

2011 HOUSE EDUCATION

HB 1257

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1257
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☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearings on HB 1263, HB 1257, and HB 1208. I will start with testimony from legislators.

Rep. Duane DeKrey: Sponsor HB 1208. The bill I introduced is fairly simple in nature. It says that the logo would stay until the citizens of the Standing Rock reservation had a chance to vote on it.

Rep. Mark Dosch: Sponsor 1263. Testimony attachment 1.

Rep. David Monson: Sponsor 1257. Testimony attachment 2.

Sen. David Hogue: Neutral. Testimony attachment 3.

Rep. Corey Mock: I appreciate your testimony and have a copy of the constitution with me as well. Since you are here on a neutral testimony, HB 1263 has in last line that if this passes and we are penalized for keeping the nickname that attorney general shall consider filing a federal antitrust claim against the association. In 2007 the state of ND, the State Board of Higher Education, and UND had a settlement agreement with the NCAA. Under what legal authority would the state have to re-challenge the NCAA for violation of antitrust laws?

Sen. David Hogue: I can't speak about what the attorney general's legal parliaments would be. He is a constitutional officer and he has the discretion on whether he will initiate litigation against another party or another organization. The only other thing I forgot to mention was that the legislative authority is stronger than usual than compared in most states. In ND one of our unique features is that when we pass a law it cannot be declared unconstitutional unless four out of five ND supreme court justices say it's unconstitutional.

Rep. Corey Mock: More generally, can we sue an organization for the same violation without any other changes? Is that legally possible?

Sen. David Hogue: As many know you can initiate lawsuits. That doesn't mean they will be successful. I would have to defer that to the attorney general.

Rep. Al Carlson: Sponsor 1263. Attachment 4. I agree that we are here to listen to what the people have to say. We work for the people of ND and that's why this bill is before you in different versions. I will read over my bill (refer to HB 1263). In response to Rep. Corey Mock's question, it is the responsibility of the attorney general to defend us no matter if he agrees with us or not. The reason this is here is I believe that this situation was poorly handled. What I did was put a history together of the Fighting Sioux nickname and logo. When the members of the Sioux nation come to me and say they don't want it, then I'll accept that decision. I think this was poorly handled and I think it is a proud heritage of our state. If I thought for one minute this was degrading in any way I would have not sponsored this bill. This deserves to have a hearing.

Chairman RaeAnn Kelsch: Questions? We will now have a video.

Video: Pride of the Sioux.

John Chaske: I am here to speak on behalf of the majority at Spirit Lake. In 2009 our tribe overwhelmingly supported the use of the Sioux name at UND. I have the highest respect for the 1969 granting of permission to UND to use the Sioux name. Since then there they have been many opportunities opened for our people. It would be disrespectful to dishonor the ceremony that granted the permission in 1969. There is no question in my mind that UND has received permission from both Standing Rock and Spirit Lake. Opponents say the logo imagery is abusing and offensive I feel that removing it is more destructive. We have been scrutinized and stomped on by letting ND know we support the Fighting Sioux nickname. Opponents at Spirit Lake handed out pamphlets on racism and discrimination. Growing up on the reservation in the early 1950s, I've lived and shared racial incidents. I think our current choice should be to move forward for racial harmony. I've seen pride swell in our children for the Fighting Sioux. Watching the games and seeing the chants, at that moment they were proud to be Sioux. If UND can achieve harmony amongst their players, by all means we should support that. Remember the name was given to UND as an educational institution. A majority of the students at UND are not Sioux and these students need to show respect for the minority. Many of our tribal colleges are named in honor of tribal chiefs. It is wrong that the NCAA has sanctioned UND and then agreed to declare that the UND Fighting Sioux nickname is hostile and abusive. Only the Sioux citizens of ND should have a say in this matter. It is wrong that the ND Higher Education and NCAA have decided to retire the name. Many may not know that the state name North Dakota is named after the Lakota Sioux. Today we have a chance to right a wrong.

Chairman RaeAnn Kelsch: Questions?

Rep. Corey Mock: I used to teach at UND and one thing I heard in the halls was that during a debate one student said "they think we are hostile now, wait till they try to take away our nickname." How does that make you feel when you see someone that feels that way?

John Chaske: I think it's selfish. It's been a long journey for our committee. We hear comments like that every day. What was encouraging was at Devils Lake. A group of UND grads encouraged me. People that say bad things about the imagery. There is something wrong there. It is as though they are trying to take something out on us.

Rep. Joe Heilman: Could you explain what the Sioux name means to your people historically as kind of the definition of the word Sioux and does fighting have any negative connotation to you and your people in relation to that?

John Chaske: There has been a joke that the Sioux like to fight. I don't see anything negative at all. It fits with the UND Fighting Sioux.

Vice Chair Lisa Meier: Out of all three bills which bill do you think is best to go through with?

John Chaske: I'm in favor of all three and that there needs to be something done to right the wrongdoing.

Rep. Phillip Mueller: Could you walk us through the process you went through at Spirit Lake to receive tribal approval? How did that work?

John Chaske: As an elder we have monthly meeting on the reservation. We have meetings to discuss different issues. At several of the meetings, the elders brought it up and said time was running out. Someone asked for a vote amongst them and 100% were in favor of keeping that name. They didn't know where to turn because there was a little controversy on our tribal council. Some of the tribal members at the meeting challenged the authority of not having a vote and we had nowhere to turn, so I put together an organizational meeting. I might add that usually people get riled up around election time but this controversy over the UND name overshadowed all that.

Rep. Corey Mock: One of the things you mentioned in your story was going to the Hockey game and seeing the support. One of the sanction the NCAA has put on ND if we don't resolve the situation is that we would no longer be able to host post season. So we would no longer be able to host play offs. Has the committee discussed if they are willing to keep the name and lose the ability to watch their team perform for championships and national titles?

John Chaske: My personal feeling is to take the NCAA to task and file a lawsuit.

Chairman RaeAnn Kelsch: Rep. Corey Mock you will hear from some of the testifiers coming later that UND would not have an opportunity to host those playoffs anyway.

Eunice Abraham Davidson: Support. Testimony attachment 5.

Archie D. Fool Bear: I am a member of the Standing Rock Sioux tribe. I was on tribal council from 2003-07. On the tribal council were to travel to communities to give reports and meet the people. In 2005 the council passed a resolution to oppose UND's use of the nickname and logo. I was on that council and I voted to opposed too. We were given information on how derogatory and hostile UND was to Indian students. After that I traveled to a community where a lady asked why we opposed. I told her we always oppose it and she told me to research it more. We traveled to UND to meet with students. The students we met with were, for the most part, not Sioux students. The majority coming out in

opposition were non Sioux individuals. We found in 1969 ac gave UND the right to use that name. We all know that through society religion is held in high regard. In our community we do the same. In 2009 I shared this info with State Hoard of Higher Education about the ceremony being completed at UND giving them the perpetual use of that name. I have asked for referendum vote on this from the council. It was never a full seventeen opposing. It was usually split. The personal opinions of the council should not stop people from being hard. The council doesn't have power to take that name away. When the resolutions are made to get rid of the name they are disrespecting those men that give the name. The record will show that the name change was voted down by the people of Standing Rock. In March 2010, I delivered a petition. We thought it wouldn't be a big problem but I feel that the fear of that vote exists. They don't want the people to be heard. I've never seen the petition for not having a vote but I guess it exists. In a June meeting the council made a motion again not to do anything with the logo since it was retired, placing a moratorium against the people from saying anything. It was the opinion of the in house attorney that that was illegal. So we started a court action. I come before you today as an enrolled member of Standing Rock tribe who, with 1,004 people, wants to have a vote. I come to advocate a do pass on whatever the committee will come up with that will uphold what the ceremony did when they gave UND the logo.

Rep. Joe Heilman: How many enrolled members are in the tribe and how many are required in your constitution or whatever, to have a petition?

Archie D. Fool Bear: When I was there it was about 16,008 enrolled. That is the total enrolled membership. The numbers are based on the election code. We were told to use the fifty percentile from the last vote as a figure to go by.

Rep. Bob Hunsakor: Thank you for the history lesson on this issue. If there had been a vote, do you believe the majority of the members would support the logo?

Archie D. Fool Bear: My feeling is that the Fighting Sioux name would have had overwhelming support.

Diane Loon Gates: I am an enrolled member of Standing Rock Sioux tribe. I was at UND. It was a wonderful experience for me and gave me the thought of a future for our people. Let us be proud we are a recognized people and live in harmony. Many of our youth today have left their families behind because of hopelessness. Please give native youth a chance to a brighter future. We have Native Americans that receive education through UND. Doctors, lawyers, pharmacists, teachers, dentists, to list a few, and we'd like to see that continue.

Chairman RaeAnn Kelsch: Questions? We will have a video.

Video: Flag Ceremony at the Ralph Engelstad Arena.

Linus End of Horn: I am from Standing Rock. I was at the ceremony in 1969. The conversation I heard from the elders and the agreement at the time was that we as Sioux people would always be remembered through this great school. When I graduated from UND I remember the oath: "to be on the side of right." I am a Fighting Sioux. The name

Sioux is a very proud name among the Lakota people in ND and SD. As I stand here I want to encourage you to make a decision that the name stands. Do it in a positive manner to reflect on the students.

Chairman RaeAnn Kelsch: Former majority leader Earl Strinden.

Earl Strinden: I would like to say that I don't have anything to do with the three bills that have been introduced. No one from the Ralph Engelstad has had anything to do with these bills being drafted. This issue is important and is part of our history. I would like to talk about what has happened along the way. I think it is very important that we find out what the truth is. I would push for you to keep this alive until we can get some of the answers. The big 10. If we keep the logo we can't. Where did that come from? We have heard that big sky has objections. That is rather strange when they proudly announced that UND was going to be a part of it that they displayed the logo. I can understand why the board of higher education, the chancellor, and the president of the university would like to have this controversy go away. The truth will show that the chancellor did tell Dr. Kelly before he came on to the campus, that the chancellor would handle this name and logo issue so the president wouldn't have to do that. I was asked by some of the students about 10 years ago if I would help them because they wanted to keep and build a case for keeping the logo. I said yes I would help them. With that they organized a committee for understanding and respect. When you think about this, if that name is taken away does it not mean a loss of identity? Did the NCAA truly get the true picture? Here was I think happened. There were two conflicting things at that time or if they didn't conflict were part of picture. 1 was desire by board of higher education and the chancellor to remove this to get it away, and so from that time on it was the effort to reach that objective. When the NCAA had their reps come to campus they went through the Ralph Engelstad arena and they identified what needed to be taken out of that facility. You know who was missing in that? People from Standing Rock and people from Spirit Lake are missing from that. Lets find the truth behind these issues. What did the NCAA hear? Did they hear the truth or something else? Was the chairman of the NCAA retaliating against Ralph Engelstad who he thought was trying to dictate without knowing the full story? We need more time before we make a decision on this.

Gordon Caldis: I am an attorney. I graduated from UND with a business and law degree. I represent no party and erg we follow established law. I found a body of case laws of Indian names and logos associated with athletics just as with UND. The laws I found approved the upholding of the usage of the logos. I found UND has a copyright. A copyright will never be given unless it is found not to be discouraging. I found that the word "fighting" was allowed and found in many copyrights. In all this law it has been upheld. Stare decisis: in legal terms it means it's been decided. The doctrine of this is to stand by decided cases to uphold precedence and to maintain former adjudications. The doctrine of stare decisis rests on the principle that law should be fixed. If the UND logo case had not been settled out of court, the court and jury would have had stare decisis for the approval to use the nickname and logo. We have the Department of Higher Education. It had received opposition and complaints. The US Department of Education made inspections at UND and made no sanctions at UND. This has jurisdiction over all colleges and universities in the US. They made no such findings at UND of discrimination etc. It is clear that the UND logo case could have been stare decisis and the usage approved. I've also researched the constitution and bylaws of the NCAA. Its policy has yet to prove it has authority to enforce

its policy relative to UND. The NCAA policy has not been proved to have been provided to NCAA convention. The legislature of the NCAA is the legislature as mandated by the NCAA constitution. A subcommittee gave the report to sanction UND. However this report and sanction has not been passed by the NCAA convention. Here is what the constitution of the NCAA provides. The purposes of this association are to legislate by resolution of a convention upon any subject of general concern. Now is the UND Ralph Engelstad arena architecture? Is its name Sioux? Is that a general concern? I think not according to my research. It certainly didn't go through the convention. I leave you with this. Make the NCAA prove that this has been through convention and that it contains the policy provisions we are confronted with.

Kris Casement: I am an avid fan of the Fighting Sioux, and alumni, and I attend a lot of sporting events. For us growing up in ND, UND has given us alumni and sports fans alike a greater appreciation of the culture. This has become a basis of what it means to be a Fighting Sioux and the understanding of the heritage of where we come from and what is expected of us. It is certain that UND continues to uphold the values, culture, and history of this great Sioux nation. UND is recognized nationally as having one of the greatest Native American program in the US. In doing so, UND reflects the importance and value they place on their Native American culture and heritage. Never have I witnessed or heard any incident where the Fighting Sioux name or logo caused people to be treated hostile. UND is teaching all of us the values of your culture including, courage, pride, and honor. Standing Rock Tribal Council: why are you afraid to let your people vote? By getting rid of the name it affects all of us. People know us as the Fighting Sioux much more than a UND alumni. With the loss of the name, the history of the tribe will not be kept at the forefront. I ask you to vote in favor of the bills in front of you.

Chairman RaeAnn Kelsch: Questions?

Rep. Corey Mock: You said you travel and see a lot of the games. Do they show the video we saw earlier today on road games?

Kris Casement: No they don't.

Chairman RaeAnn Kelsch: I do plan to ask this again but if the name goes away, is there any reason to play that video at the home games anymore?

Kris Casement: I don't see a reason to continue that.

Sean Johnson: I testify today on behalf of myself as well as other UND alumni. I speak in support of the disenfranchised members of Standing Rock. We've heard a lot of powerful testimony today from many representing the people of these proud nations to whom the name Fighting Sioux means so much more than those of us not of that culture could ever fathom. It is because of the real Fighting Sioux that I have been motivated to fight for this issue. I also choose to fight because no man, woman, or organization has the right to characterize me or other arbitrarily as hostile and abusive simply because we share pride of the member of our tribal nations and the Fighting Sioux. Yet the NCAA, UND, and the Board of Higher Education would have you think otherwise. You are being approached to right a terrible wrong. I assure you that we have all acted consistently but our arguments

have been disregarded. The people of Standing Rock have also been disregarded. This legislative assembly is providing the first honest opportunity for people to be heard. For those that want to see the name change, one argument is that the name and logo are divisive. It's hard to believe that since it has united so many of us on the goal to keep them. These bills tell UND to wait until the people have been given opportunity to speak. It is our duty to set conditions right.

Rep. Corey Mock: You mention the 1969 ceremony and you said nothing has happened since to overturn that and yet I have the packet of resolutions from the Standing Rock Sioux tribe governing entity. It has fourteen votes relating to the UND nickname since 1992. Six of which are resolutions opposing the use of the nickname and logo. How do you respond to that?

Sean Johnson: I would redirect your recollection on how there may have been a tribal resolution. But I do know that nothing has overturned that 1969 ceremony.

Rep. Phillip Mueller: What would you have had the Board of Higher Education do? Simply ignore the issue at Standing Rock?

Sean Johnson: The right thing to do is to take responsibility and work with the people to get a decision. No vote is no decision.

Chairman RaeAnn Kelsch: I will call on David Davidson to come forward with this testimony.

David Davidson: Support. Testimony attachment 6.

Chairman RaeAnn Kelsch: Questions? Support?

LaVonne Alberts: I am an enrolled member of the Spirit Lake tribe. I come in support of this. It is a name that people on the reservation are proud of. The majority of our children say they want to be a fighting Sioux. That encourages them to go further with their education. I don't understand these people at the university that don't like the name. The Sioux are proud of this name. There are very few that don't and you will hear from them. Sure there have been derogatory things said but it doesn't reflect on the Sioux.

Rita Loon: I want this name to live on for my father. He sacrificed his Indian ways for people of standing rock and the world he traveled. I want to see the name kept at UND.

Jerry Valters: I am a supporter of these bills. I have a son in fargo and I came across some people that said that the people who called standing rock "Indian givers." That ceremony was done to allow the university to use that nickname and I don't think it is right to ask for that back. I am in support of these bills.

Reed Soderstrom: Attachment 7. I am an attorney and volunteered to help with Archie. When I saw the efforts made by Archie, I had to join on this issue. I believe the state legislatures' involvement is necessary and important to protect your citizens in ND. Few people understand what the Indian Civil Rights Act is. It states that no tribe shall silence the

people from filing for grievances. Refer to attachment. What I hope you notice is the lack of a vote from the people. We took this matter to the tribal court and you can hardly get into the door of the court. Not only has the court said the 1969 ceremony has never happened. This is the first forum they have had where someone is listening. I hope you will give a do pass on all three bills.

Chairman RaeAnn Kelsch: Questions? Seeing none thank you.

Jody Hodgson – Ralph Engelstad Arena: I strongly support these bills but especially HB 1208 and HB 1257. Smarter people than I will determine whether the legislature is the appropriate place for this discussion. I applaud the efforts of those who brought this forward. I have been involved in many discussions and meetings on this issue. Unfortunately we weren't able to secure a settlement agreement or approval or vote from Standing Rock. Everyone involved in this is deathly tired and everyone has been impacted by this. The NCAA has never said UND has to change the logo. They said if you don't or don't receive approval, there will be sanctions. If the name and logo change, need new uniforms and if it doesn't, you still have to buy new uniforms. If we secure one of those and we did not make the changes at the Ralph, we would not be able to host that championship event and I'm not so naïve to think that there aren't other impacts. There could be potential impacts and there are a ton of variables on this. One final comment I would like to make. The NCAA agreement included an announcement where they said imagery could create hostility. NCAA did issue a finding saying that there was no finding of that. I agree with that 100%. Reasonable people should be able to disagree on things but that doesn't mean we need to change an 80 year tradition.

Chairman RaeAnn Kelsch: Was there nothing in the NCAA sanction that said Ralph Engelstad Arena had to remove their logos. Is it your understanding that if the Ralph Engelstad had the capacity, which to my knowledge they do not, to host playoff games, and in particular the frozen four. Would they still be able to host those?

Jody Hodgson – Ralph Engelstad Arena: The capacity only comes into play for frozen four. With regards to regional events there is no minimum capacity level. There is a requirement to have a financial guarantee and obviously they want it to be big enough to make them work. They award that to neutral site facilities. We've applied for those and haven't been able to get them.

Chairman RaeAnn Kelsch: Is it possible that, just because the sanction doesn't include it now, a sanction in the future by the NCAA could say no games will be played in the Ralph Engelstad Arena?

Jody Hodgson – Ralph Engelstad Arena: It could. Correct.

Chairman RaeAnn Kelsch: So that means if you don't spend the 2.5 million to remove the logos in the arena?

Jody Hodgson – Ralph Engelstad Arena: Correct.

Chairman RaeAnn Kelsch: What is the cost to replace a facility like that?

Jody Hodgson – Ralph Engelstad Arena: My best guess would be 250 million.

Rep. Corey Mock: How much revenue does UND stand to lose if we have an opportunity to host post season play but have to forfeit in women's hockey?

Jody Hodgson – Ralph Engelstad Arena: We haven't hosted a women's championship yet. But I can say with NCAA event, they pay rent and whatever but the ticket costs go to NCAA.

Rep. Corey Mock: Could you say it would be comparable to hosting a men's?

Jody Hodgson – Ralph Engelstad Arena: It would nowhere near that. I think it would probably be a 10-15 thousand dollar opportunity.

Chairman RaeAnn Kelsch: We were going to show the video of the unveiling of the Sitting Bull statue but because of time we will pass on that, but will strongly recommend that committee members view the video. With that I will call on Ryan.

Ryan Dunnigan – 8th Grade student from Cathedral: I've been a Fighting Sioux fan my whole life. I'm not here to say the college is perfect. I was just at a Sioux hockey game and they were very respectful. I think if you take away the nickname you are taking away a great tradition and history. One of my lifelong dreams is to play hockey for UND and be a Fighting Sioux. Please consider what you are taking away if you take away the logo.

Marilyn Faye Guenther Paulson Schoenberg: I have been fighting to save the Fighting Sioux logo for a year and a half. I got signatures and took them to Standing Rock. I took them to Chairman Ron His Horse Is Thunder and he refused to see me. So I asked to see the head of the movement and it was Archie Fool Bear and I got involved with that. This has been exciting to be involved in this.

Chairman RaeAnn Kelsch: Questions? Support? Neutral?

Grant H. Shaft – Vice President, ND State Board of Higher Education: Neutral. Testimony attachment 8.

Rep. Phillip Mueller: There were accusations of alleged efforts on the part of the board to influence a negative response on the request to get approval. Can you comment?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I would categorically deny that. I am on record at board meetings trying to get a vote. All our meetings on record would indicate our board trying to get a referendum. If there was a disagreement it was on the issue of UND athletics. They thought that prolonging of this would be detrimental to athletics. The issue was the timeline on the process.

Rep. Karen Karls: I m curious prior to election of Chairman Murphy, did you or Chancellor Goetz physically drive or go to standing rock or was it calls etc?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I believe Chancellor Goetz went out there. We had a lot of communication with Standing Rock.

Rep. Brenda Heller: In some previous testimony the person from Standing Rock in support said the ceremony in 1969 trumps what any council can do or make a decision on. I was wondering if there hasn't been another ceremony to change that, how can this even be up for discussion?

Grant H. Shaft – Vice President, ND State Board of Higher Education: What I can tell you is that tribal law is a very complex, confusing area of the law. What I understand is we have had presentations giving us opposing views as to what that ceremony meant and what it means in their constitution. I don't think we have ever been able to resolve what that meant.

Rep. Corey Mock: My first question goes to the Big Sky Conference. There are a lot of serious implications moving beyond today. If any of these bills pass, what happens to UND? Do we go back to 2005 and start over?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I would defer the Big Sky to President Kelly. If this is passed the first thing to happen is we will be placed back on a probation list. Beyond that there are a lot of issues. There was a settlement agreement. I believe if the attorney general was here he could speak more on that.

Rep. Corey Mock: If we do violate the terms of the settlement agreement, what does that do to UND in terms of signing contracts with other organizations?

Grant H. Shaft – Vice President, ND State Board of Higher Education: It probably just puts us back the way we were with the NCAA. Obviously this affects the hockey events.

Rep. Corey Mock: Would these bills in any way effect UND's current transition into division one athletics?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I will defer again to President Kelly.

Rep. Brenda Heller: It was mentioned in previous testimony that it is questionable whether NCAA took this to their convention.

Grant H. Shaft – Vice President, ND State Board of Higher Education: I can tell you that all the board members have looked at the materials and passed them on to the lawyers looking at this. Unfortunately they've concluded that this process would not be fruitful.

Rep. Brenda Heller: You mean to take it to the convention it would not be fruitful?

Grant H. Shaft – Vice President, ND State Board of Higher Education: Correct.

Chairman RaeAnn Kelsch: Say UND doesn't want to play the Minnesota Gophers because we consider them pests. Anytime you have a school nickname you can find

something derogatory. I have a problem with NCAA trying to come in and dictate what the state of ND can do. They are an association. They are not government. I have a couple of concerns. Earlier this week we heard a bill and if it passes it will take away the power of the university president and give it to his subordinate. I received an email that says don't do that. It seems to me the board and the chancellor have now taken away the power of the university. Why did the board feel in this circumstance that they were far superior when determining what was in the best interest of the university and leaving the president out of it?

Grant H. Shaft – Vice President, ND State Board of Higher Education: A reason some other names are upheld is because they received permission from their tribes.

Chairman RaeAnn Kelsch: Tribes work in different ways. I think making phone calls is not always the most effective way.

Grant H. Shaft – Vice President, ND State Board of Higher Education: I can answer that we took that power because the president at UND at the time was planning to change the logo so they removed the authority from him to preserve the nickname.

Chairman RaeAnn Kelsch: Do you think the legislature has the authority to pass these bills?

Grant H. Shaft – Vice President, ND State Board of Higher Education: I think they do but the constitutional authority would have to be decided on (inaudible).

Chairman RaeAnn Kelsch: Unless provided for in statute.

Robert Kelly – President, UND: Neutral. Much of what I was going to say has been addressed. I think it might be helpful to the committee to know that much of what you are talking about was before I was president. When this was going on I got a letter directing me to change the logo. A number of questions have been asked about the NCAA. I had a conversation with a representative from the NCAA. We are dealing with a settlement that was reached late in 2007. It was indicated that the settlement had been reached in good faith and would continue to work with UND through the transition. There is still uncertainty and it is that uncertainty that we need to address. It was also indicated that we could revisit the issue but the NCAA would not be enthusiastic about this. There have been rumors that I took this position and was told by SBHE to retire the nickname and logo and that is false. I was given no assurances that this would be resolved soon.

Rep. Joe Heilman: Regardless of NCAA ramifications to athletics, how has this affected other areas of the university?

Robert Kelly – President, UND: I think we have seen individuals ceasing their contribution and others continuing. Where we have had some difficulty is with our attempts with private institutions and commitments to help pay for transition costs.

Rep. Brenda Heller: How many people were hired at the university to retire the name and logo?

Robert Kelly – President, UND: None.

Rep. Brenda Heller: Is there any way we can prove that this was taken to the convention?

Robert Kelly – President, UND: I believe we can find that out.

Rep. Brenda Heller: You said conversations with the summit continued after the decision to retire. If you had decided to keep the logo would have the conversations or was it because of the name and logo that they were halted?

Robert Kelly – President, UND: The state board did take action that it would be retired but the conversation stayed open that if the tribes decided to approve it, then it would go back and be approved. We were waiting for the full affirmation that we would be going through full transition.

Rep. Brenda Heller: I guess my point was if you would have decided not to retire the logo, what would those conversations been like with the summit? Would they have been favorable to UND joining?

Robert Kelly – President, UND: I don't think the conversations would have been any different.

Chairman RaeAnn Kelsch: During the process of application was the name and logo a part of it at all?

Robert Kelly – President, UND: That never came up because the application was initiated after that.

Chairman RaeAnn Kelsch: Do you have a ballpark figure on who will pay for all the letterhead and all the changes that need to be made, and will it be made by the university or who pays for it?

Robert Kelly – President, UND: I don't know. The letter to the NCAA was asking for a prolonged time because of this. At the moment I do not know. I know we will have to go through multiple revenue streams to pay for it.

Chairman RaeAnn Kelsch: You have to be thinking of a number. I honestly don't think we can just say don't know.

Robert Kelly – President, UND: I honestly don't know.

Chairman RaeAnn Kelsch: We've heard anywhere from 1 to 2 for removal from the Ralph Engelstad.

Robert Kelly – President, UND: I don't know.

Chairman RaeAnn Kelsch: We had a bill to freeze tuition so it looks to me if that bill passes you wouldn't have that avenue to increase tuition to help pay the costs. Just a thought for you.

Rep. Corey Mock: I was informed that UND track and field team would be traveling to Iowa State this weekend for a meet because of sanction at the University of Minnesota. Do you know where this has happened aside from the NCAA sanctions?

Robert Kelly – President, UND: SD requested we cover the logo. There have been other instances where we have had to do the same.

Chairman RaeAnn Kelsch: Will the Pride of the Sioux video continue to be played at all the home games after the name goes away?

Robert Kelly – President, UND: One of the task forces that advise me on all issues like this one will give me a recommendation on that. The other thing is that we have people looking at rewriting some of the song.

Chairman RaeAnn Kelsch: If UND comes under some budget constraints would they look at reducing some of the Indian studies at the university because they would feel it was no longer necessary?

Robert Kelly – President, UND: The central issue at UND is the education of our students. We must provide higher education and opportunities for anyone wanting to come.

Rep. Bob Hunsakor: If your institution does end up retiring the logo, what is the reaction of the Big Sky Conference?

Robert Kelly – President, UND: This is one of those uncertainty issues.

Jon W. Backes – President, SBHE: I understand fully the emotion that comes with this issue. It is the popularity of the nickname and logo are a tribute to the matter in which the UND has created and used that logo and used it in a dignified and respectful manner. When we were asked to meet in Grand Forks and visit with the attorney general on this lawsuit. I viewed the lawsuit document, the NCAA documents, the attorney general's advice, and it was shown to me that the NCAA will win and we will not. The attorney general's advice was that we were in the strongest negotiating position. I viewed through the attorney general's advice that the negotiated settlement was the best deal that he could get on the table. I came on the board in 2007, the meeting on the settlement was in 2007 and there were four new board members. All of us have significant UND connections and I could fairly easily say we wanted the debate to work out in favor of keeping logo. We had a problem. We had to solve the NCAA problem. Perhaps the university could go forward and be on the ban list. Not a single school that has been on that list has remained on that list. They have made the changes or got approval. As I appear here today I encourage this debate. As you debate the issue, I ask you to seek a solution to the problem which is the NCAA.

Rep. David Rust: Is there really an alternative to the NCAA?

Jon W. Backes – President, SBHE: No I don't. DO I think the laws of the US should make the NCAA subject to the state laws? Yes I do. The US Supreme Court disagrees with my opinion.

Rep. Corey Mock: Of any of those 17 institutions on the ban list, did any leave and join another association?

Jon W. Backes – President, SBHE: None that I can think of.

Chairman RaeAnn Kelsch: Since we are the education committee, what does all this have to do with education? Because we certainly know what it has to do with athletics but what does it have to do with education

Jon W. Backes – President, SBHE: The athletic piece is an important piece of the education in schools.

Chairman RaeAnn Kelsch: You were talking about the laws. In Grant's testimony he included the settlement agreement and mutual release and under governing law it says this agreement shall be construed and enforced in connection with the laws of the state of ND. So what does that mean?

Jon W. Backes – President, SBHE: It means the lawsuit was filed in ND.

Chairman RaeAnn Kelsch: And that is all it means?

Jon W. Backes – President, SBHE: I think to the extent of their interpretation of the law relating to the legislative and what prejudice means in ND verses what it does in Illinois or elsewhere.

Chairman RaeAnn Kelsch: I think the final comment and question is that I really liked what you said at beginning when you said we don't disrespect the name and that it has been held to the highest esteem in the state of ND. You can probably pick out an instance in anything were something derogatory was said about you or something. I think what has happened here is we are letting an association and other states dictate to us what they perceive. If they would only set foot here in our shoes, they would know that isn't here. I think that is where the frustration comes from.

Jon W. Backes – President, SBHE: I agree. I can't remember ever hearing the logo or name being used in disrespect.

Rep. Brenda Heller: Someone else mentioned in testimony that it was questioned whether the NCAA had received factual information on which they based their decision. Do you know how they would receive that information and what was given to them?

Jon W. Backes – President, SBHE: What I know is that I read the policy when it came out. I read the president's, at the time, response to it and it was strongly worded. He was appalled that they would say that without stepping foot at UND.

Rep. Phillip Mueller: If you would have been on the board at the time would you have recommended the board stay out of this?

Jon W. Backes – President, SBHE: I think at that time the board needed to make that decision. If I had to do it over again after the last four years, I would rather have had someone make the decision, however it think we tried to make the best decision.

Chairman RaeAnn Kelsch: Questions? We will take testimony in opposition.

Rep. Lonny Winrich: Opposition HB 1263, 1257, and 1208. Testimony attachment 9.

Rep. Corey Mock: You mentioned you were a faculty member at UND since 1985. Do you know the positions or have the faculty taken positions on the retirement?

Rep. Lonny Winrich: The University Senate has passed a number of resolutions opposing the nickname.

Chairman RaeAnn Kelsch: I find your statement on the second paragraph interesting that the symbols, logo, and nickname have been controversial for over 25 years. I graduated from UND and I don't ever remember that controversy. So my question is, is the controversy among the faculty? Or is it among the campus?

Rep. Lonny Winrich: There are students and faculty here that could better answer that. It was very much affecting campus life at the time I was there and there were a number of faculty concerned with it.

Rep. Joe Heilman: With your experience with the logo and its affects on campus life, what do you think the origins are of what is offensive and can you give examples?

Rep. Lonny Winrich: That is a difficult question. I think much of the negative behavior surrounding the nickname stems from overzealous attempts to belittle athletic opponents. I think it is largely incidental things that grow around this aspect of student life.

Rep. Karen Rohr: If the controversy has occurred for past 25 years, I'm sure the university has policy and documentation of incidents. Do you have any idea of any documentation?

Rep. Lonny Winrich: There have been documented reports that I believe may be connected with some of the petitions mentioned earlier. I do know that the most recent accreditation report had a section that commented on the negative impact of the Fighting Sioux nickname on academic instruction.

Rep. Karen Rohr: I'm talking about specific instances where students have come forward with complaints.

Rep. Lonny Winrich: I'm not sure on that.

Jesse Taken Alive: Attachment 10. I am a member of the Standing Rock Tribal Council at Large. I am deeply offended by the comments made by our government today. To say we don't listen to our people is horrible. We get up in middle of nights to go to peoples house to help with suicide issues. I'm very offended by what has been heard here today. There are reports of tribal members having a shot gun pulled on them at a stop light because of this issue. It was said earlier that we don't want to put the Sioux nickname side by side with other schools because they are rodents with pests. In a meeting with another tribal member I offered changing the name. I said lets go with the fighting Nazis. That was disrespectful to say just as using the Sioux name is disrespectful. When our son was threatened with this life, he wanted to attend UND. His mother almost died because the threat on her eldest son. We've done this since 1992. Earlier this month we had a state of the nations address. The point is lets have respect for each other. We have 6 local communities telling us to hold our position. 1,109 signed a petition saying we don't want you to have a vote and they want us to keep our position. I'm concerned that our voices haven't been heard or that they have been misconstrued. We have an elders group in Standing Rock. On April 6th the group made the same decision to uphold the opposition of the name. I don't want any native people or anybody to get hurt over this issue. Our son loves UND so much but not the logo. As Native American my perspective is that there is a strong tendency to look at incidents. How many incidents does there have to be? There is pain there. We don't want this to be a divisive issue on our reservation. I appreciate the reference to us as nations of peoples. The only ingredient we don't have is a currency. The USA recognizes that with treaties. If you look at the documents I attached, on the second page motion 29 under the roll call vote, the individual listed there was one of those that went out to UND in 1969. I didn't get an option to ask him why he changed his mind on the issue but the vote says it all. Things change. We are trying to help people understand the decision that was made and upheld since 1992 to oppose the Fighting Sioux nickname and logo. How many tribal students saw their dreams thwarted because of this issue? For the record I am asking that these bills be voted down in committee.

Vice Chair Lisa Meier: When your son had been threatened did you go to law enforcement and issue a complaint?

Jesse Taken Alive: From what I know it was reported and nothing happened. The death threat came across the internet at the time.

Rep. Corey Mock: It's been referenced that the 1969 ceremony blessing was important and more sacred than this. Can you shed light on to what that blessing means to you and what?

Jesse Taken Alive: The way of responding to the ceremonies is that when someone is bestowed a name it is because of the friendship and respect. There is no way that they trump the issue.

Rep. Dennis Johnson: When you have a 1,000 people that want to bring this to a vote how do you represent them and let them have their say?

Jesse Taken Alive: We have a counter petition of 1,109. And some that signed one signed the other. We had more signers on the counter petition than on the petition to issue a vote and we also had signatures from some of the same individuals on both petitions.

Rep. Joe Heilman: I'm trying to get my head around the two petitions. On one hand one was to have a vote. The other was to support the decision on the council correct? It sounds to me like the petition and the petition to uphold the name are like two different things.

Jesse Taken Alive: The motions made by the local governments, we used them to make decisions. These local meetings are advertised. I've let people know the only meetings I attend are meetings from the council that are open to the public.

Chairman RaeAnn Kelsch: One question. It goes back to the video the Pride of the Sioux. It seems hypocritical to play that video at home games because you would be using the Sioux name in there and that is what is deemed as unacceptable. Doesn't it bother you a little bit that that was a great history lesson and things like that will disappear? Or is it too valuable to get rid of the nickname that it doesn't really matter?

Jesse Taken Alive: The video will go away probably but educating each other on cultures shouldn't go away. The nickname freezes us into history and says this is all they can be. There are other venues where this can occur.

Chairman RaeAnn Kelsch: Questions?

Joseph McNeil: When I came on the tribal council this issue had been brewing for some time. We are presently at 19 years that Standing Rock tribe has opposed the nickname. How many years does it take? Then we had debate at Standing Rock. We cannot bind our people by a ceremony. It is a bind between those individuals involved. There are questions about that ceremony that was used. This is a serious emotional issue and all we can do is pass another resolution. The constitution needs to be changed to allow an initiative drive. Another thing is who is going to pay for this vote that is wanted? If we do have a vote then will it come to a point that SD voters won't have a choice to vote? I don't see this thing ever ending. To the experiences you have had at UND. They are just that; your experiences and not anyone else's

Rep. Bob Hunskor: Does each district have a board to represent the people of that district?

Joseph McNeil: The district has a commission, a secretary, treasurer, and commission members.

Rep. Bob Hunskor: When the vote is given to the tribal council, is that a vote where each person gets a vote or does someone represent?

Joseph McNeil: There are six at large and then the district representative would present the minutes on the issue.

Rep. Bob Hunskor: When the people vote, does each person get to vote within the district, are those counted and then given to tribal council?

Joseph McNeil: (inaudible)

Chairman RaeAnn Kelsch: Questions? Opposition?

Chase Iron Eyes: What I see happening is the legislature playing lawyer games playing with working to save the Sioux name. The attorney general has stated that he is concerned with the constitutionality of each one of these bills. I think before you go on I would caution you and I would like to see that analysis. If you pass the bills, taxpayer resources will go to a lawsuit for after this fact. Athletics, students, and grants would be affected by this. You would be authorizing a suit against the NCAA on sanctions they would impose. We would be using taxpayer dollars for that. One of the bills authorizes an antitrust suit. I understand the issue that ND has with the Fighting Sioux name. I can tell you that the day has ended when Native Americans feel they have to live a second-class citizenship. Things are changing and this name is going to change.

Rep. Lyle Hanson: I was wondering if you know that if one or two or all three of these bills passed, it will not be the end even from the day the governor signed it. Whatever we do here doesn't end here today.

Rep. Corey Mock: You mentioned you had prepared remarks. Could you make that available?

Chase Iron Eyes: I can do that.

Chairman RaeAnn Kelsch: A comment for you. You asked a question if the state engages in a lawsuit it is going to cost taxpayers dollars. We know the retirement of the name will cost taxpayer dollars. Regardless taxpayer dollars will be spent on this initiative either way. I think that is the answer to your question. We don't know how much but regardless taxpayer dollars will be spent on this initiative. Thank you for your testimony. Further opposition?

Evan Andrist – State Governmental Affairs Commissioner, UND: Opposition. Testimony attachment 11.

Chairman RaeAnn Kelsch: Yesterday you stood before us and testified on a bill would freeze tuition. So apparently you think that the legislature has the authority to do that, would that be a correct statement?

Evan Andrist – State Governmental Affairs Commissioner, UND: Yes.

Chairman RaeAnn Kelsch: But what you are saying in the bottom of your third paragraph is that if these bills were passed that they would further restrict the authority of the State Board of Higher Education and UND. Doesn't the university appreciate the appropriation that is passed to fund UND?

Evan Andrist – State Governmental Affairs Commissioner, UND: Yes but I also have to point out that in a hearing you had you pointed out that you legislators needed to make up your minds whether it was your legislative role to micromanage the universities.

Chairman RaeAnn Kelsch: We heard President Kelly talk about this costing money. How will the student body feel if their fees are increased in order to cover the cost for the retirement of the nickname and is that something that has been discussed?

Evan Andrist – State Governmental Affairs Commissioner, UND: I'm not aware of what the students would feel about an increase in fees.

Chairman RaeAnn Kelsch: Or a tuition increase to cover the costs of retiring the name?

Evan Andrist – State Governmental Affairs Commissioner, UND: I also feel they would see a tuition increase either way if we retire the nickname or we don't. That is why we support this in the student resolution. We don't know the costs of it will have if we pass these bills.

Chairman RaeAnn Kelsch: And we don't know the costs to retire the nickname. I ask these questions is because you are a student and have we as parents failed you in the fact that people have mentioned divisiveness and prejudices at the campus? When we were at these schools we didn't feel these issues or prejudices. Did we forget as parents to teach you tolerance? Did we forget as parents to make sure that you understood that there are other people and diversity and we should all be tolerant of each other?

Evan Andrist – State Governmental Affairs Commissioner, UND: I don't know if I could answer that on behalf of all the parents.

Chairman RaeAnn Kelsch: That is really not the question. The question is whether students can't understand and appreciate the history? Is that what it is?

Evan Andrist – State Governmental Affairs Commissioner, UND: I think the students can. I'd also like to point out that there are, in some cases, people that don't have the same teachings. I would ask how you would feel if you found out your child had written one of those derogatory things. I think it is a lack of judgment on many cases.

Rep. Corey Mock: Can I have you confirm that the student senate did passed by a larger margin?

Evan Andrist – State Governmental Affairs Commissioner, UND: They passed it by a measure of 17 to 1.

Chairman RaeAnn Kelsch: Questions? Opposition?

Dr. Erich Longie: I'm one of the 33% that voted against the logo. It wasn't too long after the logo was passed that we collected enough signatures for a revote. We still have a petition with the 300 names that we have yet to turn in. The ceremony is not absolute. There is no tribal council that could give something away forever and ever. I don't want to

be categorized as a logo on anybody's shirt. I don't want to see sacred paint on faces of non-Indian fans. One of the previous speakers said that Indian students from other tribes shouldn't be allowed to speak on this issue. I disagree. UND is not on tribal land. When other tribal students get mistreated because of the nickname and logo they have the right to speak up. The other thing I want to talk about is that it appears to me that no one has the right to speak for me unless I give that permission. Did the ceremony of 1969 get permission from everyone so that UND could use this name forever? Absolutely not and who gives them permission to speak for me? Finally I would like to say what is going to happen if one of these bills passes. I would say we are all going to lose. If you pass the bill you will no longer be honoring us, you will be forcing us.

Rep. John Wall: Does your constitution allow you to have a referendum?

Dr. Erich Longie: Yes it would make the council hear it.

Chairman RaeAnn Kelsch: I will make a comment. You should be a good role model and mentor for the people on your reservation. They really look up to people like you that have gone on and received those degrees such as you did.

Dr. Erich Longie: I appreciate that.

Chairman RaeAnn Kelsch: Further opposition?

Franklin Sage: Opposition. Testimony attachment 12.

Chairman RaeAnn Kelsch: Questions? Further opposition?

Carel Two-Eagle: Opposition. Testimony attachment 13.

Chairman RaeAnn Kelsch: Questions? Further opposition?

LaDonna Brave Bull Allard: You talked about never seeing any of the negativity at UND towards us. I was there when the football players threatened me and attacked a young Indian girl. In 1985 the students took over the cultural center and held it. And you guys are talking about 1990? And then you sit there and tell me these incidences didn't happen? My children suffer today. I cannot go on that campus and say I am proud of UND. I'm angry. I'm hurt. UND has caused me many tears. When you hurt my children you hurt me. And where were you when this was happening? You didn't hear anything? No because you were in your little groups. Where were you when we stood there in 1989 to say one hour of prayer for our people that upset the whole University? You tell us our lives are not important. You tell us what we feel is not important and try to tell my nation you are going to make rules for us. You cannot make a wrong a right. I have still not heard an apology for what you did to my children. And I say this to you because you are our representatives. On top of everything you have divided our nation. This logo promotes racism.

