great Lakes Inter Tribal Council and Wisconsin Indian Education Association, and the needs of Wisconsin students to meet the challenges of changing times is an example of sound educational leadership at work.

Barbara Munson, chair of the taskforce states, "Elizabeth Burmaster is the third Wisconsin State Superintendent to urge the elimination of "Indian" logos, mascots, and team names from our public schools. Over the years the case for change has gained support of research proving what Indian people knew from experience, "Indian" mascots harm our children and reinforce harmful stereotypes that keep us marginalized, refer to us in the past tense, and prevent us from being included as community members and neighbors involved in working toward common goals and solutions with the rest of society."

Burmaster's memo is a reminder to the legislature that nearly a year has passed since Ray DePerry, then President of Great Lakes Inter Tribal Council, in the first "State of the Tribes" address requested that our Wisconsin legislature create a legal remedy to eliminate this hurtful barrier from our schools so that future generations can work in harmony toward a better Wisconsin for all of us.

Elizabeth Burmaster puts the State of Wisconsin back in the position of national leadership regarding this issue. In his 1994 request that schools review their use of Indian logos, John Benson made the following insightful statement, "How can you be honoring people while they are

telling you that what you are doing is demeaning to them?” (Exhibit No. 57)

Former Red Cliff Tribal Chairman and past President of the Great Lakes Inter-Tribal Council (GLITC), Ray DePerry issued a press release that said in part that:

... he is “extremely pleased and encouraged by the latest development by the Department of Public Instruction (DPI) in the long struggles to end the blatant discriminatory practices in some of our public schools who use Indian mascots, logos or other such images.” ... DePerry who delivered the first “State of the Tribes” address earlier this year as the then president of GLITC added “this is a day all of us can be proud of here in Wisconsin. As we near the end of 2005, of year that saw much human pain and suffering, it is uplifting to know that our State Superintendent is strongly telling those school district that ‘enough is enough’ and let’s work together is tearing down one of those last discriminatory walls that exist in some of our communities”. (Exhibit No. 58)

The civil rights and education organization “Religious Americans Against ‘Indian’ Nicknames & Logos” (RAAINL) issued a press release that said in part that:

The letter from the Department of Public Instruction emphasized the importance of a recent resolution adopted by the American Psychological Association (APA) calling upon schools to end the use of American Indian mascots, symbols, images, and personalities for their athletic teams. DPI also sent school districts a copy of the APA resolution and the APA justification statement documenting the body of evidence that these race-based ‘Indian nicknames are psychologically harmful to all students but especially to American Indian students.

... Research has shown that ‘Indian’ athletic representations create a race-based roadblock to learning because of several psychological effects including lower self-esteem, fewer images of future roles they could have, and a decreased image of the effectiveness of their community’s ability to solve problems. This educational hurdle is uniquely faced by American Indian students because no other race of people is routinely used against their wishes as “good-luck charms” by predominantly-White schools. ...

Carol Gunderson, co-founder of RAAINL and a member of the Oneida Nation said “I am very pleased that this was sent to all school districts because this is not a local matter affecting only American Indians within

that school district. The psychological harm does not stop at the boundaries of the school district. These school boards are affecting American Indians all across Wisconsin with their race-based policy. The race-based 'Indians' reference negatively affects American Indian athletes and fans of every school across Wisconsin which competes against that school during the season or could compete against it in post-season tournament games. It also 'teaches' non-Native students at that school and other schools that stereotyping of a whole race of people, in this case American Indians, is 'acceptable'. This is not just a local issue because these school board policies are hurting people inside and outside the school district!"

RAAINL has appealed to school districts to eliminate race from their nickname policy on the basis of simple human decency. Besides being an educational matter, this is also a moral and ethical matter. How can it be considered moral or ethical to support using race for a school nickname when all available credible evidence indicates that it harms innocent American Indian students, faculty, fans and members of the public? That is why so many human rights organizations have condemned these race-based school policies.

It is also why such nicknames have been opposed by so many religious groups such as the United Methodist Church which "considers the practice a blatant expression of racism"; the National Conference for Community and Justice (formerly the National Conference of Christians and Jews) which "applauds the numerous schools, districts, colleges and universities...that have changed their names, mascots, symbols and rituals, and calls for the elimination of such practices from all sports teams"; the United Church of Christ which said "As Christians, we must challenge the use of Native Americans as caricatures, and instead honor all human beings as being created in the image and likeness of God (Genesis 1:27). Since 1991, the UCC's General Synod has prioritized the issue of negative stereotyping of Native Americans and has called each member of the United Church of Christ to uphold actions that would result in positive change."; the Wisconsin Conference United Church of Christ which "calls upon members and congregations of the United Church of Christ in Wisconsin to oppose the use of 'Native American' imagery for team mascots and/or logos"; the Presbyterian Church (USA) which "...direct the Stated Clerk to write to...universities, colleges, and schools that use Native American imagery...urging them to develop a process to choose a new name, logo, and/or mascot for the team;..."; the American Jewish Committee which "deplores and opposes the use of racial or ethnic stereotypes in the names...of...sport (teams)", and others. The Wisconsin Council of Churches which includes representation from the judicatory units of 13 Christian denominations said it "goes on record strongly supporting the efforts of the...Native American people...working to effect

meaningful change” regarding these representations.

It is safe to say that the harmful nature of these ‘Indian’ nicknames, logos and mascots are inconsistent with the moral and ethical principles of every religion commonly practiced in the United States. We have repeatedly asked supporters of ‘Indian’ athletic nicknames if they can quote any religious principles from their religion that would support the use of these race-based nicknames and none has ever been proposed. All people who believe that we should “love and treat your neighbor as yourself” and should “do unto others as you would have them do unto you” know that we cannot justify using a minority race of people and their culture in this manner when so many of that race have repeatedly asked us to stop doing it. Therefore RAAINL strongly supports State Superintendent Burmaster and the Department of Public Instruction in their decision. (Exhibit No. 59)

28. “More ugliness is expected in mascot debate; tone of mascot debate likely to get uglier again.”

As was stated in section 8 above and in Exhibit 25, the hostility toward American Indians surrounding this use of race for athletic identities by schools is often demonstrated in the anonymous “comments” appearing at the end of news stories on the internet. This was similarly observed by Dan Lyksett of the Eau Claire Leader-Telegram who wrote a column on May 16, 2010, titled “More ugliness is expected in mascot debate; tone of mascot debate likely to get uglier again.” (Exhibit No. 60) Based on his experiences over the years dealing with this issue as a journalist, Lyksett described the hostility that is typically directed toward American Indian families when they speak out for elimination of race-based nicknames.

From the moment we reported on a couple from the Osseo-Fairchild school district invoking the new state law that would lead to a study and possible ban on the district's Chieftains logo, I knew my day job was going to get a little tougher.

Each morning I investigate reports of abusive comments on our Web site. It's usually not an onerous task - folks participating in the comment boards are pretty good at making their arguments with considerable enthusiasm without too much flaming. They also self-police by flagging entries that go over the line. And I do follow their lead when they point to a particularly hot topic.