Chairman RaeAnn Kelsch: Questions? Opposition?

Margaret Scott: Opposition. Testimony attachment 14.

Rep. Karen Karls: You are an enrolled member of the tribe?

Margaret Scott: I am an enrolled member of a tribe in Washington.

Rep. Karen Karls: Are you also citizen of ND?

Margaret Scott: Yes I vote in every election.

Rep. Karen Karls: I am also a citizen and I understand that you are a sovereign nation and you have your own laws. Under our ND law we do have the right to petition our government to redress grievances. Do you not have that under tribal law?

Margaret Scott: You'd have to ask tribal leaders that because every model is different.

Chairman RaeAnn Kelsch: Any further questions? Further opposition?

Birgit Hans – Chair, UND Indian Studies Department: Opposition. Testimony attachment 15.

Rep. Phillip Mueller: We have heard a number of things that are going on at the university. What is happening at Florida State where they are called the Seminoles or places like that? Do you have any background on these types of issues going on among those campuses?

Birgit Hans – Chair, UND Indian Studies Department: No I don't but the situation is different. The tribes I believe have agreed to the use.

Rep. Phillip Mueller: I don't know if the tribes have agreed to it but what about what's happening on campus?

Birgit Hans – Chair, UND Indian Studies Department: You are probably right. But the diversity issue is one that is here today. We need to make sure our students remain respectful in a culturally diverse world.

Rep. Joe Heilman: Do you feel the retiring of the logo will help with the racial tension issues?

Birgit Hans – Chair, UND Indian Studies Department: Yes to some degree I do. I think if we get rid of logo students will take Indian studies with less prejudice.

Chairman RaeAnn Kelsch: What I'm hearing today is that the prejudice towards Native Americans today is happening at UND but it doesn't seem to be happening at the other campuses? Or is just because we have the Indian studies and we have kind of made the UND campus tailor to Indian studies as a focus?

Birgit Hans – Chair, UND Indian Studies Department: I think the same thing is going on elsewhere but it is that we have a focal point with the logo. I think it has to do with the fact

that the Fighting Sioux is there and is visible. We have a problem because so many students don't understand what stereotypes are.

Rep. Bob Hunsakor: Has the problem you listed in the testimony heightened since the issue has come up about the Sioux logo?

Birgit Hans – Chair, UND Indian Studies Department: It would come up sporadically. They haven't escalated.

Rep. Corey Mock: I wanted to point out we don't have your packet.

Birgit Hans – Chair, UND Indian Studies Department: It will be distributed.

Rep. Karen Rohr: Has there been a qualitative study done that addresses the logo for native and nonnative?

Birgit Hans – Chair, UND Indian Studies Department: Yes there has.

Chairman RaeAnn Kelsch: Further Opposition?

Leigh Jeanotte – UND American Indian Student Services: Opposition. Testimony attachment 16.

Chairman RaeAnn Kelsch: Questions? Opposition?

William Crawford: Opposition. Testimony attachment 17.

Lucy Ganje – UND Department of Art and Graphic Design: Opposition. Testimony attachment 18.

Chairman RaeAnn Kelsch: Questions? Further opposition?

Don Morrison: I did want to make a comment on the stamina of the committee members. I'm an alumnus of UND. I had a great time when I attended and had an excellent education. There are a lot of UND fans that really do want to change this name. There are controversies and derogatory things going on at UND regarding the nickname and logo. These things have been going on for decades. I've learned about opposition from my Native American friends. The source of opposition on my part comes from Native Americans and Native American students. Keeping this name means we will be here in 50 years. It is time for UND to have a new nickname that unites people.

Chairman RaeAnn Kelsch: Questions.

Rep. Corey Mock: Has your organization taken a stance or is this personal?

Don Morrison: Personal.

Rep. David Rust: I have a question. It would be that we have some Native American schools and non Native American schools. Of the non Native American colleges and universities could we get an enrollment count and the percentage?

Chairman RaeAnn Kelsch: I'm told that we can. Questions? We will close the hearing on HB 1263, 1257, and 1208.

Submitted Testimony: Attachments 19, 20, 21, 22, and 23.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1257
02/16/11
14631

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open on HB 1257.

Rep. David Rust: I move a do not pass.

Rep. Mike Schatz: Second.

Chairman RaeAnn Kelsch: Committee discussion?

Rep. Corey Mock: Attachment. I am proposing an amendment. As we learned in testimony, the language in HB 1257 and HB 1208 states that unless the State Board of Higher Education receives written notice from the chairman of the Standing Rock Sioux tribe and the Chairman of the Spirit Lake tribe indicating that members of each tribe have voted in a tribal referendum to revoke the permission granted to the university to use the student nickname and logo. We heard in testimony the complication with this. Standing Rock did allow for a referendum for these matters according to their constitution. The only referendum allowed in their constitution is a referendum of the constitution to amend the constitution. What we are doing by leaving this language is saying unless you want to change your constitution and then have a referendum to revoke permission for a nonaffiliated university to use your likeness of image it will stay the same. This amendment would insert either after the word indicating on page 1 line 14. And page one line 15, after referendum or the governing bodies of each tribe have taken official actions. What this would do is recognize the governing body's authority to speak on behalf of their sovereign nation. The results may not change but what it would do is recognize another sovereign body's ability to speak on behalf of its constituents. I would encourage this amendment pass HB 1257 as amended.

Chairman RaeAnn Kelsch: Isn't this exactly what is already happened because the governing body of the Standing Rock Sioux tribe, instead of allowing a vote by their citizens, the tribal council decided that they would not vote. According to the way the amendment reads they have already taken their official action.

Rep. Corey Mock: We received a packet of resolutions from Standing Rock dating back to 1992, the first time they opposed the use. However under new tribal leadership there have been closer votes pertaining to the use of the nickname and logo. What this would do is

allow the tribal government to speak on behalf, to give constituents a chance to speak to their members and have another resolution either supporting or opposing the use. We are allowing the tribe and government to speak on behalf of their constituents and not requiring them to change the constitution. We certainly don't like it when people ask North Dakota to do things that aren't even in our constitution.

Chairman RaeAnn Kelsch: We have a motion on the table for a do not pass. Is there interest in the committee to adopt the amendment?

Rep. Corey Mock: I would respectfully request if the individuals that made the motion would give this amendment a chance to be voted on so I can go back to my district and let them know we did everything we could.

Rep. David Rust: I'll withdraw my motion.

Rep. Mike Schatz: I withdraw my second.

Rep. Corey Mock: I would move the amendment:

Rep. Phillip Mueller: Second.

Rep. Joe Heilman: I would like to ask a question about the bill with or without the amendment. So it says Spirit Lake tribe indicating members of each tribe that voted in a tribal referendum to revoke the permission granted to the university. Now the Spirit Lake vote, was that to revoke or to allow the use? What I'm asking is would they have to revote to revoke because of the language of the bill? I think if this bill were to pass as amended, the vote they already have wouldn't be valid because that was to allow the use.

Chairman RaeAnn Kelsch: Right.

Rep. Corey Mock: You may be right because the referendum was to support the name. In order for Spirit Lake to revoke permission it would either be by referendum which has not been taken to revoke permission, or if the amendment passes by governing body and that can be overturned by referendum according to the Spirit Lake constitution.

Chairman RaeAnn Kelsch: We will try a voice vote. Motion fails.

Voice vote: Motion fails.

Rep. Corey Mock: I request a roll call vote on the amendment.

Chairman RaeAnn Kelsch: The chair was not in doubt but I will allow a roll call vote on the amendment.

Roll call vote: 4 yeas, 11 nays, 0 absent. Motion fails.

Chairman RaeAnn Kelsch: For the second time the motion fails. Wishes of the committee?

Rep. David Rust: I move a do not pass.

Rep. Mike Schatz: Second.

Chairman RaeAnn Kelsch: Further discussion? We will take the roll on a do not pass on HB 1257. We will close on HB 1257.

15 YEAS 0 NAYS 0 ABSENT
CARRIER: Rep. Mike Schatz

DO NOT PASS

ATTACHMENT

11.0299.04001
Title.

Prepared by the Legislative Council staff for
Representative Mock
January 27, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1257

Page 1, line 14, after "indicating" insert "either"

Page 1, line 15, after "referendum" insert "or the governing bodies of each tribe have taken
official action"

Renumber accordingly

Date: 02-16-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1257

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. MOCK Seconded By REP. MUELLER

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch		X	Rep. Hanson	X	
Vice Chairman Meier		X	Rep. Hunskor	X	
Rep. Heilman		X	Rep. Mock	X	
Rep. Heller		X	Rep. Mueller	X	
Rep. Johnson		X			
Rep. Karls		X			
Rep. Rohr		X			
Rep. Rust		X			
Rep. Sanford		X			
Rep. Schatz		X			
Rep. Wall		X			

Total (Yes) 4 No 11

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

ROLL CALL VOTE
ON AMENDMENT

MOTION FAILS

Date: 02-16-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1257

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. RUST Seconded By REP. SCHATZ

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Hellman	X		Rep. Mock	X	
Rep. Heller	X		Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 15 No 0

Absent 0

Floor Assignment REP. SCHATZ

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1257: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO NOT PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1257 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1257

TESTIMONY ATTACHMENT 1

HB 1263

EDUCATION COMMITTEE

REP. RaeAnn Kelsch

January 26, 2011 9am

Chairwomen Kelsch and members of the Education Committee for the record my name is Mark Dosch representing the 32nd district of the great State of North Dakota.

I am here today to voice my support of HB 1263. As a 1982 graduate and alumni of UND and the fighting Sioux, I felt compelled to co-sponsor this bill.

I believe one of mans greatest fears is to someday be forgotten – not remembered. We all want to leave our legacy behind, either individually, or as a people. We often hear of the desire to tell our stories, to teach our language and traditions, so it can be passed down from generation to generation.

I remember returning to UND several years ago to attend a Hockey game. I was excited to see the new Ralph Engelstad Arena. I remember standing in au as I first saw the towering statue of Sitting Bull lit in the night's sky. I observed the sea of fans, thousands of them all dressed in their fighting Sioux attire, proudly wearing their logoed attire (designed by the way by a Native American artist). And then the moment I stepped into the stunning arena, adorned with the Indian head logo inlayed into the marble floors and walls. What a first class facility I thought. Then the moment I walked into the arena itself. The flood of memories of the countless number of games I attended in the past, and the swell of pride I felt when the student section began the cheer go Sioux go. The chants continued "Who are we? We are the fighting Sioux. I felt at home, a member of a family, a feeling of belonging. We were the fighting Sioux, age did not matter, your sex did not matter, nor the color of your skin. We all were there for the same reason, and that was to cheer our team to victory.

I was later shocked and saddened when the news came with the accusations of disrespect and racism in connection of the use of the name the Fighting Sioux. How could that even be possible? Had they never attended a hockey game? Had they never heard the cheers from the thousands of students and fans proudly displaying the logo and cheering their team to victory? I seriously doubt it, because if they did, they could have never come to that conclusion – never. Especially if a minority feels it is important to preserve their image, to preserve their culture, to preserve the memory of their people, for a people working to create a better relationship with all the people of ND. My question is how could they and us stand by and allow all this to be lost? Don't they and their leadership realize the consequences?

If the name and logo were dropped? Things like the removal of the proud statue of Sitting bull. The Indian head logo proudly imbedded in the tile of the Engelstad Arena to be covered with black paint, and jerseys and attire that once displayed the logo be removed from the shelves. And perhaps the saddest thing is that with each passing year of new freshmen students none of whom would be given the opportunity to cheer for the mighty Sioux, the once proud image and name of the Sioux would soon be forgotten. How could this possibly be good for the Native Americans of our state?

There is a saying that goes, be careful of what you wish for, because it may just come true. Perhaps this is what some may want, but I do believe for many of the proud American Indians and for the 10s of thousands of UND grads, I believe this is not what they want. For I believe, it is not about the color of one's skin, but the spirit that is in our heart... the proud tradition that we all share... for we are the Fighting Sioux.

TESTIMONY ATTACHMENT 2

Testimony on HB 1257

Rep. David Monson

Chairman Kelsch and members of the House Education Committee, for the record I'm Rep. David Monson of Dist. 10. District 10 is located in northeastern North Dakota along the Canadian border not too far north of the Spirit Lake reservation.

I introduced HB 1257 for a number of reasons:

1. I'm a graduate of UND actually with two degrees from UND, so I'm a long-time Sioux fan.
2. I believe the Sioux name and logo show great respect and honor to the great people who dominated the ND plains for many years. A school chooses names and logos they respect.
3. I believe the Sioux name and logo help preserve our history and provide an opportunity for people all over this nation to learn about ND and who the Sioux really are.
4. I feel the board of higher education and the chancellor were "bullied" into making a decision to drop the name and logo by an outside entity, the NCAA. What really angered me about this is the fact that the NCAA has a double standard which allows some schools to use Indian names and logos but not UND. This is akin to the UN criticizing the US for human rights violations when they say nothing to China, Iran, and numerous others. How do you defeat a bully? You stand up to them and face them head on. You don't run away.
5. The most important reason I introduced this bill is because the voices of the majority of the Sioux people at Spirit Lake and Standing Rock were ignored. Their voices went unheard. Today, with these 3 bills, they get to have their voices heard. That's what our legislative process is all about. We're letting the voice of the people involved be heard.
6. I might add a last reason I introduced this bill. About a month ago I heard about a group of people at UND who were not content with getting the board to retire the Sioux name and logo. They were going to try to obliterate the memory of the Sioux off the entire campus. I don't know if that awoke the Viking blood in my veins or the Sioux spirit instilled in me at UND, but those were fighting words! That was the final impetus for me to contact people at Spirit Lake to ask if they wanted me to introduce a bill. They wanted the bill.

Each of the three bills before you today is different. Mine takes the stance that the only people who should be able take the name and logo away are the people who gave the blessing for UND to use the name in the first place. A handful of unelected people (the board and chancellor) and an outside organization (the NCAA) guilty of using anti-trust bullying tactics should not decide. My bill also contains the emergency clause to stop the process of retiring the name and logo as soon as possible. It also only makes reference to the name "Sioux" and leaves the "fighting" connotation off. I felt that may be less offensive to some people.

I have told Rep. Kelsch that since I have another bill up in another committee at the same time as this one, I will be brief and respectfully decline to answer questions at this time. If you have questions of me you can call me in at a later time. I will take a couple of minutes to try to head off some questions and answer some of the ones people have already asked me as I talked with them about the bill.

Some people asked, "Isn't this bill too late? The decision has been made and we should just move on." My response is that it is never too late to right a wrong. The Sioux people were wronged when the board and chancellor didn't listen to their voices. Right can still be done by passing this bill. I would have introduced this bill in 2009 if I had dreamt the board and chancellor would have made their decision in the manner in which they did. Had I introduced this bill in 2009, I have little doubt that some would have thought the bill was too soon.

Some people have said that only the higher education board has the right to decide this issue. I've even heard some people say passing these bills would be unconstitutional. Well, I say that the board of higher education may be in the constitution, but they aren't one of the three branches of government. The legislature is the branch of government that is charged with making laws. We have an entire volume of laws passed by the legislature that pertains to all sorts of higher education as well as K-12 education issues. And, I might add, every bill we pass is constitutional until 4 of 5 Supreme Court Justices say otherwise.

Some people say using the Sioux name and logo is disrespectful. In all my years as a Sioux fan and UND student, I've seen only second hand evidence reportedly given on this issue. Any instances I've heard about have been handled in a very positive way by the faculty and administration at UND. They've used that as a "teachable moment". Probably the most disrespect shown the Sioux people was when their voices were ignored, and it was decided to retire the Sioux name without regard for the wishes of the majority of the Sioux people.

One last comment I've heard is that the athletes may be hurt if this bill passes. I know others here are much more qualified than I to refute that claim and will do so. However, I would like to say that I believe if the Sioux name goes away, the ability to raise money from UND alumni for scholarships and other programs will be seriously diminished.

There are many who follow me who wish to have their voices heard. They are the real experts on this issue. Please listen to them and consider their wishes to keep the Sioux name and logo.

TESTIMONY ATTACHMENT 3

1 TESTIMONY OF DAVID HOGUE REGARDING HOUSE BILLS 1208, 1257, and 1263

2 House Education Committee

3 January 26, 2011

4 9:00 am

5

6

7 Good Morning Madam Chair Kelsch and members of the House Education
8 Committee. My name is David Hogue. I am a North Dakota Senator representing
9 District 38, which includes Northwest Minot and the city of Burlington.

10 I have no testimony in favor of or in opposition to these three bills, but I do offer
11 testimony in support of the legislative assembly's constitutional authority to pass into
12 law any one or all three of these bills. I would not have thought testimony about your
13 constitutional authority to act necessary or even useful to your committee, but after
14 receiving several emails, correspondence, and two editorials on the subject, I'm
15 persuaded some review of the North Dakota Constitution would be useful to your
16 committee.

17 I think the tipping point for my decision to offer testimony on this subject was a
18 column in a local paper that asserted the North Dakota State Board of Higher Education
19 is the fourth branch of government under the North Dakota Constitution and that the ND
20 Legislative Assembly has no constitutional authority to consider the subject matter in
21 these three bills.

1 I want to briefly examine both the structure and text of the North Dakota
2 Constitution to demonstrate that both the Legislative Assembly and the State Board of
3 Higher Education have policy making authority over our institutions of higher education,
4 but the ultimate and final authority rests with the Legislative Assembly, which holds sole
5 possession of the right to authorize or limit the expenditure of funds for any purpose on
6 every state institution of higher education.

7 Let's start with the structure of our Constitution. Our Constitution is divided into
8 articles and sections. The Articles are reserved for major subjects. The structure is
9 attached to this written testimony. Articles IV, V, and VI relate to the Legislative,
10 Executive, and Judicial branches, respectively. The duties, qualifications, and authority
11 of each of these three branches is set forth in a separate Article. There is no mention of
12 a branch of higher education. There is no "Board of Higher Education" Article or even
13 an Article devoted to Higher Education.

14 Article VIII, stated as the "Education" Article describes the duties of the
15 Legislative Assembly with respect to education at every level., the State, and the board
16 of Higher Education with respect to education generally. There are eight sections in the
17 Education Article and the Board of Higher Education is referenced in section 6 and 7.
18 The Legislative Assembly is referenced in sections 1, 2, 4, and 6.

19 While the structure of the ND Constitution is helpful generally in understanding
20 the interrelationships between the instruments of our state government, the actual
21 language—the text of the constitution—also makes clear that Legislative Assembly and

1 the board of Higher Education share policy making authority within the realm of higher
2 education. Let's look specifically at Article VIII.

3 Section 2 instructs the Legislature to establish a free public education system but
4 gives the Legislative Assembly the authority to set tuition and fees an higher education
5 institutions. As you well know Madam Chair, the Legislative Assembly has ceded its
6 constitutional authority to establish tuition to the state board of higher education. Of
7 course, Madam Chair, that was not an irrevocable grant to the Board of Higher
8 Education. The Legislative Assembly retains the prerogative to change its mind, and to
9 reclaim its constitutional authority to establish tuition and other charges for higher
10 education.

11 Section four of the Education Article directs the Legislative Assembly to take all
12 necessary steps to provide a uniform system of education.

13 I want to draw your attention to section five. That section reads:

14 **"Section 5.** All colleges, universities, and other educational institutions, for the support
15 of which lands have been granted to this state, or which are supported by a public tax,
16 shall **remain under the absolute and exclusive control of the state.** No money
17 raised for the support of the public schools of the state shall be appropriated to or used
18 for the support of any sectarian school. "[Emphasis added.]

19 Note the boldface language that the institutions will remain under the "absolute
20 and exclusive control of the state." The authors of the constitution used the words

1 "absolute and exclusive" to denote that the state could never surrender control to a
2 political subdivision, the US government, or a private sector entity.

3 Now lets go to section six which relates to the Board of Higher Education. Does
4 that section give the Board "absolute and exclusive" control of higher education? No,
5 Madam Chair, it does not.

6 Section six provides the Board with "full authority." In section 6(6)(b), the
7 Constitution gives clear description of the relative powers of the Board of Higher
8 Education and the ND Legislative Assembly. That section reads in relevant part:

9
10 The said state board of higher education shall have full authority to organize or
11 reorganize **within constitutional and statutory limitations**, the work of each
12 institution under its control, and do each and everything necessary and proper
13 for the efficient and economic administration of said state educational
14 institutions. [Emphasis added.]
15

16 Again, note the boldface language that the board of higher education can
17 organize or reorganize each institution within "statutory limitations." Madam Chair, as
18 you well know, "statutory limitations" come exclusively from the statutes enacted by the
19 Legislative Assembly.

20 From these constitutional provisions, two things seem clear. First, if the
21 Constitution wanted to grant "exclusive" control of higher education institutions to the
22 Board of Higher Education, it most assuredly would have done so in Article VIII, Section
23 6. It used the phrase "absolute and exclusive" control to make clear that the state must
24 always be in charge of our institutions of higher education. Second, the board of higher
25 education has "full" authority to govern the higher education institutions, but that

1 authority is not "exclusive" and must yield to statutory limitations the Legislative
2 Assembly might choose to enact.

3 The checks and balances incorporated into our state constitution are not novel or
4 limited to the interplay between the Board of Higher Education and the Legislative
5 Assembly. For example, if the legislature disagrees with the way the North Dakota
6 Supreme Court has construed a statute, the Legislative Assembly is free to change that
7 judicial interpretation by changing the statute. This review and legislative reaction to
8 judicial decisions is a normal, healthy development in our state democracy.

9 For another example, when a member of the executive branch seeks to expand
10 its authority or to regulate in a different way, it will, by constitutional necessity, seek the
11 approval of the Legislative Assembly through a statutory measure.

12 Madam Chair, this concludes my written testimony.

13

14

ARTICLE VIII

EDUCATION

Section 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Section 3. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

Section 4. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

Section 5. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Section 6.

1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:
 - a. The state university and school of mines, at Grand Forks, with their substations.
 - b. The state agricultural college and experiment station, at Fargo, with their substations.
 - c. The school of science, at Wahpeton.
 - d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.
 - e. The school of forestry, at Bottineau.
 - f. And such other state institutions of higher education as may hereafter be established.
2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.

The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

- b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.
 - c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of the next session of the legislature, at which time the appointment must be certified to the senate for confirmation. If the appointee is not confirmed by the thirtieth legislative day of the session, the office shall be deemed vacant and the governor shall nominate another candidate for the office. The same proceedings shall be followed as are set forth in this section. If the legislature is in session at any time within six months prior to the date of the expiration of the term of any member, the governor shall nominate a successor from a list selected as above set forth, within the first thirty days of the session and upon confirmation by the senate the successor shall take office at the expiration of the incumbent's term. No person who has been nominated and whose nomination the senate has failed to confirm is eligible for an interim appointment. On or before July first of each year, beginning in 1995, the governor shall appoint a student member from a list of names recommended by the executive board of the North Dakota student association for a term of one year, beginning on July first. A student member may not serve more than two consecutive terms.
3. The members of the state board of higher education may only be removed by impeachment for the offenses and in the manner and according to the procedure provided for the removal of the governor by impeachment proceedings.
 4. Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member's office. All members shall

receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.

5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.
6.
 - a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.
 - b. The said state board of higher education shall have full authority over the ~~institutions under its control with the right, among its other powers, to prescribe,~~ limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.
 - c. Said board shall prescribe for all of said institutions standard systems of accounts and records and shall biennially, and within six (6) months immediately preceding the regular session of the legislature, make a report to the governor, covering in detail the operations of the educational institutions under its control.
 - d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.
 - e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher

education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.

7. a. The state board of higher education shall, as soon as practicable, appoint for a term of not to exceed three (3) years, a state commissioner of higher education, whose principal office shall be at the state capitol, in the city of Bismarck. Said commissioner of higher education shall be responsible to the state board of higher education and shall be removable by said board for cause.
 - b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.
 - c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.
8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

CONSTITUTION OF NORTH DAKOTA

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44. and 45. [Repealed.]
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1. [Toleration of religious sentiment]
2. [Military reservations]
3. [Land grants]
4. [Continuation of provisions of Enabling Act]

Transition Schedule

1. 1 to 25. [Repealed]
- 26.

PREAMBLE

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

Section 1. All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

Source: Const. 1889, Art. I, § 1; Initiated amendment approved November 6, 1984 (S.L. 1985, ch. 702).

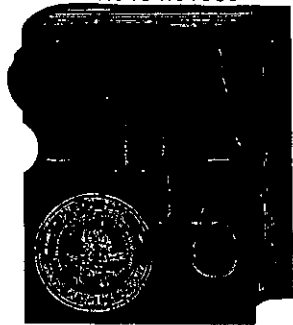
Note.

The section as originally adopted read:
"All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possess-

ing and protecting property and reputation; and pursuing and obtaining safety and happiness."

Commercial Paper Use.

Right to use commercial paper in a commercial setting is not a fundamental right guaranteed by this section. *State v. Goetz*, 312 N.W.2d 1 (N.D. 1981), cert. denied, 455 U.S. 924, 102 S. Ct. 1286, 71 L. Ed. 2d 467 (1982).



North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

ATTACHMENT 4

Jim W. Smith
Director

Jay E. Buringrud
Assistant Director

Allen H. Knudson
Legislative Budget
Analyst & Auditor

John Walstad
Code Revisor

January 21, 2011

Honorable Al Carlson
State Representative
2548 Rose Creek Parkway South
Fargo, ND 58104-6699

Dear Representative Carlson:

This is in response to your request for information regarding the constitutional authority of the Legislative Assembly to enact legislation affecting the State Board of Higher Education and the institutions under the authority of the board.

CONSTITUTIONAL AUTHORITY OF STATE BOARD OF HIGHER EDUCATION

Article VIII, Section 6, of the Constitution of North Dakota establishes a State Board of Higher Education to control and administer state institutions of higher education. Subdivision b of subsection 6 of that section states:

The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control. The said state board of higher education shall have full authority to organize or reorganize **within constitutional and statutory limitations**, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. (emphasis supplied)

The plain language of subdivision b indicates the authority of the State Board of Higher Education is subject to constitutional and statutory limitations and does not exclude the Legislative Assembly from enacting legislation that would affect the board or the institutions under its control.

The Legislative Assembly has enacted legislation that mirrors the constitutional language regarding the authority of the State Board of Higher Education. That legislation is codified as North Dakota Century Code Section 15-10-11.

NORTH DAKOTA SUPREME COURT DECISIONS

The Supreme Court of North Dakota has generally addressed the authority of the State Board of Higher Education in two recent decisions. However, the court has not directly addressed the issue of limitations on the authority of the Legislative Assembly to enact legislation that affects the board or institutions under the control of the board.

In a 2009 case, *Ellis v. N.D. State Univ.*, 2009 ND 59, 764 N.W.2d 192, the Supreme Court discussed the balancing of the constitutional authority of the State Board of Higher Education and the authority of the Legislative Assembly to enact laws generally for all its citizens. In its opinion, the court relied on a 1957 decision in which the court upheld the constitutional authority of the university to dismiss faculty members. In arriving at its decision, the Supreme Court expressed concern as to whether a statutory enactment may supersede the constitutional authority of the State Board of Higher Education to hire and discharge its employees, but determined that the constitutional issues need not be addressed. However, it further stated that there is some judicial precedent in others states which indicates a "legislature may enact provisions giving certain rights to the employees of institutions of higher education governed by boards with exclusive constitutional authority."

Although the Supreme Court did not address the constitutional issue, the dissenting opinion in the *Ellis* case pointed out the majority opinion's "expansive reading of the constitutional authority of the Board, however, fails to acknowledge that the Board is still subject to legislation. Article VIII, § 6(6)(b) of the North Dakota Constitution

plainly states, in relevant part: "The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions."

April 2010 the Supreme Court addressed the question of whether the State Board of Higher Education could be enjoined from ordering the retirement of the University of North Dakota's Fighting Sioux nickname and logo before the final deadline specified in a settlement agreement between the National Collegiate Athletic Association and the board. In *Davidson v. State*, 2010 ND 68, 781 N.W.2d 72, the Supreme Court concluded the board had the authority to order the name change before the date specified in the settlement agreement. Again, the court quoted the constitutional and statutory authority of the board to control the institutions of higher education. However, the court had no need to fully address the extent of or limitations on the authority of the board under the constitution because "[t]he plain language of the settlement agreement does not restrict the board's constitutional and statutory authority to change UND's nickname and logo, and we agree with the district court that nothing in the plain language of the settlement agreement limits the Board's constitutional and statutory authority, or requires the board or UND to continue using the nickname and logo throughout the approval period." Because the question of the authority of the policymaking branch of government to enact legislation which limits or affects the authority of the board was not before the court, the court did not address that issue.

THREE COEQUAL BRANCHES OF GOVERNMENT

Although there have been some assertions that the State Board of Higher Education is the fourth branch of government, Article XI, Section 26, of the Constitution of North Dakota is very clear that there are three coequal branches of government. Even before that provision was adopted in 1982, the Supreme Court, in a long line of decisions, recognized that each of the three branches of government is supreme in its sphere. The sphere of the legislative branch is to enact policy. In furtherance of that constitutional responsibility, the Legislative Assembly has regularly enacted legislation that affects or regulates the institutions of higher education and the board. Title 15 is filled with examples of the Legislative Assembly limiting or placing conditions upon the authority of the State Board of Higher Education.

It should also be noted that Section 26 was enacted after the article that established the State Board of Higher Education and did not include the board as a fourth branch of government. Thus, it is clear that although the State Board of Higher Education is constitutionally created, it is not a branch of government that is entitled to the deference the three coequal branches of government offer each other when acting within their spheres of responsibility.

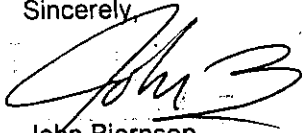
PRESUMPTION OF CONSTITUTIONALITY

Each enactment of the Legislative Assembly is presumed to be constitutional. Furthermore, under Article VI, Section 4, of the Constitution of North Dakota, it takes four of the five Supreme Court justices to declare a state law unconstitutional.

SUMMARY

The Constitution of North Dakota provides the State Board of Higher Education has authority over the state institutions of higher education within constitutional and statutory limitations. Although the Supreme Court has recognized the constitutional authority of the board, it has not specifically addressed the issue of the authority of the Legislative Assembly to enact legislation affecting the board or institutions under its control. The constitution provides for three coequal branches of government, one of which is responsible for enacting policy. Although constitutionally created, the State Board of Higher Education is not one of the three branches of state government and is not an autonomous entity with the authority to act independently of legislative policymaking.

Sincerely,



John Bjornson
Counsel

JB/BM

HISTORY OF THE FIGHTING SIOUX NICKNAME AND LOGO

This memorandum provides a chronology of the events that have occurred since the inception of the University of North Dakota (UND) Sioux nickname and logo. This memorandum includes excerpts and information derived from an article written by Mr. David Vorland entitled "The Fighting Sioux team name and logo at the University of North Dakota: An historical and contextual summary" and from an April 2010 article in the *Fargo Forum* entitled "Fighting Sioux Timeline." This memorandum also includes a list of those schools located on Indian reservations in the state which use a tribal or tribal-related name as their nickname, mascot, or logo.

CHRONOLOGY OF FIGHTING SIOUX NICKNAME AND LOGO

In Mr. Vorland's article, he notes that turn-of-the-century copies of UND's yearbook—the "Dacotah"—reveal Indian imagery in use on the campus in the university's earliest days at various events and celebrations. He also noted that this was not unusual given that the earliest settlers used Indian names to name cities, waterways, geographic features, and businesses, as well as the name of the state of North Dakota itself.

Athletic programs at UND date back to shortly after the institution's founding in 1883. For many years, the teams were known as the "Flickertails." Sometimes the teams were referred to as the "Nodaks."

1930s

In 1930 after the adoption by the then North Dakota Agricultural College of the nickname "Bison" and a campaign led by the student newspaper, the university's Athletic Board of Control adopted the name "Sioux." During a decade when UND athletic teams dominated the North Central Conference, the new name quickly became popular at UND. Beginning in 1937, the "Nickel Trophy," featuring an Indian image on one side and a bison on the other, was awarded to the winner of the UND-North Dakota State University football game. Similarly, a "Sitting Bull" trophy was awarded to the winner of UND-University of South Dakota rivalry. The addition of the word "Fighting," modeled after the University of Notre Dame's "Fighting Irish," occurred later.

1950s and 1960s

During the 1950s and 1960s, graphic symbols with Indian themes were used at UND for athletics as well as in the nonathletic realm. "Sammy Sioux," a cartoon character, appeared on coffee cups and other items. A men's pep club—the "Golden Feather" organization—centered on Indian themes. For many years female basketball cheerleaders wore fringed buckskin dresses and feather headdresses. Until the

mid-1990s, the university's elite men's chorus—the Varsity Bards—entered and departed each concert venue while "war whooping" at the tops of their lungs. Indian themes were commonly depicted in the giant ice sculptures created annually by UND's fraternities and sororities as part of the now defunct "King Kold Karnival." In 1969 Sioux Indians from the Standing Rock Reservation gave UND President George Starcher the name "Yankton Chief" in a campus ceremony and authorized the use of the name Fighting Sioux by UND athletic teams.

1970s

The administration of UND President Thomas Clifford (1971-92) began with protests and violence directed initially against a fraternity that had erected an obscene ice sculpture with a Native American theme. President Clifford negotiated with the aggrieved parties, including leaders of the national American Indian Movement, and agreed to eliminate those aspects of the use of Native American imagery that were clearly demeaning and offensive. Nearly all of the Indian-related logos and symbols, including the popular "Sammy Sioux" caricature, were no longer permitted to be used.

1976

A new geometric Indian head logo was introduced in 1976 and adopted for most athletic purposes. The Chicago Blackhawks logo, which had been used by the hockey team since the late 1960s, however, was retained. President Clifford also insisted that Indian imagery be used with respect, and took steps to ensure that students, fans, and others were aware of UND policy regarding the symbols. He also intensified UND's efforts to include a focus on Native Americans in the curriculum, initially through a minor in Indian Studies, and to develop yet more programs to assist students.

1977

In 1977 President Clifford convinced the Legislative Assembly to provide permanent state funding for both a new academic Department of Indian Studies and a separate Native American Programs Office to coordinate support services for Indian students. President Clifford also encouraged the Chester Fritz Library to build upon its important collection of Indian documents and artifacts.

1990s and Beyond

President Clifford's last public statement on the use of the name and symbol was published in a newspaper interview on March 15, 1991: "I just don't see the reason for changing it right now. The very leaders of the Sioux Nation supported that. When the

leaders of the Sioux Nation come and tell me they don't want it, I'll respect that."

1992-93

In 1992, shortly after the beginning of the Kendall Baker administration (1992-99), an incident involving racial slurs and rude gestures aimed at Native American students and children occurred during UND's homecoming parade. Following the incident, the Standing Rock Sioux Tribal Council requested that UND change the team name, and the University Senate approved a resolution opposing continued use of the Fighting Sioux name. President Baker convened two well-attended university-wide forums and visited the North Dakota reservations to seek input. President Baker announced his decision on July 27, 1993, that UND would not change the name; however, it would drop the Blackhawks logo. A committee was formed to propose steps that could be taken by the athletic department to ensure respectful use of the team name. One result was a mandatory public address announcement before every athletic event. President Baker also stated that UND would renew its commitment to cultural diversity with new, positive activity on many fronts and would leave open the question of the team name for further discussion and education.

1999

In 1999 President Baker's last public statement on the issue was read into the record at a legislative hearing during the legislative session:

A controversy over the use of the Sioux team name was among the first issues that faced me when I came to North Dakota in 1992. After much conversation and consultation, it was my conclusion that there was no consensus on this issue, not even among Native Americans. I decided, therefore, that the respectful use of the team name should continue and, indeed, that the appropriate use of the name could be a positive influence in helping UND encourage respect and appreciation for diversity in all of its forms. Although some individuals disagreed with me then, as they do today, this remains my position on the issue.

In closing, let me be very clear: Although the approach UND took regarding the team name was and is, in my view, an appropriate one, I also have stated on numerous public occasions that the issue remains on the agenda for dialogue, discussion, and learning.

The North Dakota House of Representatives, in rejecting 1999 House Concurrent Resolution No. 3024, voted 71-26 against urging UND to drop its nickname. The UND Student Senate approved a motion asking UND to drop the name, but the student president vetoed it. Also in 1999, a new Indian head logo was unveiled, created by noted Native American

alumnus and benefactor, announced a gift of \$100 million for a new hockey arena and other projects at UND.

2001

After hearing that UND might opt for a new name and logo in the middle of the new hockey facility's construction period, Mr. Engelstad wrote a letter to UND President Charles Kupchella in which he threatened to abandon the project if UND dropped the Fighting Sioux nickname. Subsequently, the State Board of Higher Education voted 8-0 to keep the nickname and a newly designed logo.

Also in 2001, the United States Commission on Civil Rights called for an end to Indian nicknames at non-Indian schools. In August 2001, workers scraped a Sioux Indian head logo from the floor of Hyslop Sports Center after President Kupchella ordered its removal.

In October 2001, the Ralph Engelstad Arena was dedicated.

2005

On August 5, 2005, the National Collegiate Athletic Association (NCAA) formally announced the adoption of a policy forbidding its member institutions from employing "hostile and abusive . . . mascots, nicknames or imagery" during NCAA championship play. President of the NCAA, Mr. Myles Brand, stated that the policy was designed to promote the core values expressed in the NCAA Constitution, including "cultural diversity, ethical sportsmanship and nondiscrimination." The NCAA claimed that the impetus for the policy was a combination of NCAA member feedback, a report from the United States Commission on Civil Rights dealing with Native American imagery in sports, and recurring NCAA debates over the use of the Confederate flag in similar situations. Eighteen institutions were initially found by the NCAA to be using hostile and abusive Native American references, causing them to fall within the scope of the policy.

Under the policy, NCAA teams were immediately prohibited from wearing uniforms with "hostile or abusive" indicators at NCAA championship events. Effective February 1, 2006, colleges and universities having such Native American mascots were to be prohibited from hosting any NCAA championships at their facilities. By August 1, 2008, all schools with hostile or abusive mascots or references on their cheerleader, dance team, or band uniforms would be prohibited from wearing them at NCAA championship events. Two weeks after the policy was announced, the NCAA Executive Committee approved an appeals process by which colleges and universities subject to the sanctions could challenge their individual status.

On August 23, 2005, the Executive Committee applied a newly created policy exception to exempt Florida State University—a large Division I school—from the policy. In support of this action, the NCAA

namesake sovereign tribe, regarding when and how its name and imagery can be used, must be respected even when others may not agree" while maintaining that it still considered Florida State University's use of Native American imagery to be "hostile and abusive." The NCAA Executive Committee subsequently removed Central Michigan University, Catawba College, Mississippi College, and the University of Utah from the list of schools prohibited from using Native American names and imagery based upon the namesake tribe exception.

The University of North Dakota responded to the 2005 NCAA policy with an appeal to the NCAA Executive Committee's staff review committee; this appeal was denied. In a letter addressed to the NCAA President Myles Brand and Vice President Bernard Franklin, President Kupchella expressed his concerns about the "organizational self-righteousness" and "executive fiat" evident in the NCAA's policy. Specifically regarding the appeals determination in UND's case, President Kupchella stated that the "unfair, arbitrary, capricious, fundamentally irrational, and harmful manner" in which the policy was applied to UND "leaves us no recourse but to consider litigation."

2006

The UND Indian Association—a student group—voted 26-2 to oppose the name because "use of American Indian names and logos in athletics is demeaning whether intended or not."

In October 2006 North Dakota Attorney General Wayne Stenehjem filed a complaint in a state district court against the NCAA. The complaint was filed on behalf of both UND and the State Board of Higher Education. The complaint stated three causes of action—breach of contract, breach of contract for implied covenant of good faith and fair dealing, and unlawful restraint on trade. Along with the complaint, the Attorney General filed for a preliminary injunction to "prevent tremendous consequences to UND and its athletic . . . programs by immediate application of an absurd, unauthorized and unlawful Policy of the NCAA."

In the brief filed by the Attorney General, the general allegations indicated that in applying the NCAA Executive Committee's exemption policy, Central Michigan University was removed from the list of schools prohibited from using Native American mascots, names, and imagery based upon namesake tribe approval from the Saginaw Chippewa Indian Tribe of Michigan. Numerous other federally recognized tribes utilize the "Chippewa" name or refer to themselves as "Chippewa," including others within the state of Michigan, of which a large number opposed the use of the name by Central Michigan University.

According to the brief, the "NCAA Executive Committee did not consider opposition to Central Michigan University's use of the name 'Chippewa' by other Chippewa tribal authorities. The NCAA

Executive Committee did not inquire about the views of other federally recognized Chippewa tribes other than the Saginaw Chippewa Tribe of Michigan. The NCAA Executive Committee has applied a different 'standard' to UND." In addition, according to the brief, "[Florida State University] and other schools removed from the list on the basis of namesake tribe approval are free to participate in any NCAA championship event in any venue while continuing to display their schools' Native American names, mascots, and imagery."

The brief also indicated that "UND does not sanction the use of stereotypical behavior historically associated with Native American imagery, including, but not limited to, drum beats, 'tomahawk chops,' and the like. Before home games, a short presentation on the history of the 'Fighting Sioux' name is shown. All incoming students to UND additionally receive information on cultural diversity generally."

Attorney General Stenehjem declared that the grounds in support of the preliminary injunction included the irreparable damages that would result to UND, the strong likelihood UND would ultimately prevail at trial based on the merits of the case, the fact that UND would suffer a relatively greater harm from not having the injunction than the NCAA would if the injunction were granted, and that the injunction serves the public interest of the people of North Dakota, as "[they] have a pivotal interest in having a nationally recognized, superior state institution of higher education with a correspondingly superior academic program." This preliminary injunction was granted by the presiding judge, Judge Lawrence Jahnke, with the trial set to begin in December 2007.

Also in 2006 the University of Minnesota said because of the nickname, it would not compete against UND in any sport except men's and women's hockey.

2007

In 2007 award-winning author Ms. Louise Erdrich declined an honorary degree from UND because of the Fighting Sioux nickname and logo. Also in 2007 the Ralph Engelstad Arena hired Mr. Sam Dupris of the Cheyenne River Sioux Tribe in South Dakota to meet with tribal officials in North Dakota about the nickname. Cheyenne River leaders later distanced themselves from Mr. Dupris and reaffirmed their opposition.

In October 2007 a settlement was reached between the NCAA and UND. Under the agreement, UND was given three years to obtain approval for using the name and logo from the two major Sioux tribes in North Dakota—the Spirit Lake Tribe and the Standing Rock Sioux Tribe. If this occurred, UND would become exempt from the policy. However, if UND were unable to obtain the tribes' approval within the allotted three years, the school would have to officially retire the "Fighting Sioux" nickname and logo and be forced to adopt a new one that did not violate the 2005 policy's "hostile and abusive" standard.

2009

In 2009 the Summit League stated that UND's application for membership would not be considered until the university's nickname issue was resolved. In addition a resolution opposing the nickname passed UND's University Senate by a vote of 25-17, with unanimous opposition from student senators.

On April 21, 2009, a Spirit Lake Tribe referendum in support of the continued use of the Sioux nickname and logo was approved by more than a 2-to-1 margin.

On May 5, 2009, the State Board of Higher Education directed UND to drop the name and logo unless it could obtain binding 30-year agreements with the namesake tribes by October 1, 2009.