But in 27 years in this business, I recall few issues that generate a higher level of vitriol than high school mascots that invoke American Indian

names and symbolism. For some reason people have a hard time discussing whether those nicknames and mascots are appropriate without turning to personal insults. Allegations of racism are met with accusations of meddling, elitism and demands that objectors "get out of town." (Exhibit No. 60)

And indeed that is what has happened with the filing of this complaint. The two most visible complainants, Carol and Harvey Gunderson, have been ridiculed in the public arena in the "comments" that the public has made in response to articles in newspapers across the state. As Dr. Steinfeldt has documented, this type of hostile environment toward American Indian families, including both adults and children, is promoted by the existence of race-based school nicknames. (Exhibits Nos. 25, 26)

Some example comments that have occurred since the filing of the complaint are shown in Exhibit No. 58. Among the names the Gunderson(s) have been called were: "fools", "morons", "intellectually challenged individuals", "loose screws", "a half breed (if that)". They were told to "move out of the area and make a lot of people in Osseo happy", "find another place to live", "move somewhere else". (Exhibit No. 61)

These examples of the "ugliness" and hostility that Lyksett described in his Eau Claire Leader-Telegram column reflect the hostile environment in the Osseo-Fairchild community and school that has existed and continues to be promoted by the use of the chieftains nickname and associated references. This "ugliness" toward American Indian families is typical nationwide wherever and whenever American Indian families speak out against race being the basis of the school's athletic identity.

29. "The admission of guilt" by the Osseo-Fairchild School Board

The O-F School Board on April 12, 2004 adopted what it called a "Logo Use Policy". The "Logo Use Policy" has a section titled "Educating outside agencies" which establishes a "Chieftain Ambassador Committee" to visit other schools in order "to educate them on this logo use policy and ask their help in preventing and controlling all actions that may be viewed as being disrespectful to Native Americans or go beyond the

bounds of good sportsmanship and healthy competition.” Many in the Osseo-Fairchild community and outside at the time said that the creation of a Chieftain Ambassador Committee within the Logo Use Policy amounts to an admission of guilt by the School Board that the chieftains identity **does** promote discrimination, pupil harassment and/or stereotyping. The Policy says:

Educating outside agencies

A Chieftain Ambassador Committee will be formed with members from the community, administration, student body and School Board. These ambassadors, in pairs or in larger groups, will visit each school in our conference to educate them on this logo use policy and ask their help in preventing and controlling all actions that may be viewed as being disrespectful to Native Americans or go beyond the bounds of good sportsmanship and healthy competition. These ambassadors shall visit suppliers of athletic paraphernalia and clothing to educate them on this logo policy and ask that any Osseo-Fairchild items that include a logo include the official Chieftain logo. (Exhibit No. 62)

There would be no need for such a Committee if the chieftains identity didn't promote stereotypical or racially harassing or offensive behaviors. Therefore, the very creation of this committee as part of the Logo Use Policy constitutes evidence that the School Board members who developed or approved the policy were **consciously** aware at the time that the chieftains identity **does** promote such behaviors. That is why some have called the “Chieftain Ambassador Committee” an “admission of guilt” by the School Board.

30. An actual vote to “bless” future stereotyping

Before the “Logo Use Policy” was adopted on a 4-3 vote by the Osseo-Fairchild School Board on Monday, April 12, 2004, two amendments were offered by Board members.

A proposed amendment that would have required that the policy be subject to review and approval by the Great Lakes Inter-Tribal Council failed on a 3-4 vote.

Another proposed amendment which would have eliminated stereotypical imagery was also defeated on a 3-4 vote. By rejecting this amendment, the majority of the School Board was in essence saying that the School Board's official position de facto

is that the stereotyping of American Indians is an accepted school policy in the Osseo-Fairchild School District.

Just as the creation of the Chieftain Ambassador Committee indicates there is evidence that the School Board members who developed or approved the policy were **consciously** aware at the time that the chieftains identity **does** promote such behaviors, the vote on this amendment also provides evidence that the School Board was **consciously** aware at the time that the chieftains identity **does** promote such stereotyping.

31. Other Incidents and Coaches' observations

That the chieftains nickname promotes such behaviors in opposing schools has been recognized by almost every expert who has written on the subject. The coaching staff at Osseo-Fairchild have observed incidents with schools that compete against Osseo-Fairchild. Todd C. Fischer, Assistant Principal/Activities Director at Osseo-Fairchild, reported the following observations:

- During an Osseo-Fairchild girl's basketball game with Regis High School, three Regis students participated in wearing a Native American Headdress. They were dancing in the student section.
- A conference school that used the words on a float, "Scalp the Chieftains"
- Rival schools in the past have used the "Tomahawk Chop" during sporting events, and
- When the PA announcer called out over the system after a play, "A tribe of Chieftains made the tackle." (Exhibit No. 63)

The coaching staff at Osseo-Fairchild have also reported observed stereotyping/offensive incidents involving Osseo-Fairchild students and fans including the following from Todd C. Fischer, Assistant Principal/Activities Director:

- A class of Osseo-Fairchild students wanted to use a take off, from the Pirates of the Caribbean, for their homecoming hallway decoration theme. The students wanted to use the theme "Chieftains of the Caribbean." School administration did not allow this theme to be used.
- A favorite cheer of the Osseo-Fairchild students' section has been "the Mighty Chieftains," and, "Sexy Chieftains." I have

received many complaints from community members about this cheer.

- During a volleyball practice, students were spiking the volleyball off the Native American painting on the wall in the gym. A complaint from a community member was reported to school administration.
- Osseo-Fairchild parents have not allowed their children to participate in a team cheer that used the words “Lady Chieftains.”
- A basketball camp T-shirt used a little Native American character. Parents complained about the shirt.
- Community members, coaches and students continue to wear inappropriate Chieftain clothing after the school board had created a policy to ban the use of unofficial logos or depictions of Native Americans.
- An Osseo-Fairchild Student has created a Facebook page that is titled “Chieftains Forever.” (Exhibit No. 63)

Mona Vold Jacobson, a golf coach, observed various incidents involving stereotyping or a hostile environment for American Indians in the community and school, as follows: (Exhibit No. 64)

*****One evening, early in the controversy, I was on my way to the gym from my office inside the school. At the bottom of the stairs, three young sixth grade boys stopped me and asked, “Why are there so many people outside carrying signs?” As they had come into the school, they’d seen there were “some Indians out there too” and they’d heard “a bunch of old guys” yelling at them. They asked what that was all about because the guys yelling were mad.

I told them there was going to be a school board meeting that night where the Board would be discussing the chieftain logo. The people with signs wanted the nickname and logo to change because it created stereotyping. Immediately, they asked, “What’s stereotyping?” I asked them what grade they were in and then quizzed them saying, “Okay, for instance, when you hear the word ‘Indian’, what do you think of?” Their answers came quickly. All three eagerly participated: “Feathers. Tepees. Tomahawks. Canoes. Scalping.” One added, “They get to use spears to fish and we can’t.”

I asked the boys if they had any friends who were Native American or if they knew any Native Americans in their elementary school, and if they did, did those kids wear feathers, or live in tepees, or do any scalping? They all said they didn't know of any "real" Indians in their school. One said, "There's a couple of Eskimos." Another continued, "I heard there's some Indian girls in the high school though. But my friend's dad told his sister she can't hang out with 'em 'cause they're really mean and scary." "Yah, she might get scalped," one added, proud of himself, and smiling.

***** One of my young high school golfers showed up for the start of her freshman season and told me her summer league basketball coach had "cornered" her and some of her friends and tried to convince them not to go out for golf because I was "a hopeless Indian lover." He said he knew I was a good coach but that they were going to get "poisoned by Indian crap." She said the others were afraid to tell me because he might find out and "have it in for them forever".

*****At the height of the controversy, I was asked to do some volunteer independent study with two Native American young women who were experiencing extreme psychological stress from the atmosphere at school. One day after practice, one of my golfers came to me and asked if we could talk. She said she was embarrassed to mention this but she knew I thought one of the two young women was a good athlete and had heard I had said it would be great if she'd take up golf. This golfer said she felt sorry for the Native American girl because, since the logo controversy began, she "really gets harassed" and "if I was her, I'd be a mess." Despite this empathy, the golfer asked, "Could you please not have her join the team because I am afraid it will change the dynamic? The town really likes our team and, with her on it, they might start to hate us."