In November 2009 several members of the Spirit Lake Tribe filed a lawsuit challenging the deadline for tribal action, and a district court issued a temporary injunction prohibiting action to retire the nickname. Following a hearing, the district court dismissed the lawsuit, but plaintiffs appealed to the North Dakota Supreme Court.

2010

In January 2010 nickname supporters from the Spirit Lake Tribe filed an appeal to the North Dakota Supreme Court from a district court judge's ruling that the State Board of Higher Education has the authority to change the nickname at any time.

On March 22, 2010, petitions in support of a referendum on the nickname and logo issue, which contained 1,004 signatures, were submitted to the Standing Rock Sioux Tribal Council.

On April 8, 2010, the North Dakota Supreme Court issued an opinion that affirmed the district court's decision.

At an April 8, 2010, meeting in Mayville, State Board of Higher Education President Richie Smith said the board would stand by its May 2009 decision to change the nickname and start the transition unless a motion was made to reconsider that action. Board member Claus Lembke of Bismarck made a motion to reconsider, but the motion died due to lack of a second. Board Chancellor William G. Goetz was instructed to direct UND President Robert Kelley to start the process of retiring the Fighting Sioux nickname and logo. Following the announcement of the retirement of the nickname and logo, several rallies of support were conducted on the UND campus.

On April 21, 2010, North Dakota Governor John Hoeven urged the State Board of Higher Education to give "due consideration" to the results of a possible Standing Rock Sioux Tribal Council referendum on whether UND should keep its Fighting Sioux nickname.

On May 6, 2010, President Kelley announced the appointment of Dr. Robert Boyd, UND Vice-President for Student and Outreach Services, as the transition officer for the retirement of the nickname and logo. President Kelley indicated that the process must be

The State Board of Higher Education voted unanimously on May 10, 2010, to extend the deadline for UND to retire its nickname and logo to August 15, 2011.

On May 26, 2010, UND announced a timeline for retiring the use of the Fighting Sioux nickname and logo on merchandise. According to the timeline, by July 1, 2010, the Fighting Sioux logo and nickname will be removed from the Trademark artwork website. No new designs bearing the Fighting Sioux logo and nickname will be approved after October 1, 2010. The last day to sell merchandise bearing the Fighting Sioux logo and nickname at retail is June 30, 2011.

Mr. Charles Murphy, the chairman of the Standing Rock Sioux Tribal Council, announced on June 9, 2010, that he would try to arrange a tribal council meeting for the following week to consider petitions seeking a referendum on support for the UND Fighting Sioux nickname.

On June 17, 2010, the Standing Rock Tribal Council, by a vote of 10-4, voted to make a final decision that UND's Fighting Sioux nickname should remain retired.

A September 10, 2010, statement from the NCAA indicated that the NCAA was satisfied with UND's plan to retire the Fighting Sioux nickname and logo. The report stated that "UND has been removed from the list of schools subject to the policy regarding Native American nicknames and imagery at NCAA championship events."

On September 21, 2010, UND President Robert Kelley and Vice President of Student Affairs Robert Boyd held an open forum regarding the process behind the retirement of the Fighting Sioux nickname and logo. At the forum, it was reported that the transition from the Fighting Sioux nickname and logo would happen in three stages. Each of the three stages has committees that have been selected or are in the process of being constructed. The first committee—the Honoring History and Traditions Task Group—is charged with examining how the images and history of the 80-year-old name that has been the athletic identity for the majority of the university's existence will be remembered. The second committee—the Communications Task Group—is charged with maintaining communication between the committees, the general public, and President Kelley. The final group—the New Directions Task Group—will oversee the process of finding a new nickname and logo.

On October 12, 2010, the Honoring History and Traditions Task Group held its first meet. The task group's duties are to investigate, meet, and discuss the best way for UND to recognize the former logo and its history. The task group is also required to make recommendations to President Kelley and Vice President Boyd. Subsequent meetings of the task group were held on October 26, November 9, November 30, and December 14. The task group indicated at its November 30, 2010, meeting that

President Kelley regarding the group's comments, recommendations, and supporting data.

**USE OF TRIBAL NICKNAMES BY
NORTH DAKOTA SCHOOLS
LOCATED ON RESERVATIONS**

The following is a list of North Dakota schools that are located on Indian reservations in the state which use a tribal or tribal-related name as their nickname, mascot, or logo:

1. Four Winds Community High School Indians - Spirit Lake Reservation.
2. Warwick Public School Warriors - Spirit Lake Reservation.
3. Mandaree Public School Warriors - Fort Berthold Reservation.
4. Parshall High School Braves - Fort Berthold Reservation.
5. White Shield High School Warriors - Fort Berthold Reservation.
6. Turtle Mountain Community High School Braves (Belcourt) - Turtle Mountain Reservation.
7. Selfridge Chieftains - Standing Rock Reservation.
8. Solen High School Sioux - Standing Rock Reservation.
9. Standing Rock High School Warriors (Fort Yates) - Standing Rock Reservation.

TESTIMONY ATTACHMENT 5

● Hello to all the Legislatures and thank you for letting me testify to as why keeping the Fighting Sioux name and logo should stay.

My name is Eunice (Abraham) Davidson, I am an enrolled member of the Spirit Lake Tribe and a member of the committee to save the name and logo....I have been asked by many why do you think it is an honor to have the University of North Dakota to use the name The Fighting Sioux? When I was young I heard a lot of negative things said about the Indians so I never had a good feeling about being Native American and that came mainly from Native Americans, I didn't have a whole lot of contact with white people back then. But when I started hearing them on the radio and television mentioning the Fighting Sioux name it made me feel good and that being an Indian must not be a bad thing. The first time I heard it on the radio "Here come the Fighting Sioux" things changed for me. I could go on and on about how it has affected my life, but I will just say, if it were not for that day long ago. I would not have the confidence to stand here before you today. I would not be able to speak my opinion, because I would fear the small handful of tribal leaders who want enrolled members to roll over and play dead. I have respect for myself and my people. I wanted to tell people back then there talking about my people and me, it gave me pride in who I was. I never thought of it as derogatory or abusive. Unlike the opposition, I have fought for the people's right to have a voice, instead of trying to silence them.

Statements have come from the leaders of both Tribes that the people are against the name and logo. But as 67% voted on Spirit Lake that proves they are not speaking for their members. It must be noted for the record that when it was clear that the people of Spirit Lake were to have a vote, Erich Longie leader of the opposition on Spirit Lake tried to silence the people through an injunction against having a vote. All attempts to silence the people of Spirit Lake by the opposition failed.

I cannot speak for the people of Standing Rock, what I can say is I was totally shocked and ashamed, when on May 14, 2009 I heard the words flow out of the mouth of their former chairman. It became clear to me on that day that the Standing Rock Tribal government had nothing but contempt for their people and traditions. Why else would you distort the truth and silence the members of Standing Rock. But these are issues you have no control over. But you do or should have some control over the State Board of Higher Ed and the UND Administration. History books are full of the stories of white leaders seeking out a handful of Native Americans to accomplish their personal goals. With total disregard for the damages the entire tribe suffers. I believe that is the case here.

● The news reports to this day, say that the name change is due to the Sioux of North Dakota. But what are the facts? The fact is that every time the Tribes exhibited any type of support, new deadlines and requirements were talked about and put into place by the State Board.

The North Dakota State of Higher Ed's actions have caused turmoil on both reservations, turmoil that was completely unnecessary. They have put the Sioux at the center of the issue, by media reports. But in court they have said we have no say in this issue. They have worked with the handful of opponents in the Sioux community to silence the majority's voice. They have demanded requirements that even they could not agree to. They stood by silently as supporters were attacked falsely, time and time again.

The ND State Board of Higher Ed had the ability before, during and after the court agreement was signed on Oct 26, 2007 with the NCAA to change the name and logo, and tell the public we are changing the name regardless of the Sioux of North Dakota. But they chose to make us the center point and then worked to have us reject the name.

The majority of Sioux of North Dakota have shown over and over again, that they support the name and logo and the ND State Board of higher Ed has allowed us to become the center point. I ask that you do not allow our rights to be taken away by a handful.

I ask that you respect us and require our full voice on this issue. If we are to be blamed, then require our full voice. I ask that you support House Bill No. 1257.

I thank you for the opportunity to be heard.

TESTIMONY ATTACHMENT 6

Madame Chairwoman Kelsch and Honorable Members of the house and education committee...Good Morning.

My name is David Davidson and I have been married to Eunice Davidson for 42 years, and closely connected to the Spirit Lake Tribe for over 50 years. But with all that, I would not presume to talk for the Sioux. I am here to talk to you as a white man who carries many black eyes. Black eyes caused by white man manipulating a few tribal members at the expense of the whole tribe. I feel this is such a case...

TIMELINE

Starting back in September 2008, when Spirit Lakes plan to raise the tribal flag next to Standing Rocks at the REA, in the press chancellor Goetz starts talking about changing deadlines.

After the Oct 2008 flag raising ceremony, statements from the State Board are the need to hurry and change the deadline date and the Summit League is brought into the debate.

By March 2009, its clear Spirit Lake will vote on the issue and more statements from the Board on the need to hurry because of Summit League!

April 16, 2009, Knowing of the vote staff from UND aid opposition leaders on Spirit Lake to convince members to reject the name & logo, also opposition leaders turn in their injunction against the people voice the same day.

April 21, 2009, 67% of Spirit Lake voice support and within hours UND staffs question the intellectual ability of the people of Spirit Lake.

(level headed individuals would not support the name and logo)

May 10, 2009, at a forced meeting with Chancellor Goetz at the Att. Gen. Office in Bismarck, he admits threw his attorney, of unofficial meetings between the Board and the opposition, but he gives no response to why they have not meet with supporters.

May 14, 2009, at the meeting in Dickenson, Duaine Espergard call the chairman of Standing Rock to rebut supporters views, a speech that Grant Shaft said they heard many times. It was supporters first and only time to voice their views. *AND A STRICT AGENDA DID NOT APPLY TO HIM*

May 14, 2009, the Board votes unanimously to retire name & logo, 18 months early. Reason "Summit League."

By July of 2009, it was clear on Spirit Lake, that they now were fighting not just the NCAA, but also the State Board and UND administration. And that the Sioux were going to be blamed for a decision, that they had no input into.

They fought this through District Court and on to the North Dakota Supreme Court. Where both courts agreed reluctantly, that under the Boards authority, they have the power to change the name & logo any time for any reason they choose. And the Sioux were not part of the agreement and had no rights on this issue.

It was also stated by Ass. Att. Gen. Doug Barr at the North Dakota Supreme Court, the Board could not sign an agreement that would forfeit they power to change the name at any time, yet they demanded just that from two sovereign nations.

Nov. 2010, UND's scheduled meeting for acceptance in the

Summit League was cancelled and they joined the Big Sky League. (Was the Summit League just a farce?)

Because the Sioux are still being blamed for a decision they had no input into brought about by statements from the State Board of Higher Ed.

I feel the Board forfeited its right to change the name, without the voice of the majority of Sioux of North Dakota.

Your actions here today if successful do not silence the Sioux's voice it requires the voice of the Sioux, a sign of respect and honor!
AND HELP RIGHT IS WRONG

Thank you for allowing me time to testify....



The Forum of Fargo-Moorhead

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Published January 26 2011

UND president repeats denial that he asked Summit League to publicly criticize nickname

BISMARCK - University of North Dakota President Robert Kelley repeated this morning his denial that he ever asked Summit League Commissioner Tom Douple to publicly come out against accepting the Fighting Sioux as a league member until the school's controversial nickname issue was resolved.

By: By Chuck Haga, Forum Communications Co., INFORUM

BISMARCK - University of North Dakota President Robert Kelley repeated this morning his denial that he ever asked Summit League Commissioner Tom Douple to publicly come out against accepting the Fighting Sioux as a league member until the school's controversial nickname issue was resolved.

"Tom has been very consistent with me that once we resolved the logo issue, the Summit League would review our appeal," Kelley said today as he waited for the House Education Committee to begin hearings on three bills that would require UND to retain the nickname and logo.

"I am very surprised to find Tom thought there was pressure put on him to speak out on this issue," Kelley said.

"There has been some urgency on our part to get this resolved. I think he felt some urgency on our part. But I don't recall every putting pressure on Tom as he implied."

Kelley said he has not spoken with Douple about the commissioner's statement.

"I have not had any conversations with Tom since our acceptance into the Big Sky Conference in November," he said.

"I can't speculate on where this is coming from or why at this time."

Kelley also said he "can't speculate on what he might have understood," or whether Douple may have heard something from someone else at UND.

"I have the highest respect for Tom, and I thought he understood perfectly that this (retirement of the logo) was the responsibility of the state board, and once it was resolved we would be able to move forward.

"My responsibility is to move ahead, and that's what we're doing."

Tags: higher education, sioux nickname, sports, news, updates, und

Published January 26 2011

Source: UND pushed early resolution on nickname

University denies asking Summit League to help accelerate state's decision
The University of North Dakota asked an athletic conference it once considered joining to publicly come out against accepting the Fighting Sioux as a member until the controversial nickname and logo issue was resolved, according to Summit League Commissioner Tom Douple.

By: Jeff Kolpack, INFORUM

The University of North Dakota asked an athletic conference it once considered joining to publicly come out against accepting the Fighting Sioux as a member until the controversial nickname and logo issue was resolved, according to Summit League Commissioner Tom Douple.

UND spokesman Peter Johnson said Monday and repeated Tuesday that university President Robert Kelley "categorically denies" UND officials ever made such a request to the Summit League.

"False. Not true at all," Johnson said. "Neither the president or the athletic director or anybody else from UND ever talked to (the Summit League) from that angle. In no way, shape or form did we ask (Douple) to make that an issue."

If Douple's statement is true, it would be a 180-degree reversal of what has commonly been reported for more than two years: that Summit League officials insisted the nickname issue be resolved sooner than the NCAA-imposed deadline of Nov. 30, 2010, so UND could be considered for inclusion in their conference.

In trying to meet the hurried deadline for the Summit League, the state board of higher education last April moved up the deadline to retire the nickname, not exhausting the timeline earlier given to them.

Commissioner Douple did not want to go into further detail on the issue, but when asked why he agreed to UND's request – that the Summit League would publicly forward this idea – he said, "In support of the (UND) president. He thought it would help them and the board move quicker."

The Summit's message did help the state board of higher education act more quickly.

UND and the Summit League first started having serious membership conversations in 2009 when the Summit said it would make a site visit to the University of South Dakota, but not UND. At the time, Douple was quoted as saying the Summit would not visit UND "until the logo issue is resolved one way or another."

In response, UND athletic director Brian Faison told The Forum a day later, "This is one of the reasons we need to get it resolved. And a resolution doesn't mean it disappears. It could mean the tribes come to an agreement, but we need to get to that point sooner than later."

The Summit League's stance lingered over the issue until last January's state board of higher education meeting.

Kelley and Faison then urged the board to act as quickly as possible on the nickname, citing frequent questions they received on recruiting and postseason competition, according to the meeting minutes. The minutes also state that Faison told the board that if the nickname is resolved before the Summit's Presidents Council met last spring, then the league can act on UND's application and begin scheduling for 2011-12.

At the time, Faison told the board that the Big Sky Conference appeared to have no interest in UND. That, however, changed quickly last fall, and UND ultimately chose to join that conference instead of the Summit League.

Contacted Monday, Richie Smith, state board of higher education president when the Summit was considering UND, said he would be surprised if UND pushed Douple's stance on the nickname.

"That's news to me," he said.

Smith said he was one of a few board members who flew to Summit headquarters in Chicago and talked with Douple.

"He didn't care if the Sioux name stayed or left," Smith said of Douple. "He made it pretty clear that until the NCAA said the matter was resolved, that UND would not be admitted."

The Summit Presidents Council has the authority to admit or deny any prospective member.

UND fits the geographical footprint of the Summit, and its chief rival is 75 miles away in North Dakota State University.

The logo issue remains ongoing in the eyes of the North Dakota Legislature, which will hold a hearing on three bills in support of the nickname today. UND is not part of those discussions, saying it is honoring the state board's directive last spring to begin retiring the nickname.

Douple said Tuesday that while UND officials deny they pushed the Summit League to offer an ultimatum on the nickname, he would have had no other good reason to do it.

"I wouldn't put myself out there and put my membership through that on my own volition," he said. "But it's water under the bridge. That's OK. They've decided to move on, and we're moving on."

ATTACHMENT 7

ARTICLE VII - DISTRICT ORGANIZATION

Each district recognized under Article III, Section 2, hereof, may organize local District Councils and elect District officers to consult, make recommendations and advise the Tribal Council, the Superintendent of the Reservation or officer in charge, and the Secretary of the Interior, on all matters of local or tribal interest. The District Councils and officers shall exercise such powers as the Tribal Council may delegate.

ARTICLE VIII - AMENDMENTS

This Constitution may be amended or rewritten by a majority vote of the qualified voters of the Standing Rock Sioux Tribe voting at an election called by the Chairman. The Chairman shall call an election upon a proposed amendment or rewrite to the Constitution at the request of three fourths (3/4) of the members of the Tribal Council or upon petition of twenty (20) per cent of the qualified voters of the Standing Rock Sioux Tribe.

ARTICLE IX - ADOPTION OF AMENDED CONSTITUTION

The amended or rewritten Constitution shall become effective when ratified by a majority of the qualified voters of the Standing Rock Sioux Tribe voting in an election called by the Chairman, pursuant to Article VIII of this Constitution.

ARTICLE X - NOT AN INDIAN REORGANIZATION ACT CONSTITUTION

This Constitution is not a Constitution pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, c. 576, 48 Stat. 985, 987 (25 U.S.C. 476).

ARTICLE XI - BILL OF RIGHTS

Section 1. The Tribe shall not make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

Section 2. The Tribe shall not violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Section 3. The Tribe shall not subject any person for the same offense to be twice put in jeopardy.

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gate

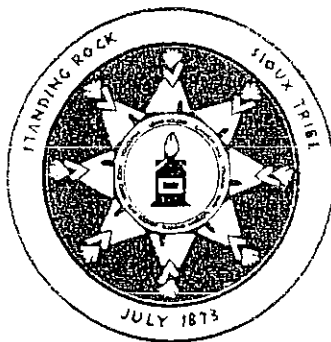
Avis Little Eagle

Dave Archambault Jr.

Joseph McNeil Jr.

Jesse Archambault

Charles W. Murphy
Chairman



Mike Faith
Vice Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Benny Harrison
Fort Snelling District

Bruce Claymore
Jamez District

Kerby St. John
Lake Park District

Errol D. Crow Ghost
New Sells District

Wilton Brown Otter
New Sells District

Paul Thompson Jr.
New Sells District

Samuel B. Harrison
New Sells District

May 27, 2010

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe
PO Box D
Fort Yates, North Dakota 58538

16

Dear Chairman Murphy:

Once again, I am requesting the issue regarding the petition to be placed on the agenda at the next Regular Tribal Council Meeting in June 2010.

On April 6, 2010, the Tribal Council met and approved Motion No. 2 that provides that the "Tribal Council will resume discussing the matter once the N.D. State Board of Education makes its final decision on the retirement of the UND logo and nickname."

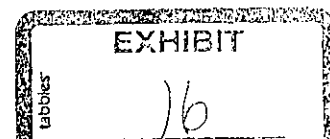
The following month, May 4, 2010 Tribal Council met and approved the following Motion. #2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME. VOTE: 8 - YES 7 - NO 0 - NV MC.

It is my view, that Tribal Council needs to determine how to proceed with the petition received in April 2010. As you have acknowledged, we have no policies and procedures established to conduct a referendum. The establishment of these policies and procedures needs to be addressed, to include specific criteria to certify this petition.

This matter must be decided by the Tribal Council.

Sincerely,

Adele White, Tribal Secretary
Standing Rock Sioux Tribe



TRIBAL COUNCIL
(LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

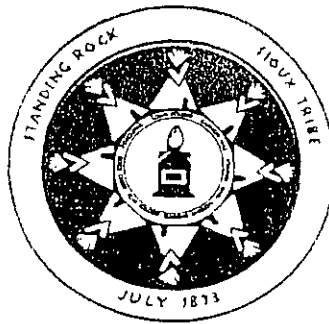
Avis Little Eagle

Dave Arenambault II

Joseph McNeil Jr.

Jesse McLaughlin

Mike Faith
Vice Chairman



Charles W. Murphy
Chairman

Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Keewi District

Errol D. Crow Ghost
Bear Soldier District

Milton Brown Otter
Rice Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
Porcupine District

Standing Rock Sioux Tribe
Adele White, Tribal Secretary
Box D
Fort Yates, ND 58538
April 12, 2010

Dear Secretary White:

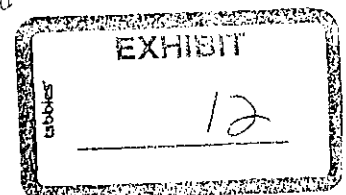
As you know, it is imperative for us as duly elected Tribal officials to promptly and satisfactorily address the concerns of our Tribal citizens. The Standing Rock Sioux Tribe is in receipt of a petition for a referendum vote on the issue of the UND Fighting Sioux logo. This petition has been signed by 1,004 existing and/or potential voters. As we do not have a formalized procedure in place for such a vote, we must utilize the existing structure and precedent to provide a vehicle for the citizens of Standing Rock to exercise their constitutional right to vote. As well, we must address the matter in a fair and timely manner and communicate with constituents as to the status of their petition.

As a result, I am requesting a specific action plan from your office for reviewing and verifying signatures on the petition. Please also include information for communicating with the primary petitioners as to the on-going status of their request.

Thank you for your time and attention in this matter. If you have any questions or concerns, please contact me at your convenience.

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

BEDE NORTHERN SIOUX TRIBE, 101 BOX 10 FORT YATES, NORTH DAKOTA 58538
PHONE 701 854 7261 FAX 701 854 7299



North Dakota University System
HB 1208, HB 1257 and HB 1263 –
House Education Committee
January 26, 2011
Grant H. Shaft, Vice President,
North Dakota State Board of Higher Education

Madam chair and members of the House Education Committee, good morning. For the record, my name is Grant Shaft, and I am the vice president of the North Dakota State Board of Higher Education. I am appearing today on behalf of the board.

As a member of the board, I had the primary responsibility for addressing the issue of the Fighting Sioux nickname and logo at the University of North Dakota. My purpose before your committee today is to provide you with information regarding what led the State Board of Higher Education to retire the Fighting Sioux nickname and logo and the process that led up to that decision.

NCAA ACTION

The University of North Dakota competes in athletics within the National Collegiate Athletic Association (NCAA). Accordingly, UND, like all other schools competing in NCAA-sanctioned events, is subject to the policies adopted by the NCAA.

In 2005, the NCAA adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA championship events. Any school that continued to use Native American names and imagery was prohibited from hosting or bidding to host championship events. Further, the policy urged schools that were members of the NCAA to refrain from scheduling regular season competition with schools that use Native American names and imagery. The University of Minnesota is one institution that has taken this action against UND in all sports excepting hockey. UND was identified as a school using Native American names and imagery and was placed on the list of schools subject to the restrictions.

The NCAA provided a procedure to challenge a school's inclusion on the list and provided that a primary factor to be considered was whether a sovereign tribe had provided formal approval for the use of the name and imagery. This would be the exemption under which Florida State University is allowed to continue to use the Seminole name and imagery. UND appealed its inclusion on the list and exhausted the administrative appeal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal.

With the administrative appeal options exhausted, the North Dakota State Board of Higher Education authorized the attorney general, on October 6, 2006, to initiate a lawsuit against the NCAA alleging breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of anti-trust law. Shortly after filing, the District Court issued a preliminary injunction prohibiting the NCAA from applying the restrictions against UND until trial.

On October 26, 2007, the attorney general briefed the State Board of Higher Education on the status of the lawsuit and his extensive negotiations with the NCAA toward settlement. Based on this briefing, both the State Board of Higher Education and the attorney general approved the terms of this negotiated settlement. The settlement agreement included the following terms:

1. **UND was provided a three-year period from November 30, 2007, to November 30, 2010, to secure approval from both North Dakota Sioux Tribes, (Spirit Lake and Standing Rock).**
2. **During the three-year period, UND would not be subject to the NCAA restrictions.**
3. **If UND obtained the consent of both tribes, they would no longer be subject to the NCAA restrictions UNLESS:**
 - a. **The NCAA changed its policy and no longer allowed schools to be exempt from the restrictions, or**
 - b. **Either North Dakota Sioux Tribe withdrew its approval, at any time.**
4. **The District Court lawsuit was dismissed, with prejudice, meaning the litigants are barred from relitigating the subject matter of the lawsuit.**

I have included with my statement a copy of the *STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA dated October 26, 2007, and a copy of the Settlement Agreement dated October 26, 2007.*

It should be noted that the attorney general is a UND alumni, and five of the eight voting members of the board at the time of the settlement had attended UND and were supportive of UND's continued use of the nickname and logo. Further, with regard to the legal issues involved, three voting members on the board were also licensed and practicing attorneys.

POST SETTLEMENT ACTIONS BY THE BOARD OF HIGHER EDUCATION

With the Settlement Agreement in place, resolution of the matter shifted from the attorney general to the State Board of Higher Education. From the date of settlement forward, the board sought two resolves:

1. Written permission from both tribes in accordance with the Settlement Agreement, AND
2. A long-term agreement with the tribes so that UND's exemption from the NCAA restrictions would not be jeopardized each time there was a tribal election or referendum.

The board felt both components were necessary so that the issue would be stabilized for a period of years, and UND could plan accordingly.

Immediately following the NCAA settlement, the board unanimously supported an exhaustive effort to obtain tribal approval. The spirit of the Settlement Agreement intended meetings at the highest level of both higher education and tribal government. This effort involved engaging all

interested constituencies, including the Standing Rock and Spirit Lake leadership, Ralph Engelstad Arena, UND, alumni, local, state and federal officials.

The board initially instructed the chancellor of the North Dakota University System to contact both tribes' leadership to determine their positions as to UND's use of the name and logo. After several meetings and follow-up discussions with the leadership of both tribes, the chancellor reported to the board that both tribal councils emphatically opposed UND's continued usage of the name and logo. During this same time period, the board monitored private efforts at obtaining approval from the tribes. These, too, were not successful.

By October 2008, both the Spirit Lake and Standing Rock tribal councils continued their opposition to the nickname and logo and formally stated to the board that they would not participate in any further discussions or meetings, regardless of the level of the participants. The board resolved to continue making every effort to obtain their approval. In furtherance of this, a committee was formed to engage the tribal leadership. Considerable time and effort was spent insuring that the committee consisted of equal representation from nickname supporters and those opposed including members from both tribes, UND, REA, government officials and the Grand Forks community. The committee made several written requests to all members of both tribal councils to meet. NONE of our written requests were answered, nor were our phone calls. The committee was therefore unable to engage the tribal leadership.

Despite the committee's efforts being rejected by the tribal leadership, the board continued its resolve to obtain approval. Since the tribal leadership was not receptive, the board embraced the referendum process at Spirit Lake. Through the efforts of Spirit Lake tribal members, a successful referendum vote was held requiring the Spirit Lake tribal council to adopt a resolution authorizing UND to use the nickname and logo. An authorizing resolution was secured that conformed to the terms of the Settlement Agreement. It should be noted that, prior to expiration of the three-year NCAA Settlement period, petition efforts had been undertaken at Spirit Lake to revoke this authorization.

While the above process was ongoing, UND's president and athletic director notified the board that UND wished to seek league affiliation with the Division I Summit League. According to UND, their lack of solid league affiliation was jeopardizing UND's transition to Division I athletics. However, the Summit League refused to consider UND's application until the nickname and logo issue was resolved. Rather than wait for UND, the Summit League intended to continue seeking other interested schools in hopes of filling its league needs. Given the potential impact to the Fighting Sioux name and logo, the chancellor, board president and two board members traveled to the Summit League offices in Chicago and met with the league's director to confirm their position. He confirmed the information provided by UND including the possibility that the league would find another school to fill the opening sought by UND. Based on the urgency presented by UND and the Summit League's stated position on the nickname and logo, the board was forced to address whether it was in the best interest of UND and its athletic programs to delay application to the Summit League until November 30, 2010, or shorten the timeline for tribal approval so as to accommodate the Summit League application.

In May 2009, Standing Rock's leadership appeared before the board to formally express their continued opposition to the nickname and logo. They also informed the board that there was a tribal moratorium on the issue, and the referendum process was not available under the Standing

Rock constitution. This opposition was underscored in August 2009 when the Standing Rock leadership refused to schedule a referendum vote requested by members of the tribe. The Standing Rock leadership appeared before the board again on September 17, 2009, to restate its continued opposition.

Despite the urgency of UND's application to the Summit League and Standing Rock's clear opposition to name and logo approval, the board resolved to continue working for Standing Rock's approval in light of upcoming tribal elections in the fall of 2009. The elections were held, and a new chairman was elected along with several new council members. With hope of a change of posture on the part of the new tribal leadership, the chancellor and several board members immediately met with Chairman Murphy in order to clearly convey the urgency of the situation along with what approvals were needed. The new Standing Rock chairman clearly stated that the moratorium on referendum elections remained intact, that the name and logo issue was of low priority to the tribe, and, even if an agreement could be reached, it would not be binding on future elected councils. In other words, they could change their mind at any time.

Even in light of this disappointing position by the new chairman, the board continued to delay taking action on the name and logo while efforts among the tribal members at Standing Rock were underway to petition for a referendum, in spite of the existing moratorium on the same. On April 6, 2010, the Standing Rock Tribal Council received the signatures of 1,004 members supporting the nickname and logo and seeking a referendum vote. However, on June 12, 2010, the same Standing Rock Tribal Council received a petition signed by 1,010 tribal members urging the council to continue its opposition to the nickname and logo. On June 17, 2010, the tribal council voted 10-4 to refuse to consider the petitions, and stated that the council had reached a final resolution to not discuss or consider the Fighting Sioux nickname and logo further.

Overall, the Standing Rock tribal council has formally resolved on nine occasions between 1992 and 2010, under different chairmen and council makeup, to oppose UND's use of the nickname and logo or placing the issue on the ballot.

On April 8, 2010, based on the continued opposition from Standing Rock's leadership and information that UND's application would need to be submitted to the Summit League by June 1, 2010, to be considered for membership and competition in 2012, the board directed President Kelly to proceed with the process of retiring the nickname and logo. Immediately after taking this action, both the Division I Summit League and Big Sky Conference were in contact with UND regarding conference affiliation. UND has now joined the Big Sky Conference.

Between April 8, 2010, and November 30, 2010, the end date of the Settlement Agreement, the board continued to monitor Standing Rock's position with board members stating that if tribal approval was obtained by November 30, the board would reconsider the issue.

The final effort to obtain Standing Rock's approval was a Standing Rock Tribal Court action filed on October 18, 2010. Ten Standing Rock tribal members representing 1,004 petitioners filed an action against the Standing Rock Tribal Council and its individual members to compel the tribal council to give its support for UND's use of the nickname and logo or to allow a constitutional referendum vote. The tribal court denied their petition. An appeal was taken to the Standing Rock Sioux Supreme Court as case no. COMP-10-563 and, on November 15, 2010, the

Supreme Court dismissed the appeal and sent the matter back to the tribal court. The tribal court then dismissed the action in its entirety.

The above information is presented in summary fashion and cannot be specific to the hundreds of hours spent by board members attempting to secure approval from both tribes. The time and effort invested by board members greatly exceeds any reasonable expectations of such a board, and the time dedicated to doing so was often at the expense of other issues vital to UND and the other 10 institutions in North Dakota. However, during the entire process, contrary to public perception, all eight voting members of the State Board of Higher Education continued to believe that UND's use of the nickname and logo has always been respectful and dignified and that the tribes should be afforded every opportunity to give their approval.

As of November 30, 2010, the following strategies for retaining UND's use of the nickname and logo had been attempted:

1. NCAA administrative review and appeals;
2. Legal action against the NCAA in District Court;
3. Direct appeals to the tribal leadership;
4. Formation of a statewide committee to engage tribal leadership;
5. Tribal elections at Standing Rock;
6. Referendum efforts at both Standing Rock and Spirit Lake
7. Tribal court action and appeal.

This listing does not include other equally involved efforts undertaken by tribal members and private groups.

I am unable to think of any additional action, nor has anyone been able to suggest additional action, that the State Board of Higher Education or any government official or any tribal or private party could have taken to secure the approval of both tribes.

Thank you for the opportunity to appear before your committee today. The State Board of Higher Education hopes that my testimony will help the committee understand the efforts undertaken by the board and others to secure tribal approval for UND's continued use of the Fighting Sioux nickname and logo.

In the end, our constitutional obligation is to act in the best interest of the University of North Dakota. In deliberating this legislation, we ask that you do the same, even if that action differs from your personal feelings on this very emotional issue.

Thank you.

**STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM
ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA**

October 26, 2007

On August 5, 2005 the National Collegiate Athletic Association ("NCAA") announced that it had adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA Championship events and additionally prohibited schools that continue to use Native American names and imagery from hosting or bidding to host Championship events. The Policy further announced a set of "best practices" for member institutions to consider adopting which would encourage member institutions to refrain from scheduling regular season competition with schools that continue to use Native American names and imagery. The University of North Dakota ("UND") was identified and placed on the list of schools subject to these restrictions.

The NCAA subsequently announced the procedures that an identified school had for challenging its inclusion on the list of offending schools. The NCAA also announced that as part of that review, one primary factor that would be considered would be whether a sovereign tribe had provided formal approval for the use of the name and associated imagery. Through the appeals process provided by the NCAA, only those schools with namesake tribal approval were granted exemptions from the Policy.

UND appealed its inclusion on the list of offending school through each step of the internal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal, determining that UND would remain on the list of offending schools deemed to be using hostile or abusive names and imagery.

At the conclusion of the appeals process, it was determined that the only remaining recourse available to UND was through the initiation of litigation. The internal appeals process was complete and UND did not have any further ability to challenge the NCAA's determination and its inclusion of UND on the list of schools deemed to be

using hostile or abusive names and imagery. The North Dakota State Board of Higher Education subsequently authorized, and on October 6, 2006, UND initiated a lawsuit against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of North Dakota antitrust law. On November 11, 2006, the District Court issued a preliminary injunction prohibiting the application of the Policy to UND until the issues were resolved at trial.

After extensive negotiation, the State Board of Higher Education on October 26, 2007, formally agreed to settle the lawsuit against the NCAA. Under the settlement terms, UND will be provided a three-year period from November 30, 2007 in which to engage in a dialogue with North Dakota Sioux Tribes for purposes of securing namesake approval for the continued use of the "Sioux" name and logo. If namesake approval is provided by both Spirit Lake and Standing Rock during this time period, the NCAA will agree to exempt UND from application of the Championship restrictions.

At the end of the three-year period, should UND not have namesake approval from both Spirit Lake and Standing Rock, UND agrees to transition to a new name and logo. The NCAA agrees to provide UND additional time until August 15, 2011 to accomplish the transition. In addition, certain imagery is allowed to transition at later dates, and some imagery would be allowed to remain indefinitely without implicating championship restrictions.

The NCAA also expressly agreed to make a public statement on the campus environment at UND. The NCAA statement is:

The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.

The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native

American community. The NCAA does not dispute UND's sincerity in this regard.

The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

This public acknowledgement was an important component of the settlement.

The settlement was agreed to by the Board by unanimous vote and approved by the Attorney General. As part of the settlement, it is stipulated that the lawsuit against the NCAA will be dismissed with prejudice.

###

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRAND FORKS

NORTHEAST CENTRAL JUDICIAL DISTRICT

State of North Dakota, by and through the North
Dakota State Board of Higher Education, and the
University of North Dakota,

Plaintiff,

v.

National Collegiate Athletic Association,

Defendant.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

FILED IN THE OFFICE OF
CLERK OF DISTRICT COURT
GRAND FORKS COUNTY, N. DAK. ON

Civil No. 06-C-01333

OCT 26 2007

REBECCA ABSEY, CLERK

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is entered into between the State of North Dakota, acting by and through the North Dakota State Board of Higher Education and the University of North Dakota ("UND"), and the National Collegiate Athletic Association ("NCAA").

WHEREAS, on or about August 5, 2005, the NCAA Executive Committee announced a Policy regarding the display of Native American nicknames, mascots and imagery at NCAA Championship events (the "Policy"); and

WHEREAS, pursuant to the Policy, uniforms or other paraphernalia with Native American references or images cannot be worn or displayed at NCAA Championship competitions, and institutions which continue to display or promote Native American references are prohibited from hosting Championship events; and

WHEREAS, disputes and differences have arisen between UND and the NCAA regarding promulgation of the Policy and application of the Policy to UND; and

WHEREAS, UND filed a civil action advancing certain claims against the NCAA, which action is styled *State of North Dakota, et al. v. National Collegiate Athletic Association*, Civil No. 18-06-C-1333, in the District Court, Northeast Central Judicial District, Grand Forks County, North Dakota; and

WHEREAS, UND asserted claims against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and unlawful restraint of trade in violation of the North Dakota state antitrust laws; and

WHEREAS, UND recognizes that North Dakota Sioux Tribes, as the descendants of the indigenous people of the Northern Great Plains who UND strives to honor with its nickname, have important contributions in determining whether, to what extent and in what manner the "Sioux" name and the "Fighting Sioux" nickname or logo should continue to be used in conjunction with the athletic tradition at UND; and

WHEREAS, Plaintiff and Defendant each deny that they have any liability to the other, whether arising out of the foregoing lawsuit or on any other basis; and

WHEREAS, Plaintiff and Defendant desire to settle and extinguish all claims, rights of action, causes of action, and demands between themselves that they have or could have,

NOW, THEREFORE, in consideration of the agreements, releases and dismissal hereinafter described, the parties agree as follows:

1. Plaintiff hereby voluntarily settles, resolves and releases all claims asserted, or which could have been asserted, against any party or individual in the above-captioned matter, and in doing so will stipulate to dismissal of the above-captioned lawsuit with prejudice. Such dismissal shall be filed with the appropriate Court within three (3) days of the date this Agreement is fully executed. By such dismissal and by this Agreement, UND, with the intention of binding itself and its

administrators, employees and legal representatives, forever releases and discharges the NCAA and all insurers, officers, directors, employees, legal representatives, and all other persons from all claims, causes of action, and demands of every kind, including attorneys fees, arising out of, resulting from or in any manner pertaining to the Policy, except as expressly reserved in Section 3 below, which have been, or could have been, asserted by plaintiff as of the date of this Agreement.

2. In consideration for UND's release of its claims, the NCAA shall agree as follows:

a. **Effect of Namesake Approval.** UND will be provided a period of time until November 30, 2010 (the "Approval Period"), to seek and obtain namesake approval for its nickname and related imagery, during which time the Policy will not apply to UND and UND will not be restricted from hosting and bidding to host championship events for which it otherwise would be eligible to host. To secure approval qualifying UND for a namesake exemption from the Policy, UND must have clear and affirmative support for the "Fighting Sioux" nickname and logo, in the form set forth in Subsection 2(c) below, from both the Spirit Lake Tribe ("Spirit Lake") and the Standing Rock Sioux Tribe ("Standing Rock"). If UND obtains such support within the Approval Period, then the Policy will not apply to UND until such time as either (i) the NCAA abolishes the namesake exemption for all schools and makes the Policy apply, with all of its restrictions, to all exempted schools, or (ii) either of the tribes named in this Subsection withdraws or otherwise reverses its support for UND's use of the "Fighting Sioux" nickname and related imagery. The form of withdrawal or reversal, if any, is described in Subsection 2(c) below. The "Best Practices" portion of the Policy will apply to UND uniformly as it applies to all schools. No change or modification in the current namesake exemption will have any affect whatsoever on UND's rights under this Section, unless the namesake exemption is completely repealed so no member institutions are exempted from the Policy by that exemption. If the namesake exemption is completely repealed

before UND secures namesake approval as set forth in this Agreement, then UND shall not be able to gain a namesake approval under this Subsection. If the namesake exemption is completely repealed after UND secures approval as set forth in this Agreement, then no school, including UND, will be entitled to the exemption.

b. **Efforts to Influence Tribes.** The NCAA agrees that during the Approval Period it will not initiate contact with any Sioux Tribe for the purpose of attempting to persuade any tribal governmental entity to provide or not provide namesake approval to UND. Such contact, initiated by any representative duly authorized to speak on behalf of the NCAA acting in his or her official capacity for the purpose of attempting to persuade any Sioux Tribal entity to provide or not provide namesake approval, shall be a material breach of this Agreement. Nothing in this Subsection, however, shall be interpreted as precluding any NCAA official from responding to questions or seeking clarification regarding the position of one or more tribes.

c. **Form of Namesake Approval.** The NCAA recognizes that the Spirit Lake Tribal Council previously provided a resolution dated December 13, 2000. For purposes of this Agreement, the December 13, 2000 resolution shall constitute namesake approval on behalf of Spirit Lake upon written confirmation, by an individual duly authorized to bind or speak on behalf of Spirit Lake, that the Tribe approves of and affirmatively supports UND's use of the current nickname and related imagery. In the alternative, approval by Spirit Lake unrelated to the December 13, 2000 resolution shall be communicated in writing by an individual duly authorized to bind or speak on behalf of the Tribe. For purposes of this Agreement, namesake approval from Standing Rock shall be adopted by any means allowed in the Tribe's Constitution and shall be in writing. For purposes of this Agreement, withdrawal of approval by either Tribe shall be memorialized in the same form as the approval.

d. **Absence of Namesake Approval.** Within thirty (30) days from the date of this Agreement, UND will announce that its Athletic Department will transition to a new nickname and logo which do not violate the Policy or render UND subject to the Policy, if (i) it is unable to secure namesake approval as set forth in this Agreement prior to the expiration of the Approval Period, or (ii) namesake approval, once provided, is withdrawn. In the event UND announces a transition to a new nickname and logo which do not violate the Policy, the transition will be completed on or before August 15, 2011, subject to Subsection 2(f), below. If UND does not adopt a new nickname and logo, or if the transition to a new nickname and logo is not completed prior to August 15, 2011, then UND will be returned to the list of institutions subject to the Policy. In the event UND secures namesake approval but such approval is withdrawn after November 30, 2010, UND shall have one (1) year to complete transition to a new nickname and logo, unless the parties mutually agree to a period of time longer than one (1) year.

e. **Appropriate use discussions between UND and Namesake Tribes.** It is understood that UND will continue to solicit on an ongoing basis, both before and after Namesake approval is obtained, the views of North Dakota Sioux Tribes on the appropriate use of the Sioux name and related imagery in athletics at UND. No tribal resolution intended to communicate its views, concerns, or suggestions as part of this ongoing dialogue shall be construed as nullifying prior Namesake approval, unless the tribal resolution clearly expresses an intent to withdraw support as outlined in Subsection 2(a) of this Agreement.

f. **Permitted Imagery at the REA and other venues.** In the event there is a nickname change pursuant to Subsection 2(d), UND will not use a facility to host NCAA championship contests, whether or not owned by UND, which contains images commonly associated with Native American culture, except as expressly set forth herein:

1. Imagery of historical significance. Retaining imagery of independent historical significance will not disqualify the Ralph Engelstad Arena ("REA"), or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree have independent historical significance is attached hereto as Schedule A, Category 1, and incorporated herein.

2. Items Embedded in Architecture. Retaining imagery which is embedded in architecture will not disqualify the REA, or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree are embedded in architecture is attached hereto as Schedule A, Category 2, and incorporated herein.