*****When it became known I was working independently with two young Native American students, I was stopped on the street one day by a townsperson and asked if it were true I was "working with a couple of those problem Indians." When I said indeed I was and that it was a great experience, the townsperson straightened himself and shook his finger at me, "Well that damn school better not be spending any of our taxpayer money on it. Those girls are only gonna end up like all the rest of the tribe around here—drunk and poppin' out babies." I told him the Native Americans I was most familiar with in our community all had college degrees, three in fact had advanced degrees, one was a professor, another had interned at the Smithsonian in Washington, D.C., and another was a lawyer. He grumbled and started to walk away, then turned and said

clearly, “Well, all you Einsteins, you all just better watch your blindside.”

***** When I was at a middle school boys golf practice and a Native American player got up on the tee, one of the eighth grade players said to me, “Hey Coach, go encourage him so he stays out for the team. His family loves the logo and if he’s on the team, we can have fun with it. Before matches, we can all do a war dance.”

***** I met up with a rather brash high school junior one evening in the hall. He stopped and smiled and said, “Hey Coach, how you like my shirt?” The shirt he had on was an old one—a large-nosed, war-paint clad, wild-haired Indian—which had been designed by an assistant coach of the football team in the 1990’s.

Under pressure to prove they could control such images and prevent them from being worn in the school, the new district board had created a “logo use policy.” However, like the old band uniforms and various articles of old clothing some students and community members found and wore in defiance of the policy and logo opponents, the shirt this young man had on was still intact and proudly sported.

“You know, I don’t really care what anybody does around here after I’m gone,” the young man said, pinching the Indian’s face and pulling it out away from his chest. “I just want to graduate a Chieftain.”

He then proceeded to, there in the hall, do a little cross-between a stereotypic war dance and a jig, uttering a sound with his mouth which he altered by slapping his flattened palm against his lips—a perfect old-fashioned rendition of an “Indians on a war path” act that children performed back in a time when they didn’t know any better.

“You know, Pal,” I said, “I hate to break this to you, but you’re not a chieftain. You never were a chieftain. And you’re never going to be a chieftain. Using the name and using the logo totally trivializes what it meant and continues to mean to be a chief.”

“Well,” he stammered, “Well, we can use it all we want. ‘Cause luckily, most of ‘em were wiped out. They don’t have no say no more.”

*****Through the past years, Osseo-Fairchild board meetings have been overrun with logo supporters and opponents, spectators, news media, a police presence inside and outside—on-lookers and board members shouting and cursing at each other across the room—and video cameras

rolling.

At one of these meetings in February 2003, I was seated in the front row with two Native American high school students. Immediately in front of us, at the board table, was one of the most zealous logo-advocate board members. As things became more heated in the audience and a motion was made to reinstate the chieftain logo, opponents rose to object and supporters rose to shout them down. As a logo opponent was led off by police and a white student in the audience fainted and was removed, the two Native American students next to me started to cry. Through the next few minutes, tears running down their faces, the two girls sat as the board member in front of us loudly reiterated how by the use of the logo the community chose to honor Native Americans and how in his own research he had found “absolutely no evidence that such logos hurt Indian children.” As the student next to me leaned over and quietly sobbed into my shoulder, I was struck by the irony.

A few weeks later, at a social gathering, I was recounting this to a community member who I knew privately opposed the logo. As we were speaking, her husband came up and stood beside us. Though I knew he was an avid logo supporter, I finished recounting the irony. The logo opponent shook her head and sighed. Her husband mimicked a snuffle and said, “Waaaaah, Waaaaah, Chief Rain-In-the-Face,” and walked away.

*****As golf coach and summer junior golf instructor, I usually have three or four sets of used golf equipment available for me to loan to kids who are just starting the game or whose parents may not be able to purchase equipment. A few years ago, during the summer, a fifth grade Native American girl came to junior lessons. She’d not played before, and her father asked about equipment. I told him we had loaner clubs. He said “great” and told me he’d be more than happy to buy her a set if she liked the game. That first day, she and two other novice players went home with loaner sets. A week or so later, as I moved down the long line of young girls practicing at the range, one of them who had her own set of clubs and had played a few years, asked me if there was something special about the clubs I’d given the Native American player because “she hits so good and it goes so far.”

I said, “No, the clubs aren’t special, but she is doing well isn’t she? If she keeps it up she’ll be a really good teammate.”

The next week, the inquiring player showed up with a young friend who’d decided she wanted to “try the team” but had no equipment. When I said we didn’t have another whole set but she could share with others today

and I'd track something down for her by tomorrow, the more veteran player asked if her friend couldn't use "that good set" I'd given (the Native American girl). "My dad said she could get her own from all the money she gets from the casinos. Indians have a lot of money from the casinos."

*****One day at one of the varsity girls golf practices (during our pre-range/round discussions of what was on their minds and/or happening in their games) a player brought up (as she had briefly the night before in the van after a match) how another school's player in her foursome had asked her if it was true Osseo was a town of "racists". Our player told me and her team that she hated the "mascot thing," was so tired of "the chieftain," and wanted something they could have fun with. Many of her teammates joined in with the same sentiments. "Practically the whole school feels that way," one said, "but still we have to be careful not to say it to some of the football guys because if anyone does they get bullied."

That discussion led to how, as girls, they got called, "Lady Chieftains." "Lady, I hate the word 'Lady,'" one of them said. "It's not fair we have to be 'Lady Somethings.'"

"Yeah, we should just go with 'the Mud Dogs,'" another said.

I knew the reference because at games during the most recent basketball season, when Osseo-Fairchild's self-appointed male cheerleaders would do the usual, traditional cheer, "WE... WE ARE... WE ARE THE MIGHTY... WE ARE THE MIGHTY, MIGHTY CHIEFTAINS!" they'd quickly follow that with a new, altered version: "WE... WE ARE... WE ARE THE MIGHTY, MIGHTY MUD DOGS!" And after that—adding a little hip wiggle—they'd break into: "WE... WE ARE... WE ARE THE SEXY... WE ARE THE SEXY, SEXY CHIEFTAINS!"

That day during our discussion at golf practice, I asked our players about these two new cheers. "Well," one said, "kids are just tired of the whole thing and we gotta have some fun. The bad thing is people are so crazy now about their Indian head and so mad at the real Indians, they're never gonna let us change it."

*****In the spring of 2003, when it became extremely difficult emotionally and psychologically for two Native American high school girls who opposed the chieftain nickname and logo to go to regular classes, independent study was arranged for them. I was one of three volunteers who spent time with them. One beautiful spring day, during noon break, another of the volunteers and I, knowing the girls loved

landscaping and flowers, drove them to this wonderfully unique country garden center about twenty minutes northeast of Osseo. The girls loved the center's creative sculpture and were excited and curious about the many rare and varied plants and marvelous flowers. But, what they were most taken with was the garden center's "honor system" for purchasing. The pricing on items was very clear. Customers chose what they wanted to buy and left the money in a cash box in a small shed near the exit. "Wow, look at this," the older of the girls said calling her sister over to read the small sign and look at the cash box. "These people trust us."

"Wow," the sister said, opening the box. "Mona, come look at this. We just buy stuff and leave the money."

I went over and agreed how cool the honor system was and asked the girls if they'd never experienced that before. "No, no way," the younger one said. "This is great. Everyone else thinks we steal. When there's something missing at school, kids say we're the ones who took it. It's happened so many times. We're sick of it. And they've called us 'dirty Indians.' You really get tired of being called a 'dirty Indian.'" Closing the lid on the box, "Hey," she said to her sister, "this is great. Come on, let's buy something." (Exhibit No. 64)

Charlie Kwick, an Eau Claire resident who was a spectator at an Osseo-Fairchild game, and who has been a coach at another school, observed the following incident:

During a timeout, a male Osseo-Fairchild high school student got up from the bleachers, went out in front of the bleachers and did an impromptu war dance replete with knee-pumping and hand-on-mouth hoo, hoo, hooing. Most of his high school "friends" seated around him clearly showed that they got a kick out of the scene. The behavior was that of a stereotypical 'Indian' war dance derived of course from Osseo-Fairchild's use of the "chieftains" nickname and logo.

I was involved as an educator for 29 years before retiring. I spent 20 of those years as head of the physical education program for the Eau Claire Area School District, I have coached various sports for about twenty-five years, so I have had considerable experience with students and athletics. In my professional judgment, the stereotypical behavior I observed at the Osseo-Fairchild location was a direct result of the Osseo-Fairchild School Board's use of the "chieftains" nickname and logo. This I would state without equivocation since there was no attempt from anyone, fans, school officials, or parents that would indicate anything but acceptance of the action on the part of the student. . (Exhibit No. 65)

Exhibit No. 66 shows a March 29, 2009 communication from Complainant Harvey S. Gunderson to the School Board involving that incident:

While the behavior of these children was inappropriate, we must remember that it was actually only seven adults who were ultimately responsible and at fault, namely those seven Osseo-Fairchild School Board members (and their predecessors and successors) who have refused to act to eliminate the race-based athletic nickname policy.

Any School Board member who tries to escape responsibility by trying to transfer blame from themselves to administrators, teachers or students for this racial incident are engaging in the worst type of behavior, because it's wrong to expect administrators to have to pick up the pieces caused by the irresponsibility of School Board members who should have known better and should have done what's educationally sound.

It's not surprising that O-F students engage in racial stereotyping when the School Board members themselves condone or promote racial stereotyping by having a race-based nickname policy.

How long will it be until Osseo-Fairchild School Board members allow O-F administrators, teachers and students to operate in a stereotype-free educational environment?

How long will it be until Osseo-Fairchild School Board members allow the Osseo-Fairchild school system to actually join the rest of the world in the 21st century?

Don't you think it's time for Osseo-Fairchild School Board members to finally follow the advice of three consecutive Wisconsin State Superintendents and stop engaging in an "educationally unsound" race-based practice?

At least 117 organizations have adopted resolutions asking schools to stop this race-based practice.

Won't you please stop this race-based practice for the benefit of O-F administrators, teachers and students? For the benefit of education?

Or is athletics and retaining a race-based nickname the top priority of all current O-F School Board members?

Please, do it for the benefit of the education of students! And do it now before another year of improper education occurs in the Osseo-Fairchild School District! (Exhibit No. 66)

32. Minutes of Coaches Meeting of January 5, 2004

The official minutes (Exhibit No. 67) of a Coaches Meeting held on January 5, 2004 with 16 coaches listed as being in attendance stated in part that:

The coaches came to consensus on the following items:

- A final resolution to the logo issue will only occur with the removal of both the chieftain head logo and the chieftain name. ... (Exhibit No. 67)

This meeting had been requested by School Board members to solicit input from the coaching staff. Sadly, the majority of the School Board failed to follow the advice from the coaches.

Coaches are often in a special situation that enables them to observe (or they can choose to overlook and ignore) instances that involve the discrimination, pupil harassment and/or stereotyping promoted by a schools' race-based athletic identity. In Osseo-Fairchild, some School Board members have routinely ignored responsible administrators, teachers and coaches who have pleaded for an end to the race-based policy.

33. A description of the hostile environment as well as of discrimination, pupil harassment and/or stereotyping

While the incidents mentioned in the previous sections detail some of the hostile environment created by the use of the chieftains identity, other residents also have described the environment. Karen Ressel lived in the community for years. After detailing her experiences and observations in Exhibit No. 68, she concluded with the following:

I have worried about vandalism to my property; I worried for the safety of my friends simply because they are Native Americans; I filed a complaint against the Board for breaking the open meetings law; I advised my daughter to "be careful" when attending our town's summer celebration,

Lake Martha Days; during one of her summer breaks from college due to the atmosphere of harassment and bullying, I attempted to host meetings to begin dialog among community members where people expressed concern but feared taking a public stance because of possible reprisal; I was asked not to publically support school Board candidates during their campaigns because they feared my “anti-logo” feelings would jeopardize their success...the list is long.

It became clear that no rational discussions or calmer heads would or could prevail. The mission of educating our children has become secondary and “keeping the logo at all costs” has become the primary focus of many discussions. Every School Board meeting and election has become an exercise in inflammatory half truths and mudslinging. And it continues.

Just going to the local restaurant, post office or grocery store can draw comments and taunting from those on “the other side” of the issue. The division is in the community as a whole, not just those who have students attending the school.

Over the years I have had quiet conversations and discussions with people who have changed their position and feel the nickname and logo should be retired. They are afraid to declare this publically for fear of retribution. The fact of the matter is that if a white person who is part of the majority cannot feel safe from retribution, how can Native children be expected to have the courage to stand up and say NO, repeatedly say NO?

During this process, you will be asking yourselves:

Does the “chieftains” nickname and logo support discrimination? YES.

Does the “chieftains” nickname and logo cause pupil harassment? YES.

Does the “chieftains” nickname and logo promote stereotyping? YES.

The answer is YES, to all three questions. In my experience, YES, it does. The ongoing battle over the race-based School Board policy has resulted in the destruction of my community. The fighting has resulted in an atmosphere of disrespect, mistrust, suspicion, anger, hostility and division throughout the community.

Help all of us do what is right for the education of our children. Please help this community to move forward and begin to heal the deep divide that is separating us now. Remove the “chieftains” nickname and logo. (Exhibit No. 68)

Gary J. Montana is a resident of the Osseo-Fairchild School District who is a Lakota Sioux attorney who is an enrolled member of the Standing Rock Sioux Tribe. He

has described the experiences that he and his family have encountered in the Osseo-Fairchild community due to their opposition to the chieftains identity. They include vandalism, racial slurs, being called racially charged names, implied threats of violence. In Exhibit No. 69, he stated in part that:

Your affiant states that as a Native American he believes, based upon his own personal knowledge, experience and belief that the use of the Native American logo, nickname and mascot at the Osseo-Fairchild School District increases stereotyping, harassment and discrimination of Native Americans within the school district;

...

Your affiant believes that such actions were a direct result of his position regarding the Osseo-Fairchild logo conflict and his outspoken opinions in opposition against race based logo(s), nickname(s) and mascot(s) known generally throughout the Osseo-Fairchild Community;

...

Your affiant is not a complainant in this matter based upon the fact that he presently has a minor child enrolled within the Osseo-Fairchild School District and fears that the potential for repercussion and retaliation will be a probable consequence as a result of filing of the present Complaint;

Your affiant states that he would gladly add his name as a complainant, but for his fears for the safety of his minor child, consequently, as indicated in paragraph no. 16, *infra*, he has chosen not to be a named complainant in the present complaint filed pursuant to Wisconsin Statute § 118.134;

Your affiant believes as a Native American that the race based logo, nickname and mascot of the Osseo-Fairchild School District does not serve any meaningful purpose other than increasing racial tensions and stereotyping of Native Americans within the school district and public in general;

Your affiant has witnessed the complete disregard for the mental and physical well being of his children of Native American descent during the period of times when the logo, nickname and mascot issue were at the forefront and the devastating results said issue has had on his children's mental well-being. (Exhibit No. 69)

Patricia Marroquin-Norby is an Osseo-Fairchild resident of Purepêche (Tarascan)/Eastern Apache descent and currently enrolled in the Ph.D. program in American Studies at the University of Minnesota with a specialization in imagery and representations of American Indians and their relationship with federal Indian policy, race theory, and law.