3. Removal in the Ordinary Course. Retaining certain specifically identified imagery which will ultimately be replaced because of ordinary wear and tear will not disqualify the REA, or other venues, from hosting NCAA championship contests. A complete list of those images which the parties agree will be replaced in the ordinary course, but in no event later than the dates identified, is attached hereto as Schedule A, Category 3, and incorporated herein. Nothing in this Agreement precludes UND from bidding to host future predetermined events, including at venues which are continuing to make transitions consistent with this Agreement. The NCAA may, at its discretion, accept or reject a bid proposal from UND which provides that transitions in Schedule A which are not then, but are required to be, complete will be completed prior to the date of the championship event for which the bid is submitted.

g. **"Best Practices" Portion of the Policy.** During the Approval Period, or until such time as UND secures namesake approval during that Approval Period, the "Best Practices" portion of the Policy will also be suspended in its application to and not apply to UND. Within 5 (five) days

of the date of this Agreement, the NCAA shall issue a statement to its members which includes the following language: "Application of the Policy to UND has been suspended, subject to terms outlined in this Agreement, by mutual agreement between UND and the NCAA. No member institution should use the Policy as a factor in scheduling regular season competition with UND. Regular season competition should be scheduled in accordance with each individual institution's own internal policies and practices." If UND announces a transition to a new nickname and logo at the end of the Approval Period, or at any time during the Approval Period, then the NCAA shall issue a statement to its members which includes the following language: "UND has been removed from the list of schools subject to the Policy and no member institution should use the Policy and its prior application to UND as a factor in scheduling regular season competition. Regular season competition should be scheduled in accordance with each individual institution's own internal policies and practices."

h. Control of Venue. The NCAA recognizes that UND does not own or control all venues in which its athletic teams ordinarily compete. If UND is removed from the list of institutions subject to the Policy because it transitions to a new nickname and logo, UND may host NCAA championship events at facilities which do not contain or display imagery inconsistent with the Policy or this Agreement, including, but not limited to, any facilities owned and controlled by UND. It may also host regular season contests in any venue of its choosing, provided the venue is otherwise fit for use. However, absent namesake approval as set forth herein, UND expressly waives any opportunity to host NCAA championship events at outside venues (*i.e.*, venues UND does not own) containing or displaying imagery which is inconsistent with the Policy and/or this Agreement.

i. **NCAA Statement on Campus Environment.** The NCAA shall make a public announcement which includes the following language, including posting the text on the NCAA web site:

The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.

The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native American community. The NCAA does not dispute UND's sincerity in this regard.

The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

j. **Intellectual Property.** If UND announces a transition to a new nickname and logo at the end of the Approval Period, or at any time during the Approval Period, then any intellectual property and/or licensing rights to the "Fighting Sioux" nickname and mark shall remain, except as provided herein, the sole property of UND and shall not be further assigned, released, abandoned, exercised, or otherwise used, except as expressly permitted herein, in connection with UND's Athletic Department. UND reserves and shall have the right, at any time, to assign or transfer intellectual property or licensing rights of the "Fighting Sioux" nickname and mark to any Sioux nation or tribe. Retention of images bearing the nickname and logo as displayed on or before the date of this Agreement shall not be deemed a violation of this Subparagraph. Residual trademark rights and good will in connection with the continuing and continuous commercial use through retention of images bearing the nickname and/or logo demonstrates continuing trademark use and retention of trademark rights.

3. Reservation of Legal Rights. To the extent the NCAA modifies, adds to, expands or otherwise changes the Policy, its interpretation, or its application in any regard following the execution of this Agreement, UND shall retain the right to challenge the changed Policy in any manner and on any grounds it chooses, including without limitation through court action challenging the power of the NCAA to enact the Policy or any portion thereof.

4. Public Accountability. It is understood that this Agreement in no way restricts any officer, employee, or agent of the State of North Dakota or the NCAA from discussing the events leading up to and including this Settlement Agreement nor does the Agreement restrict any officer, employee, or agent of the State of North Dakota from releasing any public documents under Open Records Laws, except as otherwise provided by court order.

5. Modifications in Writing. Any modifications to this Agreement must be in writing and executed by UND and the NCAA.

6. Entire Agreement. UND and the NCAA agree that this Agreement constitutes all the agreements between them, and they have no other written or oral agreements or understandings.

7. Governing Law. This Agreement shall be construed and enforced in connection with the laws of the State of North Dakota.

8. Warranties. The parties warrant that before executing this Agreement, they have had the advice of their attorneys; that they have read the same and fully understand its contents and meaning; and that they have authority and competency to execute this document on behalf of the respective parties hereto.

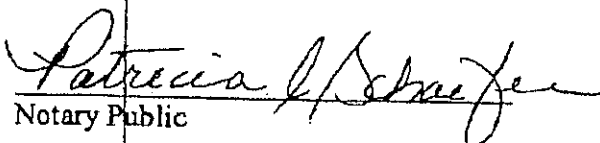
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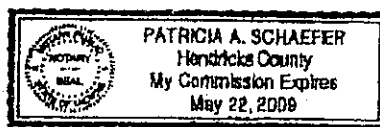
Dated this 25th day of October, 2007.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

By: 

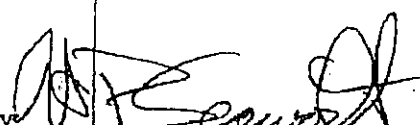
Subscribed and sworn to before me
this 25th day of October, 2007.


Notary Public

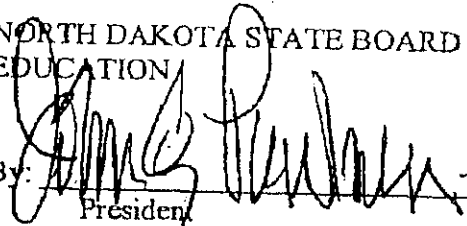


Dated this 26 day of October, 2007

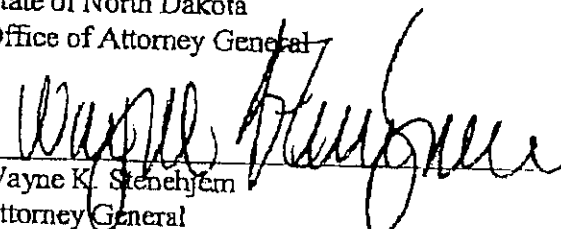
Attest:

By: 
Secretary

NORTH DAKOTA STATE BOARD OF HIGHER
EDUCATION

By: 
President

State of North Dakota
Office of Attorney General


Wayne K. Stenehjem
Attorney General

SCHEDULE A.

Category 1: Items of Historical Significance.

- a. All championship banners, photographs, trophies, and dedication memorials and mirrors displayed at UND and associated sites including the Ralph Engelstad Arena.¹
- b. Native American sculpture (busts) and player statue currently located at Ralph Engelstad Arena.²
- c. Sitting Bull Memorial statue on grounds of Ralph Engelstad Arena.³
- d. Betty Engelstad Sioux Center arena entrance plaque.⁴

Category 2: Cost Prohibitive Changes.

- a. In floor granite logos located at the Ralph Engelstad Arena.⁵

Category 3: Transition in the Ordinary Course of Wear and Replacement.

- a. All carpet, artificial turf, tile, laminate or wood flooring, with the exception of imagery affixed through decals, provided the items are replaced no later than December 31, 2012.⁶
- b. Aisle Seating standards at the Ralph Engelstad Arena, provided the items are removed no later than December 31, 2012.⁷
- c. Brass etched logos located within the Ralph Engelstad Arena, provided the items are removed no later than December 31, 2011.⁸

¹ See Exhibit A, Pictures 1-25. Such championship items earned during the Approval Period, which obviously cannot be photographed at this time, shall also be considered "Items of Historical Significance" for purposes of this Agreement.

² See Exhibit A, Pictures 26-27.

³ See Exhibit A, Picture 28.

⁴ See Exhibit A, Pictures 29-30.

⁵ See Exhibit A, Pictures 31-32.

⁶ See Exhibit A, Pictures 33-36.

⁷ See Exhibit A, Picture 37.

⁸ See Exhibit A, Picture 38.

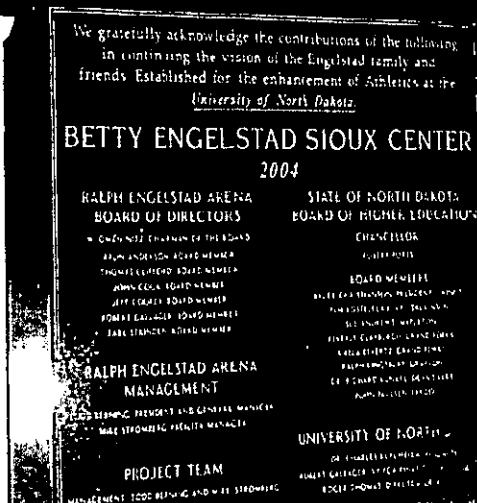
- d. Lighted exterior logos at the Ralph Engelstad Arena, provided the items are removed or replaced no later than December 31, 2011.⁹
- e. All official imagery located within administrative and other areas of the Ralph Engelstad arena and UND campus not ordinarily open to the public during athletic competition, provided the items are replaced no later than December 31, 2013.¹⁰
- f. Etched glass doors leading to the club areas of the Ralph Engelstad Arena, provided the items are replaced no later than December 31, 2012.¹¹
- g. Etched glass doors leading to the administrative areas of the Ralph Engelstad Arena provided the items are replaced no later than December 31, 2015.¹²

⁹ See Exhibit A, Picture 39.

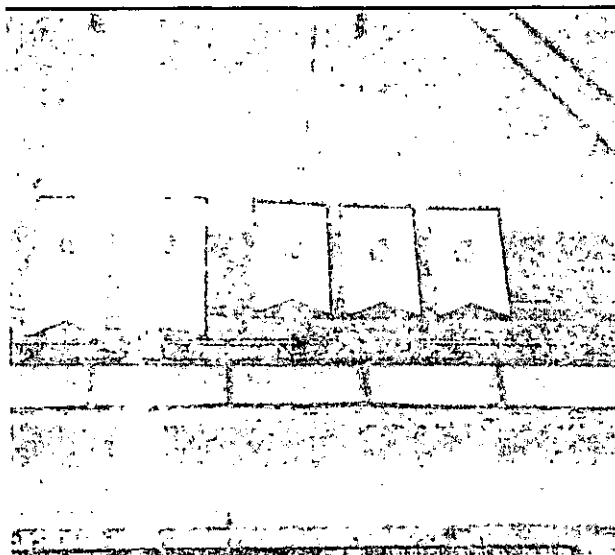
¹⁰ See Exhibit A, Picture 40.

¹¹ See Exhibit A, Picture 41.

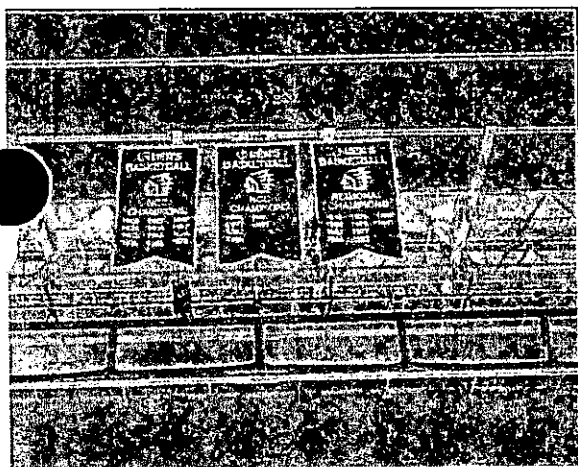
¹² See Exhibit A, Picture 42.



Picture 1



Picture 2



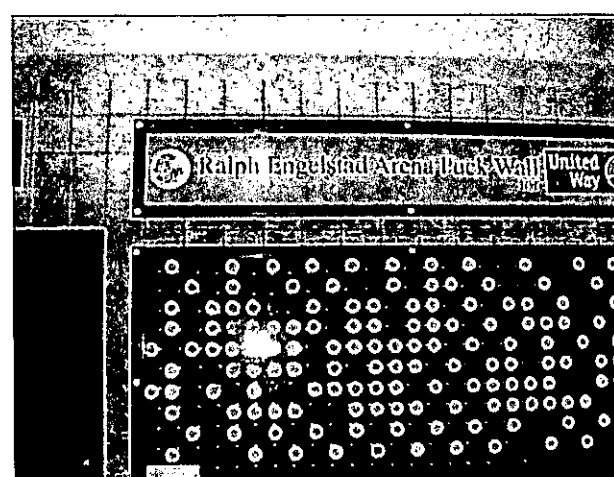
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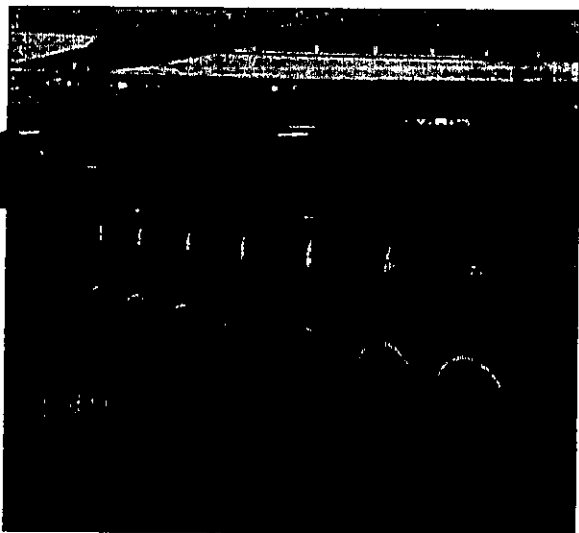
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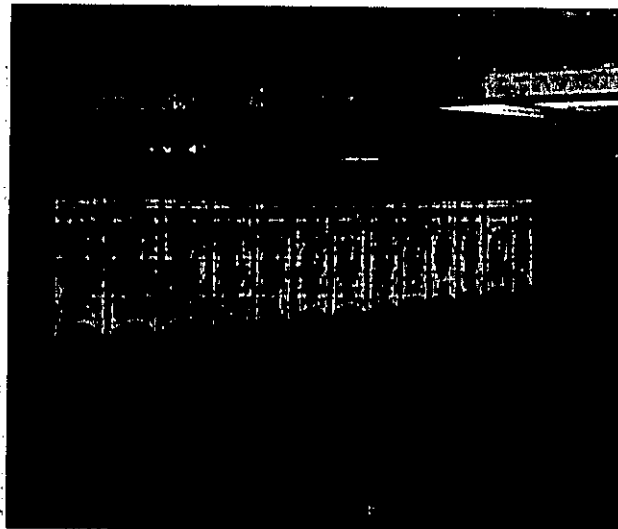
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Picture 6



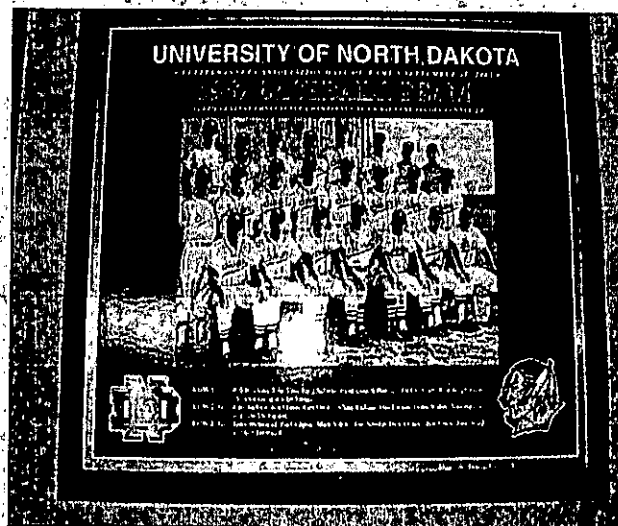
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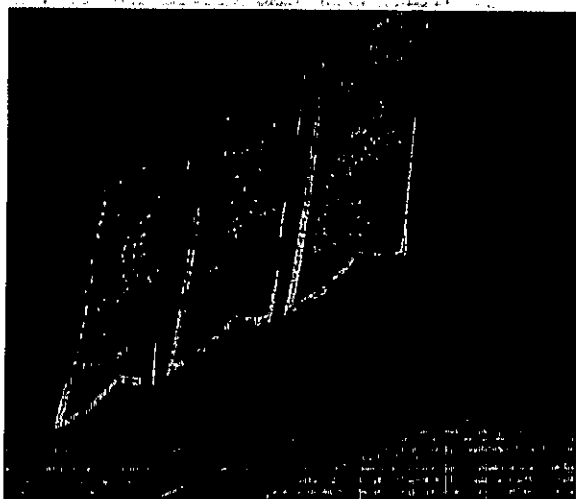
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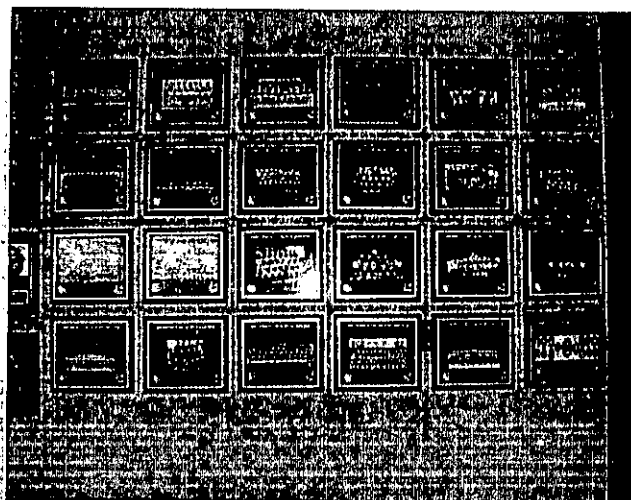
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Picture 10



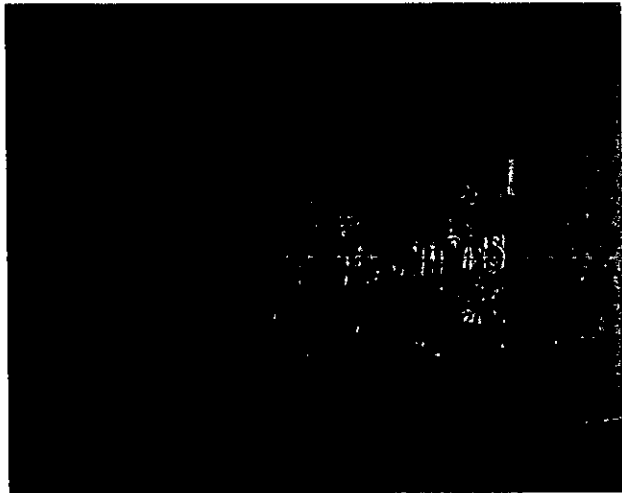
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Picture 12



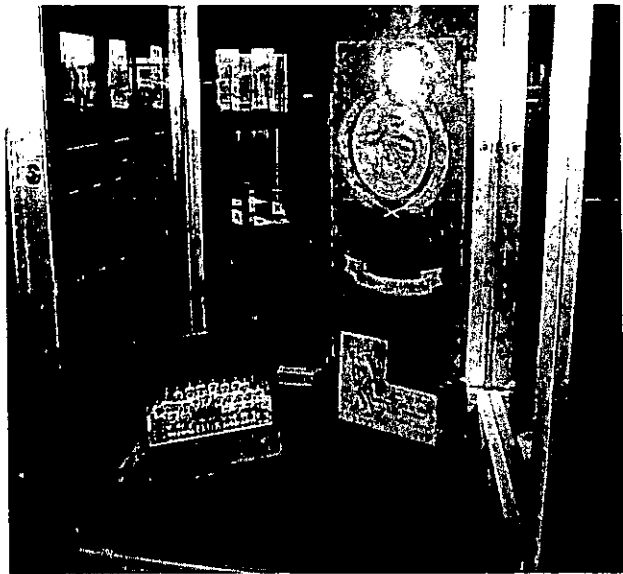
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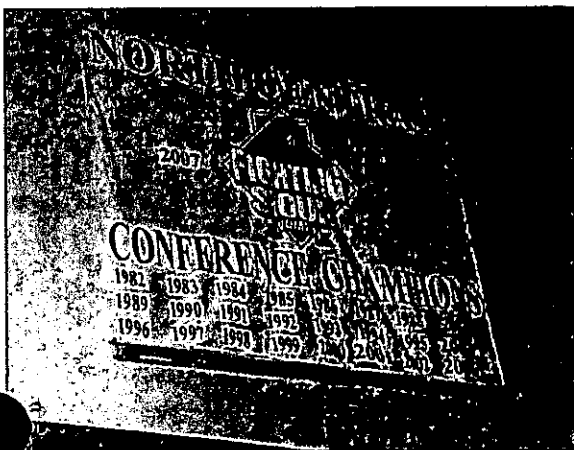
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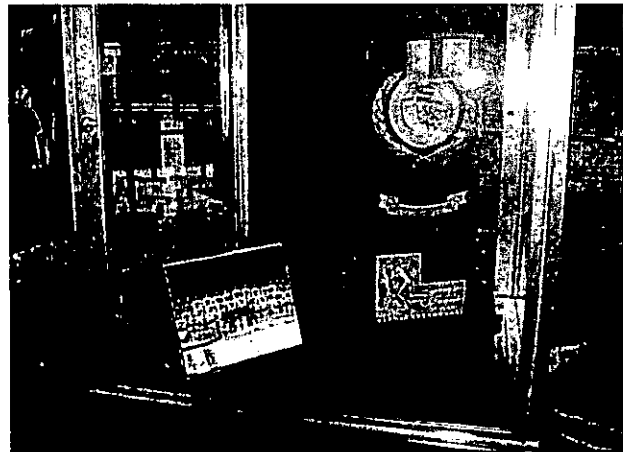
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Picture 16



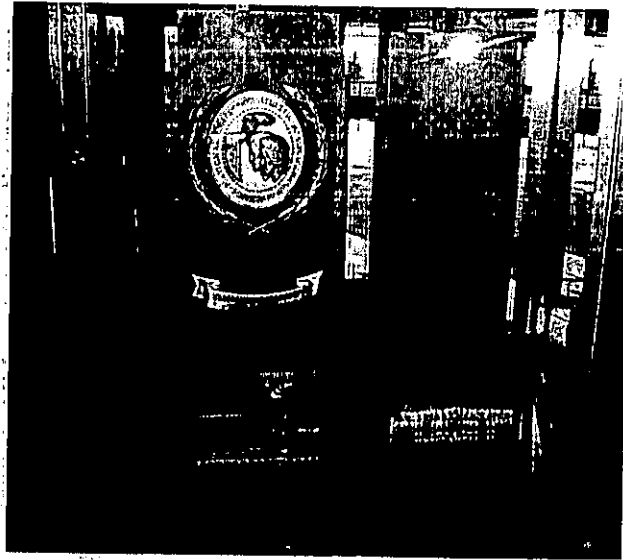
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Picture 18



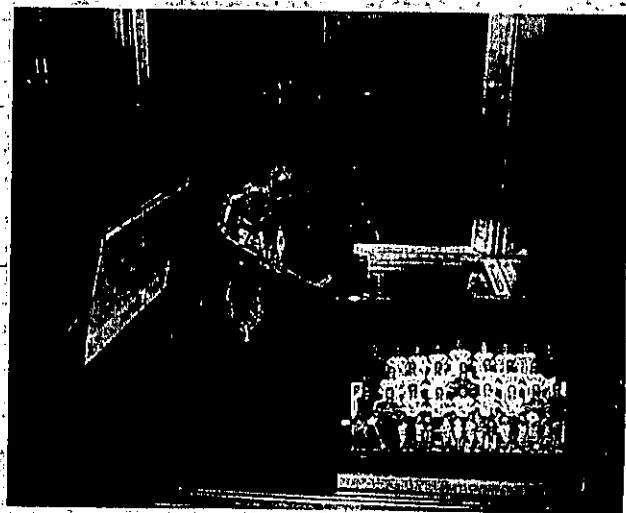
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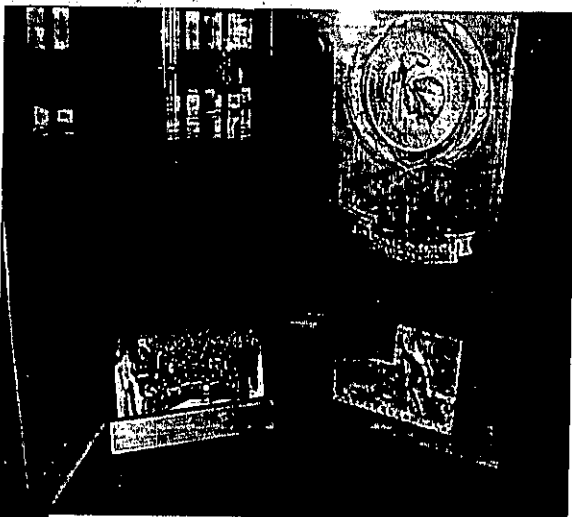
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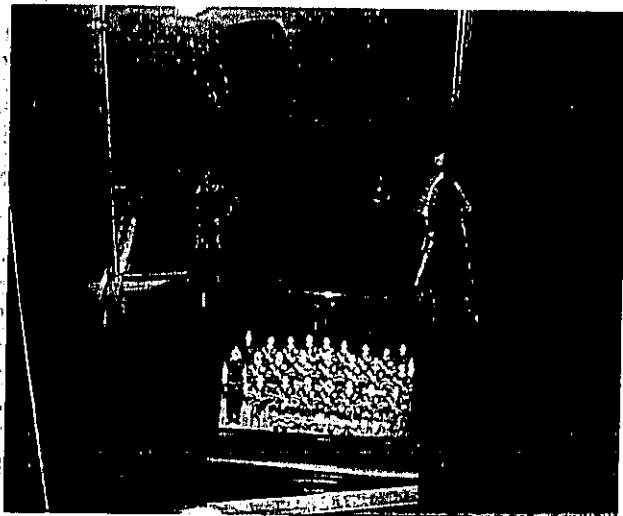
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Picture 22

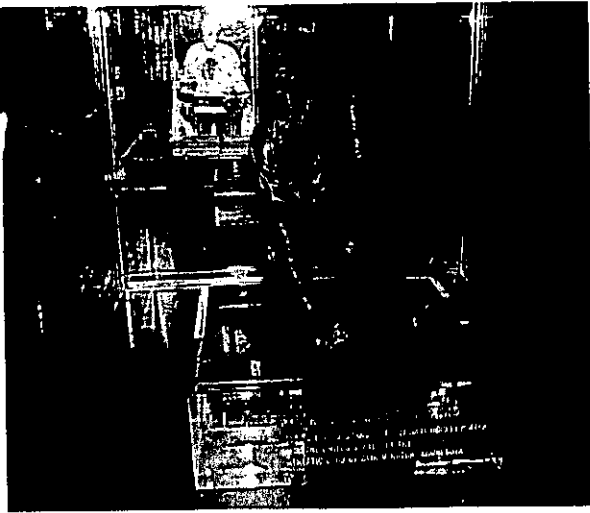


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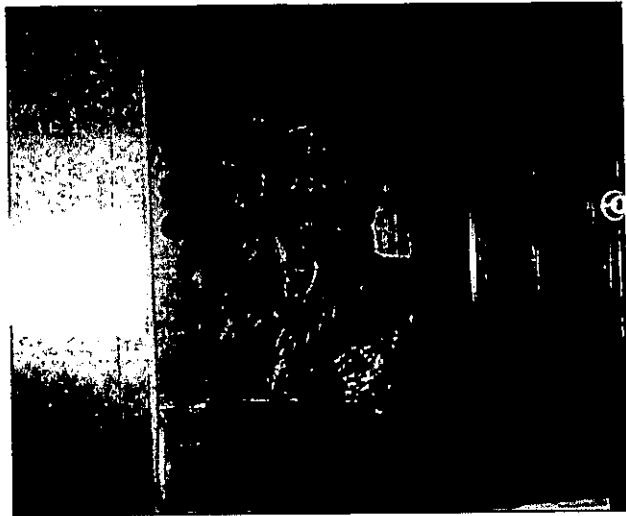


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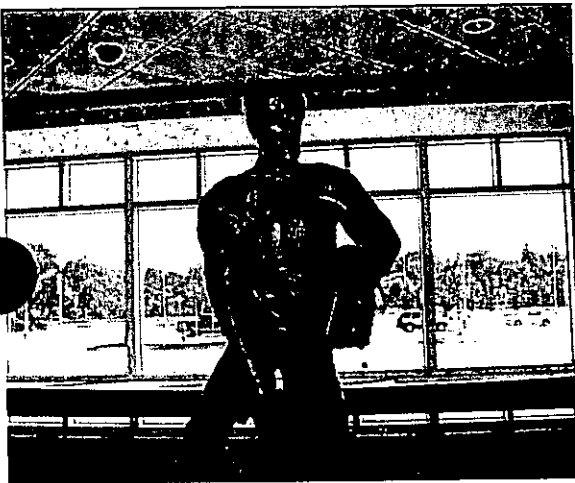
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Picture 25



Picture 26



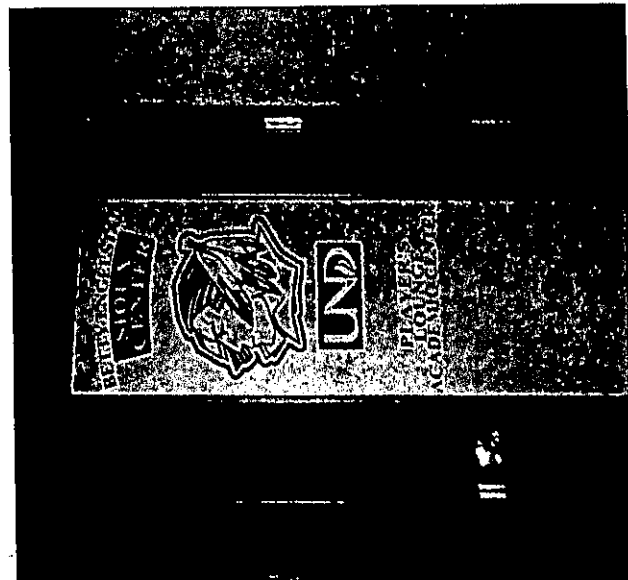
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Picture 28



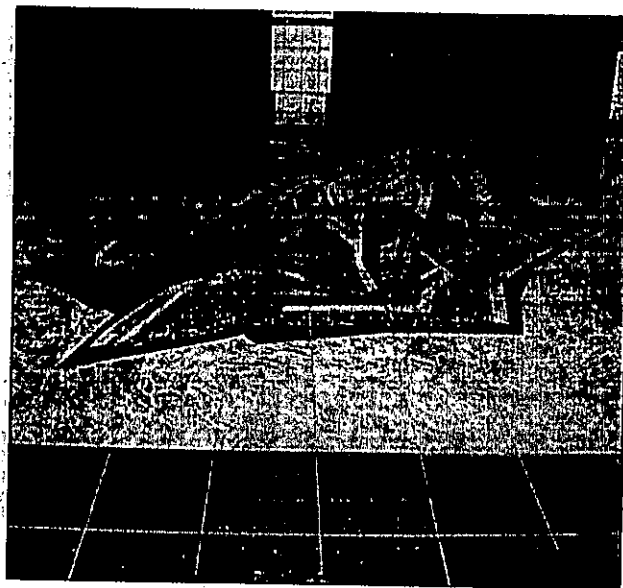
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Picture 30



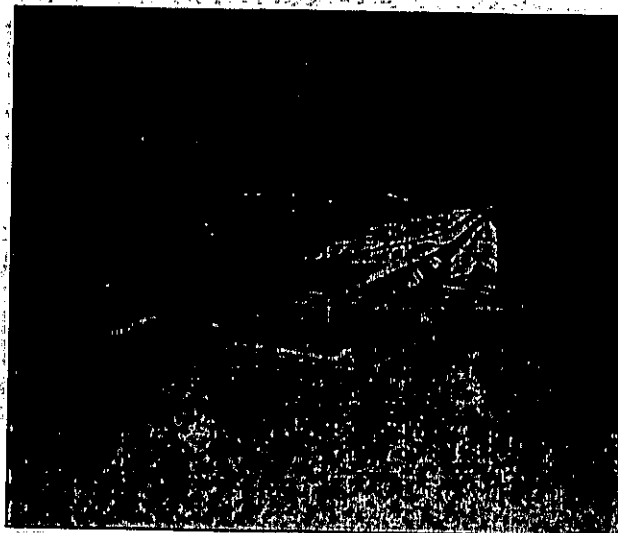
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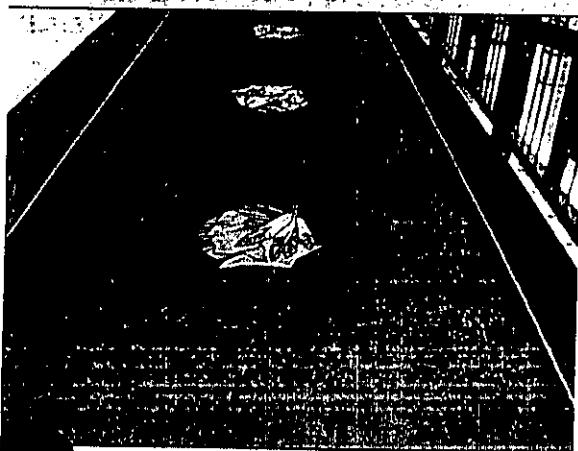
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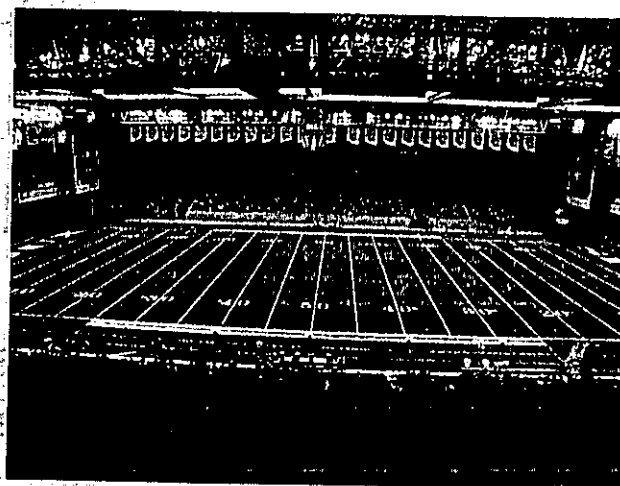
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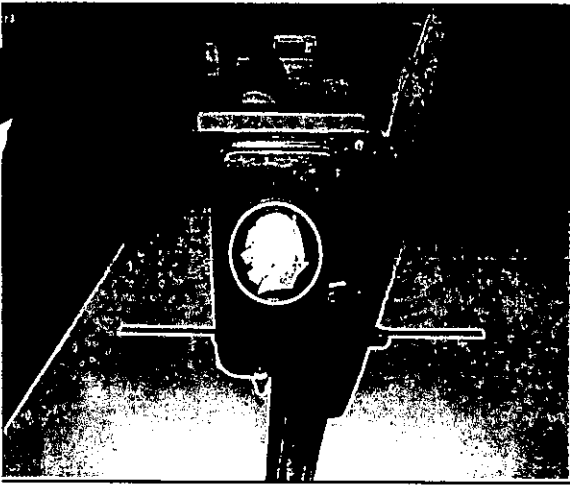
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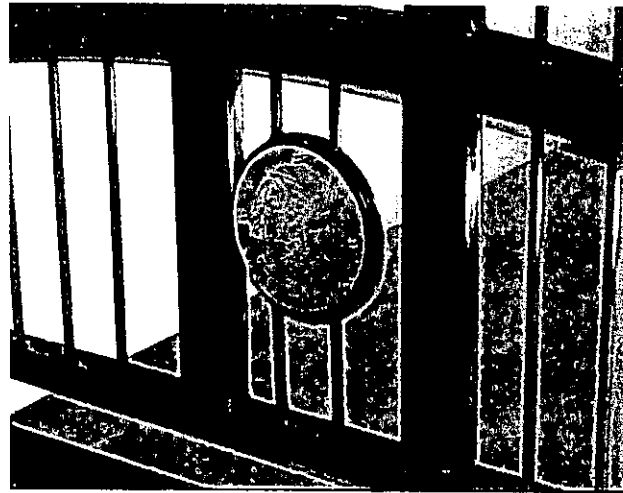
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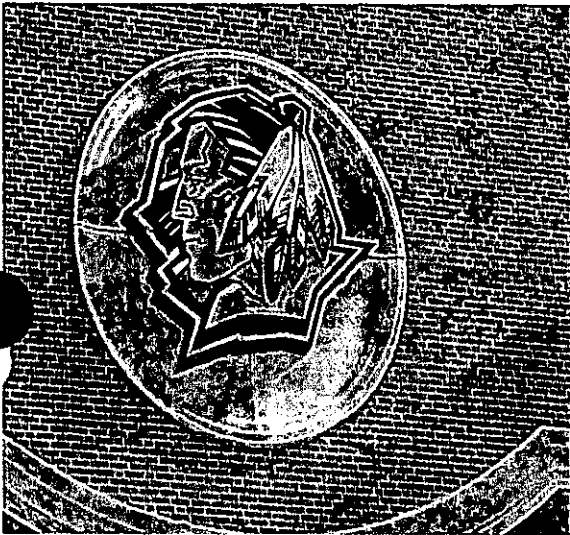
Picture 36



Picture 37



Picture 38



Picture 39



Picture 40



Picture 41



Picture 42

TESTIMONY ATTACHMENT 9

HB 1263, HB 1257, and HB 1208

Testimony by Rep. Lonny Winrich, District 18, Grand Forks

Good morning, Chairman Kelsch and members of the House Education Committee. For the record, I am Rep. Lonny Winrich from District 18 in Grand Forks. I am pleased to appear before you this morning to testify in opposition to HB 1263, HB1257, and HB1208. These three bills differ slightly in their details but all attempt to accomplish the same thing and in consideration of the committee's time I will testify once but in opposition to all three bills. This will also leave additional time for you to hear from citizens.

I joined the faculty at UND in 1985. I know from personal experience that the Fighting Sioux nickname and the customs and symbols that accompany it have been controversial for more than 25 years. The divisiveness and rancor generated by this controversy have negatively affected academics, athletics, and student life on campus. I know there are several people here from UND to testify this morning. They are students, faculty, and staff who are on campus every day and have firsthand experience with the problems caused by the nickname. I urge you pay careful attention to what they have to say.

But even if your interest in this issue is motivated by your love of UND athletics and your time on campus is pretty much limited to attendance at hockey or football games, you should still resist a return of the nickname. The nickname has already adversely affected the athletic programs at UND and a return could have a devastating effect. I want to close with a letter from a friend of mine in Grand Forks. Her name is Becky Ronkowski and her daughter is a student athlete at UND.

House Majority Leader Al Carlson of Fargo, recently introduced a bill to prevent the retiring of the Fighting Sioux Nickname.

I find the timing of this bill by House Leader Carlson to be terribly inappropriate! The matter was to be resolved by the State Board of Higher Education and they made their decision following many months of deliberation. They directed University of North Dakota President Robert Kelley to prepare for retirement of the nickname. That process is now underway. I do not believe that the State Legislature should get involved at this point. Please let the matter rest! I know that state legislators have more important issues to spend time on.

As the parent of a University of North Dakota athlete, I am thrilled that my daughter's Division I tennis team now has a "home" in the Big Sky Conference. With affiliation in this conference, her team can compete against some of the better in the nation and they can also move on to post-season play. This was something that was discussed when she was recruited by the University of North Dakota. It helped solidify her decision to obtain her education and compete athletically at UND.

Please consider this issue settled and kill the bill!

Thank you for your consideration.

Becky Ronkowski

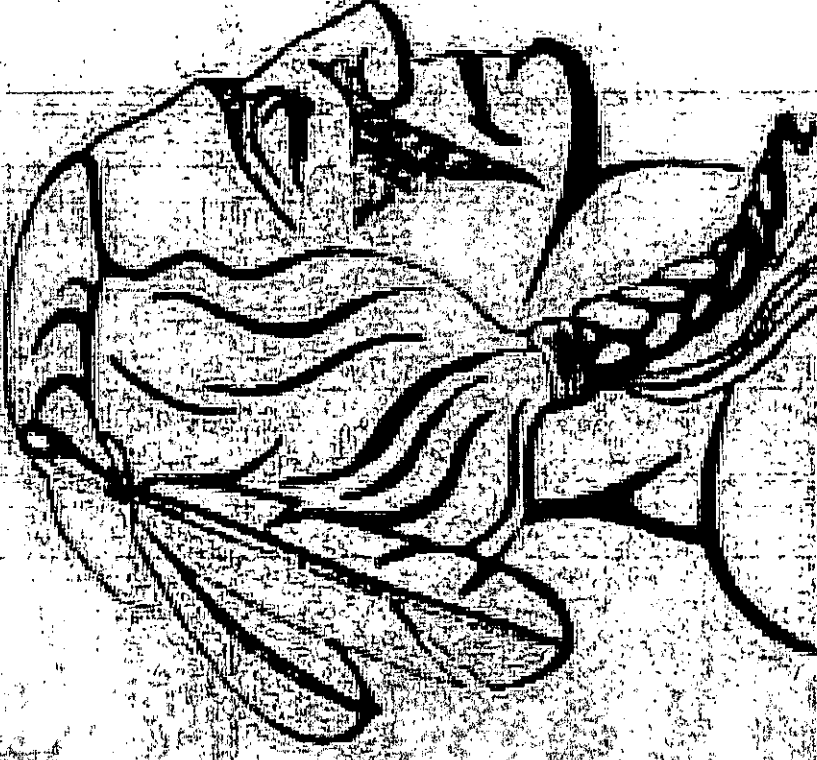
The UND “Fighting Sioux”

Presented by UND graduates from
Standing Rock

The University of North Dakota

Flickertails

In 1930 the University of North Dakota changed its athletic name from the "Flickertails" to the "Fighting Sioux" with no input nor blessing from Dakota/Lakota people.



UNND/1938

A Rivalry Is Born

■ It was thought that the Sioux was a better name than Flickertails to exterminate the Bison of North Dakota State University.





UND/1950s



UND/1964

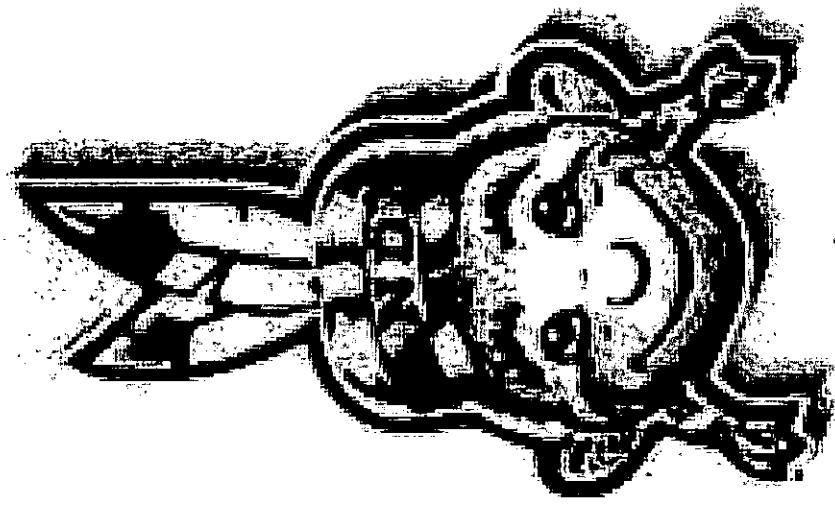


UND/1960s



UND/2000

University of North Dakota Indian Association is formed



UND/1960/70s

- In 1969 the Indian Association is formed.
- Sammy Sioux is a well-known cartoon that portrays the Sioux.
- The Indian Association asks that UND stop using it.
- In 1971 Sammy Sioux is retired. UND starts an Indian Studies Department.