She has substantial academic background and expertise in the area of images of American Indians, specifically visual stereotyping as means for criminalizing and pathologizing Indian Peoples and their cultures, and can therefore address the Osseo-Fairchild School District's race-based athletic identity not only as a resident but as a person with expertise in analyzing stereotyping of American Indians through various vehicles including but not limited to race-based school nicknames and logos. In Exhibit No. 70, she wrote in part that:

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The Osseo-Fairchild (O-F) "chieftains" nickname and logo are racially, culturally, and religiously discriminatory against American Indian peoples. The O-F "chieftains" nickname and the logo image which portrays an Indian male in a "Plains-style" headdress depict restrictive, gendered, and limited perspectives (stereotypes) of American Indian peoples and overtly dismisses the diversity, cultural specificity, cultural/gender roles, and religious beliefs of Indigenous people both here in Osseo, Wisconsin, and nationally.

... The O-F logo image, which depicts ceremonial eagle feathers and regalia ignores and trivializes specific cultural values and religious beliefs of these Indian families for the athletic entertainment of non-Indian community members.

Between 2002-2005 when our family (Purépeche/Eastern Apache/Norwegian) attempted to bring public awareness to the racial, cultural, and religious sensitivity of the Osseo-Fairchild "chieftains" nickname and logo image, we were consistently targeted and subjected to a hostile environment in the community and school by local and non-local residents, local business owners, School District officials (School Board members), and District students.

Between 2002-2005, our family officially filed *eight* discrimination complaints against the O-F School District. In response to the complaints, the O-F School Board blatantly and publicly humiliated and *placed in danger* our family and other American Indian students and parents by distributing hard-paper copies of "hate mail" directly addressed by name to our family and other complainants/American Indian families. These were distributed during the discrimination investigation being reviewed by the Department of Public Instruction (DPI). We also learned that the School Board member (i.e., Board Clerk) responsible for distributing the "hate mail" made the hard-paper copies using District paper, photocopying machines, finances and time.

Also, in response to the discriminatory complaints, during the DPI investigation, the O-F School Board publicly and intentionally decided to prominently display additional and numerous examples of the "chieftains" head and nickname throughout public school grounds while knowing fully that they were under investigation for possible discriminatory actions and

may have been in violation with Wisconsin 118. 13, Stats., and PI 9 Wis. Admin. Code. Instead of waiting for any official decision from the State of Wisconsin regarding the case, the O-F School Board chose to spend District resources to promote an “in your face” attitude in order to further target and alienate American Indian students and their families.

These overtly hostile and discriminatory actions taken by the O-F School Board against American Indian children and their families in regard to the O-F “chieftains” nickname/logo have created an intense and extremely hostile atmosphere for American Indian students and their families, as well as non-Indian administrators, employees, faculty, and families in the O-F School District. Students or District employees that have openly supported American Indian students and their families or stated their opinion regarding the racist and discriminatory nature of the “chieftains” nickname/logo have been targeted by School Board members and logo supporters. Employees and faculty members have begun to fear for their jobs. During the time that I was employed part-time as a substitute teacher (2003-2005), teachers and employees were told we were not allowed to discuss the issue during school hours.

From 2002 onward, our son found it extremely difficult to attend school and feel safe. This directly affected his ability to concentrate and learn. Our son was consistently harassed, interrogated, or bullied. For instance, our son in fall 2003 was continuously harassed by non-Indian students about being of American Indian descent and his religious beliefs and was told that “All that Indian crap is just a bunch of bullshit.”

In addition to creating a hostile atmosphere, the Osseo-Fairchild “chieftains” nickname/logo not only prevents non-Indian students and local residents from comprehending the complexity and diversity of the Osseo-Fairchild Indian families, it promotes a sense of invisibility and worthlessness among the Indian children and their families *unless they publicly agree to support use of the nickname/logo*. Indian students are subjected to peer pressure to openly support use of the race-based nickname/logo in order to feel socially “accepted” in school and the community. As is true nationwide, American Indians who agree to *support* (or at least *not oppose*) the race-based nicknames are “accepted” while those students who speak out *against* use of race-based nickname/logo are consistently harassed, bullied, teased and/or repeatedly interrogated about their religious/cultural beliefs and racial “authenticity” because they do not “dress-up like American Indians” or an Indian stereotype (i.e., the O-F “chieftain” nickname/logo). (Exhibit No. 70)

Another stereotyping incident occurred shortly after the adoption of the new ‘Indian’ head logo and Logo Use Policy, athletes started wearing shirts imprinted with a tomahawk. A statement of Harvey Gunderson which was read to the Osseo-Fairchild

School Board during Public Comment at the School Board Meeting held June 14, 2004 is shown in Exhibit No. 71 states in part that:

There are football players walking around school with a tomahawk on their shirts. I hereby register a complaint with the School Board. A tomahawk! A weapon used for violence! Moreover, an Indian stereotype of the first order.

Four of you Board members recently approved a logo use policy and the four of you voted down an amendment that would have eliminated stereotypes. When you four voted down eliminating stereotypes, is this what you had in mind?

Do you condone this? Where are you four Board members going to draw the line? If you condone this, what's next? A tomahawk stuck in the chieftain's head? ...

If you can't even control your own athletes, why should Indian families believe that you can influence other teams or fans? And why should other schools listen to you four? You don't have any moral authority to speak with. You voted to keep stereotypes, contrary to law. And yet you think you should have some credibility in trying to define what is appropriate for other schools? What a joke! (Exhibit No. 71)

34. "Wisconsin Tribes Ask Osseo-Fairchild to Stop Using "Chieftains" Nickname"

On July 9, 2004, the Great Lakes Inter-Tribal Council (GLITC) unanimously passed a resolution asking the Osseo-Fairchild School District to stop using the "chieftains" nickname and logo for its athletic identity. The Great Lakes Inter-Tribal Council Press Release titled "Wisconsin Tribes Ask Osseo-Fairchild to Stop Using 'Chieftains' Nickname" said in part that:

The resolution had been requested by Jim Knutson-Kolodzne, president of the Wisconsin Indian Education Association (WIEA), at the May GLITC Board of Directors meeting. The GLITC and the WIEA have opposed the use of "Indian" nicknames because of concern about the negative effect such symbols have on the education of American Indian children. ...

Carol and Harvey Gunderson, who live in the Osseo-Fairchild School District, appeared before the GLITC Board to explain why this resolution was important. Carol Gunderson is an enrolled member of the Oneida

Nation, one of the tribes in the Great Lakes Inter-Tribal Council. Carol Gunderson stated that she hoped Osseo-Fairchild citizens and School Board members will honor and abide by the request from the Great Lakes Inter-Tribal Council and eliminate the “Chieftains” nickname and logo. ...

The Osseo-Fairchild School Board recently modified its logo, replacing a Plains “Indian” head logo with a Ho-Chunk “Indian” head logo in spite of the fact that both the 1999 GLITC resolution and a 2002 Ho-Chunk Nation resolution said these symbols in state-supported schools, constitutes “state-supported racism”. In considering an Osseo-Fairchild use policy for the “Indian” logo, a School Board amendment was proposed to make implementation subject to review and approval by the Great Lakes Inter-Tribal Council. However, the amendment was rejected by a 3-4 vote, so the Gundersons approached WIEA and the Great Lakes Inter-Tribal Council for the resolution asking Osseo-Fairchild to eliminate the “Chieftains” nickname and logo. (Exhibit No. 72)

Exhibits Nos. 73 and 74 are letters to (1) State Superintendent Elizabeth Burmaster and (2) the Osseo-Fairchild School District respectively from the Great Lakes Inter-Tribal Council about the GLITC Resolution asking the Osseo-Fairchild School Board to eliminate the chieftains nickname.

The resolution, titled “Opposing Use by the Osseo-Fairchild School District of Indian Mascot and Logo”, said that:

WHEREAS, The Great Lakes Inter-Tribal Council, Inc. is a consortium of 11 federally recognized Indian tribes located in Wisconsin and Michigan, and

WHEREAS, the Great Lakes Inter-Tribal Council in Resolution No. 99-01.05 condemned the use of “Indian” logos as offensive, resolved to work to eliminate the use of depictions of and cultural references to American Indians as mascots, logos, and team nicknames in Wisconsin public schools, and further resolved “that this form of racism which damages Native American children and cultures be removed from Wisconsin public schools before the new millennium”, and

WHEREAS, the U.S. Commission on Civil Rights as well as Native American tribes and other organizations have voiced their condemnation and have passed resolutions calling for the elimination of American Indian nicknames, logos and mascots in non-Native schools, and

WHEREAS, the Osseo-Fairchild schools calls their teams the “Chieftains” and uses an Indian head as a logo, and

WHEREAS, such imagery impacts American Indian students attending the Osseo-Fairchild schools, impacts American Indian students attending other schools which come into contact with the Osseo-Fairchild schools, and affects how non-Native students view American Indians, and

WHEREAS, several American Indian families living in the Osseo-Fairchild School District as well as American Indians from other communities have asked Osseo-Fairchild to stop using such imagery, and

WHEREAS, the Osseo-Fairchild School Board has refused to eliminate American Indian reference in athletic imagery, and local citizens are contemplating legal recourse,

NOW THEREFORE BE IT RESOLVED, the Great Lakes Inter-Tribal Council respectfully requests that the Osseo-Fairchild School District immediately cease using such American Indian images or references, including but not limited to the “Chieftains” nickname and “Indian” head logo. (Exhibit No. 75)

A similar resolution “Opposing the Osseo-Fairchild School District’s “Chieftains” nickname/logo” was adopted the same week by the Wisconsin Indian Education Association (WIEA) which read in part that:

WHEREAS, the mission of the Wisconsin Indian Education Association is to promote and support education and educationally related opportunities for American Indian people in Wisconsin, and

WHEREAS, the Wisconsin Indian Education Association has joined with and agrees with the Great Lakes Inter-Tribal Council in condemning the use of "Indian" logos as offensive, resolving to work to eliminate the use of depictions of and cultural references to American Indians as mascots, logos, and team nicknames in Wisconsin public schools, and further resolving "that this form of racism which damages Native American children and cultures be removed from Wisconsin public schools", and ...

NOW THEREFORE BE IT RESOLVED, the Wisconsin Indian Education Association respectfully requests that the Osseo-Fairchild School District immediately cease using such American Indian images or references, including but not limited to the "Chieftains" nickname and "Indian" head logo. (Exhibit No. 76)

At the Osseo-Fairchild School Board meeting on Monday July 12, Jim Knutson-Kolodzne, President of the WIEA presented both the GLITC and the WIEA resolutions to the O-F School Board. As usual, such pleas from American Indian groups were ignored by the Osseo-Fairchild School Board.

35. Another notice of discrimination in several forms

In a letter sent on August 19, 2004 to the Osseo-Fairchild School Board, Board members were told of several acts of discrimination based on race that were occurring or had occurred due to actions of the Osseo-Fairchild School Board as it relates to the matter of the chieftains athletic identity.

This is to inform you that a copy of the research of Dr. Stephanie Fryberg has been made available to the School Board via deposit of a copy in the District Office. Dr. Stephanie Fryberg's dissertation titled, "Really? You Don't Look Like An American Indian: Social Representations and Social Group Identities" contains additional supporting verification that Osseo-Fairchild's use of the race-based "Chieftains" nickname/logo constitutes illegal discrimination against American Indian children and their families, both inside and outside the School District.

In our view, the School Board's discrimination against American Indians based on race is intentional. For the School Board to keep an "Indian" nickname/logo after they knew, or should have known, that discrimination exists makes that discrimination intentional. In our view, the pattern of School Board actions indicate that several members of the Board have taken an attitude of responding "I don't believe it" no matter the nature of evidence provided. For example, Board member Larry Moen at the February 2004 Logo Resolution Committee meeting said that he thought the issue of morality is a "slippery slope" after being given numerous materials indicating that use of "Indian" nickname/logos in non-Native schools is immoral, including from several religious and human rights groups.

Board members have also discriminated against American Indian families by creating, or attempting to create, separate and more difficult processes for American Indian families to communicate with the School Board related to the race-based nickname/logo. For example, Board member Curt Skoyen told us in June 2003 that he had instructed Superintendent Jacobson not to send him anything else related to the "Indian" logo issue.

We later asked and confirmed with Jacobson that Skoyen had indeed so instructed him. Consequently, while other District residents are able to easily communicate with the School Board by simply depositing their material in the District Office for dispersal to the Board, American Indian families are required to mail a separate copy to each Board member to insure that their written complaints, requests or information are communicated to the whole Board. In fact, it is because of this discriminatory action by Board members that this letter must be mailed separately to each Board member, causing American Indian families to be able to communicate with the Board only by incurring expenses and inconvenience which other District residents do not need to incur.

The actions of presiding officers at School Board meetings have also created special obstacles for American Indians if they wish to register complaints to the Board about the fact that their race was used for a race-based nickname/logo. These obstacles have not been imposed on other community members for any reason, but only on this one racial issue which directly affects this one racial group due to the School Board's decision to use a race-based nickname/logo.

In spite of the fact that the School Board has voluntarily, under its own authority to determine a nickname/logo, decided to use a race-based nickname and logo, and where that race-based decision is to use American Indians as the designated race for that nickname/logo, the School Board has demonstrated a pattern of abuse of civil rights whereby they have on three separate occasions placed limits on the freedom of speech and rights to petition for a redress of grievances. All three instances are documented on videotape.

In particular, School Board President Brian Boehnen at a 2003 Board meeting said that any comments related to the "Indian" logo had to be submitted in writing whereas he placed no restriction on any other topic, whether topics of general interest or topics directly affecting any other specific race. Accordingly, the Board allowed oral comment on any topic whatsoever except one topic of primary interest to American Indians because it involved the School Board's use of their race for its race-based nickname/logo.

In the second instance, President Boehnen announced at the beginning of the Public Comment segment of the May 10, 2004 meeting that no comment would be allowed concerning the "Indian" logo. Boehnen placed no restrictions on anything directly or indirectly affecting any other specific race.

The third such instance occurred at the August 9, 2004 School Board meeting when Vice President Larry Moen, presiding in the absence of

President Boehnen, announced at the beginning of the Public Comment segment of the agenda that no comment would be allowed concerning the “Indian” logo. Moen placed no restrictions on anything else. Moen closed Public Comment immediately when Carol Gunderson (Oneida) stood up and started expressing a question related to the logo. Immediately thereafter, however, when a non-Native person indicated a desire to address the Board about a concern involving the middle school wrestling program, Moen immediately re-opened Public Comment.