1972 King Kold Winter Festival

During homecoming week several fraternities create ice sculptures. One Greek house exhibits a sculpture of a topless Native woman pointing to her bare breasts, saying, "Lick 'Em Sioux." A Native student takes an ax and demolishes the sculpture. A near riot breaks out with Native students and the Greek houses as they physically fight each other. The Native student is arrested. UND President posts his bond and at the request of AIM, the charges are dropped.

1992 UND Homecoming Parade

- A float of grade-school native children and women dressed in their regalia are mocked by UND fraternities. They are told, "Squaws go back to the reservation where you belong" as well as telling the children they "look funny." A nearby float with a band plays the "tomahawk chop" theme.
- It becomes widely publicized. Standing Rock Sioux Tribe calls for the end of the UND nickname.
- ■ SOAR (Students Organized Against Racism formed)
- UND criticizes the fraternity and apologize.

1996

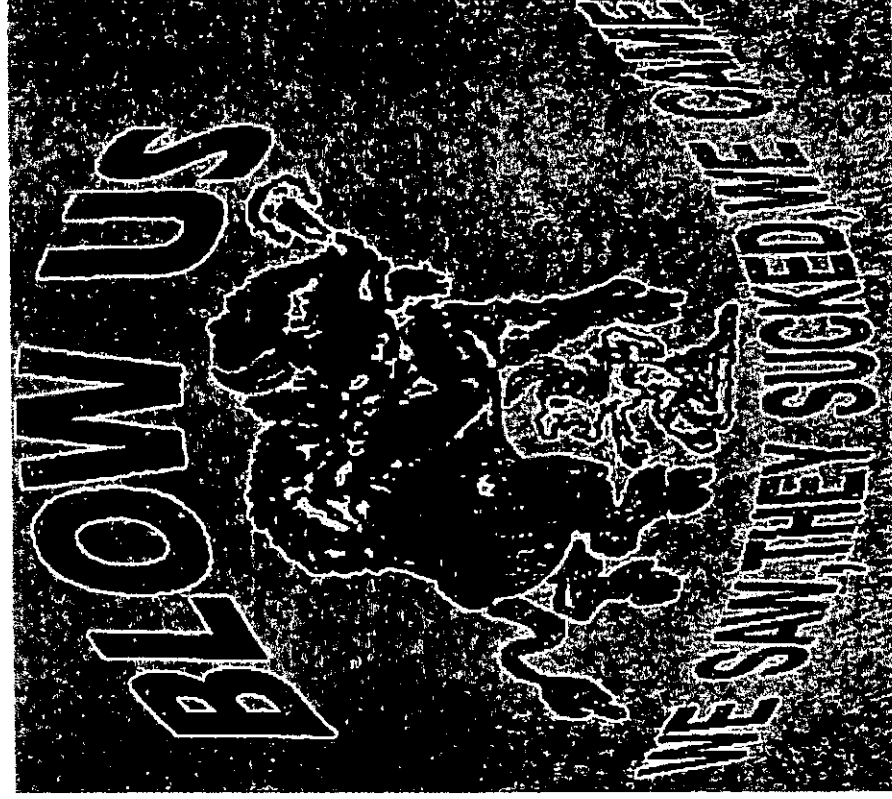
In 1996 Native Student from Standing Rock receives hate mail.

□ UNDIA continually asks to stop the use of nickname.

□ SOAR becomes Building Roads Into Diverse Groups Empowering Students (BRIDGES).



Grand Forks Herald 1997

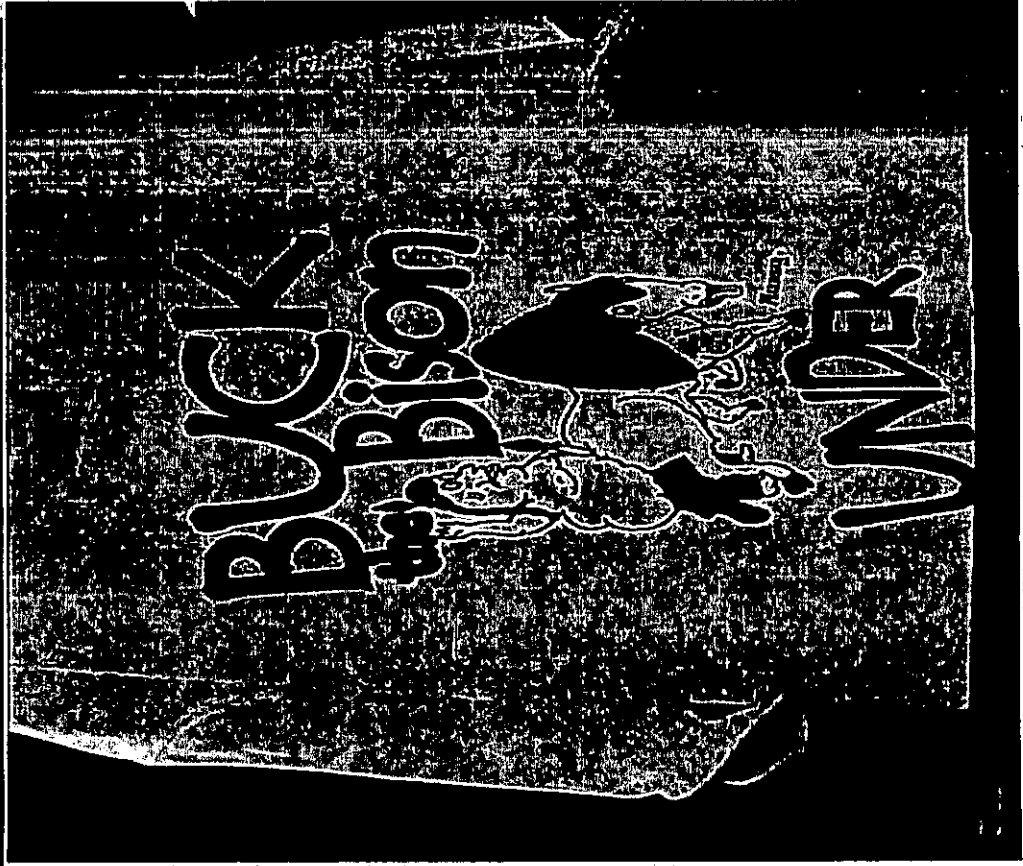


“One banner read “Eat s____ Sioux!” Easton said he must of heard the chants of “F_____ the Sioux! And “Sioux s____!” When the game was won, a new cheer was born in the NDSU section: “F____ their women!”

Source: Grand Forks Herald

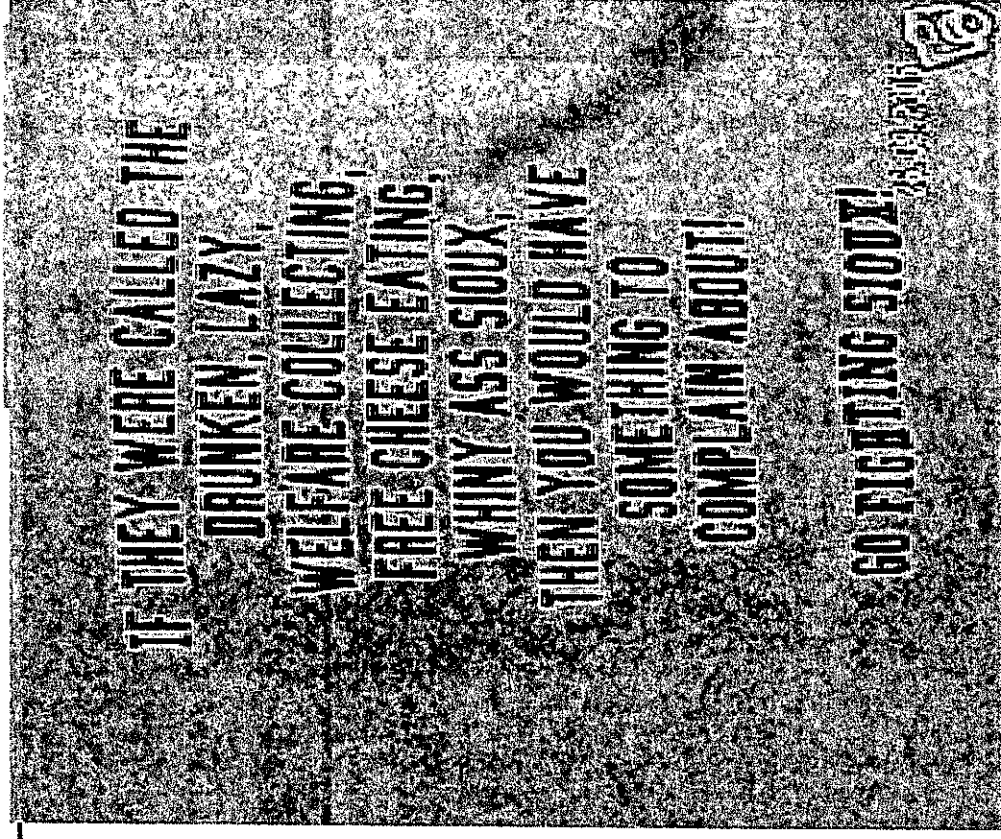
1997

- ☐ Cheyenne River Sioux
Tribe calls for end of
name use
- ☐ National Affairs
Commission calls for
end of name use
- ☐ Civil Rights Committee
calls for end of name
use



1998

- National Congress of American Indians calls for end of name use
- Governor's Interstate Indian Council calls for end of name use
- National Association for the Advancement of Colored People (NAACP) calls for end of name use



Turning the Tide in 1999

UND Student Senate passes resolution to discontinue use of "Fighting Sioux." Student body president vetoes resolution.

Similar resolution brought before N.D. House of Representatives, receives a "do not pass" vote.

UND ROTC Battalion drops use of "Fighting Sioux."

UND Multicultural Awareness Committee (MAC) calls for end of name use

Eight tribes call for end of name use: Spirit Lake Nation, Crow Creek Sioux Tribe, Rosebud Sioux Tribe, Sisseton/Wahpeton Sioux Tribe, Turtle Mountain Band of Chippewa, Yankton Sioux Tribe, Oglala Sioux Tribe and Three Affiliated Tribes

During this time the following posters
appear on the doors to the Indian
Studies Department at UNN

IF I COULD GO TO CASINO?

WAMIE HAS

WANT TO GO TO CASINO?

WANT TO GO TO CASINO?

WANT TO GO TO CASINO?

WANT TO GO TO CASINO?

WANT TO GO TO CASINO?

WANT TO GO TO CASINO?

WANT TO GO TO CASINO?

DRINK 'EM LOIS O' FIRE WATER

IF YOU GET

RID OF THE

FIGHTING SIOUX
PAY TAXES

THEN WE GET
FIND SOMETHING BETTER FOR TIME "LIKE A JOB"

RID OF YOUR

LIVE AT THE RES FOR FREE

FREE SCHOOLING!

YOU LOST THE WAR, SORRY

21 Indian Programs at UND ask President Kupchella to retire name

- Native American Programs
 - Indians Into Medicine (INMED)
 - Recruitment of American Indians Into Nursing (RAIN)
 - Indians Into Psychology Doctoral Education
 - Minority Access to Research Careers
 - A'ho gun
 - Science, Engineering and Math Technical Center
 - Native Media Center
 - Indian Studies Program
 - National Resource Center on Native American Aging
-

-
- 10 Upward Bound
 - 11 Multicultural Scholars Into Dietetics Program
 - 12 Fort Berthold Community College and Turtle
 - 13 Mountain Community College Teacher Training
 - 14 Project
 - 15 Family and Domestic Violence Training Project
 - 16 Prairielands Addiction Technology Transition Center
 - 17 and Center of Excellence in Native American
 - 18 Substance Abuse Native American Law Project
 - 19 Northern Plains Tribal Judicial Training Institute
 - 20 The Tribal Environmental Law Project
 - 21 Northern Plains Indian Law Center
-

UND President retires

name...almost

- Under pressure, UND President Kupchella decides to suspend use of new logo for sports teams indefinitely. He states, "I see no choice but to respect the request of Sioux tribes that we quit using their name, because to do otherwise would be to put the university and its president in an untenable position."

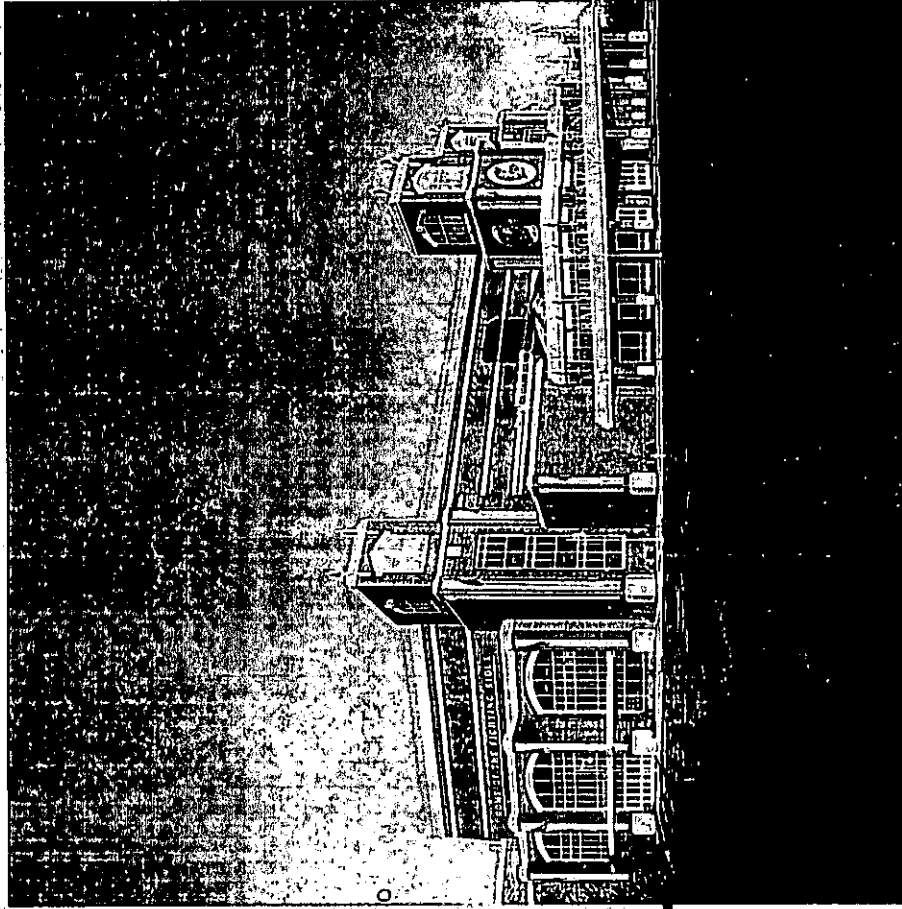
- President Kupchella in an e-mail message to William Isaacson, the state board chairman, December 16, 2000

North Dakota State Board of Higher Education



- The N.D. State Board of Higher Education preempts President Kupchella and unilaterally declares that UND will keep the "Fighting Sioux" nickname.

Ralph Engelstad—UND Alumnus donates \$100 million to UND



- ❑ A letter from late 2000 surfaces in which Ralph Engelstad threatened to pull his \$100 million "donation" should the nickname be changed, most likely prompting the State Board's rash mandate in December 2000
- ❑ A new Engelstad Arena nears completion

Ralph Engelstad

1 UND Alumnus who played hockey for UND

2 Became the owner of Imperial Palace Casinos in Las Vegas and Biloxi

3 Donated millions to UND and their hockey arenas built in his name



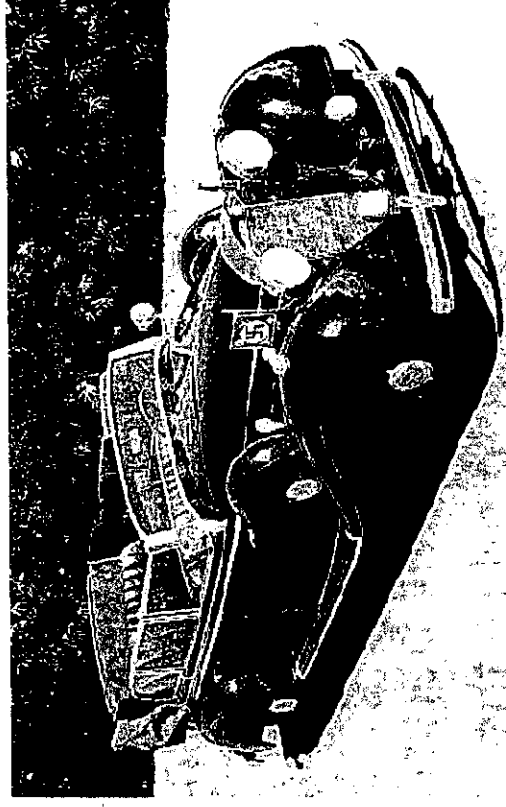
“To Adolf from Ralphie”

- ☐ Avid collector of nazi memorabilia including a collection of cars by German nazi leaders that were stored in a private room at one of his casinos.
- ☐ He had two paintings: one of himself dressed in a nazi uniform that read, “To Adolf from Ralphie, 1939” and one of Hitler that read, “To Ralphie from Adolf.”
- ☐ In 1986 and 1988 Ralph Englestad held Nazi-themed parties celebrating Hitler’s birthday. There was a swastika cake and the bartenders wore shirts that read, “European Tour 1939-1945”

source: New York Times, April 3, 1989

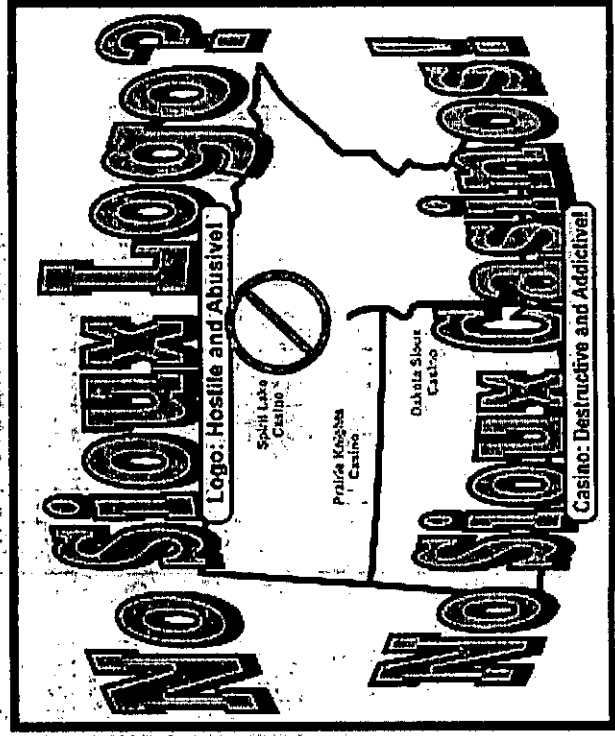
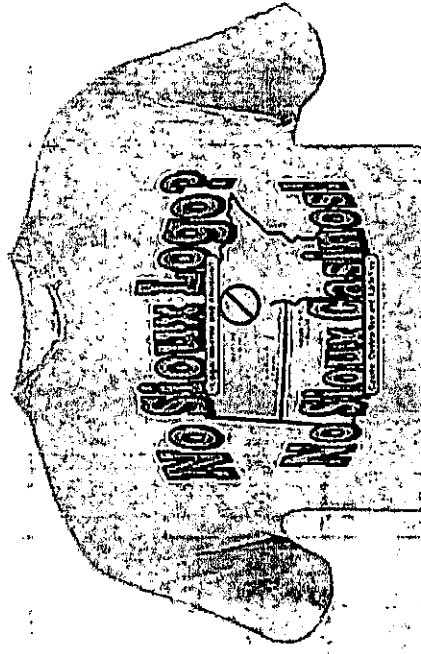
\$1.5 Million Dollar Fine

■ Ralph Engelstad paid a \$1.5 million dollar fine to the Nevada Gaming Commission in 1989, the second highest fine ever-- "for actions that damaged the reputation and image of Nevada's gaming industry."

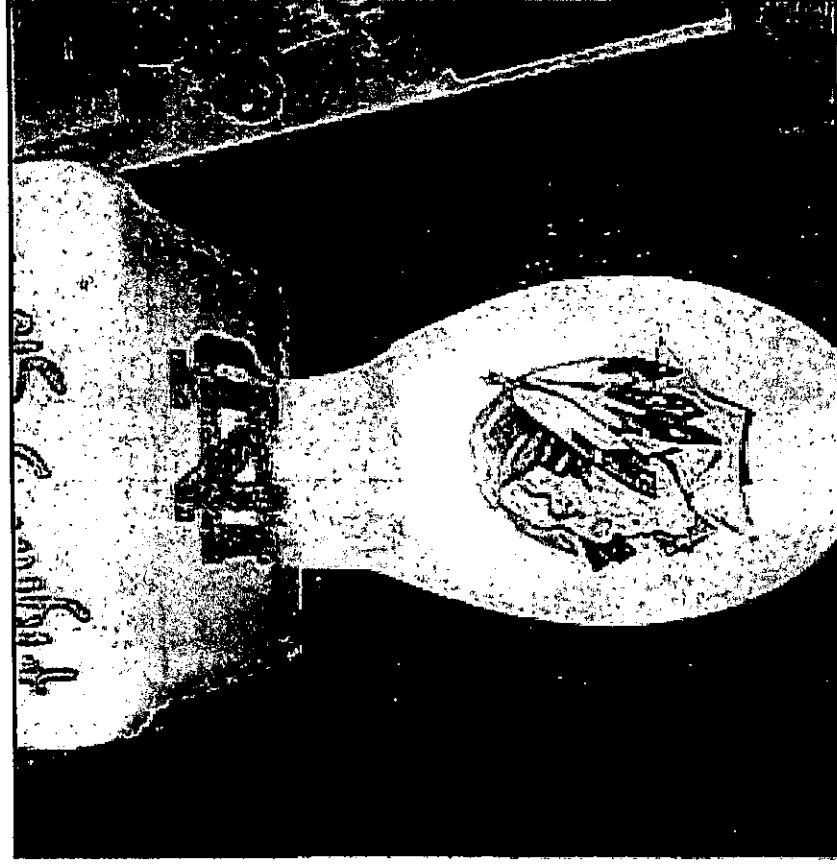


Meanwhile...

- ❑ In 2006 the NDSBHE gives three years to the Sioux Tribes of North Dakota: Spirit Lake and Standing Rock to think about it.
- ❑ At the end of three years UND will begin a process to retire the name



Tribal Member vs. Tribal Member



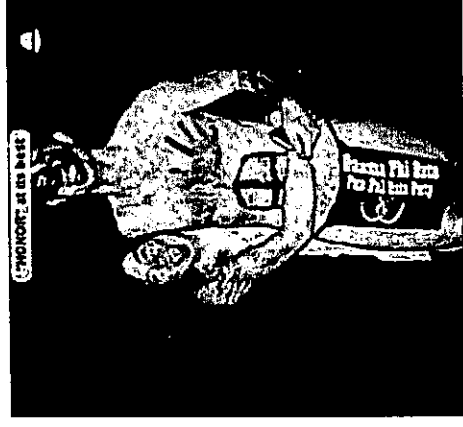
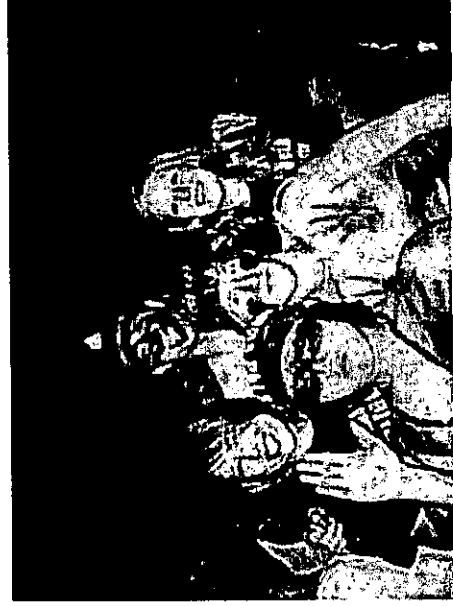
- Within this time frame the Ralph Engelstad Arena has hired tribal members to act as ambassadors to try and win your support.
- They say that everything is fine at UND.
- Meanwhile, it's business as usual...

UND Gamma Phi Party November

2007



Sorority Version of Cultural Awareness



Education Not Money

- UND is a premier higher learning institute with a commitment to Indian education
 - Despite these obstacles we received our degrees and strive to make our Nation stronger
 - This is our experience during our tenure at UND and we want to share with you
-

Standing Rock UND Alumni Support



Waste'Win Young, Chase Iron Eyes, Petra Reyna, LaDonna Brave Bull, Miles Allard (TMC), Dr. David Gipp, Janet Alkire-Thomas, Valerian Three Irons, Ira Taken Alive, Dr. Gerald Gipp, Gail Condon, Sacheen White Tail-Cross, Sheri Barking-Baker, Cliff Walking Elk, Dr. Biron Baker (MHA), Forrest Cross (MHA), Keith Fredericks (MHA)

RESOLUTION NO. 408-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local government and others on behalf of the Tribe, and to authorize or direct subordinate boards, committee and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, in a duly and regularly called, noticed and convened meeting on the 17th day of June, 2010, to determine a course of action in the ongoing Fighting Sioux controversy, acted to reaffirm all the governing body's earlier actions to end the use of the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the duly enacted positions of its six [6] Governing Districts that have acted to support an end to the use of the Fighting Sioux name by the University of North Dakota; and

WHEREAS, the Standing Rock Sioux Tribe recognizes that off reservation influences, including the Ralph Engstad Arena, have proven to be disruptive and divisive to our people, are not necessary and will not be tolerated within our homelands; and

WHEREAS, the Standing Rock Sioux Tribe hereby supports the position and action of the North Dakota State Board of Higher Education to retire the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the importance of ensuring the safe and effective transition from the Fighting Sioux Nickname and Logo at the University of North Dakota and the State at large and hereby supports any such related efforts; and

WHEREAS, the Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of the petitions of enrolled members, both petitions submitted to the Chairman of the Standing Rock Sioux Tribe are not applicable;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby reiterates that this decision is the Final Decision of the governing body of the Standing Rock Sioux Tribe; that officially authorized copies of the foregoing Resolution will be forwarded to the North Dakota State Board of Higher Education, the Chancellor of the North Dakota University System, the University of North Dakota, North Dakota Governor's Office, National Collegiate Athletic Association, and the Honorable Lawrence Janke of the Federal District Court in Grand Forks, North Dakota presiding over the related settlement forthwith; and

BE IT FURTHER RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves that it shall be final decision of the Standing Rock Sioux Tribe, that the Fighting Sioux Nickname and Logo is retired and further discussion is not necessary and will not be conducted, as there are many issues of priority that need timely attention; and

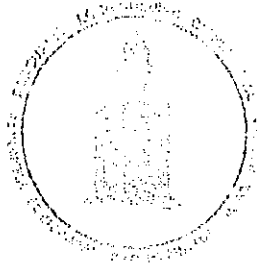
BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

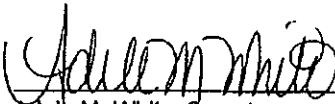
We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] member, of whom 15, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the 17th day of JUNE, 2010, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 4 and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS 17th DAY OF JUNE, 2010.

ATTEST:




Charles W. Murphy, Chairman
Standing Rock Sioux Tribe


Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06-17-2010
Motion No.: 02

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010

PAGE: 1

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR JUNE 17, 2010.

ROLL CALL VOTE:

MURPHY, C. - NOT VOTING

BROWN OTTER, M.	NO	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	YES	MCNEIL, J.	NO
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE:

YES - 10 NO - 4 NOT VOTING - 1

MOTION CARRIED.

2 - EXCUSED

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOE MCNEIL, TO APPROVE THAT IT SHALL BE THE FINAL DECISION OF THE STANDING ROCK SIOUX TRIBE THAT THE UND LOGO AND NICKNAME IS RETIRED AND FURTHER DISCUSSION IS NOT NECESSARY AND WILL NOT BE CONDUCTED AS THERE ARE MANY ISSUES OF PRIORITY THAT NEED TIMELY ATTENTION.

AMENDED: "BY RESOLUTION".

ROLL CALL VOTE:

MURPHY, C. - NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	NO
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	NO	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	YES

VOTE:

YES - 10 NO - 4 NOT VOTING - 1

MOTION CARRIED.

2 - EXCUSED


TESTIMONY ATTACHMENT II

Madam Chair and members of the committee

My name is Evan Andrist, State Governmental Affairs Commissioner and registered lobbyist for the University of North Dakota Student Government. I represent UND Student Government in matters regarding the state of North Dakota. On behalf of the students of UND, we oppose the passage of House Bills 1208, 1257 and 1263 as expressed in UND Student Senate Resolution SR1011-06, which are attached to the written transcript.

The Fighting Sioux nickname and logo has historically—and presently—caused much division between our students. This division is evident even in the UND Student Senate vote on resolution SR1011-06 which had a vote of ten for the resolution, eight against, and four abstentions. Although we are unable to speak personally with all of UND's fourteen thousand students, UND Student Senate are the elected representatives for our student population. This is not an easy issue, but it is an issue that we are nonetheless prepared to confront.

The majority of UND's students, nickname supporters and opponents alike, are ready for this issue end. Proponents of each side of the issue feel passionately about their reasons for their respective stances, and discussions of the logo certainly reflect that passion. That being said, we at the University of North Dakota are weary. Our campus has the potential to move on, heal, and unite to become a better and stronger place. These bills stand in opposition to that growth. They furthermore restrict the authority of the State Board of Higher Education and the University of North Dakota. They are not only detrimental to the wholeness of our campus, but also to our movement to Division I athletics as a member of the Big Sky



Conference; these bills, if passed, would also impede our ability to schedule games with a number of athletic teams and host NCAA tournaments.

During discussion of this resolution, it became apparent that the Fighting Sioux nickname has served our university well, but instead of reflecting the pride it used to, it reflects personal biases and division. Although it will be a painful process—not only for students, faculty, and staff at the university, but also for Fighting Sioux fans around the world—we must move away from this division and towards unity.

Sincerely,



Evan Andrist

State Governmental Affairs Commissioner

University of North Dakota Student Government

Senate Resolution

To: The Student Senate of the University of North Dakota

Author: Student Body Vice-President, Grant Hauschild; Student Body President, Matt Bakke; Governmental Affairs Commissioner, Evan Andrist; Education and Human Development Senator, Fred Burke; Greek Life Senator, John Kappel; Off-Campus Senator, Kevin Peters

CC:

Date: 1/19/2011

Re: Resolution opposing North Dakota House Bills 1208, 1257, and 1263

Whereas, the University of North Dakota has already begun the transition to retire the current "Fighting Sioux" nickname and logo and,

Whereas, North Dakota House Bills 1208, 1257, and 1263, restrict the authority of the State Board of Higher Education in matters of the North Dakota University System stated in the century code 15-10-11, and

Whereas, the University of North Dakota is transitioning to Division I athletics, was recently accepted to the Big Sky Conference, and any further use of the "Fighting Sioux" nickname and logo could be a detriment to this process and allow teams to reject scheduling our athletic teams, and

Whereas, North Dakota House Bills 1208, 1257, and 1263 only re-ignite the division over the "Fighting Sioux" nickname and logo and further divides our University, the City of Grand Forks, and the State of North Dakota, and

Whereas, the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for

Therefore, be it moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1208 and,

Therefore, be it further moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1257 and,

Therefore, be it furthest moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1263

TESTIMONY ATTACHMENT 12

Good morning/afternoon! Chairperson Kelsch, members of the committee. My name is Franklin Sage, a current Sociology Graduate Student at the University of North Dakota (UND). I'm originally from Counselor, NM and grew up on the Navajo Nation Reservation. I have lived in Grand Forks, ND for 11 years and completed my Bachelor of Arts Degree from UND in December 2008.

I appreciate having a chance to address you this morning/afternoon concerning House Bill (HB) 1208, HB 1257, and HB 1263. I oppose these bills because the school nickname/logo has become divisive in the communities like Spirit Lake and Standing Rock Reservations, UND campus climate, and among Native American students. It will continue to be divisive if these bills are passed. I have worked on the nickname/logo issues as an undergraduate student and participated in the student organization called BRIDGES. In this organization, we have experienced backlash from our fellow students, community members, and alumni. The objective of this organization was to educate the public about why this nickname/logo is offensive, derogatory, demeaning, and singles out Native American students in the classroom about their opinion on the Fighting Sioux.

I oppose these bills because I'm offended by nicknames and logos which use the Sioux Nation for profit and ridicules American Indian culture in the name of sports. I have felt singled out in my classes when the topic of the logo and nickname has been raised. Classmates tell me that I should feel honored, that I am not a member of the Sioux tribe, and that if I do not like the name, I should leave UND. I have heard students in class make comments about Indians that reveal not only negative stereotypes but also false assumptions. For example, students have suggested to me that Indians get free educations, live tax-free, and hunt for free. Once when I was walking out of the public library, an individual was wearing a Washington Redskins jacket approached me and said, "I thought you Indians like to be honored."

Since I became active in BRIDGES, people have shouted at me from moving vehicles making remarks such as: "Go home prairie nigger," "Get off the road you nigger." and "What are you running from boy?"

Members of BRIDGES have organized some educational rallies on campus before hockey games. Once, during a thirty-minute rally at the corner of University and Sixth Avenue, I witnessed people who supported the nickname and logo shout the following remarks as they passed in their vehicles: "Go home you F***ing Indians," "You get free education," "F*** NCAA," "Get a job," and "Find something else to whine about."

Once, while I was studying outside at a picnic table, a couple of children from the Sioux Hockey Camp walked by and trailing them were two young boys (one white and the other African American). I looked up and I noticed the boys were reading a sign that read "Native American Programs." They then quickly ran up the sidewalk, turned around, and started war whooping. They then ran across the lawn to rejoin their group.

On the other hand, sports played a significant role when I attended boarding school. It socialized me into becoming a productive citizen, challenged me to achieve my dreams, complete my education, and contributed to me being a better soldier in the military. A sport nickname/logo did not contribute to my success as a human being. I appose these bills because it will deny opportunities for our student athletes to compete in post tournaments and gain national exposure. With a new nickname and logo the teams could participate in the BIG Sky Conference. We all got a chance to see our school rival North Dakota State University (NDSU) Men's Basketball team compete against University of Kansas Jayhawks on a National Television on their first year of eligibility to play in the March Madness 2009. Thank You!

TESTIMONY ATTACHMENT 13

TESTIMONY OF AUNTIE CAREL TWO-EAGLE IN OPPOSITION TO 3 BILLS REGARDING THE MASCOTING OF D/L/NAKOTA PEOPLE

Hanh Chairman & members of the Committee. My name is Carel Two-Eagle, & I speak here in opposition to all 3 bills you are holding hearings on today, as they are currently written, regarding the mascotting of D/L/Nakota People & our culture.

The Oxford Standard Dictionary of the English Language is the ultimate reference for your language. It defines 'mascot' as 'a pet, a caricature'. Humans make lousy pets, and it is most disrespectful for one culture to make a caricature of another – particularly when they are both living cultures. Whoever makes the caricature gives the impression that they are somehow superior to the one(s) caricatured. Our D/L/Nakota culture is frayed, but it is still vibrant, & its Traditional Ways are still very much alive. I am living evidence of that, as is every other Traditional person.

Mascotting is a form of slavery. Slavery was outlawed by the federal government in 1862. The 'United' States broke apart over this matter, & the War Between the States ensued. In the end, Union won – at least on paper. Yet we continue to argue this matter today, in 2011, roughly 145 years later.

Slaves have few, if any, rights, yet we here are supposedly all free people. The US Supreme Court has ruled that individuals - & groups – may not give their Rights away, nor can those Rights be taken from them. Yet that is exactly what these bills would do. They would take away our Rights to freedom from ridicule, from unbalanced caricatures of our 'reality', and to be treated with the respect & dignity the Constitution says is inherently the Right of each of us.

In the Lakota Way, when someone behaves badly, we elders – such as me – shame &/or reprimand someone by asking, "*Where* is your respect? *Where* is your respect?!" Regardless of claims to the contrary, respect is not expressed in any of these bills.

We all understand why some of our D/L/Nakota People may have asked for these bills. The logo was done by a member of the Spirit Lake Nation, so it is a point of pride. And we D/L/Nakota – not 'sioux' – are fierce warriors. There is the possibility that there is some financial payment made to the creator of the logo as well, and they would want to retain that.

But our warrior aspect is hardly our most valuable aspect. Even less is it our only aspect. This view of us is most un-balanced; and in the Traditional Way, balance in ourselves & our lives is both a journey and an objective. It certainly does nothing for our women & girls, who are the ones who put us all on the earth in the first place. The earth Herself is our Holy Mother, after all, since she provides every physical thing we need to survive during our sojourns walking on Her. I've heard the term "lady warriors", and it always makes me wonder, since I am a warrior woman, & have

been all of my life. I'm a Traditional healer, in both the physical-medicine way, & the spiritual Way, since I Sun Dance the prayer of The Four Winds – a prayer to heal the Sacred Hoop of the world. Healing is not for 'ladies' or 'gentlemen', Committee members. It is warrior work; it is combating evil spirits that cause dis-ease of every kind, from spiritual to physical.

Due to cross-generational trauma and Post Traumatic Stress Disorder (PTSD), which is inherent in 98% of us Indns, according to recent data, we see how true this is, daily in some part of Indn Country. Passage of any of these bills would only add to that; it would not decrease either the effects or the rate of incidence. As a Traditional healer, I know this from personal experience and observation.

We IndigenUs get no benefit past the above 2 from being used by the UND as mascots, however. Our tribes get no payment – even Spirit Lake, Standing Rock, and Lake Traverse, all of which are D/L/Nakota.

The UND sells or promotes the sale & use of alcohol at its events. Alcohol is a poison which has decimated cultures across the globe, but especially our IndigenUs Turtle Island cultures. Read the 'comments' to Indn-oriented articles in the Bismarck Tribune, & you will see plenty of evidence of the bigotry regarding us & alcohol that is endemic in North Dakota. Drinking alcohol is referred to as “in-toxic-ation” - the intake of a poison into our bodies. There is something inherently wrong in the concept that a person 'must' consume a poison 'in order to have fun', isn't there..

When any of us Indn citizens of ND take classes at the UND, we get no reduction in fees. We certainly don't get any free classes! And UND's “Native Studies” curriculum is taught mainly by non-Indns! Imagine – people who only know 'about' us from what they've read in books, written mainly by other people who haven't lived our cultures, teaching 'about' us! How paternalistic & caricaturist is that! Duwahleh! It is amazing.

And while we think of honoring our D/L/Nakota People – what about the fact that this state is named for us? That's an ongoing honor – however unintended it has been! In addition, you could amend this bill to make the logo – minus any reference to us as 'sioux', which means ' a treacherous, untrustworthy person', not something any of us should want to be known as - a permanent part of the State of North Dakota's official face. On its letterheads, on its Internet site, and so on. And / Or, how about worked into the “Pride of Dakota labels for all those good North Dakota products?! Those would be honoring us & our culture in a much more balanced way. Those would show respect to us..

So I urge you to vote Do Not Pass on all three of these bills unless you amend them as I have outlined in the preceding paragraph. I would be happy to work with you to make these things happen, just as I would be happy to answer any questions you may have now.

Thank you for hearing me in a good way now. Mitakuye oiasin – All {are} my relatives.

TESTIMONY ATTACHMENT 14

Good morning. Chairperson Kelsch, members of the committee, I appreciate having a chance to address you this morning concerning HB 1208, HB 1257, and HB 1263. My name is Margaret Scott, I am a senior at the University of North Dakota and resident of Grand Forks. I am opposed to all three of these bills because I believe that UND as an educational institution; its purpose is to provide the best education as possible to its students but the Fighting Sioux nickname and logo are detrimental to achieving this purpose. As a UND student, I have worked closely with this issue since 2005. I cannot begin to explain how this controversy has worn on me over the years psychologically, emotionally, and even spiritually. Seeing many of my friends hurt and leave UND as a result of the atmosphere on campus has been the hardest thing for me. However, my goal today is not to list all of the incidents that American Indian students including myself have experienced as a result of the nickname and logo. I have respectfully held discussions with people of a different perspective on the logo on multiple occasions; I know now that most times, we just have to agree to disagree.

So, I am not asking you to change your personal perspective on the logo. Instead, I'm asking you to oppose this legislation on behalf of the university and the welfare of all students. In economics, we learn that a rational decision-maker changes the status quo if the expected benefit from the change exceeds the expected cost. Is the expected benefit of forcing UND to maintain the logo worth the cost of UND not being able to host NCAA tournaments, the continued disruption to the educational atmosphere and the tainted reputations that UND and North Dakota may suffer? The big difference in this economic equation is that you are not the ones that will personally bear the burden of your decision; it will be the UND student body especially the student athletes that will be left to pay the price. Our elected representatives the UND Student Government passed a bill opposing legislature interference. Our UND representatives are telling you the North Dakota representatives that this is clearly not in the student interest which has been the rationale used to justify these bills.

The fact is that the legislation seeks to force two sovereign entities — the State Board of Higher Education and the Standing Rock Sioux tribe — to do as the Legislature sees fit. Not to mention that one bill also calls for suing the NCAA for a second time under a federal antitrust claim. As a student of political science, I would like to point out that claims that the Standing Rock tribal council is being undemocratic by not allowing a referendum are ludicrous. If that refusal makes the tribal council undemocratic, then the North Dakota Legislature and the U.S. Congress are undemocratic as well. People forget that the U.S. is not a true democracy. It is a representative democracy, and that is what the tribal constitutions were modeled on. The Standing Rock Tribe's constitution actually bans tribal-wide referendums because they are too costly. Recent votes by the tribal council to repeal this ban have failed by huge majorities. Ultimately, the legislation questions the Standing Rock Sioux Tribe's sovereign authority, a question that is disrespectful at the very least and degrading at the worst. I find this ironic given that proponents of the Fighting Sioux nickname maintain that they support the name out of genuine honor and respect for the Sioux people.

On that note, during this month in which we celebrate Martin Luther King Jr. Day, I close with this quote from King: "Law and order exist for the purpose of establishing justice, and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress."

TESTIMONY ATTACHMENT 15

January 24, 2011

To: ND House Education Committee:


Rep. RaeAnn Kelsch (Chair)
Rep. Lisa Meier (Vice Chair)
Rep. Lyle Hanson
Rep. Joe Heilman
Rep. Brenda Heller
Rep. Bob Hunsakor
Rep. Dennis Johnson
Rep. Karen Karls
Rep. Corey Mock
Rep. Phillip Mueller
Rep. Karen M. Rohr
Rep. David S. Rust
Rep. Mark Sanford
Rep. Mike Schatz
Rep. John D. Wall

Thank you for the opportunity to present the educational and ethical concerns with HB 1208, HB 1257, and HB 1263 to you. As the chair of the Indian Studies Department at the University of North Dakota I urge you to vote *against* all three bills.

The use of the "Fighting Sioux" name and logo makes it impossible for the faculty and staff at UND to fulfill our academic mission, as a recent University Senate resolution in 2009 points out, and as other statements by academic organizations (included in packet) also emphasize. Some of the specific educational problems caused by use of the name and logo include:

- Creates a potentially hostile environment in the classroom as well as on campus for American Indian students and community members
- Raises concerns as to the potential long-term effects on American Indian students as shown by research cited by the American Psychological Association in their statement (included in packet)
- Causes unequal access to educational opportunities and, thereby, violates federal guidelines of educational and racial equity
- Perpetuates stereotypes of American Indian peoples among the non-Native student population instead of respectful and accurate portrayals of American Indian cultures and peoples
- Affects the experiences of American Indian students and their children in the larger community and the community schools
- Damages UND's reputation and, consequently, that of the state both nationally and internationally
- Is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Goals.