Accordingly, we believe that not only has the Osseo-Fairchild School Board knowingly maintained a race-based nickname/logo that discriminates against American Indian children and adults based on race, but that the Osseo-Fairchild School Board has consciously and systematically trampled on the civil rights of American Indians by interfering with their rights to free speech and to petition for a redress of grievances. (Exhibit No. 77)

As was true in other cases, these pleas regarding discrimination based on race were also ignored by the Osseo-Fairchild School Board.

36. Letter sent to other schools titled, “How to help protect American Indian athletes and fans at your school from the negative effects of Osseo-Fairchild’s “Indian” nickname/logo” and the ensuing controversy and inappropriate School Board behavior

On August 13, 2004, two American Indian women and their husbands in Osseo-Fairchild sent letters to the superintendents of (1) all 15 Cloverbelt Conference schools and (2) the 19 non-conference schools that Osseo-Fairchild competes against in athletics. The letter had the subject of “How to help protect American Indian athletes and fans at your school from the negative effects of Osseo-Fairchild’s “Indian” nickname/logo”. (Exhibits Nos. 79, 80)

In a letter dated September 8, 2004, the Arcadia Superintendent sent a response letter to the Gundersons and Norbys, with a cc to “Kerry Jacobson, Osseo-Fairchild Superintendent” and “Rollie Colby, Osseo-Fairchild School Board”. The letter which was on official Arcadia stationary, typed by school clerical staff and with postage paid by the Arcadia School District, said in part:

“Shame on all of you for your ignorant attack on your own local school district. It is unfortunate that self-appointed fools like you can't get a life and allow others to have one too. ... Knowing the mentality of people like you, I doubt if you're getting any of this picture at all. ... It's sure ironic that you don't want to be associated with your school, but I “bet” you have no problems being associated with gambling as long as the money keeps rolling in!” (Exhibit No. 79, pp. 6-7)

The stereotyping and hostile environment that occurred are detailed in Exhibit No. 79 in an amazing series of actions involving the superintendent of the other school district and the Clerk of the Osseo-Fairchild School Board. It is important to note that both individuals were products of high schools with the chieftains nickname, Riverdale High School and Osseo-Fairchild High School respectively, which again reinforces the idea that students who attend schools with race-based nicknames tend to feel more comfortable engaging in stereotyping of American Indians.

37. Letter explaining more reasons why the chieftains nickname cannot be retained

With both Riverdale and Osseo-Fairchild high schools using the chieftains nickname, and with graduates of these two schools having behaved in the manner described in the previous section toward American Indians, it is appropriate to further address the matter of the chieftains nickname. As Dr. Ezra Zeitler addressed (see Section 19 and Exhibit No. 40), the chieftains nickname has only one meaning in the context of high school athletic nicknames which is an American Indian chieftain.

The following letter from Carol Gunderson to a White resident of the Osseo-Fairchild School District addresses this nickname from a personal standpoint. (Exhibit No. 80) As Carol Gunderson wrote:

You wrote that “many of us wish to hold on to tradition in our families and in society, and it is easy to understand why some are fighting so hard to hold onto this piece of history.” If you understand that, then perhaps you can understand why I and so many other American Indians are fighting so hard against these athletic nicknames and associated references. It hurts me and demeans me to see my identity, my religion, my traditions, my culture, and my customs (of my family, my clan, my tribe, and those of other American Indians) used in such a frivolous manner, for a high school’s fun-and-games. It hurts me but also makes me

angry that others in my own community would have so little respect that they disrespect repeated sincere requests to stop using us and our cultures for an athletic identity/nickname/logo.

It's disingenuous to consider my identity and my people's history to be your history, your heritage, your identity, your tradition, and your custom. If you want to hang onto that identity (an identity that doesn't even belong to you), then you should be able to understand why I want so desperately to hang onto my own God-given identity. I don't understand why you would feel you should have any right to my identity, and I would think that you would immediately relinquish these efforts to continue using our name and identity. As Richard Grounds (Euclaw) said to the United Methodist Commission on Religion and Race:

"The use of Native American mascots and names points to the same thinking today that says 'if it's Indian, it's ours. It's no longer just the resources. It's no longer just the land. It's literally the name. It's literally the identity.'"

Moreover, when you wrote that *"many of us wish to hold on to tradition"*, not all traditions are good traditions, especially many traditions based on race in this nation. Your statement could easily have been made during the 1950s by many communities in this nation that were clinging to their "traditions" of another race-based school policy, namely segregation. The majority in those communities at that time also viewed their race-based school policy as a cherished *"custom instituted by our parents and grandparents"*.

You wrote that *"we cherish the customs instituted by our parents and grandparents"*. When those customs are harmful customs based on race that harms innocent children in a protected racial minority group in a manner that "promotes discrimination, pupil harassment, or stereotyping", then that *"custom"* belongs on the scrapheap of history even if it was *"instituted by our parents and grandparents"*. Such community "customs" must end so that these "customs" don't continue to harm even more innocent school children in years to come.

The people in communities who *"are fighting so hard to hold onto this piece of history"* rather than move on to a new identity actually destroy the community's sense of unity in the process. That's why AB-35 is needed to protect other Wisconsin communities from becoming another Osseo-Fairchild.

Many communities across this nation have found that establishing a new tradition that all members of the community can support is not only possible but can be a healthy and positive experience. Within a few years, the new nickname becomes a source of community unity rather than a

source of divisiveness. In other words, healthy communities make the change rapidly and “move on” with a new identity. Unhealthy communities that cling tenaciously to a “race-based custom” tear their community apart and develop wounds that take years or decades to heal, as has happened in Osseo-Fairchild.

Many students and parents in Osseo-Fairchild complain about having a school nickname that has racial implications because students cannot have as much fun with it as they could with a new nickname. Some O-F graduates upon going to college have found that it became an embarrassment to come from a community that still uses a race-based nickname. When I taught at UW-Stout, I had several students who had graduated from schools with race-based nicknames that expressed anger at their community and school for not teaching them about why it was wrong to use such stereotypes. You mentioned that you graduated from <school name redacted>. A friend recently told us she’d talked to <school name redacted> grads who said they’d experienced such embarrassment at college.

<Name redacted>., we’re talking about actual psychological harm to innocent children here, not about some trivial element of a few people being “offended”, as you implied. We’re talking about a very serious issue, about a public school policy (i.e., a government policy) that promotes discrimination, pupil harassment, or stereotyping that harms innocent children of my race! It’s not just about being “offended”. Just as I would push extremely hard for our Osseo-Fairchild community to end a “cherished custom” that harmed innocent non-Native children, I would hope that you would strongly encourage our community to end a “custom” that psychologically harms innocent American Indian children.

It’s understandable that you wish for a way to retain Osseo-Fairchild’s nickname. Research has determined that exposure to ‘Indian’ nicknames/logos on average “boosts” the self-esteem of European Americans. It’s therefore not surprising that you and/or your sons want to retain that identity since it makes you feel better about yourselves to use American Indians as your moniker. However, research shows that the self-esteem “boost” your sons and others experience comes at the expense of psychological harm to the American Indian students attending Osseo-Fairchild and every school that competes with Osseo-Fairchild. As Dr. Stephanie Fryberg wrote, “This harm is real and substantive, with the significance rising far beyond the conventional argument related to ‘offensiveness’, especially when it occurs within an educational environment, an environment that has consequences for future life chances (college and employment).”

Moreover, you wrote that “Our sons are very proud to be ‘Chieftains’.” At the risk of being blunt, the adults in our community have no right to tell your sons that they’re “Chieftains”. The fact is that your sons are not American Indians nor are they chieftains, nor should your sons be told that they have a right to assume the identity of a respected position within my Oneida Nation and others. That act trivializes my identity as an American Indian. It also trivializes the respected position of chieftain in my Oneida Nation and other tribes to tell your sons (and daughters) that they can become a chieftain simply by becoming a freshman or athlete at a certain school. It especially trivializes the role of chieftain to tell girls that they’re chieftains (or lady chieftains) when this is exclusively a male role in many of the 562 federally recognized tribes.

You attempted to rationalize continuing the ‘chieftains’ nickname by arguing that the word ‘chieftains’ has other meanings when used in other contexts. While that of course is true, it’s also irrelevant as a justification for using the word in this context.

Perhaps you’ve heard the old axiom that “context is everything”. A quotation, a statement, a word or a concept can have one meaning in one context and another meaning in another context. We’re talking about the meaning of the word “chieftains” in the specific context of high school athletic nicknames in Wisconsin and the United States. In this context, the nickname “chieftains” has exactly one meaning which is an American Indian chieftain.

The nickname “chieftains” has no alternate meaning in this context because the nickname historically hasn’t been used to mean anything else as a sports nickname. In contrast, nicknames like “raiders” and “warriors” have for decades had multiple meanings in the context of U.S. athletics. Schools with such nicknames are able to easily and satisfactorily redefine their identity into one of the established alternate identities that exist in the context of high school athletics.

If you asked avid sports fans in the United States what comes to mind when you tell them that a high school’s athletic nickname is “raiders”, many would first think of a medieval knight because many “raiders” teams have used that identity for decades. In contrast, if you asked such sports fans about a “chieftains” athletic nickname, most or all would assume an American Indian identity because this nickname has had no other established historical meaning in this context. Therefore, the “chieftains” nickname cannot be satisfactorily redefined as can be done with names like “raiders”.

I and many others therefore have no choice but to continue to protest the “chieftains” nickname at Osseo-Fairchild because it is our responsibility to

get the nickname replaced for the benefit of both Native and non-Native students who attend Osseo-Fairchild. Please understand that it's also important for the education of all students at O-F, including your sons, that the school not make students think that it's "acceptable" to engage in stereotyping by using a race-based athletic nickname.

Because athletics involves competition between and among schools, we're also working hard for change in Osseo-Fairchild so that all students in these other schools, both Native and non-Native, aren't exposed to race-based athletic references. We hope you will join our effort to help your sons as well as all other students attending Osseo-Fairchild and competing schools by getting the O-F School Board to replace the nickname and logo and by getting AB-35 passed so that other schools will change and no Wisconsin students attending public schools will need to be subjected to race-based school policies that "promote discrimination, pupil harassment, or stereotyping" as called for by AB-35.

Thank you for your attention to this important educational civil rights matter. Again, please do not hesitate to contact us in the future. We would welcome the opportunity to work with you to help all students in this manner. (Exhibit No. 80)

38. Another request to the School Board

At the November 12, 2007 meeting of the Osseo-Fairchild School Board, Harvey and Carol Gunderson again presented School Board members with documentation of the ongoing discrimination, pupil harassment and stereotyping. (Exhibit 80) The twenty page letter was presented along with 118 pages of enclosed affidavits, resolutions, etc. again informing the O-F School Board of the discrimination, pupil harassment and stereotyping inherent in the chieftains athletic identity. (Enclosures included affidavit excerpt of Dr. Ellen J. Staurowsky; affidavit excerpt of Dr. C. Richard King; affidavit excerpt of Carol Spindel; affidavit excerpt of Dr. Christian L. Kraatz; affidavit excerpt of Dr. Cornel D. Pewewardy; affidavit excerpt of Dr. Stephanie Ann Fryberg; selected resolutions and documents.) (Exhibit No. 81)

Communication with several Board members implied that they did not even read the content and seemed to largely ignore the material because they were afraid to address the issue for fear of resurrecting the community tensions that had been so intense earlier.

It is noteworthy that a comparable letter from Harvey and Carol Gunderson to the other school boards with race-based identities played a role in justifying school board action to eliminate the race-based identity.

39. More incidents

Exhibit No. 82 presents additional incidents that were written as part of the O-F Logo History and can be read in Exhibit No. 82.

40. Another recent analysis of the psychological consequences from race-based nicknames

Jesse A. Steinfeldt, Lisa Rey Thomas and Mattie R. White have just completed a document titled “Update on Legislative Efforts to Eliminate Native-themed Mascots, Nicknames, and Logos: Slow but Steady Progress Post-APA Resolution” which will appear in the Office of Ethnic Minority Affairs (OEMA) *Communiqué Newsjournal*. (Exhibit 83) The upcoming August issue is dedicated to the topic of “Indigenous People: Promoting psychological healing and well being”. This paper specifically addresses the relation of Act 250 to the psychological research and contains important information. Interestingly, the authors conclude by saying:

As a result, it becomes a reasonable question to ask—in 30 years, how will we look back at this period of history, and how will we judge our society’s continued engagement in this racist practice of appropriating another culture for use as sports mascots, nicknames, and logos? Similarly, it seems so obviously objectionable when we use hindsight to look back at the period in our history when *Blacks were not allowed to drink from the same drinking fountains as Whites*. However, it is important to understand that at the time, this too was a practice that was hegemonically woven into the fabric of society—it was seen by the majority of people as part of the normal order of society, and it took legislative efforts (e.g., Civil Rights Act) to accelerate the process of change. Thus, legislation like WI SB-25 can be an important component of a multifaceted approach to encourage people to stop the practice of appropriating and marginalizing another culture through the use of race-based mascots, nicknames, and logos. Doing so can hasten the process by which this contemporary practice becomes a historical footnote about stereotypes and civil rights violations,

rather than an ongoing practice of stereotyping and violating the civil rights of a group of people. (Exhibit 83, p. 7)

41. **“Changes in Perception: New attitudes on mascots”**

Lastly, as some have said, life does go on after changing an athletic identity. Jenny Price captured this when writing about the change that took place at Verona High School when she was enrolled. She wrote:

It’s a lesson for the three-dozen Wisconsin schools still using nicknames like Redmen, Flying Arrows and Hatchets that may have to retire them due to a new law that allows those offended by those names to challenge them to the state Department of Public Instruction. The point is that the damage to Verona’s pride people said would happen—well, it didn’t. A mascot doesn’t give pride to a community or school, or lead it to success. It’s the students, parents, teachers and coaches who make that happen. That’s a good lesson for all of us. . (Exhibit 84)

While most school boards should be able to adopt this philosophy and move forward proactively on their own with a new athletic identity that does not promote discrimination, pupil harassment and stereotyping, others seem unable to do so without external assistance.

IV

CONCLUSION

Since (1) there exists an extensive body of knowledge and credible research evidence that the School Board's race-based athletic practice **do** promote stereotyping, pupil harassment and stereotyping, and (2) there exists little or no credible evidence that contradicts such evidence, Petitioner(s) believe this indicates that the School Board is unable to satisfy its burden of proving by clear and convincing evidence that the use of the chieftains nickname, logo, mascot, or team name does not promote discrimination, pupil harassment, or stereotyping.

Based upon the foregoing, the Petitioner(s) respectfully request that the Department order the School Board to terminate its use of the chieftains nickname, logo, mascot, or team name and associated references in accordance with Act 250, as said

nickname and logo and associated references do, based on creditable research evidence, promote discrimination, pupil harassment and stereotyping.

RESPECTFULLY SUBMITTED,

Dated this 21st day of June, 2010.

<Signed>
Harvey S. Gunderson, Petitioner
Pro Se