These concerns are serious, and as educators, faculty at UND have long advocated for the retirement of the "Fighting Sioux" name and logo. This is not an issue where the principle of "majority rules" applies.





The well-being of *all* of our students and the integrity of UND's educational mission must be our first concern.

Thank you again for listening! I would be delighted to answer any questions that you may have.

Sincerely,

Dr. Birgit Hans, Chair
Chester Fritz Distinguished Professor
Indian Studies Department
University of North Dakota
701-777-4649
Birgit.hans@und.edu



TESTIMONY ATTACHMENT 16

*Dr. Leigh D. Jeanotte, Director, UND American Indian Student Services
Presentation to ND Legislators
January 26, 2011*

Madam Chairman RaeAnn Kelsch and members of the Education Committee, my name is Dr. Leigh Jeanotte from UND American Indian Student Services. I oppose HB's # 1208, 1257 and 1263 based on the following rationale.

- 1.) I understand that there are many – maybe even a majority of individuals throughout the state and region – who support keeping the Fighting Sioux nickname for UND's athletic teams. Reasons I commonly hear for this support include:
 - We've had it for a long time, it's a tradition.
 - We think it honors American Indians.
 - The logo is attractive and UND strives to use the name honorably.
 - And most recently, as with the basis of the proposed 3 bills – we believe that the tribal people of ND haven't had an opportunity for their voices to be heard via a referendum vote.

But from my point of view, I really see this as a human rights issue, and I'd like to take a few minutes to explain as briefly as possible why I feel this way.

- Let's think back to from the time we were children to now, it is **ingrained** in us and throughout our society to **poke fun** of opposing athletic teams. Now tell me this: with a race-based nickname, how can anyone poke fun at a living race of human beings and not open the door to accusations of racism?
- And as far as not hearing the voices of tribal people in the state, I'd like to point out that the **settlement which UND and the NCAA agreed upon doesn't call for a referendum vote**, it simply states that official permission from the 2 Sioux tribes of the state be granted. One has gone on record as granting this permission and the other has gone on record loud, clear, repeatedly, and officially - that they oppose keeping the nickname.

Now in reality, the Standing Rock Tribal Council serves and was elected to represent the people of the tribe, and that's what they have done. **Similarly to you ND legislators, how would you feel if every time you made a decision it was challenged by outsiders who demanded a referendum vote of the people to render your decision valid?** That is exactly what is happening here.

Not long ago, the NCAA, in an effort to create policy reflective of all their constituents, polled **over 500 American Indian tribes** on the subject of utilizing American Indian names and images for athletic teams. The results of this poll revealed that 90% said they believed such use is demeaning and harmful to American Indian students and youth – hence the foundation for the NCAA policy.

It's important to note, as well, the growing wealth of scientific, academic, published research that has been conducted on the subject. The Frieberg Study, which was instrumental in the NCAA

approving regulations to not allow the use of American Indian names and imagery in their athletic events, revealed that such uses negatively impact American Indian people. Furthermore, additional research has been conducted on the UND campus. For example, Dr. Angela LaRocque's doctoral dissertation also revealed the harms of the Fighting Sioux name, as did other research conducted by Dr. Justin McDonald, Director of the Indians into Psychology Doctoral Education Program at UND.

Where is the research conducted that supports continuing to use American Indian names and images for sports? There is none.

2.) **So in reality, what we have here is one tribe that has gone on record as supporting keeping the nickname, and approximately 500 who strongly oppose it. We also have a growing body of research that reveals the actual harm caused by utilizing American Indian names and images for sports, and absolutely none that supports it or says it's not harmful.**

3.) Now let's examine the national American Indian organizations who have publicly submitted formal resolutions calling for an end to this practice of using American Indian names and images for athletic teams.

- The National Indian Education Association
- The National Congress of American Indians
- The American Indian Higher Education Consortium and
- The American Indians for Opportunities, to name some of the major organizations.

Now tell me, where are the national Indian organizations that have come out and said that it's okay to use American Indian nicknames and logos? There are none.

4.) Now let's look at more regional American Indian tribes and educational organizations:

- The Minnesota Indian Education Association
- The North Dakota Indian Education Association – and by the way, I have with me today a **renewed formal resolution from the NDIEA** strongly opposing the continued use of the Fighting Sioux nickname AND this proposed ND legislation.
- We have virtually all of the other American Indian tribes from ND, MN, SD, and MT who have all put out resolutions opposing the use of the Fighting Sioux nickname by UND.

Now tell me, where are all the American Indian tribes and regional tribal education organizations that say it's okay? There are none.

5.) Now, let's take a look at prestigious national organizations who have come out with strong statements opposing the use of American Indian names and images for athletics, particularly by non-Native schools and educational institutions:

- The American Psychological Association (APA)
- The American Sociological Association (ASA)
- The American Anthropological Association (AAA)
- The U.S. Commission on Civil Rights
- The NAACP, and the list truly goes on and on...

Now tell me, where are the prestigious national organizations that say it's okay to continue this outdated practice, a practice that, by the way, dates back to before our nation's passing of Civil Rights legislation? There are none.

6.) Now, let's take a close look at the UND campus, the very place where this issue's impacts are felt most directly. After all, most would concede that this issue of deciding a UND nickname for its athletic teams really is a UND issue, rather than a STATE issue. And at UND:

- The **University Senate has passed resolutions** several times asking that the Fighting Sioux nickname be respectfully retired due to the **harm it causes** American Indian students and programs, the **divisive impact** of the controversy on our campus and alumni community, and due to the fact that continued use of the nickname is **completely contrary to the academic mission** of our University.
- Be further reminded that the University Senate represents UND faculty, administration, and staff, and that just last weekend, the **Student Senate passed a resolution opposing this very ND legislation** and supporting the continued transition process to retiring the Fighting Sioux nickname. And the UND Indian Association (UNDIA), the primary Indian student organization on campus, also passed a resolution a few years back that calls for the retirement of the nickname. We also have UND programs (including at the time their resolution was passed— 29 American Indian related programs) and numerous academic departments that have gone on record as calling for the retirement of the nickname. We have the ND State Board of Higher Education that was given the right to govern our institutions, and this Board has decided it's time to retire the problematic nickname and move forward.

Now tell me, where are the UND governing bodies that say they support keeping the Fighting Sioux nickname? As far as I know, there are no governing bodies at our institution that support retaining the long controversial, clearly problematic nickname. And I believe I can say this factually, because while the REA is obviously a strong supporter of the nickname for obvious reasons, we are told over and over again when issues arise about what takes place at the arena or what needs to take place, that the REA does not represent UND, and in fact, the REA does not even belong to UND.

7.) I've been on campus for 38 years now, and this issue and controversy have gone on and on and on. Yes, we do have an impressive array of Indian related programs at UND, but it's important to note that just a few years back, they numbered 29 and now these programs that bring much needed federal funding to our institution now number only 20. This controversy **has** negatively impacted our American Indian students and programs, **and it continues** to negatively impact our recruitment efforts, particularly throughout the regional reservation communities that provide most of the American Indian students who attend UND. **Our recruiter is constantly asked about this issue** when she's out on the road! Parents and students alike are frightened for the safety of American Indian students on the UND campus, and when Campus Security is called to have an officer at the Indian Center every time the controversy heats up – can you blame them for being concerned about a hostile campus climate? **Would you choose to send your American Indian child/student to an institution where they are continually placed at the center of a local, regional, and national controversy? I think probably not.**

And isn't it ironic that throughout the more than 3 decades that I have been directing Indian programs at UND, and through all the years that the SBHE had the power to decide this contentious issue, only one member of the NDSBHE ever came to the American Indian Center on campus to learn directly about if and how this issue impacts American Indian students who attend UND. Only one, Mr. Michael Haugen, and we are genuinely thankful to him for coming and for listening.

And to my knowledge, only one individual involved with the ND State Legislature has ever come to visit with our Indian related programs and Indian students: Mr. Lonnie Winrich. Again, we are immensely grateful for his time, support, and thorough understanding of the issue. Let me ask this: how many of you who have proposed the 3 nickname bills or supported them have come to the American Indian Center on the UND campus to learn about how this issue and controversy directly affects the educational experience of our American Indian students? I'm guessing none, but I do extend a cordial invitation to do so.

- 8.) And finally, I'd just like to mention the **Scales of Justice** and ask all present to visualize the two sides of this national icon for which our legislature is bound to uphold.
- **On one side of the scale**, we have those who support the nickname and their reasons for supporting it, we have the one Sioux Tribe, the REA, and some within the athletic fan base that say "We like it, we've had it for a long time, it's attractive, and we think it honors American Indian people."
 - **On the other side**, we have numerous regional tribes that have gone on record as strongly opposing the Fighting Sioux nickname.
 - **We also have on this side** over 500 American Indian tribes from all across the U.S. who believe that American Indian nicknames and images are offensive and demeaning
 - **Also on this side**, we have every American Indian and educational organization and entity of the region who have clearly asked that the Fighting Sioux nickname be retired.
 - **On this other side as well**, we also have virtually every national prestigious organization and entity having gone on record publically as strongly opposing the use of American Indian nicknames and images for sports due to the harm they cause American Indian students and youth.
 - **And on this other side of the Scales of Justice**, we have strong past and current resolutions from academic departments at UND, the University Senate and the UND Student Senate, the Indian related programs at UND, and the UND Indian Association on campus. Together, these groups represent the UND administration, faculty, staff, and students, just as each legislator here is to act and serve in a way that represents their constituents.
 - **We should also consider that UND is well into its official transition process**, and any action to move the proposed legislation forward may be viewed as a mockery of UND's current administration and processes.
 - **And naturally, we need to consider the potential devastating impact these proposed bills would have on our athletic teams and every single individual athlete** – be they involved in hockey, basketball, tennis, or other UND team sports - that aspires to realize the results of

years of hard work and training by demonstrating their long-honed skills at the national conference level of competition.

- **It is also imperative to mention here that we have an NCAA court agreement outlining processes that our ND Attorney General agreed to uphold;** and yet now – because these processes didn't turn out the way some powerful constituents thought they would, we are trying to disregard this formal court agreement by going around it via the proposed bills. This recent activity certainly does not reflect very honorably on our Attorney General, or our respect for such legally binding court agreements.
- **And please, let's not overlook the unique needs of our students, the number one constituents our state higher education institutions are charged with serving.** We have 11 state institutions of higher education, each with unique needs and strained budgets, all with academic missions that include serving and providing outreach to the American Indian tribes of the state. The fact is that the proposed bills, if passed, will bring continued harm to our American Indian programs and students – the evidence is in and it's absolutely overwhelmingly in favor of immediately retiring these American Indian nicknames and logos. And beyond the serious negative impacts to our American Indian students, which I'd like to remind legislators: this is a historically underrepresented group in higher education based on decades of critically low recruitment and retention rates – retaining the Fighting Sioux nickname will, in turn, harm **all** students who attend UND because if these bills are passed and the nickname is retained as a result – we will be teaching our entire student body that money and power really do win out over human rights in ND.
- **Further, UND will long suffer a deeply concerning national reputation** regarding the blind eye it is turning to the human rights of the diversity located in our state's own "back yard," American Indian students, should this proposed legislation move forward.
- **It is also vitally important to consider the legal challenge that may occur as a result of moving the proposed bills forward,** which will predictably take a great deal of time, human resources, and be extremely costly to ND tax payers.

Now when we look to sort through and weigh out the various testimonies being shared here today, I think it might be helpful to visual the Scales of Justice. On one side: the fans who like it and think it honors American Indian people, and on the other side, a virtual mountain comprised of individuals, American Indian tribes of the region and nation, programs, offices, national, regional, educational, and tribal organizations and entities, and a growing body of published, scientific research that details the actual harm being done to American Indian people through the continued use of such demeaning and offensive practices. And finally, we have the athletes to consider, and the predictable additional costs that will likely result from legal challenges.

And when we apply this controversial issue to the Scales of Justice that are supposed to govern our decisions – there's only one decision to be made today.

One side clearly outweighs the other.

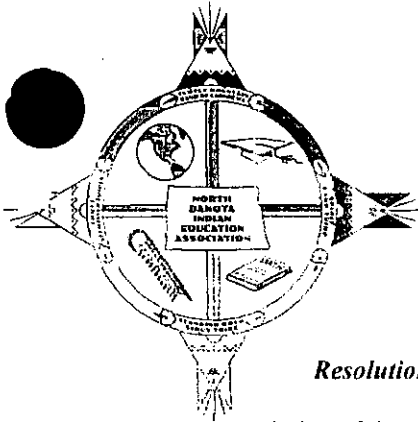
Please do not consider moving these three proposed bills forward. I guarantee you that if indeed that were to take place, it would only give credence to those who say this is all about

power and money. As I said in the beginning, I see this as a human rights issue, and if these bills are passed, this controversy will - without a doubt - go on and on and on...continuing on the UND campus for perhaps another 50 or more years.

The time has come and indeed is before you right now - to weigh out the pros and cons, look at the two sides of the scale, and vote in the only way that makes sense in your minds and hearts.

Vote no on proposed HB's 1208, 1257, and 1263.

Thank you.



NORTH DAKOTA INDIAN EDUCATION ASSOCIATION

Resolution regarding the use of the "Fighting Sioux" Name and Logo at the University of North Dakota

WHEREAS, it is the mission of the North Dakota Indian Education Association to represent and promote a quality education as it pertains to the academic, social, physical, cultural, and spiritual well-being of Indian children and adults; and

WHEREAS, the North Dakota Indian Education Association represents all K-12 schools and students in the state of North Dakota, and significant numbers of American Indian students go on to pursue higher education opportunities at mainstream, public institutions of higher education including the University of North Dakota; and

WHEREAS, that any use of American Indian names and logos in athletics is demeaning whether intended or not; and

WHEREAS, these names and symbols promote and encourage practices that promote hurtful, historical stereotypes, and trivialize American Indian culture, traditions, and spirituality; and

WHEREAS, the United States Commission on Civil Rights (2001) called for an immediate end to using Native American names and symbols by non-Native schools and public institutions as these names and logos teach all students that stereotyping of minority groups is acceptable; and

WHEREAS, the American Psychological Association (APA) and numerous other national education, American Indian, and other organizations and entities, along with a wealth of published, academic research have revealed the harm caused by the use of American Indian names and images for athletic teams; and

WHEREAS, the University of North Dakota University Senate (2009) passed a resolution stating the immediate need to respectfully retire the Fighting Sioux nickname and logo(s) due to its harmful impact on students, its divisive impact on the community, and its direct conflict with the University mission, and the University Student Senate passed a resolution (January 23, 2011) strongly opposing recent ND legislators' proposed bills to retain the Fighting Sioux nickname; and

WHEREAS, the use of the name and symbol at the University of North Dakota hinders the full participation of American Indian students in all aspects of campus life; and

WHEREAS as citizens, American Indian people have a right to be heard, represented, and involved in all aspects of education at the local, state, and national levels.

NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes North Dakota Legislature proposed HB's # 1208, 1257 and 1263.

BE IT FURTHER RESOLVED, that the North Dakota Indian Education Association strongly encourages the President of the University of North Dakota, the Chancellor of the North Dakota University System and the North Dakota State Board of Higher Education to continue the transition process to retire the fighting Sioux nickname and logo(s).

THE FOREGOING RESOLUTION WAS DULY PASSED AT THE NORTH DAKOTA INDIAN EDUCATION ASSOCIATION ANNUAL CONFERENCE BY THE MEMBERSHIP ON THE 22nd DAY OF JANUARY, IN MINOT, N.D.

Patricia Walking Eagle, NDIEA President

Sharen Hartman, NDIEA Secretary

TESTIMONY ATTACHMENT 17

To House Education Committee,
Representative Rae Ann Kelsch, Chair

And to whom it may concern,

My name is William Crawford, and my Dakota name is Sunka Ska. I am a member of the Sisitunwan Wahpetunwan Oyate and currently in my fourth year at the University of North Dakota. I am writing this in concerns of House Bills 1208, 1257, and 1263. As a Native American student on the campus of UND, I have personally dealt with how this logo/nickname controversy affects my educational and social experiences at this institution. All these negative experiences began during my very first year at UND. Just a simple thing as meeting people became an issue as others would find out that I'm native and go straight to the question of my view on the logo. Of course, if I was not with them I became no friend of theirs. I can't even go to any sporting events without feeling demeaned and seeing my culture mocked. I never attended any basketball, volleyball, or football games because of this. I have gone to one hockey game and that is a whole different story. I will just say that I will never go again. Besides all the name-calling, class arguments, and overheard racial slurs, I would also like to point out that students who are demeaned and demoralized by this nickname/logo cannot even show their pride for this school and buy clothing and other memorabilia. This may seem like a short summary, but I hope it is clear that myself, and other students who have shared the same experiences as I have, are not having the same college experiences as a normal, average, typical student.

I would like to finish with one my latest experiences. Let me start off by saying that in Dakota culture, we highly respect and honor our veterans. Even if any of you have gone to a Wacipi (Powwow) it should be clearly evident. But several weeks ago, I was in a rush and wanted something fast and healthy to eat. So I went to Pita Pit, mainly because I had coupons. So I'm standing in line and I look down in front of me and there is a mat in front of the cashier with a huge FS logo on it. It was worn and was full of mud and snow. The customer in front me stood on it, kicking the snow off his shoes right across the "warriors" face. I instantly became disgusted and walked out the door. So my question is this, "Is this how you respect and honor us?" By even demeaning a symbol of a Dakota/Lakota/Nakota warrior into a dirty wet floor mat? I don't mean to boast in any way, but I come from a family of veterans and I will never come to a day where I even think about laying a picture of one of them down on the ground and walking over it every day. I hope this is a clear example of how this nickname/logo affects not only the campus, but people's experiences across Grand Forks.

And now, out of nowhere, it is proposed to force UND to retain the FS logo and nickname. Is this the type of traditions that should be kept alive? The tradition of degrading a human's culture and background? The tradition of negatively affecting student's college experiences? And the tradition of having a controversial and divisive atmosphere at a public university?

Thank you for your time,
William Crawford


TESTIMONY ATTACHMENT II

Madam Chair and members of the committee

My name is Evan Andrist, State Governmental Affairs Commissioner and registered lobbyist for the University of North Dakota Student Government. I represent UND Student Government in matters regarding the state of North Dakota. On behalf of the students of UND, we oppose the passage of House Bills 1208, 1257 and 1263 as expressed in UND Student Senate Resolution SR1011-06, which are attached to the written transcript.

The Fighting Sioux nickname and logo has historically—and presently—caused much division between our students. This division is evident even in the UND Student Senate vote on resolution SR1011-06 which had a vote of ten for the resolution, eight against, and four abstentions. Although we are unable to speak personally with all of UND's fourteen thousand students, UND Student Senate are the elected representatives for our student population. This is not an easy issue, but it is an issue that we are nonetheless prepared to confront.

The majority of UND's students, nickname supporters and opponents alike, are ready for this issue end. Proponents of each side of the issue feel passionately about their reasons for their respective stances, and discussions of the logo certainly reflect that passion. That being said, we at the University of North Dakota are weary. Our campus has the potential to move on, heal, and unite to become a better and stronger place. These bills stand in opposition to that growth. They furthermore restrict the authority of the State Board of Higher Education and the University of North Dakota. They are not only detrimental to the wholeness of our campus, but also to our movement to Division I athletics as a member of the Big Sky



Conference; these bills, if passed, would also impede our ability to schedule games with a number of athletic teams and host NCAA tournaments.

During discussion of this resolution, it became apparent that the Fighting Sioux nickname has served our university well, but instead of reflecting the pride it used to, it reflects personal biases and division. Although it will be a painful process—not only for students, faculty, and staff at the university, but also for Fighting Sioux fans around the world—we must move away from this division and towards unity.

Sincerely,



Evan Andrist

State Governmental Affairs Commissioner

University of North Dakota Student Government



Senate Resolution

To: The Student Senate of the University of North Dakota

Author: Student Body Vice-President, Grant Hauschild; Student Body President, Matt Bakke; Governmental Affairs Commissioner, Evan Andrist; Education and Human Development Senator, Fred Burke; Greek Life Senator, John Kappel; Off-Campus Senator, Kevin Peters

CC:

Date: 1/19/2011

Re: Resolution opposing North Dakota House Bills 1208, 1257, and 1263

Whereas, the University of North Dakota has already begun the transition to retire the current "Fighting Sioux" nickname and logo and,

Whereas, North Dakota House Bills 1208, 1257, and 1263, restrict the authority of the State Board of Higher Education in matters of the North Dakota University System stated in the century code 15-10-11, and

Whereas, the University of North Dakota is transitioning to Division I athletics, was recently accepted to the Big Sky Conference, and any further use of the "Fighting Sioux" nickname and logo could be a detriment to this process and allow teams to reject scheduling our athletic teams, and

Whereas, North Dakota House Bills 1208, 1257, and 1263 only re-ignite the division over the "Fighting Sioux" nickname and logo and further divides our University, the City of Grand Forks, and the State of North Dakota, and

Whereas, the costs associated with a prolonged legal battle with the NCAA and other related costs, explicit or implicit, are unknown and unaccounted for

Therefore, be it moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1208 and,

Therefore, be it further moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1257 and,

Therefore, be it furthest moved that the University of North Dakota Student Senate oppose North Dakota House Bill 1263

TESTIMONY ATTACHMENT 12

Good morning/afternoon! Chairperson Kelsch, members of the committee. My name is Franklin Sage, a current Sociology Graduate Student at the University of North Dakota (UND). I'm originally from Counselor, NM and grew up on the Navajo Nation Reservation. I have lived in Grand Forks, ND for 11 years and completed my Bachelor of Arts Degree from UND in December 2008.

I appreciate having a chance to address you this morning/afternoon concerning House Bill (HB) 1208, HB 1257, and HB 1263. I oppose these bills because the school nickname/logo has become divisive in the communities like Spirit Lake and Standing Rock Reservations, UND campus climate, and among Native American students. It will continue to be divisive if these bills are passed. I have worked on the nickname/logo issues as an undergraduate student and participated in the student organization called BRIDGES. In this organization, we have experienced backlash from our fellow students, community members, and alumni. The objective of this organization was to educate the public about why this nickname/logo is offensive, derogatory, demeaning, and singles out Native American students in the classroom about their opinion on the Fighting Sioux.

I oppose these bills because I'm offended by nicknames and logos which use the Sioux Nation for profit and ridicules American Indian culture in the name of sports. I have felt singled out in my classes when the topic of the logo and nickname has been raised. Classmates tell me that I should feel honored, that I am not a member of the Sioux tribe, and that if I do not like the name, I should leave UND. I have heard students in class make comments about Indians that reveal not only negative stereotypes but also false assumptions. For example, students have suggested to me that Indians get free educations, live tax-free, and hunt for free. Once when I was walking out of the public library, an individual was wearing a Washington Redskins jacket approached me and said, "I thought you Indians like to be honored."

Since I became active in BRIDGES, people have shouted at me from moving vehicles making remarks such as: "Go home prairie nigger," "Get off the road you nigger." and "What are you running from boy?"

Members of BRIDGES have organized some educational rallies on campus before hockey games. Once, during a thirty-minute rally at the corner of University and Sixth Avenue, I witnessed people who supported the nickname and logo shout the following remarks as they passed in their vehicles: "Go home you F***ing Indians," "You get free education," "F*** NCAA," "Get a job," and "Find something else to whine about."

Once, while I was studying outside at a picnic table, a couple of children from the Sioux Hockey Camp walked by and trailing them were two young boys (one white and the other African American). I looked up and I noticed the boys were reading a sign that read "Native American Programs." They then quickly ran up the sidewalk, turned around, and started war whooping. They then ran across the lawn to rejoin their group.

On the other hand, sports played a significant role when I attended boarding school. It socialized me into becoming a productive citizen, challenged me to achieve my dreams, complete my education, and contributed to me being a better soldier in the military. A sport nickname/logo did not contribute to my success as a human being. I appose these bills because it will deny opportunities for our student athletes to compete in post tournaments and gain national exposure. With a new nickname and logo the teams could participate in the BIG Sky Conference. We all got a chance to see our school rival North Dakota State University (NDSU) Men's Basketball team compete against University of Kansas Jayhawks on a National Television on their first year of eligibility to play in the March Madness 2009. Thank You!

TESTIMONY ATTACHMENT 13

TESTIMONY OF AUNTIE CAREL TWO-EAGLE IN OPPOSITION TO 3 BILLS REGARDING THE MASCOTING OF D/L/NAKOTA PEOPLE

Hanh Chairman & members of the Committee. My name is Carel Two-Eagle, & I speak here in opposition to all 3 bills you are holding hearings on today, as they are currently written, regarding the mascoting of D/L/Nakota People & our culture.

The Oxford Standard Dictionary of the English Language is the ultimate reference for your language. It defines 'mascot' as 'a pet, a caricature'. Humans make lousy pets, and it is most disrespectful for one culture to make a caricature of another – particularly when they are both living cultures. Whoever makes the caricature gives the impression that they are somehow superior to the one(s) caricatured. Our D/L/Nakota culture is frayed, but it is still vibrant, & its Traditional Ways are still very much alive. I am living evidence of that, as is every other Traditional person.

Mascoting is a form of slavery. Slavery was outlawed by the federal government in 1862. The 'United' States broke apart over this matter, & the War Between the States ensued. In the end, union won – at least on paper. Yet we continue to argue this matter today, in 2011, roughly 145 years later.

Slaves have few, if any, rights, yet we here are supposedly all free people. The US Supreme Court has ruled that individuals - & groups – may not give their Rights away, nor can those Rights be taken from them. Yet that is exactly what these bills would do. They would take away our Rights to freedom from ridicule, from unbalanced caricatures of our 'reality', and to be treated with the respect & dignity the Constitution says is inherently the Right of each of us.

In the Lakota Way, when someone behaves badly, we elders – such as me – shame &/or reprimand someone by asking, "*Where* is your respect? *Where* is your respect?!" Regardless of claims to the contrary, respect is not expressed in any of these bills.

We all understand why some of our D/L/Nakota People may have asked for these bills. The logo was done by a member of the Spirit Lake Nation, so it is a point of pride. And we D/L/Nakota – not 'sioux' – are fierce warriors. There is the possibility that there is some financial payment made to the creator of the logo as well, and they would want to retain that.

But our warrior aspect is hardly our most valuable aspect. Even less is it our only aspect. This view of us is most un-balanced; and in the Traditional Way, balance in ourselves & our lives is both a journey and an objective. It certainly does nothing for our women & girls, who are the ones who put us all on the earth in the first place. The earth Herself is our Holy Mother, after all, since she provides every physical thing we need to survive during our sojourns walking on Her. I've heard the term "lady warriors", and it always makes me wonder, since I am a warrior woman, & have

been all of my life. I'm a Traditional healer, in both the physical-medicine way, & the spiritual Way, since I Sun Dance the prayer of The Four Winds – a prayer to heal the Sacred Hoop of the world. Healing is not for 'ladies' or 'gentlemen', Committee members. It is warrior work; it is combating evil spirits that cause dis-ease of every kind, from spiritual to physical.

Due to cross-generational trauma and Post Traumatic Stress Disorder (PTSD), which is inherent in 98% of us Indns, according to recent data, we see how true this is, daily in some part of Indn Country. Passage of any of these bills would only add to that; it would not decrease either the effects or the rate of incidence. As a Traditional healer, I know this from personal experience and observation.

We IndigenUs get no benefit past the above 2 from being used by the UND as mascots, however. Our tribes get no payment – even Spirit Lake, Standing Rock, and Lake Traverse, all of which are D/L/Nakota.

The UND sells or promotes the sale & use of alcohol at its events. Alcohol is a poison which has decimated cultures across the globe, but especially our IndigenUs Turtle Island cultures. Read the 'comments' to Indn-oriented articles in the Bismarck Tribune, & you will see plenty of evidence of the bigotry regarding us & alcohol that is endemic in North Dakota. Drinking alcohol is referred to as “in-toxic-ation” - the intake of a poison into our bodies. There is something inherently wrong in the concept that a person 'must' consume a poison 'in order to have fun', isn't there..

When any of us Indn citizens of ND take classes at the UND, we get no reduction in fees. We certainly don't get any free classes! And UND's “Native Studies” curriculum is taught mainly by non-Indns! Imagine – people who only know 'about' us from what they've read in books, written mainly by other people who haven't lived our cultures, teaching 'about' us! How paternalistic & caricaturist is that! Duwahleh! It is amazing.

And while we think of honoring our D/L/Nakota People – what about the fact that this state is named for us? That's an ongoing honor – however unintended it has been! In addition, you could amend this bill to make the logo – minus any reference to us as 'sioux', which means 'a treacherous, untrustworthy person', not something any of us should want to be known as - a permanent part of the State of North Dakota's official face. On its letterheads, on its Internet site, and so on. And / Or, how about worked into the “Pride of Dakota labels for all those good North Dakota products?! Those would be honoring us & our culture in a much more balanced way. Those would show respect to us..

So I urge you to vote Do Not Pass on all three of these bills unless you amend them as I have outlined in the preceding paragraph. I would be happy to work with you to make these things happen, just as I would be happy to answer any questions you may have now.

Thank you for hearing me in a good way now. Mitakuye oiasin – All {are} my relatives.

TESTIMONY ATTACHMENT 14

Good morning. Chairperson Kelsch, members of the committee, I appreciate having a chance to address you this morning concerning HB 1208, HB 1257, and HB 1263. My name is Margaret Scott, I am a senior at the University of North Dakota and resident of Grand Forks. I am opposed to all three of these bills because I believe that UND as an educational institution; its purpose is to provide the best education as possible to its students but the Fighting Sioux nickname and logo are detrimental to achieving this purpose. As a UND student, I have worked closely with this issue since 2005. I cannot begin to explain how this controversy has worn on me over the years psychologically, emotionally, and even spiritually. Seeing many of my friends hurt and leave UND as a result of the atmosphere on campus has been the hardest thing for me. However, my goal today is not to list all of the incidents that American Indian students including myself have experienced as a result of the nickname and logo. I have respectfully held discussions with people of a different perspective on the logo on multiple occasions; I know now that most times, we just have to agree to disagree.

So, I am not asking you to change your personal perspective on the logo. Instead, I'm asking you to oppose this legislation on behalf of the university and the welfare of all students. In economics, we learn that a rational decision-maker changes the status quo if the expected benefit from the change exceeds the expected cost. Is the expected benefit of forcing UND to maintain the logo worth the cost of UND not being able to host NCAA tournaments, the continued disruption to the educational atmosphere and the tainted reputations that UND and North Dakota may suffer? The big difference in this economic equation is that you are not the ones that will personally bear the burden of your decision; it will be the UND student body especially the student athletes that will be left to pay the price. Our elected representatives the UND Student Government passed a bill opposing legislature interference. Our UND representatives are telling you the North Dakota representatives that this is clearly not in the student interest which has been the rationale used to justify these bills.

The fact is that the legislation seeks to force two sovereign entities — the State Board of Higher Education and the Standing Rock Sioux tribe — to do as the Legislature sees fit. Not to mention that one bill also calls for suing the NCAA for a second time under a federal antitrust claim. As a student of political science, I would like to point out that claims that the Standing Rock tribal council is being undemocratic by not allowing a referendum are ludicrous. If that refusal makes the tribal council undemocratic, then the North Dakota Legislature and the U.S. Congress are undemocratic as well. People forget that the U.S. is not a true democracy. It is a representative democracy, and that is what the tribal constitutions were modeled on. The Standing Rock Tribe's constitution actually bans tribal-wide referendums because they are too costly. Recent votes by the tribal council to repeal this ban have failed by huge majorities. Ultimately, the legislation questions the Standing Rock Sioux Tribe's sovereign authority, a question that is disrespectful at the very least and degrading at the worst. I find this ironic given that proponents of the Fighting Sioux nickname maintain that they support the name out of genuine honor and respect for the Sioux people.

On that note, during this month in which we celebrate Martin Luther King Jr. Day, I close with this quote from King: "Law and order exist for the purpose of establishing justice, and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress."

TESTIMONY ATTACHMENT 15

January 24, 2011

To: ND House Education Committee:


Rep. RaeAnn Kelsch (Chair)
Rep. Lisa Meier (Vice Chair)
Rep. Lyle Hanson
Rep. Joe Heilman
Rep. Brenda Heller
Rep. Bob Hunsakor
Rep. Dennis Johnson
Rep. Karen Karls
Rep. Corey Mock
Rep. Phillip Mueller
Rep. Karen M. Rohr
Rep. David S. Rust
Rep. Mark Sanford
Rep. Mike Schatz
Rep. John D. Wall

Thank you for the opportunity to present the educational and ethical concerns with HB 1208, HB 1257, and HB 1263 to you. As the chair of the Indian Studies Department at the University of North Dakota I urge you to vote *against* all three bills.

The use of the "Fighting Sioux" name and logo makes it impossible for the faculty and staff at UND to fulfill our academic mission, as a recent University Senate resolution in 2009 points out, and as other statements by academic organizations (included in packet) also emphasize. Some of the specific educational problems caused by use of the name and logo include:

- Creates a potentially hostile environment in the classroom as well as on campus for American Indian students and community members
- Raises concerns as to the potential long-term effects on American Indian students as shown by research cited by the American Psychological Association in their statement (included in packet)
- Causes unequal access to educational opportunities and, thereby, violates federal guidelines of educational and racial equity
- Perpetuates stereotypes of American Indian peoples among the non-Native student population instead of respectful and accurate portrayals of American Indian cultures and peoples
- Affects the experiences of American Indian students and their children in the larger community and the community schools
- Damages UND's reputation and, consequently, that of the state both nationally and internationally
- Is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Goals.

These concerns are serious, and as educators, faculty at UND have long advocated for the retirement of the "Fighting Sioux" name and logo. This is not an issue where the principle of "majority rules" applies.



The well-being of *all* of our students and the integrity of UND's educational mission must be our first concern.

Thank you again for listening! I would be delighted to answer any questions that you may have.

Sincerely,

Dr. Birgit Hans, Chair
Chester Fritz Distinguished Professor
Indian Studies Department
University of North Dakota
701-777-4649
Birgit.hans@und.edu



TESTIMONY ATTACHMENT 16

*Dr. Leigh D. Jeanotte, Director, UND American Indian Student Services
Presentation to ND Legislators
January 26, 2011*

Madam Chairman RacAnn Kelsch and members of the Education Committee, my name is Dr. Leigh Jeanotte from UND American Indian Student Services. I oppose HB's # 1208, 1257 and 1263 based on the following rationale.

- 1.) I understand that there are many – maybe even a majority of individuals throughout the state and region – who support keeping the Fighting Sioux nickname for UND's athletic teams. Reasons I commonly hear for this support include:
 - We've had it for a long time, it's a tradition.
 - We think it honors American Indians.
 - The logo is attractive and UND strives to use the name honorably.
 - And most recently, as with the basis of the proposed 3 bills – we believe that the tribal people of ND haven't had an opportunity for their voices to be heard via a referendum vote.

But from my point of view, I really see this as a human rights issue, and I'd like to take a few minutes to explain as briefly as possible why I feel this way.

- Let's think back to from the time we were children to now, it is **ingrained** in us and throughout our society to **poke fun** of opposing athletic teams. Now tell me this: with a race-based nickname, how can anyone poke fun at a living race of human beings and not open the door to accusations of racism?
- And as far as not hearing the voices of tribal people in the state, I'd like to point out that the **settlement which UND and the NCAA agreed upon doesn't call for a referendum vote**, it simply states that official permission from the 2 Sioux tribes of the state be granted. One has gone on record as granting this permission and the other has gone on record loud, clear, repeatedly, and officially - that they oppose keeping the nickname.

Now in reality, the Standing Rock Tribal Council serves and was elected to represent the people of the tribe, and that's what they have done. **Similarly to you ND legislators, how would you feel if every time you made a decision it was challenged by outsiders who demanded a referendum vote of the people to render your decision valid?** That is exactly what is happening here.

Not long ago, the NCAA, in an effort to create policy reflective of all their constituents, polled **over 500 American Indian tribes** on the subject of utilizing American Indian names and images for athletic teams. The results of this poll revealed that 90% said they believed such use is demeaning and harmful to American Indian students and youth – hence the foundation for the NCAA policy.

It's important to note, as well, the growing wealth of scientific, academic, published research that has been conducted on the subject. The Frieberg Study, which was instrumental in the NCAA

approving regulations to not allow the use of American Indian names and imagery in their athletic events, revealed that such uses negatively impact American Indian people. Furthermore, additional research has been conducted on the UND campus. For example, Dr. Angela LaRocque's doctoral dissertation also revealed the harms of the Fighting Sioux name, as did other research conducted by Dr. Justin McDonald, Director of the Indians into Psychology Doctoral Education Program at UND.

Where is the research conducted that supports continuing to use American Indian names and images for sports? There is none.

2.) **So in reality, what we have here is one tribe that has gone on record as supporting keeping the nickname, and approximately 500 who strongly oppose it. We also have a growing body of research that reveals the actual harm caused by utilizing American Indian names and images for sports, and absolutely none that supports it or says it's not harmful.**

3.) Now let's examine the national American Indian organizations who have publicly submitted formal resolutions calling for an end to this practice of using American Indian names and images for athletic teams.

- The National Indian Education Association
- The National Congress of American Indians
- The American Indian Higher Education Consortium and
- The American Indians for Opportunities, to name some of the major organizations.

Now tell me, where are the national Indian organizations that have come out and said that it's okay to use American Indian nicknames and logos? There are none.

4.) Now let's look at more regional American Indian tribes and educational organizations:

- The Minnesota Indian Education Association
- The North Dakota Indian Education Association – and by the way, I have with me today a **renewed formal resolution from the NDIEA** strongly opposing the continued use of the Fighting Sioux nickname AND this proposed ND legislation.
- We have virtually all of the other American Indian tribes from ND, MN, SD, and MT who have all put out resolutions opposing the use of the Fighting Sioux nickname by UND.

Now tell me, where are all the American Indian tribes and regional tribal education organizations that say it's okay? There are none.

5.) Now, let's take a look at prestigious national organizations who have come out with strong statements opposing the use of American Indian names and images for athletics, particularly by non-Native schools and educational institutions:

- The American Psychological Association (APA)
- The American Sociological Association (ASA)
- The American Anthropological Association (AAA)
- The U.S. Commission on Civil Rights
- The NAACP, and the list truly goes on and on...

Now tell me, where are the prestigious national organizations that say it's okay to continue this outdated practice, a practice that, by the way, dates back to before our nation's passing of Civil Rights legislation? There are none.

- 6.) Now, let's take a close look at the UND campus, the very place where this issue's impacts are felt most directly. After all, most would concede that this issue of deciding a UND nickname for its athletic teams really is a UND issue, rather than a STATE issue. And at UND:
- The **University Senate has passed resolutions** several times asking that the Fighting Sioux nickname be respectfully retired due to the **harm it causes** American Indian students and programs, the **divisive impact** of the controversy on our campus and alumni community, and due to the fact that continued use of the nickname is **completely contrary to the academic mission** of our University.
 - Be further reminded that the University Senate represents UND faculty, administration, and staff, and that just last weekend, the **Student Senate passed a resolution opposing this very ND legislation** and supporting the continued transition process to retiring the Fighting Sioux nickname. And the UND Indian Association (UNDIA), the primary Indian student organization on campus, also passed a resolution a few years back that calls for the retirement of the nickname. We also have UND programs (including at the time their resolution was passed— 29 American Indian related programs) and numerous academic departments that have gone on record as calling for the retirement of the nickname. We have the ND State Board of Higher Education that was given the right to govern our institutions, and this Board has decided it's time to retire the problematic nickname and move forward.

Now tell me, where are the UND governing bodies that say they support keeping the Fighting Sioux nickname? As far as I know, there are no governing bodies at our institution that support retaining the long controversial, clearly problematic nickname. And I believe I can say this factually, because while the REA is obviously a strong supporter of the nickname for obvious reasons, we are told over and over again when issues arise about what takes place at the arena or what needs to take place, that the REA does not represent UND, and in fact, the REA does not even belong to UND.

- 7.) I've been on campus for 38 years now, and this issue and controversy have gone on and on and on. Yes, we do have an impressive array of Indian related programs at UND, but it's important to note that just a few years back, they numbered 29 and now these programs that bring much needed federal funding to our institution now number only 20. This controversy **has** negatively impacted our American Indian students and programs, **and it continues** to negatively impact our recruitment efforts, particularly throughout the regional reservation communities that provide most of the American Indian students who attend UND. **Our recruiter is constantly asked about this issue** when she's out on the road! Parents and students alike are frightened for the safety of American Indian students on the UND campus, and when Campus Security is called to have an officer at the Indian Center every time the controversy heats up – can you blame them for being concerned about a hostile campus climate? **Would you choose to send your American Indian child/student to an institution where they are continually placed at the center of a local, regional, and national controversy?** I think probably not.

And isn't it ironic that throughout the more than 3 decades that I have been directing Indian programs at UND, and through all the years that the SBHE had the power to decide this contentious issue, only one member of the NDSBHE ever came to the American Indian Center on campus to learn directly about if and how this issue impacts American Indian students who attend UND. Only one, Mr. Michael Haugen, and we are genuinely thankful to him for coming and for listening.

And to my knowledge, only one individual involved with the ND State Legislature has ever come to visit with our Indian related programs and Indian students: Mr. Lonnie Winrich. Again, we are immensely grateful for his time, support, and thorough understanding of the issue. Let me ask this: how many of you who have proposed the 3 nickname bills or supported them have come to the American Indian Center on the UND campus to learn about how this issue and controversy directly affects the educational experience of our American Indian students? I'm guessing none, but I do extend a cordial invitation to do so.

- 8.) And finally, I'd just like to mention the **Scales of Justice** and ask all present to visualize the two sides of this national icon for which our legislature is bound to uphold.
- **On one side of the scale**, we have those who support the nickname and their reasons for supporting it, we have the one Sioux Tribe, the REA, and some within the athletic fan base that say "We like it, we've had it for a long time, it's attractive, and we think it honors American Indian people."
 - **On the other side**, we have numerous regional tribes that have gone on record as strongly opposing the Fighting Sioux nickname.
 - **We also have on this side** over 500 American Indian tribes from all across the U.S. who believe that American Indian nicknames and images are offensive and demeaning
 - **Also on this side**, we have every American Indian and educational organization and entity of the region who have clearly asked that the Fighting Sioux nickname be retired.
 - **On this other side as well**, we also have virtually every national prestigious organization and entity having gone on record publically as strongly opposing the use of American Indian nicknames and images for sports due to the harm they cause American Indian students and youth.
 - **And on this other side of the Scales of Justice**, we have strong past and current resolutions from academic departments at UND, the University Senate and the UND Student Senate, the Indian related programs at UND, and the UND Indian Association on campus. Together, these groups represent the UND administration, faculty, staff, and students, just as each legislator here is to act and serve in a way that represents their constituents.
 - **We should also consider that UND is well into its official transition process**, and any action to move the proposed legislation forward may be viewed as a mockery of UND's current administration and processes.
 - **And naturally, we need to consider the potential devastating impact these proposed bills would have on our athletic teams and every single individual athlete** – be they involved in hockey, basketball, tennis, or other UND team sports - that aspires to realize the results of

years of hard work and training by demonstrating their long-honed skills at the national conference level of competition.

- **It is also imperative to mention here that we have an NCAA court agreement outlining processes that our ND Attorney General agreed to uphold;** and yet now – because these processes didn't turn out the way some powerful constituents thought they would, we are trying to disregard this formal court agreement by going around it via the proposed bills. This recent activity certainly does not reflect very honorably on our Attorney General, or our respect for such legally binding court agreements.
- **And please, let's not overlook the unique needs of our students, the number one constituents our state higher education institutions are charged with serving.** We have 11 state institutions of higher education, each with unique needs and strained budgets, all with academic missions that include serving and providing outreach to the American Indian tribes of the state. The fact is that the proposed bills, if passed, will bring continued harm to our American Indian programs and students – the evidence is in and it's absolutely overwhelmingly in favor of immediately retiring these American Indian nicknames and logos. And beyond the serious negative impacts to our American Indian students, which I'd like to remind legislators: this is a historically underrepresented group in higher education based on decades of critically low recruitment and retention rates – retaining the Fighting Sioux nickname will, in turn, harm **all** students who attend UND because if these bills are passed and the nickname is retained as a result – we will be teaching our entire student body that money and power really do win out over human rights in ND.
- **Further, UND will long suffer a deeply concerning national reputation** regarding the blind eye it is turning to the human rights of the diversity located in our state's own "back yard," American Indian students, should this proposed legislation move forward.
- **It is also vitally important to consider the legal challenge that may occur as a result of moving the proposed bills forward,** which will predictably take a great deal of time, human resources, and be extremely costly to ND tax payers.

Now when we look to sort through and weigh out the various testimonies being shared here today, I think it might be helpful to visual the Scales of Justice. On one side: the fans who like it and think it honors American Indian people, and on the other side, a virtual mountain comprised of **individuals, American Indian tribes of the region and nation, programs, offices, national, regional, educational, and tribal organizations and entities, and a growing body of published, scientific research** that details the **actual harm** being done to American Indian people through the continued use of such demeaning and offensive practices. And finally, we have the **athletes** to consider, and the **predictable additional costs** that will likely result from legal challenges.

And when we apply this controversial issue to the Scales of Justice that are supposed to govern our decisions – there's only one decision to be made today.

One side clearly outweighs the other.

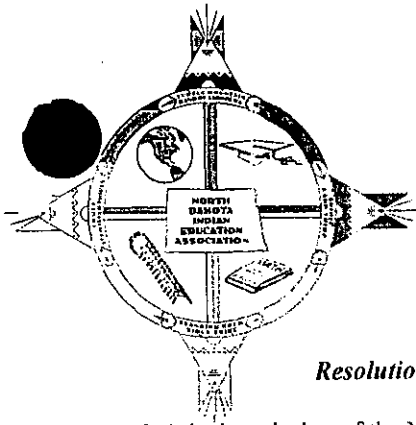
Please do not consider moving these three proposed bills forward. I guarantee you that if indeed that were to take place, it would only give credence to those who say this is all about

power and money. As I said in the beginning, I see this as a human rights issue, and if these bills are passed, this controversy will - without a doubt - go on and on and on...continuing on the UND campus for perhaps another 50 or more years.

The time has come and indeed is before you right now - to weigh out the pros and cons, look at the two sides of the scale, and vote in the only way that makes sense in your minds and hearts.

Vote no on proposed HB's 1208, 1257, and 1263.

Thank you.



NORTH DAKOTA INDIAN EDUCATION ASSOCIATION

Resolution regarding the use of the "Fighting Sioux" Name and Logo at the University of North Dakota

WHEREAS, it is the mission of the North Dakota Indian Education Association to represent and promote a quality education as it pertains to the academic, social, physical, cultural, and spiritual well-being of Indian children and adults; and

WHEREAS, the North Dakota Indian Education Association represents all K-12 schools and students in the state of North Dakota, and significant numbers of American Indian students go on to pursue higher education opportunities at mainstream, public institutions of higher education including the University of North Dakota; and

WHEREAS, that any use of American Indian names and logos in athletics is demeaning whether intended or not; and

WHEREAS, these names and symbols promote and encourage practices that promote hurtful, historical stereotypes, and trivialize American Indian culture, traditions, and spirituality; and

WHEREAS, the United States Commission on Civil Rights (2001) called for an immediate end to using Native American names and symbols by non-Native schools and public institutions as these names and logos teach all students that stereotyping of minority groups is acceptable; and

WHEREAS, the American Psychological Association (APA) and numerous other national education, American Indian, and other organizations and entities, along with a wealth of published, academic research have revealed the harm caused by the use of American Indian names and images for athletic teams; and

WHEREAS, the University of North Dakota University Senate (2009) passed a resolution stating the immediate need to respectfully retire the Fighting Sioux nickname and logo(s) due to its harmful impact on students, its divisive impact on the community, and its direct conflict with the University mission, and the University Student Senate passed a resolution (January 23, 2011) strongly opposing recent ND legislators' proposed bills to retain the Fighting Sioux nickname; and

WHEREAS, the use of the name and symbol at the University of North Dakota hinders the full participation of American Indian students in all aspects of campus life; and

WHEREAS as citizens, American Indian people have a right to be heard, represented, and involved in all aspects of education at the local, state, and national levels.

NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes North Dakota Legislature proposed HB's # 1208, 1257 and 1263.

BE IT FURTHER RESOLVED, that the North Dakota Indian Education Association strongly encourages the President of the University of North Dakota, the Chancellor of the North Dakota University System and the North Dakota State Board of Higher Education to continue the transition process to retire the fighting Sioux nickname and logo(s).

THE FOREGOING RESOLUTION WAS DULY PASSED AT THE NORTH DAKOTA INDIAN EDUCATION ASSOCIATION ANNUAL CONFERENCE BY THE MEMBERSHIP ON THE 22nd DAY OF JANUARY, IN MINOT, N.D.

Patricia Walking Eagle, NDIEA President

Ken Hartman, NDIEA Secretary

TESTIMONY ATTACHMENT 17

To House Education Committee,
Representative Rae Ann Kelsch, Chair

And to whom it may concern,

My name is William Crawford, and my Dakota name is Sunka Ska. I am a member of the Sisitunwan Wahpetunwan Oyate and currently in my fourth year at the University of North Dakota. I am writing this in concerns of House Bills 1208, 1257, and 1263. As a Native American student on the campus of UND, I have personally dealt with how this logo/nickname controversy affects my educational and social experiences at this institution. All these negative experiences began during my very first year at UND. Just a simple thing as meeting people became an issue as others would find out that I'm native and go straight to the question of my view on the logo. Of course, if I was not with them I became no friend of theirs. I can't even go to any sporting events without feeling demeaned and seeing my culture mocked. I never attended any basketball, volleyball, or football games because of this. I have gone to one hockey game and that is a whole different story. I will just say that I will never go again. Besides all the name-calling, class arguments, and overheard racial slurs, I would also like to point out that students who are demeaned and demoralized by this nickname/logo cannot even show their pride for this school and buy clothing and other memorabilia. This may seem like a short summary, but I hope it is clear that myself, and other students who have shared the same experiences as I have, are not having the same college experiences as a normal, average, typical student.

I would like to finish with one of my latest experiences. Let me start off by saying that in Dakota culture, we highly respect and honor our veterans. Even if any of you have gone to a Wacipi (Powwow) it should be clearly evident. But several weeks ago, I was in a rush and wanted something fast and healthy to eat. So I went to Pita Pit, mainly because I had coupons. So I'm standing in line and I look down in front of me and there is a mat in front of the cashier with a huge FS logo on it. It was worn and was full of mud and snow. The customer in front of me stood on it, kicking the snow off his shoes right across the "warriors" face. I instantly became disgusted and walked out the door. So my question is this, "Is this how you respect and honor us?" By even demeaning a symbol of a Dakota/Lakota/Nakota warrior into a dirty wet floor mat? I don't mean to boast in any way, but I come from a family of veterans and I will never come to a day where I even think about laying a picture of one of them down on the ground and walking over it every day. I hope this is a clear example of how this nickname/logo affects not only the campus, but people's experiences across Grand Forks.

And now, out of nowhere, it is proposed to force UND to retain the FS logo and nickname. Is this the type of traditions that should be kept alive? The tradition of degrading a human's culture and background? The tradition of negatively affecting student's college experiences? And the tradition of having a controversial and divisive atmosphere at a public university?

Thank you for your time,
William Crawford

TESTIMONY ATTACHMENT 18

January 26, 2011

To: ND House Education Committee:

Rep. RaeAnn Kelsch (Chair)
Rep. Lisa Meier (Vice Chair)
Rep. Lyle Hanson
Rep. Joe Heilman
Rep. Brenda Heller
Rep. Bob Hunsakor
Rep. Dennis Johnson
Rep. Karen Karls
Rep. Corey Mock
Rep. Phillip Mueller
Rep. Karen M. Rohr
Rep. David Rust
Rep. Mark Sanford
Rep. Mike Schatz
Rep. John D. Wall

This packet of materials was assembled by the UND Campus Committee for Human Rights, for distribution to members of the House Education Committee during public hearings related to HB 1208; HB 1257; HB 1263. We strongly urge you to vote against all three bills.

Enclosed you will find the following documents, which we offer as selected documentation from just the last several years of efforts by national and tribal educational organizations, and faculty and staff within the NDUS, to address significant educational problems and concerns related to UND's use of the "Fighting Sioux" name and logo in its athletics program.

1. Summary of Academic organizations, tribal governments, tribal organizations and UND American Indian Programs on record as raising concerns or objections to name/logo.
2. Grand Forks Herald Ad placed by UND faculty, staff and concerned community members concerned about the controversy and its toll on UND and the community.
3. "Teach Respect" handout by Barbara E. Munson, educator active in Wisconsin efforts to end use of American Indian cultural images in public schools.
4. American Psychological Association Resolution.
5. UND University Senate Resolution (2009).
6. 2005 Response to UND appeal against NCAA Policy on American Indian team names and logos/mascots: (response was sent to NCAA by UND American Indian Programs staff, and faculty and staff in Campus Committee for Human Rights).
7. 2006 UND Faculty Petition to Retire the Name/Logo, made to the North Dakota State Board of Higher Education.

The documents we are including here are not comprehensive, and they do not cover more recent events, but are meant to illustrate to you the seriousness of issues long raised by educators regionally and nationally. We remain concerned that public and media debate about the longstanding controversy continues to neglect the serious educational dimensions of this issue. Please do not hesitate to contact us if you would like more information or documentation.

Dr. Sharon Carson
UND Department of English
Merrifield Hall 110
276 Centennial Drive Stop 7209
Grand Forks, ND 58202-7209
701.777.2764

Professor Lucy Ganje
UND Department of Art and Graphic Design
Hughes Fine Arts Center
3350 Campus Road Stop 7099
Grand Forks, ND 58202-7099
701.777.2670

Following is a summary of academic organizations, tribal governments, tribal organizations and UND American Indian Programs that have asked the University of North Dakota to end the use of its "Fighting Sioux" nickname and logo. It includes:

- I. The Commission of the North Central Association of Colleges and Schools' (NCA) 2004 Re-Accreditation Report on the University of North Dakota
- II. Research conducted on the University of North Dakota campus regarding the nickname/logo
- III. UND American Indian Programs opposing the nickname/logo
- IV. A request to convene the UND University Council to discuss the nickname/logo
- V. Resolutions/requests asking UND to discontinue use of the nickname/logo
- VI. Other organizations calling for an end to the use of American Indians as sports team names, logos and mascots:

I. The Commission of the North Central Association of Colleges and Schools' (NCA) 2004 Re-Accreditation Report on the University of North Dakota. 2004

Following are sections of the report that refer to the "Fighting Sioux" nickname and logo and its impact on UND:

ASSURANCE SECTION

Criterion Four, "The institution can continue to accomplish its purposes and strengthen its educational effectiveness."

Salient Evidence of Fulfillment of Criterion

2. Evidence that demonstrates the criterion needs institutional attention:

d. It is the considered judgment of the visiting team that continued use of the Indianhead logo and the "Fighting Sioux" nickname reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness.

Before and during the visit, team members studied the long history of this issue and learned of the deep campus divisions on the subject and of the President's and the campus's deep commitment to assure that the use of logo and nickname were proper and respectful. At the outset, team members were prepared to conclude that the issue was not significant enough to be given attention in the team's report, did not wish to intrude into a campus matter, and were prepared to consider it closed by the decision of the State Board of Higher Education in December 2000. By the end of the visit, however, the team unanimously came to a different conclusion for compelling reasons. The issue was clearly not at rest. It continues to be raised by those who consider it a moral issue as well as by those who do not object to the symbols but who deplore what is happening to the campus. It is clear that it will simmer on, until it boils over again openly, while in the meantime diminishing collegiality and learning for many in the campus community. It will not go away.

The team has the following comments to offer the institution and its board:

- i. This persistent controversy has a negative impact on the learning environment at the University of North Dakota. It adversely affects student participation in the classroom and the laboratory. It adversely affects student relationships in residence halls and in sports and other recreational activities. It encourages disrespectful treatment of some students by other students and by some faculty and staff. Team members also hear that it adversely affects student recruitment and retention. It is an issue which distracts students, faculty, staff, and administration from the very important business of higher education.
- ii. Continued use of the logo is manifestly inconsistent with the university's goal of being the foremost university in the nation in the programs it offers for and about American Indians, a goal as important to the state and university as it is to those served by it.
- iii. It is particularly awkward for an American university, which endeavors to teach and model respect for others and sensitivity to their perspectives, to widely and prominently employ a logo and nickname that a substantial number of American Indians and their organizations have said and continue to say is offensive and demeaning.
- iv. Times change. Values and practices change. As the nation has moved over the last century to de-legitimize and reduce discrimination against minorities, it has become less tolerant of the use of stereotypes and language regarded as offensive by minorities and many others. There was a reason to change the nickname from Flickertails in 1930. There is reason to change the nickname from "Fighting Sioux" today. If UND continues on course, it will be increasingly out of step with the times.
- v. In the short run, there is no win-win resolution to this controversy. In the long run, if use of the logo and nickname were discontinued, everyone would win. In the long run, if use of the logo and nickname is not discontinued, everyone loses.
- vi. Ultimately, the University of North Dakota is too good an institution, and its leadership is too important to the State of North Dakota, to let this issue continue to weaken its performance and impede its full development. The state board should revisit its earlier decision and direct the campus to develop and implement an orderly plan for discontinuing use of the Indianhead logo and the "Fighting Sioux" nickname.

ADVANCEMENT SECTION
REPORT OF A COMPREHENSIVE EVALUATION VISIT
II. CONSULTATIONS OF THE TEAM
B. Athletic Teams' Logo and Nickname

The team strongly recommends appropriate action by the State Board of Higher Education to support the campus unequivocally in providing honorable retirement for the "Fighting Sioux" nickname and logo and appropriate replacements. The team also recommends that, with such support, UND strenuously seek to achieve resolution and reconciliation throughout campus and state constituencies regarding the logo and nickname. The team encountered such strong disagreement and negative feelings among students, faculty, staff, and regional community about the "Fighting Sioux" name and logo in its interactions throughout the visit that it strongly believes resolution of the matter is necessary to move the campus forward. The controversy clearly has a negative impact on the campus climate for majority and minority students, faculty, and staff. The negative consequences cast a shadow on the considerable institutional efforts and successes to advance excellence through diversity in the learning environment.

There is clear evidence that there are strong views on both sides of the issue, and neither point of view seems to be content with the current University system decision about the logo and nickname. While these are critical matters, it may be the case that these positions are also symptomatic of basic social issues in our society. The controversy did not begin with the name and the logo and it will not be resolved through administrative fiat.

A long time member of the University community stated the belief that there needs to be a reconciliation between the Indian and White communities in order to begin to build bridges of understanding among all in the majority and minority communities in the University and regional communities. A proposal to begin the reconciliation process might begin by requesting the State Board to invest trust in the institution to bring together people of good will on both sides of the issue to begin a dialog to address the historic basis for their feelings.

The basic premise would be that the citizens and the Board would agree to live with whatever outcome resulted from a thoughtful, considerate, and compassionate exploration of the issues in a spirit of reconciliation similar to the South African Reconciliation Process. All would have to agree that there may be no perfect solution and that the solution is a continual process of introspection, trust, and compromise to create an inclusive community that understands and appreciates the historic continuity of the symbols in the seal of the University of North Dakota and how they relate to the cultures that inhabited the territory at the founding of the institution. The process would be arduous but should not be interminable. Both sides would have to agree at the outset that in the final analysis all would have to reconcile.

II. Research conducted on the University of North Dakota campus:

Emotional reactions to the Fighting Sioux logo and nickname among Indian and non-Indian students

LaRocque, Angela, McDonald, Doug, & Ferarro, Ric

(ABSTRACT)

The purpose of the study was to investigate to what extent, the "Fighting Sioux" Nickname and Logo affects American Indian and Majority Culture college students emotionally. This study compared American Indian and Majority Culture students' differences of emotional reactions and distress to two different slide presentations using images of the "Fighting Sioux" Nickname and Logo found on the campus of the University of North Dakota (UND). One set of slides was deemed "Neutral", which included posters or items such as pens, or book-bags with the words or images. The second set of slides was labeled "Controversial" and included posters and t-shirts with derogatory depictions (i.e. "Sioux Suck"), and vandalized images and slogans that had occurred on the UND campus. Participants consisted of 36 Majority Culture and 33 American Indian College students in attendance at UND. Each participant filled out an informed consent form, a demographic questionnaire, and a Multiple Affect Adjective Checklist-Revised (MAACL-R) before seeing either the Neutral Images slide presentation or the Controversial slide presentation. After viewing the first presentation, the participants filled out another MAACL-R and then viewed the second presentation. They then filled out another MAACL-R and the Nickname and Logo Distress Scale (NLDS) to measure changes in affect from one condition to the next. Data analyses revealed that American Indian participants had significantly higher levels of negative affect than Majority Culture participants after viewing even the Neutral slide show and that their affect reached an even higher state after viewing the Controversial slide show. The Majority Culture participants' level of affect, on the other hand, did not significantly change after viewing the Neutral slide show, and did moderately after viewing the Controversial slide show. The findings suggest that American Indian students at UND experience higher levels of psychological distress by being exposed to images of the "Fighting Sioux" nickname and logo – be they Neutral or Controversial, whereas non-Indian students react with less emotional distress upon exposure to these images. These findings refute the common argument that American Indian students as a group find the logo and images, and the issue overall, to be "honoring" them. Indeed, these results suggest the images, words and associated issues contribute to adversely impacting Native students.

American Indian images in college/university athletic mascots and logos

McDonald, J.D., McDougall, C., Bercier, H., Storey, A.

(ABSTRACT)

It is no secret that cross-cultural, ethnic, and racial conflicts and misunderstandings regarding American Indians still abound in the United States (McDonald & Chaney, 2002). Nowhere are the lines in the cultural sand more decisively drawn than in the use of American Indian images, names and logos for athletic teams. More than 150 high schools, colleges, and universities retain athletic team names or mascots reflecting American Indian symbols, words, names, or images. Many American Indian leaders and groups suggest this practice represents a form of institutional racism and systematic oppression. The counter argument, typically espoused by majority culture member fans, alumni, athletic team boosters and other supporters, suggests these names, logos, and images "honor" American Indian

tribes, individuals or groups. An additional argument against changing American Indian names, logo, and mascot claims a broad range of negative impacts that will potentially befall their institution. This study investigated the changes experienced by 22 institutions of higher education that had changed their athletic teams' American Indian-related nick-name, logo, and/or mascot. Pre- and post-name change status on a variety of institutional variables including enrollment, alumni contributions, team win/loss records, counseling center visits, campus arrests, and federal, state and local funding were obtained. A series of correlated-samples t-tests demonstrated no significant differences on any of these variables. Clearly, there is no empirical support for the argument against changing Indian-related mascots and logos because of potential adverse impact on these variables, at least among this sample of colleges and universities. The study is somewhat limited by small sample size (although it represents roughly 80% of colleges and universities in this category).

McDonald, J.D., & Chaney, J (2003). Resistance to multiculturalism: The "Indian problem", in Mio, J. S., & Iwamasa, G. Y. (Eds.). Multicultural mental health research and resistance: Continuing challenges of the new millennium. New York: Brunner-Routledge.

Sports Fan Identification and American Indian mascots Jollie-Trottier, T., McDonald, J.D., Baker, Laiell, & Baker, Allison (ABSTRACT)

The controversial use of American Indian mascots, nicknames and logos by athletic teams has resulted in a variety of reactions by fans and other supporters. Although these reactions are varied and complex, there are some underlying patterns and processes. This study measured sports spectator identification and sports fan motivation among University of North Dakota (UND) students. Participants consisted of 57 Northern Plains American Indian students and 90 Caucasian students. Participants completed the Sports Spectator Identification Scale (SSIS) and the Sports Fan Motivation Scale (SFMS). It was predicted that Caucasian students would report higher levels of spectator identification with UND "Fighting Sioux" athletic teams than American Indian students. It was further hypothesized Caucasian students would be more likely to contest changing the "Fighting Sioux" nickname, mascot, and logo. It was also predicted that motivation for attending UND sporting events would differ between Caucasian and American Indian students. It was also hypothesized Caucasian students would score higher on all SFMS subscales including: eustress, entertainment, family, self-esteem, group affiliation, economic, aesthetic, and escape. A series of independent t-tests revealed support for each hypothesis. More specifically, it was found that Caucasian students reported higher levels of spectator identification with UND athletic teams, were more likely to oppose changing the "Fighting Sioux" nickname, mascot, and logo, and were more motivated to attend UND sporting events than were American Indian students. Caucasian students indicated significantly higher levels of motivation than American Indian students on the following SFMS subscales: eustress, entertainment, family, self-esteem, group affiliation, and escape. Discriminant function analysis suggested SSIS total score and two of the SFMS subscale scores (aesthetic and eustress) were strong predictors of ethnic group membership. Nearly sixty percent of the Caucasian students endorsed Hockey as their favorite UND sport. Interestingly, 25% of the American Indian students wrote in "None" even though "None" was not an actual choice.

Bicultural orientation and the UND "Fighting Sioux" Nickname controversy LaRocque, A., McDonald, J.D., Poitra, B., McDougall, C. (ABSTRACT)

The purpose of this study was to compare the effect of cultural affiliation on attitudes, beliefs, and reactions to the "Fighting Sioux" Nickname for 60 Northern Plains American Indian and 61 non-Indian students at the University of North Dakota. Participants completed a demographic questionnaire and the University of North Dakota Fighting Sioux Nickname Attitudes, Beliefs, and Reactions (UNDFSABR) survey. In addition, American Indian participants completed the Northern Plains Biculturalism Inventory (NPBI) to identify cultural identification. Hypotheses were: 1.) American Indian responses on the UNDFSABR survey would differ from non-Indians. 2.) Traditional Indians would oppose the use of the "Fighting Sioux" nickname, whereas more assimilated Indians would have attitudes, beliefs, and reactions more similar to non-Indians. Descriptive and correlation analyses were conducted. After analyzing the descriptive analysis of the means of the items on the UNDFSABR between American Indians and non-Indians, a series of selected t-tests were conducted. The first hypothesis was supported. Selected t-tests revealed that American Indian students had significantly different attitudes, beliefs, and reactions to the use of the "Fighting Sioux" nickname and its related issues than non-Indians. American Indians were negative toward the nickname while non-Indians were positive toward the nickname. The second hypothesis was partially supported. For the most part, Assimilated Indians did not react to the nickname the same way as non-Indians. Instead, they tended to view the issue similarly as Traditional American Indians. This study revealed that American Indian students and non-Indian students significantly differ on their attitudes, beliefs, and reactions to the "Fighting Sioux" nickname controversy, although this study did not reveal why these differences exist. Hopefully, this study will contribute to the issue, provide a basis for further research in this area, and help in finding a resolution to the issue.

Discriminatory Affects of Native American Mascot Endorsement or In-Group/Out-Group Dynamics John Gonzalez, J.Doug McDonald (ABSTRACT)

This study demonstrated that the multiple social categories created by manipulating the endorsement/opposition of Native mascots by Native and European American students at a university with a Native mascot allowed for the identification of discrimination based on the mascot issue. The manipulation of Native American Mascot Endorsement (NAME) in Native and European American confederates created a multiple in-group/out-group dynamic influenced discriminatory behavior.

RESULTS

In general, it was hypothesized that the Native American students would be subjected to more prejudice and receives more discrimination than White students (by White UND students) receive. Furthermore, it was hypothesized this prejudice and discrimination would vary because of the students' public opinion on the use of the Fighting Sioux name and logo. Specifically, SIT predicts the Native student who openly opposed the use of the Fighting Sioux name and logo would receive the most prejudice and discrimination, while the White confederate who openly supported the use of the Fighting Sioux name and logo would receive the least amount of prejudice and discrimination. Moreover, the additional natural (Ethnicity) and manipulated (NAME) in-group/out group.

For the prejudice ratings, the significant main effect of ethnicity suggests the Native confederates at UND do experience prejudice, regardless of the opinion about the Fighting Sioux name and logo. From the ratings, this translated into the participants being less likely to want to meet the Native confederate and having an overall less favorable reaction to him. This supports the hypothesis in which SIT predicted that Natives are an out-group and evaluated less favorably. The non-significant interaction between Ethnicity and NAME was also predicted by Social Identity Theory in that an additive combination of tendencies occurred, with double in-groups receiving the most positive rating, double out-groups the most negative, and partial groups somewhere in the middle. If the above statement is true, then the non-significant main effect of NAME does not support the hypothesis. A profile plot of the in-group/out-group ratings provides a visual description of this relationship (See Figure 5). Examination of the profile plot suggests the non-significant effect of NAME is a result of the Native confederate who is pro-

confederate who supports the Fighting Sioux name/logo is considered a "good Indian" and confederates are as likely to want to meet him as the White confederate who supports the Fighting Sioux name and logo. The White confederate who supports the name/logo is "expected" to do so, and therefore not rated more favorably. Finally, the profile plot does indicate the Native confederate who is anti-logo (double out-group) does receive lower ratings than the Native confederate who supports the name/logo, which is socially significant and appears to be a trend throughout the data.

The discrimination rating analysis resulted in a similar pattern of the Native confederate who is anti-logo receiving lower scores than the Native confederate who is pro-logo. In this case, it translates into being less likely to receive a scholarship or less likely to be hired for a job – discrimination. However, the significant interaction between Ethnicity and NAME is contrary to the hypothesis and suggest the discrimination received is a function of Ethnicity AND opinion of the name/logo. Figure 2 (page X) shows the Native confederate who is pro-logo receiving the least discrimination and more likely to receive a scholarship or job than all others are. Not predicted, is the White confederate who is pro-logo receiving the most discrimination and least likely to be given a scholarship or job. Again, one interpretation is the pro-logo Native confederate being evaluated as a "good Indian" and the pro-logo White confederate as being evaluated as "average Joe" or fitting the "expectation" and nobody special. Furthermore, the social significance in the data profile is that the Native confederate who is pro-logo receives better outcomes than the Native confederate who is anti-logo.

Really? You don't look like an American Indian: Social Representations and Social Group Identities

Fryberg, Stephanie Ann

(ABSTRACT)

Social representation refers to ideas and meanings that help individuals orient themselves and communicate with others in particular social contexts (Moscovici, 1988). Social representations provide the structure and language for understanding such questions as "Who am I?" and "Who are we?" Social group identities carry with them a set of meanings and ideas that inform the interpersonal context for both in-group and out-group members. The purpose of this dissertation is to examine the psychological costs and benefits of social representations of minority groups, in this case American Indians, when the widely shared representations are limited in scope. The present research answers the following questions: 1) What are the prevalent social representations of American Indians' and how frequently do they appear in mainstream American contexts? 2) What are the consequences of explicitly priming these social representations for American Indians' self-esteem, collectively self-efficacy, and achievement-related possible selves? 3) Does ethnic identification mediate this relationship? and 4) What are the consequences of explicitly priming representations of minority groups for European Americans' self-esteem? In Study 1, one year of articles from two major newspapers and a decade of Hollywood movies were coded for representations of American Indians. This content analysis revealed that representations of American Indians were relatively scarce and fairly limited in scope, so that all representations could be categorized into three major categories: the romanticized Indian, the broken Indian, and the Progressive Indian). In Studies 2 and 3, American Indian high school students were primed with prevalent social representation of their group (i.e., Pocahontas, Chief Wahoo, or Negative Stereotypes), and then completed state self-esteem or collective self-efficacy measures. In both studies, American Indian students primed with social representations reported depressed self-esteem and collective self-efficacy when compared to American Indian students in the control (no social representation) condition. In study 4, American Indian undergraduates, who were attending a predominantly American Indian university that has as its mascot an image of an American Indian chief, were shown and asked four questions about a particular social representation of American Indians (either Chief Wahoo, Chief Illiniwek, the Haskell Indian, or an American Indian College Fund advertisement). Then they completed a possible selves questionnaire. American Indian undergraduates exposed to these representations reported fewer achievement-related possible selves than did American Indians in a no-representation control condition. Study 4 therefore replicated and increased the generalizability of the findings in Studies 2 and 3. Finally, in Study 5, European Americans were explicitly primed with social representations of American Indians (i.e., Pocahontas, Chief Wahoo, or Negative Stereotypes). European Americans exposed to these social representations conditions reported more self-esteem than did European Americans enjoyed a self-esteem boost when primed with representations of American Indians. Thus, social representations are implicated in the psychological functioning of both American Indians and European Americans. Implications and potential mediators of these effects are discussed.

III. University of North Dakota American Indian Programs that have gone on record opposing the "Fighting Sioux" name and logo:

American Indian Student Services; Indians Into Medicine; Recruitment/Retention of American Indians Into Nursing (RAIN); Indians Into Psychology Doctoral Education; Minority Access to Research Careers; A h'jo gun; Science, Engineering, and Math Technical Assistance Center; Disability Research Encompassing Americans in Math and Science (DREAMS); Native Media Center; Indian Studies Department; National Resource Center on Native American Aging; Upward Bound; Multicultural Scholars Into Dietetics Program; Fort Berthold Community College and Turtle Mountain Community College Teacher Training Project; Family and Domestic Violence Training Project; Prairielands Addiction Technology Center and Center of Excellence in native American Substance Abuse; Native American Law Project; Northern Plains Tribal Judicial Training Institute; Tribal Environmental Law Project; Northern Plains Indian Law Center.

IV. Request to Convene the UND University Council

Thursday, December 2, 1999

"The past several days have demonstrated to all of us the depth of feeling associated with our athletic team nickname and various logos. None of this controversy is new. In 1972, all North Dakota universities were directed by the State Board of Higher Education to examine and make appropriate changes to Native American nicknames; the issue has been studied extensively in the intervening 28 years.

What is most striking about recent events is the anger being directed against Native American students, who--regardless of their stand on the nickname or logo--have been targeted as "the enemy" by other members of our university community. The result can be seen in the disrupted lives of our Native American students, who are struggling to finish the semester in an atmosphere that can best be described as hostile. It is clear to many of us that this kind of hostile atmosphere will continue to flare up at intervals, so long as we persist in using Native Peoples as team mascots. All of us--administrators, teachers, staff, and students--have a binding responsibility to provide a safe and respectful educational environment for every member of the UND community.

With this in mind, President Kupchella, I ask you to convene a meeting of the University Council, with the clear objective of developing a process by which the University of North Dakota can respectfully and gracefully retire the Fighting Sioux nickname and Indian Head logo, replacing them with a logo and nickname that will bring honor and pride to all North Dakotans. President Kupchella, will you convene the Council? Scott Lowe, Gerald Bass"

V. Resolutions/requests to discontinue use of the nickname/logo:

UND Student Senate (Resolution SR 18)—*vetoed by Student Senate president* *January 25, 1999*
...Therefore, be it resolved that the UND Student Senate, in true honor of the word and request of the Dakota, Lakota, and Nakota peoples, stands for discontinuing the use of the "Sioux" name as the nickname and logo of our university...

North Dakota Indian Education Association (Resolution No. 10-19-2001) *October 19, 2001*
...NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Education Association strongly opposes and calls for an immediate end to the University of North Dakota's use of the "FIGHTING SIOUX" name and its accompanying Indian head logo...

National Indian Education Association (Resolution No. 01-02) *October 28-31, 2001*
...NOW THEREFORE BE IT RESOLVED, that the National Indian Education Association deplores, opposes and calls for an immediate end to the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol...

Minnesota Indian Education Association (Resolution No. 2103) *October 12, 2001*
...THEREFORE BE IT RESOLVED, the Minnesota Education Association deplores, opposes and calls for an immediate end to the University of North Dakota's use of the "Fighting Sioux" name and its accompanying "Indian-head" symbol.
BE IT FURTHER RESOLVED, the Minnesota Indian Education Association cautions American Indian students against attending the University of North Dakota until such time as the name and logo are changed and the University affirms its commitment to respect racial and cultural inclusion...

National Congress of American Indians (Resolution #SPO-01-046) *June 19, 2002*
(BISMARCK, N.D.) The National Congress of American Indians (NCAI) - the country's oldest, largest and most representative national American Indian and Alaska Native organization - reaffirmed its resolution opposing the University of North Dakota's use of the "Fighting Sioux" name and logo.

United Tribes of North Dakota (Resolution No. 05-06) *September 8, 2005*
...NOW THEREFORE BE IT RESOLVED that the Board of Directors of United Tribes of North Dakota does hereby support the NCAA's decision to ban the use of "hostile and abusive" nicknames, logos and mascots by member colleges and universities of the NCAA in NCAA sanctioned tournaments and urges the NCAA to deny the appeal of UND that seeks permission to continue to use its logo and nickname at such NCAA sanctioned events...

Rosebud Sioux Tribe (Resolution No. 05227) *September 23, 2005*
...THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council hereby opposes the continued use of the Team Name "Fighting Sioux" by the athletic teams of the University of North Dakota because the term itself is "hostile and abusive" and thus, demeaning to Lakota, Dakota, and Nakota people...

Three Affiliated Tribes, Ft. Berthold Indian Reservation ((Resolution 02-031-RP). *November 21, 2002*
Resolution entitled, "Opposition to the University of North Dakota's use of the Fighting Sioux name and logo"
...NOW, THEREFORE BE IT RESOLVED, that the Mandan Hidatsa & Arikara Nation does hereby support the ending of the use of outdated and politically incorrect American Indian stereotypes at the University of North Dakota and all across America that demean the history and culture of Indian nations...

Standing Rock Sioux Tribe *December 3, 1992*
...NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname...

Standing Rock Sioux Tribe (Resolution No. 078-98)

December 2, 1998

...NOW THEREFORE LET IT BE RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname. BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force effect thereafter...

Standing Rock Sioux Tribe (Resolution No. 356-92).

February 16, 1999

Charles Murphy, Chairman: "The purpose of this letter is to respectfully remind your office and any other entities directly or indirectly associated with UND of our position. It is of course very simple and very clear, "Eliminate and stop the use of the "Fighting Sioux" nickname and caricature today."...while I understand the word tradition is used as rationale to continue the use of the nickname, our people find it very offensive and disrespectful to say the least. This fact alone should compel those fine and respectful people at UND to find a more suitable nickname for such a fine institution as the University of North Dakota..."

Sisseton-Wahpeton Sioux Tribe (Resolution No. SWST-99-015)

February 12, 1999

...NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council of the Sisseton-Wahpeton Sioux Tribe hereby supports the Standing Rock Sioux Tribe in their efforts to discontinue the use of the Fighting Sioux nickname...

Oglala Sioux Tribe (Executive Committee Resolution No. 99-07X3)

February 3, 1999

...THEREFORE BE IT RESOLVED, the undersigned Oglala Sioux Tribe Executive Committee hereby support the Standing Rock Sioux Tribal Council reaffirmation of the resolution of December 03, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname...

Crow Creek Sioux Tribe, Harold Miller, Chairman

February 18, 1999

"...Please accept and understand our position regarding the use of the "Fighting Sioux" nickname use by the University of North Dakota. Our position is simple in that we oppose the use of the nickname and kindly request that UND stop immediately the use of the "Fighting Sioux" nickname and, or mascot...our position regarding the nickname remains until it is eliminated..."

Yankton Sioux Tribe, Stephen Courmover, Chairman

February 19, 1999

...we hereby reiterate our opposition to the use of the "Fighting Sioux" nickname by the University of North Dakota. People and their culture should not be degraded to such use and we ask UND to "Do the right thing" and change its "Fighting Sioux" nickname.

Cheyenne River Sioux Tribe (Resolution No. 287-97-CR).

October 8, 1997

...THEREFORE LET IT BE RESOLVED, that the Cheyenne River Sioux Tribe is respectfully requesting the University of North Dakota to do the moral and honorable thing by removing and discontinuing the use of the mascot name "the Fighting Sioux".

Dakota, Lakota, Nakota Summit V (Resolution No. 93-07)

June 10, 1993

...THEREFORE BE IT RESOLVED, that the Nations and Bands here assembled, denounce the use of any American Indian name or Artifice associated with team mascots...

Turtle Mountain Community College, Gerald "Carty" Monette, President

April 30, 1996

..."The time has come to drop the name "Fighting Sioux" and to stop the use by UND of American Indians as mascots, symbols and/or caricatures. At one time, I felt that a name change should depend primarily on the wishes of our Sioux Brothers and Sisters. This is still an important factor. However, all Sioux people and all Indian people should not be expected to agree on the name change before you act. Indian people have a right to disagree. What is important is that you recognize that the name "Fighting Sioux" and its accompanying caricatures are wrong. The Turtle Mountain Community College goes on record as advocating for the change..."

United States Commission on Civil Rights

April 13, 2001

Commission Statement on the Use of Native American Images and Nicknames as Sports Symbols.
...The use of stereotypical images of Native Americans by educational institutions has the potential to create a racially hostile educational environment that may be intimidating to Indian students...The use of American Indian mascots is not a trivial matter...These Indian-based symbols and team names are not accurate representations of Native Americans. Even those that

purport to be positive are romantic stereotypes that give a distorted view of the past. These false portrayals prevent non-Native Americans from understanding the true historical and cultural experiences of American Indians...

American Psychological Association

March 6, 2001

Letter to President Charles Kupchella: "As President of the American Psychological Association, I implore you to address the concerns of your Native American students, faculty and others that advocate change. Also, while not one of your constituents, I ask that you use the authority of your office to create a safe and protective community within which important issues may be raised without fear of harm to one's self and property." Sincerely, Norine G. Johnson, PhD, APA President.
cc. Governor John Hoeven

American Psychological Association

August 21, 2005

...THEREFORE BE IT RESOLVED that the American Psychological Association supports and recommends the immediate retirement of American Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations...

Asian American Psychological Association

February 21, 2001

Letter to President Charles Kupchella: "This letter serves to formally indicate our support for those students, faculty and staff who have been targets of discriminatory and racist practices by your university. In addition, AAPA supports the efforts to change the university mascot to one that would make ALL students proud, not just a select and privileged few. We would like to appeal to your sense of humanity, and ask that you remedy this situation soon before this issue negatively affects the mental health of yet another group of students. Surely, the university would not be in favor of intentionally oppressing a group of individuals who have a long history of being oppressed in the United States. We urge you to take action." Sincerely, Gayle Y. Iwamasa, Ph.D., President, Asian American Psychological Association. Cc: Society of Indian Psychologists, National Hispanic Psychological Association, Association of Black Psychologists, Office of Ethnic Minority Affairs, American Psychological Association, Society for the Psychological Study of Ethnic Minority Issues

North Dakota Human Rights Coalition

January, 2003

The North Dakota Human Rights Coalition opposes the use of nicknames, mascots and logos which refer to Native American tribes at educational institutions in North Dakota. The NDHRC is committed to working to effect change so that all people in North Dakota enjoy full human rights, those basic standards without which people cannot live in dignity...

The Preamble to the Universal Declaration of Human Rights begins by recognizing the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. The Universal Declaration of Human Rights' Article 26 states that "[e]ducation shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups". The use of Native American nicknames, mascots and logos interferes with the educational institution's ability to fulfill this mandate.

VII. Other organizations calling for an end to the use of American Indians as sports team names, logos and mascots:

National Education Association; Society of Indian Psychologists of the Americas; American Anthropological Association; Association for Education in Journalism and Mass Communication; Native American Journalists Association; National Association of Black Journalists; Asian American Journalists Association; Association of American Indian Affairs; NCAA Minority Opportunities and Interests Committee; Interfaith Center for Corporate Responsibility; United Church of Christ; American Jewish Committee; National Coalition on Racism in Sports and Media; United Methodist Church; NAACP; Center for the Study of Sports in Society; Rainbow Coalition; National Conference for Community and Justice; UNITY (National Association of Black, Hispanic, Asian and Native American Journalists; American Indian Mental Health Association (Minn.);

These regional American Indian nations and educational organizations have formally requested the University of North Dakota to discontinue using the name "Sioux" and the "Indian head" logo. Standing Rock Sioux Tribe • Turtle Mountain Band of Chippewa • Three Affiliated Tribes • Cheyenne River Sioux Tribe • Oglala Sioux Tribe • Yankton Sioux Tribe • Sisseton-Wahpeton Sioux Tribe • Crow Creek Sioux Tribe • Rosebud Sioux Tribe • North Dakota Indian Education Association • Minnesota Indian Education Association.

The following University of North Dakota departments, programs and organizations are among those supporting a change:

- American Indian Student Services Office • INMED (Indians Into Medicine) • Department of Indian Studies • University Senate • Student Senate • Native Media Center • School of Law Faculty Executive Committee • Recruitment/Retention of American Indians into Nursing (RAIN) • Indians into Psychology Doctoral Program • National Resource Center on Native American Aging • Multicultural Scholars into Dietetics Program • Native American Law Project • Northern Plains Tribal Judicial Training Institute • Tribal Environmental Law Project • Northern Plains Indian Law Center • Women Studies Program • BRIDGES (Building Roads into Diverse Groups Empowering Students) • MAC (Multicultural Awareness Committee) • United Tribes Special Education Program • United Tribes Principal Leadership for American Indians in Native Schools • United Tribes/UND Community Educators Program • Department of Philosophy & Religion • Department of History • Social Work & Rehabilitation Programs • Campus Committee for Human Rights • Faculty Petition to the State Board of Higher Education

"Let us put our minds together and see what life we can make for our children."

Shingobili (Gutanika Totanka)



Let's find a name
we can all rally around.

Following is a representative sample of the over 500 Native American, religious, education and civil rights organizations that are formally on record opposing the use of American Indian peoples as logos, nicknames, or mascots by non Native institutions:

- National Congress of American Indians • National American Indian Education Association • Great Plains Tribal Chairmen's Association • National Education Association • U.S. Commission on Civil Rights • United Church of Christ • Society of Indian Psychologists • American Psychological Association • National Collegiate Athletic Association • Interfaith Center for Corporate Responsibility • American Jewish Committee • National Coalition on Racism in Sports and Media • United Methodist Church • Minnesota State Colleges & Universities Board of Trustees • NAACP • National Conference for Community & Justice • Wisconsin Indian Education Association • Native American Journalists Association • Minnesota State Board of Education • American Indian Mental Health Association of Minnesota • Great Lakes Inter-Tribal Council • Southern Poverty Law Center • American Anthropological Association • Lac du Flambeau Band of Lake Superior Chippewas • Bad River Band of Lake Superior Chippewas • Menominee Tribe of Wisconsin • Chippewa • Affiliated Tribes of Northwest Indians • Comanche Tribe • Cherokee nation of Oklahoma • South Dakota Board of Education • American Sociological Association • Society for the Study of Social Problems • American Counseling Association • Nebraska Commission on Indian Affairs • Modern Language Association • Unitarian Universalists Association of Congregations • Presbyterian Church, U.S.A. • United Indian Nations of Oklahoma • Center for the Study of Sports in Society • Morning Star Institute • National Association of Hispanic Journalists • National Association of Black Journalists • Asian American Journalists Association, and many more.

TEACH RESPECT



NOT RACISM

COMMON THEMES AND QUESTIONS ABOUT THE USE OF "INDIAN" LOGOS

© 1997 Barbara E. Munson, a woman of the Oneida Nation, living in Mosinee, WI

"Indian" logos and nicknames create, support and maintain stereotypes of a race of people. When such cultural abuse is supported by one or many of society's institutions, it constitutes institutional racism. **It is not conscionable that Wisconsin's Public Schools be the vehicle of institutional racism.** The logos, along with other societal abuses and stereotypes separate, marginalize, confuse, intimidate and harm Native American children and create barriers to their learning throughout their school experience. Additionally, the logos teach non-Indian children that it's all right to participate in culturally abusive behavior. Children spend a great deal of their time in school, and schools have a very significant impact on their emotional, spiritual, physical and intellectual development. As long as such logos remain, both Native American and non-Indian children are learning to tolerate racism in our schools. The following illustrate the common questions and statements that I have encountered in trying to provide education about the "Indian" logo issue.

"We have always been proud of our "Indians"." People are proud of their high school athletic teams, even in communities where the team name and symbolism does not stereotype a race of people. In developing high school athletic traditions, schools have borrowed from Native American cultures the sacred objects, ceremonial traditions and components of traditional dress that were most obvious; without understanding their deep meaning or appropriate use. High school traditions were created without in-depth knowledge of Native traditions; they are replete with inaccurate depictions of Indian people, and promote and maintain stereotypes of rich and varied cultures. High school athletic traditions have taken the trappings of Native cultures onto the playing field where young people have played at being "Indian". Over time, and with practice, generations of children in these schools have come to believe that the pretended "Indian" identity is more than what it is.

"We are honoring Indians; you should feel honored." Native people are saying that they don't feel honored by this symbolism. We experience it as no less than a mockery of our cultures. We see objects sacred to us - such as the drum, eagle feathers, face painting and traditional dress - being used, not in sacred ceremony, or in any cultural setting, but in another culture's **game**.

We are asking that the public schools stop demeaning, insulting, harassing and misrepresenting Native peoples, their cultures and religions, for the sake of school athletics. Why must some schools insist on using symbols of a **race** of people? Other schools are happy with their logos which offend no human being. Why do some schools insist on categorizing Indian people along with animals and objects? If your team name were the *Pollacks, Niggers, Gooks, Spics, Honkies or Krauts, and someone from the community found the name and symbols associated with it offensive and asked that it be changed; would you not change the name? If not, why not?

* I apologize for using this example but have found no way to get this point across without using similar derogatory names for other racial and ethnic groups.

"Why is the term "Indian" offensive?" The term "Indian" was given to indigenous people on this continent by an explorer who was looking for India, a man who was lost and who subsequently exploited the indigenous people. "Indian", is a designation we have learned to tolerate, it is not the name we call ourselves. We are known by the names of our Nations - Oneida (On[^]yote?a'ka), Ho-Chunk, Stockbridge-Munsee, Menominee (Omaeqnomenew), Chippewa (Anishanabe), Potawatomi, etc. There are many different nations with different languages and different cultural practices among the Native American peoples - as in Europe there are French, Swiss, Italian, German, Polish, English, Irish, Yugoslavs, Swedes, Portuguese, Latvians etc.

"Why is an attractive depiction of an Indian warrior just as offensive as an ugly caricature?" Both depictions present and maintain stereotypes. Both firmly place Indian people in the past, separate from our contemporary cultural experience. It is difficult, at best, to be heard in the present when someone is always suggesting that your real culture only exists in museums. The logos keep us marginalized and are a barrier to our contributing here and now. Depictions of mighty warriors of the past emphasize a tragic part of our history; focusing on wartime survival, they ignore the strength and beauty of our cultures during times of peace. Many Indian cultures view life as a spiritual journey filled with lessons to be learned from every experience and from every living being. Many cultures put high value on peace, right action, and sharing.

Indian men are not limited to the role of warrior; in many of our cultures a good man is learned, gentle, patient, wise and deeply spiritual. In present time as in the past, our men are also sons and brothers, husbands, uncles, fathers and grandfathers. Contemporary Indian men work in a broad spectrum of occupations, wear contemporary clothes, and live and love just as men do from other cultural backgrounds.

The depictions of Indian "braves", "warriors" and "chiefs" also ignore the roles of women and children. Although there are patrilineal Native cultures, many Indian Nations are both matrilineal and child centered. Indian cultures identify women with the Creator because of their ability to bear children, and with the Earth which is Mother to us all. In most Indian cultures the highest value is given to children, they are closest to the Creator and they embody the future. In many Native traditions, each generation is responsible for the children of the seventh generation in the future.

"We never intended the logo to cause harm." That no harm was intended when the logos were adopted, may be true. It is also true that we Indian people are saying that the logos are harmful to our cultures, and especially to our children, in the present. When someone says you are hurting them by your action, if you persist; then the harm becomes intentional.

"We are paying tribute to Indians." Indian people do not pay tribute to one another by the use of logos, portraits or statues. The following are some ways that we exhibit honor:

- ◆ In most cultures to receive an eagle feather is a great honor, and often such a feather also carries great responsibility.
- ◆ An honor song at a Pow-Wow or other ceremony is a way of honoring a person or a group.
- ◆ We honor our elders and leaders by asking them to share knowledge and experience with us or to lead us in prayer. We defer to elders. They go first in many ways in our cultures.
- ◆ We honor our young by not doing things to them that would keep them from becoming who and what they are intended to be.
- ◆ We honor one another by listening and not interrupting.
- ◆ We honor those we love by giving them our time and attention.
- ◆ Sometimes we honor people through gentle joking.

"Aren't you proud of your warriors?" Yes, we are proud of the warriors who fought to protect our cultures and preserve our lands. We are proud and we don't want them demeaned by being "honored" in a sports activity on a **playing** field. Our people died tragically in wars motivated by greed for our lands. Our peoples have experienced forced removal and systematic genocide. Our warriors gave their sacred lives in often vain attempts to protect the land and preserve the culture for future generations. Football is a game.

"This is not an important issue." If it is not important, then why are school boards willing to tie up their time and risk potential law suits rather than simply change the logos? I, as an Indian person, have never said it is unimportant. Most Indian adults have lived through the pain of prejudice and harassment in schools when they were growing up, and they don't want their children to experience more of the same. The National Council of American Indians, the Great Lakes InterTribal Council, the Oneida Tribe, and the Wisconsin Indian Education Association have all adopted formal position statements because this is a very important issue to Indian people. This issue speaks to our children being able to form a positive Indian identity and to develop appropriate levels of self-esteem. In addition, it has legal ramifications in regard to pupil harassment and equal access to education. If it's not important to people of differing ethnic and racial backgrounds within the community, then change the logos because they are hurting the community's Native American population.

"What if we drop derogatory comments and clip art and adopt pieces of REAL Indian culturally significant ceremony, like Pow-Wows and sacred songs?" Though well-intended, these solutions are culturally naive and would exchange one pseudo-culture for another. Pow-Wows are gatherings of Native people which give us the opportunity to express our various cultures and strengthen our sense of Native American community. Pow-Wows have religious, as well as social, significance. To parodize such ceremonial gatherings for the purpose of cheering on the team at homecoming would multiply exponentially the current pseudo cultural offensiveness. Bringing Native religions onto the playing field through songs of tribute to the "Great Spirit" or Mother Earth would increase the mockery of Native religions even more than the current use of drums and feathers. High School football games are secular; The Creator and Mother Earth are sacred.

"We are helping you preserve your culture." The responsibility for the continuance of our cultures falls to Native people. We accomplish this by surviving, living and thriving; and, in so doing, we pass on to our children our stories, traditions, religions, values, arts, and our languages. We sometimes do this important work with people from other cultural backgrounds, but they do not and cannot continue our cultures for us. Our ancestors did this work for us, and we continue to carry the culture for the generations to come. Our cultures are living cultures - they are passed on, not "preserved".

"This logo issue is just about political correctness." Using the term "political correctness" to describe the attempts of concerned Native American parents, educators and leaders to remove stereotypes from the public schools trivializes a survival issue. A history of systematic genocide has decimated over 95% of the indigenous population of the Americas. Today, the average life expectancy of Native American males is age 45. The teen suicide rate among Native people is several times higher than the national average. Stereotypes, ignorance, silent inaction and even naive innocence damage and destroy individual lives and whole cultures. Racism kills.

"What do you mean, there is hypocrisy involved in retaining an "Indian" logo?" Imagine that you are a child in a society where your people are variously depicted as stoic, brave, honest, a mighty warrior, fierce, savage, stupid, dirty, drunken, and only good when dead. Imagine going to a school where many of your classmates refer to your people as "Dirty Squaws" and "Timber Niggers". Imagine hearing your peers freely, loudly and frequently say such things as "Spear an Indian, Save a Walleye", or more picturesquely proclaim "Spear a Pregnant Squaw, Save Two Walleyes". Imagine that the teachers and administration do not forbid this kind of behavior. Imagine that this same school holds aloft an attractive depiction of a Plains Indian Chieftain and cheers on its "Indian" team. Imagine that in homecoming displays, cheers, and artwork you see your people depicted inaccurately in ways that demean your cultural and religious practices. Imagine that when you bring your experiences to the attention of your school board and request change, they simply ignore you and decide to continue business as usual. Imagine that the same school board states publicly that it opposes discriminatory practices, provides equal educational opportunity and supports respect for cultural differences.

"Why don't community members understand the need to change, isn't it a simple matter of respect?" On one level, yes. But in some communities, people have bought into local myths and folklore presented as accurate historical facts. Sometimes these myths are created or preserved by local industry. Also, over the years, athletic and school traditions grow up around the logos. These athletic traditions can be hard to change when much of a community's ceremonial and ritual life, as well as its pride, become tied to high school athletic activities. Finally, many people find it difficult to grasp a different cultural perspective. Not being from an Indian culture, they find it hard to understand that things which are not offensive to themselves, might be offensive or even harmful to someone who is from a Native culture. Respecting a culture different from the one you were raised in requires some effort. Even if a person lives in a different culture - insight and understanding of that culture will require interaction, listening, observing and a willingness to learn.

The Native American population, in most school districts displaying "Indian" logos, is proportionally very small. When one of us confronts the logo issue, that person, his or her children and other family members, and anyone else in the district who is Native American become targets of insults and threats; we are shunned and further marginalized - our voices become even harder to hear from behind barriers of fear and anger. We appreciate the courage, support, and sometimes the sacrifice, of all who stand with us by speaking out against the continued use of "Indian" logos. When you advocate for the removal of these logos, you are strengthening the spirit of tolerance and justice in your community; you are modeling for all our children - thoughtfulness, courage and respect for self and others.

"Is there any common ground on this issue?" All of Wisconsin's public schools are required to have a non-discrimination statement and a policy to provide enforcement. Through Act 31, all schools are required to provide education, (in the classroom, not on the basketball court), about Wisconsin's Woodland Indians. Many schools have adopted strategic plans emphasizing cultural sensitivity and awareness. These measures should establish considerable common ground between Indian people requesting the removal of the logos and the public schools. Until the logos are removed, however, they are no more than broken promises and hollow, hypocritical rhetoric.

**APA Resolution Recommending the Immediate Retirement of
American Indian Mascots, Symbols, Images, and Personalities by
Schools, Colleges, Universities, Athletic Teams, and Organizations**

(Adopted by the APA Council of Representatives on August 21, 2005)

WHEREAS the American Psychological Association has recognized that racism and racial discrimination are attitudes and behavior that are learned and that threaten human development (American Psychological Association, June 2001);

WHEREAS the American Psychological Association has resolved to denounce racism in all its forms and to call upon all psychologists to speak out against racism, and take proactive steps to prevent the occurrence of intolerant or racist acts (American Psychological Association, June 2001);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities undermines the educational experiences of members of all communities-especially those who have had little or no contact with Indigenous peoples (Connolly, 2000; U.S. Commission on Civil Rights, 2001; Society of Indian Psychologists, 1999; Webster, Loudbear, Corn, & Vigue, 1971);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities establishes an unwelcome and often times hostile learning environment for American Indian students that affirms negative images/stereotypes that are promoted in mainstream society (Clark & Witko, in press; Fryberg, 2003; Fryberg & Markus, 2003; Fryberg, 2004a; Munson, 2001; Society of Indian Psychologists, 1999; Staurowsky, 1999);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities by school systems appears to have a negative impact on the self-esteem of American Indian children (Chamberlin, 1999; Eagle and Condor Indigenous People's Alliance, 2003; Fryberg, 2004b; Fryberg & Markus, 2003; Maryland Commission on Indian Affairs, 2001; Society of Indian Psychologists, 1999; The Inter-Tribal Council of the Five Civilized Tribes, 2001; Vanderford, 1996);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities undermines the ability of American Indian Nations to portray accurate and respectful images of their culture, spirituality, and traditions (Clark & Witko, in press; Davis, 1993; Gone, 2002; Rodriguez, 1998; Witko, 2005);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities presents stereotypical images of American Indian communities, that may be a violation of the civil rights of American Indian people (Dolley, 2003; King, 2001; King & Springwood, 2001; Pewewardy, 1991; Springwood & King, 2000; U. S. Commission on Civil Rights, 2001);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is a form of discrimination against Indigenous Nations that can lead to negative relations between groups (Cook-Lynn, 2001; Coombe, 1999; U. S. Commission on Civil Rights, 2001; Witko, 2005);

WHEREAS the continued use of American Indian symbols, mascots, images, and personalities is a detrimental manner of illustrating the cultural identity of American Indian people through negative displays and/or interpretations of spiritual and traditional practices (Adams, 1995; Banks, 1993; Nuessel, 1994; Staurowsky, 1999; Witko, 2005);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is disrespectful of the spiritual beliefs and values of American Indian nations (Churchill, 1994; Gone, 2002; Sheppard, 2004; Staurowsky, 1998);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities is an offensive and intolerable practice to American Indian Nations that must be eradicated (U.S. Commission on Civil Rights, 2001; Society of Indian Psychologists, 1999);

WHEREAS the continued use of American Indian mascots, symbols, images, and personalities has a negative impact on other communities by allowing for the perpetuation of stereotypes and stigmatization of another cultural group (Fryberg, 2004b; Gone, 2002; Staurowsky, 1999; U.S. Commission on Civil Rights, 2001);

THEREFORE BE IT RESOLVED that the American Psychological Association recognizes the potential negative impact the use of American Indian mascots, symbols, images, and personalities have on the mental health and psychological behavior of American Indian people;

THEREFORE BE IT RESOLVED that the American Psychological Association encourages continued research on the psychological effects American Indian mascots, symbols, images, and personalities have on American Indian communities and others;

THEREFORE BE IT RESOLVED that the American Psychological Association encourages the development of programs for the public, psychologists, and students in psychology to increase awareness of the psychological effects that American Indian mascots, symbols, images, and personalities have on American Indian communities and others;

AND

THEREFORE BE IT RESOLVED that the American Psychological Association supports and recommends the immediate retirement of American Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations.

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APA Calls for the Immediate Retirement of American Indian Sports Mascots

Such Sports Mascots Promote Inaccurate Images and Stereotypes and Negatively Affect the Self-Esteem of Young American Indians

(WASHINGTON, DC)—The American Psychological Association is calling for the immediate retirement of all American Indian mascots, symbols, images and personalities by schools, colleges, universities, athletic teams and organizations, the Association announced today.

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.

"The use of American Indian mascots as symbols in school and university athletic programs is particularly troubling," says APA President, Ronald F. Levant, EdD. "Schools and universities are places of learning. These mascots are teaching stereotypical, misleading and, too often, insulting images of American Indians. And these negative lessons are not just affecting American Indian students; they are sending the wrong message to all students."

Psychologist Stephanie Fryberg, PhD, of the University of Arizona, has studied the impact of American Indian sports mascots on American Indian students as well as European American students. Her research shows the negative effect of such mascots on the self-esteem and community efficacy of American Indian students.

"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," Fryberg states. "This in turn restricts the number of ways American Indians can see themselves."

The issue of the inappropriateness and potential harm of American Indian mascots is broader than the history and treatment of American Indians in our society say many psychologists who have studied issues of race in America. Such mascots are a contemporary example of prejudice by the dominant culture against racial and ethnic minority groups, according to these scholars.

- MORE -

Psychologist Lisa Thomas, PhD is a member of the APA Committee on Ethnic and Minority Affairs which drafted the Indian mascot resolution.

"We know from the literature that oppression, covert and overt racism, and perceived racism can have serious negative consequences for the mental health of American Indian and Alaska native (AIAN) people. We also need to pay careful attention to how these issues manifest themselves in the daily lives (e.g., school, work, traditional practices, and social activities) and experiences of AIAN individuals and communities. As natives, many of us have had personal and family experiences of being the target of frightening, humiliating, and humiliating behaviors on the part of others. This resolution makes a clear statement that racism toward, and the disrespect of, all people in our country and in the larger global context, will not be tolerated," Dr. Thomas states.

#

The American Psychological Association (APA), in Washington, DC, is the largest scientific and professional organization representing psychology in the United States and is the world's largest association of psychologists. APA's membership includes more than 150,000 researchers, educators, clinicians, consultants and students. Through its divisions in 53 subfields of psychology and affiliations with 60 state, territorial and Canadian provincial organizations, APA works to advance psychology as a science, as a profession and as a means of promoting human welfare.

Full text of the resolution is attached.

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University Senate Resolution
April 2009

Whereas, the University of North Dakota is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA); and

Whereas, following its 2004 reaccreditation visit to UND, the NCA issued a report explicitly linking UND's controversial use of its Indian nickname and Indianhead logo with negative impacts on the University's academic mission, and calling on the State Board of Higher Education and the campus to develop and implement an orderly plan for discontinuing the use of the Indian nickname and Indianhead logo; and

Whereas, the NCA's conclusions of the negative impacts of the name and logo on the University's academic mission are consistent with scholarly, scientific research conducted on the UND campus and research conducted and published elsewhere; and

Whereas, UND has suffered damage to its institutional reputation at a national level and has lost potential private foundation grant funding which would have resulted in institutional and program growth, as direct results of the continued use of the Indian nickname and Indianhead logo; and

Whereas, the ongoing controversy over the Indian nickname and Indianhead logo is disruptive and divisive to the UND campus community and the Greater Grand Forks community, and

Whereas, UND's continued use of the Indian nickname and Indianhead logo is contrary to UND's Mission, Community Value Statement, and Strategic Plan Goals and Action Plans, and violates UND's Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment (example: the display of the Indianhead logo can be perceived as intimidating and visual/graphic harassment which violates UND's Harassment Policy as stated in the *Code of Student Life*, and stymies UND's ability to insure a campus climate where "all individuals (will) be respected and treated with dignity and civility" (UND Community Values Statement)); and

Whereas, the NCA's call for retirement of the name and logo is in accord with requests and formal resolutions from eight Sioux nations and several other area tribes, numerous educational organizations including the U.S. Civil Rights Commission, National Indian Education Association, National Congress of American Indians, the North Dakota Indian Education Association, the Minnesota Indian Education Association, the American Psychological Association (APA), the American Sociological Association (ASA), the American Anthropological Association, twenty of UND's Indian-related programs, and dozens of other national, regional and local organizations; and

Whereas, the Indian nickname and Indianhead logo controversy at UND has continued for more than 30 years and negatively impacts many of the American Indian students who attend UND and the UND American Indian related programs and staff due to its emotional toll and distractive nature, as documented in the American Indian Student Services Annual Reports over the past decade; and

Whereas, the Indian nickname and Indianhead logo controversy has reached and involved the tribal communities of the states of North and South Dakota, and as a result has negatively impacted UND's ability to increase its enrollment and retention of American Indian students, as evidenced by the fact that American Indian student enrollment at UND has decreased over the past five years, with the current number just over 300, down from over 400); and

Whereas, the October 2007 settlement between the State of North Dakota, the North Dakota State Board of Higher Education, and the National Collegiate Athletic Association (NCAA) provided a period of time until November 30, 2010 to seek approval for the use of the "Fighting Sioux" nickname and logo from both the Spirit Lake Tribe and the Standing Rock Sioux Tribe, placing the responsibility for the decision on the state's Sioux Indian tribes and communities which has now resulted in disrupting and dividing the tribal communities and governments within the state; and

Whereas, this settlement has given rise to concerns regarding the questionable tactics being utilized by pro-logo advocates and supporters for garnishing tribal members' support for the nickname and logo; and

Whereas, this court case determined that unless this required tribal approval is secured, UND will remain under sanctions in NCAA sponsored post season games and hosting the games at UND would also be problematic; under NCAA guidelines regarding use of the Indian nickname and Indianhead logo, several regional teams have publicly refused to compete with UND based on the controversy and; entry into an athletic conference is being hindered by the continued use of the Indian nickname and Indianhead logo; and

Whereas, even if UND gains approval for use of the Indian nickname and Indianhead logo, this would provide no long-term solution as another tribal vote or a change in tribal leadership could reverse this action, resulting in continued conflict.

Whereas, numerous online blogs and comment forums have revealed that the UND campus and Greater Grand Forks community climate has become increasingly negative towards American Indian students and American Indian related programs and staff on campus; and

Whereas, the UND University Senate approved a resolution on January 12, 2006 requesting that President Charles Kupchella promptly seek authority from the State Board of Higher Education to develop and implement an orderly plan for discontinuing use of the Indian nickname and Indianhead logo; and

Whereas, the NCA's explicit concerns, the academic research record, and the extent of tribal and organizational calls for retirement of the name and logo provide substantial reasons for the University Senate to remain concerned that accomplishing the academic mission of the University of North Dakota is hindered by the continued use of the name and logo; and

Whereas, the controversy continues to divert substantial time, energy, and resources of administration, faculty, staff, and students away from important work required to advance the University's academic mission; and

Now, therefore, UND University Senate resolves that the use of the Indian nickname and Indianhead logo cease now in recognition of the central role of the University's academic mission, and that the authority for the development and implementation of an orderly plan for the transition to a new nickname and logo be restored to University President Robert Kelley by the State Board of Higher Education.

September 5, 2005

Myles Brand, President
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, IN 46206

Bernard Franklin, Senior Vice-President for Governance and Membership
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, IN 46206

Dear President Brand and Vice President Franklin:

The University of North Dakota's American Indian Student Services and the Campus Committee for Human Rights would like to take this opportunity to respond to the appeal filed recently by the University of North Dakota regarding its use of an American Indian nickname, logo and mascot.

We believe the action taken by the NCAA to restrict the use of race-based imagery in sports is warranted. We further believe the University of North Dakota should not be exempt from this new policy.

Our response to UND's appeal strongly refutes the university's basic arguments that a) the nickname and logo are "used with the utmost respect and class and are in no way inherently hostile or abusive"; and 2) that "UND has substantive positive relationships (including government resolutions) with American Indian tribes." And finally, we believe it is completely reasonable for the NCAA to move post-season tournament play to a venue in which all UND sports fans may participate.

UND's appeal, like its original "NCAA Self-Study" is filled with distorted representations of the situation at UND and contains significant misinformation.

First, in spite of the administration's claims, UND *does* have a mascot. The logo is a symbol of the mascot, which is "the American Indian."

The University of North Dakota sanctions the use of the "Indian-head" logo on shot glasses, beer mugs, the butt of sweat pants and hockey pucks to name only a very few products that UND markets. This is hardly a "classy and respectful" use of the logo.

The University authorizes the use of the nickname to sell "Sioux-per Dog" hotdogs, "H-Sioux-O" water; "Fighting Sioux Ice Cream" and a wide range of other merchandise and events such as the "Sioux-per Swing Golf Tournament."

The use of any other minority race as marketing or sports caricatures would not be tolerated in our society.

We invite the NCAA Review Committee to view examples at the website www.grandforksnd.net/logoissue/ for examples of ways in which the University of North Dakota's nickname and logo are used by sports fans and opponents. These images are neither respectful nor "classy."

The University Directory states, "UND insists that the team name be used in a completely respectful fashion both on and off campus." The University is marketing the use of the nickname and logo in ways that are not respectful to a race of people, and obviously the university cannot force the respectful use of the nickname and logo.

The University may attempt to monitor the inappropriate behavior of sports fans, both by the opposing teams and UND, but clearly there is no effective way to check this behavior as evidenced by the never-ending chanting of "Sioux Suck" at every game of every event in which UND plays.

UND's appeal states that "some tribes support the use of American Indian imagery and others are, at least, okay with it..." What it does not say is that for years the University of North Dakota has ignored the official requests of seven Sioux tribal governments to cease using the "Fighting Sioux" nickname and logo. These tribes have issued resolutions that are official pronouncements that

constitute tribal law; they are the official position of Sioux governments with which the United States maintains government-to-government relations. How does ignoring these requests honor the Sioux people?

The UND appeal also states, "the University of North Dakota has had the approval of the use of the nickname from the Sioux Tribe geographically closest to us."

A careful reading of this document shows that the Spirit Lake Nation does not give UND their full support, but clearly states "the Spirit Lake Tribe has not to this point taken an official position on this controversy..." The Tribal Council requested that President Kupchella extend the time period in which he planned to make an announcement regarding the name change. The resolution states that in the meantime, the "Spirit Lake Tribal Council feels that as long as something positive comes from this controversy, they are not opposed to keeping the Fighting Sioux name and the present logo at UND." (See attached resolution)

Furthermore, tribal support was conditional. The tribal chairman at the time said that in order to gain the backing of the Spirit Lake Nation, UND would need to establish a zero-tolerance policy for racist incidents and establish cultural awareness courses for all of its students, including athletes. In addition, UND was not to use the new Indian-head logo drawn by Bennett Brien, an enrolled member of the Turtle Lake Band of Chippewa (see attached *Grand Forks Herald* articles). These conditions were never met. (See attached)

In a recent Tribal Assembly meeting, tribal members at Spirit Lake overwhelmingly voted to *not* support UND's use of the "Indian-head" logo and Fighting Sioux nickname. The matter is still before the Tribal Council.

UND's appeal argues that the university should not be expected to honor tribal government requests since, "Approval could be withdrawn by one Council, then reinstated by another." This statement is disrespectful of the legitimate authority of elected tribal officials. It implies that the opinions of the persons in office do not matter. The Tribal Governance system is a democratic system whereby the people of their respective tribes elect the Tribal Chairs and Councilpersons. This is no different than the system used by the states and the country. This attitude would discredit the authority of all U.S. Presidents, Congressmen, Senators, and Governors.

The University's appeal mentions its "more than 25 programs designed to support American Indian students." What it fails to mention is that all but two of these programs have gone on record to oppose the Fighting Sioux nickname and logo. In fact, the only two that have not gone on record are "Indians into Engineering" which was funded just two weeks ago, and "Indians into Aviation" which is currently under development.

In all, there are 21 American Indian programs at UND that oppose the Fighting Sioux nickname and logo (see attachment).

UND's appeal, in addition to ignoring Sioux tribal governments and American Indian programs on campus, also neglects to cite resolutions from the National Indian Education Association, the North Dakota Indian Education Association, the Minnesota Indian Education, the National Congress of American Indians and the Society of Indian Psychologists of the Americas, all of which take stands against use of American Indian logos, nicknames and mascots by non-Indians.

UND's appeal states, "We reject the NCAA argument that Indian nicknames and logos stereotype American Indians."

With this statement, UND also rejects the tribal governments, the Indian education associations and the campus American Indian programs that repeatedly tell them that Indian nicknames and logos do stereotype American Indians. UND is also ignoring the very real concerns of its faculty and staff (see attached letters).

UND is shamefully choosing to ignore national and campus research that contradicts their claim. The American Psychological Association in its recent resolution recommending the immediate retirement of American Indian nicknames, logos and mascots said "the continued use of American Indian mascots, symbols, images, and personalities establishes an unwelcome and often times hostile learning environment for American Indian students that affirms negative images/stereotypes that are promoted in mainstream society" (see attachment).

Research conducted by the University of North Dakota's INPSYDE (Indians into Psychology Doctoral Education) program suggests that the nickname and logo adversely impact Native students (see attachment) and contribute to stereotypes within the non-Native population.

UND does not cite any research or professional organizations that support their claim that use of its American Indian nickname and logo is not hostile and/or abusive. In fact they go so far as to say that the ruling merely "translates an opinion"!

The U.S. Office for Civil Rights did not exonerate UND when it sent an investigative team to campus. The report noted concerns and said there was much work to be done.

Schools that continue the use of Indian imagery and references claim that their use stimulates interest in Native American culture and honors Native Americans. These institutions have simply failed to listen to the Native groups, religious leaders, and civil rights organizations that oppose these symbols. These Indian-based symbols and team names are not accurate representations of Native Americans. Even those that purport to be positive are romantic stereotypes that give a distorted view of the past. These false portrayals prevent non-Native Americans from understanding the true historical and cultural experiences of American Indians. Sadly, they also encourage biases and prejudices that have a negative effect on contemporary Indian people. These references may encourage interest in mythical "Indians" created by the dominant culture, but they block genuine understanding of contemporary Native people as fellow Americans.

UND once again fails to note its own North Central Association of Colleges and Schools re-accreditation recommendations. The NCA review team specifically addressed the logo, and in very strong terms. It said that the "Indianhead logo and the Fighting Sioux nickname "reduces the university's ability to accomplish its purposes and diminishes its educational effectiveness." The NCA also noted that the logo had a negative impact on the learning environment at UND and "adversely affects student participation in the classroom and the laboratory."

It is also imperative to note that throughout the process of developing UND's initial Self Study, UND's letter of inquiry regarding the appeal process, and UND's appeal itself, there was absolutely no involvement or input sought or gathered from American Indian people, from the 30 American Indian programs on campus, from the UND American Indian Programs Council, or from American Indian professionals in the field of education either on or off campus. This rather startling fact seems completely ironic, at best, and is certainly unacceptable.

And finally, in UND's appeal, they mention two national surveys regarding and supporting the use of American Indian names and images for sports, but fail to mention a survey that was conducted on this very campus in the year 2000! This unmentioned survey clearly indicated that the majority of American Indian students attending UND strongly support changing the name and logo to improve the learning environment for all. Again, UND's failure to include such pertinent information is indicative of the University's failure to provide honest and complete information regarding this controversy and the overwhelming number of American Indian people, programs, students, local, regional, and national organizations that have strongly stated that the time has come to retire the racially charged Fighting Sioux name and logo.

Ironically both a past UND president and the current president have stated that the wishes of the Sioux tribes should be honored.

Tom Clifford, a long-time president of UND said in his last public statement on the use of the Fighting Sioux name and logo: "When the leaders of the Sioux Nation come and tell me they don't want it, I'll respect that." (*Published in 1991, UND's history of the name*).

And more recently, President Kupchella stated: "I see no choice but to respect the request of Sioux tribes that we quit using their name, because to do otherwise would be to put the university and its president in an untenable position." (*UND President Charles Kupchella in an e-mail to the North Dakota State Board of Higher Education, 12/16/00*).

UND arrogantly concludes its appeal by stating, "Time could be better spent on other things by all involved." With this statement the university dismisses all of the research, tribal government resolutions, civil rights and educational organizations' recommendations, while dishonorably turning its back on its own American Indian programs. We ask that the NCAA not do the same.

Respectfully submitted,

Leigh Jeanotte, Director
American Indian Student Services
701-777-4291

Lucy Ganje, Co-Chair
Campus Committee for Human Rights
701-777-2670

Cc: Chair, Standing Rock Sioux Tribe
Chair, Spirit Lake Sioux Tribe
Chair, Three Affiliated Tribes
Great Plains Tribal Chairman's Association
State Board of Higher Education Members
UND Alumni Association & Foundation Board
Governor John Hoeven
Senator Kent Conrad
Wayne Stenehjem, Attorney General
Roger Thomas, Commissioner, North Central Conference

Chair, Sisseton-Wahpeton Sioux Tribe
Chair, Turtle Mountain Band of Chippewa
David Gipp, President, United Tribes
Robert Potts, Chancellor, NDUS
UND President's Cabinet
Fellows of the University
Senator Byron Dorgan
Representative Earl Pomeroy
ND State Legislative Leadership

February 6, 2006

UND FACULTY PETITION TO RETIRE THE "FIGHTING SIOUX"
NAME/LOGO

To: Robert Potts
Chancellor
North Dakota University System

Chancellor Robert Potts:

Faculty members at the University of North Dakota are responsible for the quality and integrity of the educational mission at UND. In that capacity, we the undersigned UND faculty call upon you to take immediate steps to initiate a thoughtful process to retire the "Fighting Sioux" name/logo.

We believe that immediately retiring the name/logo is the long overdue and only respectful response to formal objections to its use by the vast majority of American Indian Programs at UND, by almost all regional tribal councils of the Lakota, Nakota and Dakota (Sioux) Nations, by the National, North Dakota and Minnesota Indian Education Associations, by the U.S. Commission on Civil Rights, and by other educational, civil rights and American Indian tribes and organizations too numerous to list.

We take seriously our responsibility as UND faculty (and as members of a public university system) to respond immediately to serious concerns raised by the American Psychological Association in its 2005 resolution calling for an end to the use of American Indian imagery in athletics, as well as our responsibility to act based upon scholarly research done at UND and elsewhere that has documented the negative effects -- especially on all young people-- of stereotypical Indian imagery in sports.

We also are calling for this action in light of the 2004 finding by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA), wherein an impartial academic re-accreditation team conducted an exhaustive review of this issue during their campus visit. The NCA review team expressed in their final report serious concerns about the damage being done to the educational mission at UND by our continued use of the "Fighting Sioux" name/logo, and strongly urged UND to immediately and respectfully retire the logo/name. We urge you to take immediate action to address the concerns raised in the NCA review.

And finally, as UND faculty members committed to the well-being of our students, the campus, and the region, we also affirm our willingness to assist the campus and the community as we work through the transitions necessary to begin this new era for UND.

Respectfully,

Faculty contacts:

Sharon Carson
Professor,
English/Philosophy and Religion
701.777.2764
sharon_carson@und.nodak.edu

James Antes
Chester Fritz Distinguished Professor,
Psychology
701.777.3882
james_antes@und.nodak.edu

Signatories:

Sandra Donaldson, Chester Fritz Distinguished Professor of English

Albert J. Fivizzani, Chester Fritz Distinguished Professor of Biology

William F. Sheridan, Chester Fritz Distinguished Professor of Biology

Richard L. Ludtke, Chester Fritz Distinguished Professor of Sociology and Rural Health

David Lambeth, Chester Fritz Distinguished Professor of Biochemistry and Molecular Biology

Thomas V. Petros, Chester Fritz Distinguished Professor of Psychology

Richard D. Crawford, Chester Fritz Distinguished Professor of Biology

William Borden, Chester Fritz Distinguished Professor Emeritus of English

Michael Anderegg, Chester Fritz Distinguished Professor Emeritus of English

Robert W. Lewis, Chester Fritz Distinguished Professor Emeritus of English & Peace Studies

Jeanne Anderegg, Senior Lecturer, Honors/English

Margaret Zidon, Associate Professor, Teaching and Learning

Lori Robison, Associate Professor, English

Eric Wolfe, Assistant Professor, English

Jack Weinstein, Associate Professor, Philosophy and Religion

Heidi K. Czerwlec, Assistant Professor, English

Jim Mochoruk, Professor, Department of History

Dr. Claudia Routon, Assistant Professor, Modern and Classical Languages and Literatures

Christopher Nelson, Assistant Professor, English

Lucy Ganje, Associate Professor, Art

Michael Wittgraf, Associate Professor, Music

Virgil Benolt, Associate Professor, Languages

Wendelin Hume, Associate Professor, Women Studies & Criminal Justice

Daniel N. Erickson, Assistant Professor and Coordinator of Classical Studies

Cheryl Terrance, Assistant Professor, Psychology

Gaye Burgess, Associate Professor, Theatre Arts

Faythe Thureen, Norwegian Instructor, Languages

Birgit Hans/Professor/Indian Studies Department

Curtis Stofferahn, Associate Professor, Sociology

James McKenzie, Professor, English (Retired)

Janet Kelly Moen, Professor, Sociology and Peace Studies

Brian James Schill, Lecturer, Honors

Lonny Winrich, Professor Emeritus, Computer Science

Janet G. Ahler, Professor, Educational Foundations & Research

Donald Miller, Professor, Art

James Grijalva, Associate Professor, School of Law

Colleen Berry, Assistant Professor, Languages & COBPA (Chinese Studies)

Wenona Singel, Assistant Professor, Law

Barbara Handy-Marchello, Associate Professor, History

Marcia O'Kelly, Professor Emerita of Law

Jane Berne, Associate Professor, Languages

Kathleen Tiemann, Professor and Chair of Sociology

Suzana Y. Michel, Lecturer, French and Spanish

Sally Pyle, Associate Professor, Anatomy and Cell Biology

Janice Goodwin, Associate Professor, Nutrition & Dietetics

Marcus Weaver-Hightower, Instructor, Educational Foundations and Research & Teaching and Learning

Matthew L.M. Fletcher, Assistant Professor, UND School of Law/ Director, Plains Indian Law Center

Yvette LaPierre, Senior Lecturer, English/Integrated Studies

Barry Milavetz, Associate Professor, Biochemistry & Molecular Biology

Alvin O. Boucher, Adjunct, University of North Dakota School of Law

Clifford L. Staples, Professor, Sociology

Ann Reed, Lecturer, Anthropology

Barbara Voglewede, Assistant Professor, Law

Robert W. King, Professor (retired), English/Education

Sebastian Braun, Assistant Professor, Department of Indian Studies

Tim Driscoll, Assistant Professor, Sociology

Tami Carmichael, Assistant Professor, Humanities & English

David F. Marshall, Professor, English

Richard Fiordo, Professor, School of Communication

Gayle Baldwin, Associate Professor, Philosophy and Religion

Elizabeth Rankin, Professor, English

Tom Steen, Associate Professor, Physical Education and Exercise Science

J.Doug McDonald, Professor, Psychology

Yvette Koepke, Assistant Professor, English

Sherry O'Donnell, Professor and Chair, English

Patrick Lubert, Professor, Art

Fred Schneider, Professor Emeritus, Anthropology

Victoria Smith Holden, Associate Professor, School of Communication

Peter Meberg, Associate Professor, Biology

Cindy Juntunen, Professor, Counseling

Melinda Leach, Associate Professor, Anthropology

Marcia Mikulak, Assistant Professor, Anthropology

Barbara Combs, Associate Professor, Teaching & Learning

Diane Darland, Assistant Professor, Biology

Brett Goodwin, Assistant Professor, Biology

Judith H. Hall, Assistant Professor, Nutrition & Dietetics

Charles William Miller, Associate Professor and Chair, Philosophy and Religion

Nadine C. Tepper, Assistant Professor, Teaching and Learning

Daphne Pedersen Stevens, Assistant Professor, Sociology

Donald V. Poochigian, Professor, Philosophy and Religion

Shelby J. Barrentine, Associate Professor, Teaching & Learning

Lynn Lindholm, Associate Professor, Philosophy and Religion

Andre Lebugle, Professor, French

Susan Koprince, Professor, English

Thomasine Heltkamp, Professor and Chair, Social Work

Jeffrey W. Lang, Professor Emeritus, Biology

Gretchen Chesley Lang, Professor Emerita, Anthropology

Glinda Crawford, Professor (retired), Sociology, Women Studies, Peace Studies,
Institute for Ecological Studies

Kirsten Dauphinais, Assistant Professor, Law

Rebecca Simmons, Assistant Professor, Biology

Marci Glessner, Assistant Professor, Teaching and Learning

Kathleen Dixon, Professor, English

Ralph Koprince, Associate Professor, Languages

Eleanor Yurkovich, Associate Professor, Nursing

Doug Peters, Professor, Psychology

Jan Zahriy, Associate Professor, Management

Tom Rand, Associate Professor, Humanities

Mark Hoffmann, Professor, Chemistry

Mary L. Cutler, Professor, Theatre Arts

Gretchen Daneke Graf, Instructor, Philosophy and Religion

Garl K. Rieke, Associate Professor, Anatomy and Cell Biology

Rebecca Weaver-Hightower, Assistant Professor, English

Robert W. Kwelt, Professor, Political Science & Public Administration

Kim W. Fink, Associate Professor, Art

Kim Donehower, Assistant Professor, English

Jeff Carmichael, Associate Professor Biology

Liz Tyree, Clinical Associate Professor Family and Community Nursing

Mary Grisez Kwelt, Professor and Chair, Political Science & Public Administration

Michael Atkinson, Associate Professor, Anatomy and Cell Biology

Darin Kerr, Lecturer, English/Honors

Paul E. Sum, Assistant Professor, Political Science & Public Administration

Cherie Lemer, Lecturer, Honors

Alan King, Professor, Psychology

Cecilia Volden, Professor, Nursing

Michele Iiams, Assistant Professor, Mathematics

Robin David, Lecturer, Honors

Margo Adams Larsen, Assistant Professor, Psychology

Judy Millavetz, Instructor, Teaching & Learning

Anne Walker, Assistant Professor, Teaching & Learning

Janet Schauer, Clinical Associate Professor, Family and Community Nursing

SUBMITTED TESTIMONY ATTACHMENT 19

Good morning. Chairperson Kelsch, members of the committee, I appreciate having a chance to address you this morning concerning HB 1208, HB 1257, or HB 1263. My name is Amber Annis and I am an enrolled member of the Cheyenne River Sioux Tribe. I am currently a graduate student at the University of North Dakota where I am pursuing an M.A. in History. I oppose these bills strongly for a number of reasons. I have been a part of the controversy since 2004. For seven years I have seen this controversy cause friendships to end, students to leave UND, unnecessary debates in classrooms and increasing frustrations over the silencing of Indian opposition to the logo for more than eighty years. Finally, a glimmer of light was at the end of this long tunnel of oppression when UND made the decision to retire the nickname and logo. I am disheartened that, once again, we as Native students of the University of North Dakota and residents of North Dakota have to defend our civil rights.

This is an American Indian issue and it affects American Indian students on UND's campus regardless of their own opinion on the issue. It does not matter what tribe you are from or if you are pro-logo or anti-logo, as an Indian student you are faced with dealing with a difficult racially charged controversy that other students do not have to deal with. Not only do we deal with this target on our backs but we are faced with constant stereotypes regarding Indian people, the most common being that we go to school for free. How do we expect others to learn accuracies about Native people when their daily image of Indians is a stereotypical and archaic logo and nickname?

If this logo is such an honor where was the interest in the tribes in years past? Where are the resolutions that support this logo? Where are the national organizations that support the logo? Why is safety of American Indian students a concern if the logo is removed? Why are the comment boards filled with racially charged commentary? The answers to these questions should be cause for us all to pause and understand the true implications that holding on to this divisive and racially charged logo and nickname cause.

In closing, we are already in transition to retiring the logo--the UND campus has been divided for far too long. We need to pull the campus back together. These bills would cause a major interruption to the reconciliation process among students. There has been so much conflict and so much anger and hurt regarding this issue, this is a chance to bring us back together.

Thank you for your time.

Amber Annis Bercier

Lucy Annis Ganje

SUBMITTED TESTIMONY ATTACHMENT 20

Charles W. Murphy
Chairman

TRIBAL COUNCIL
(DISTRICTS)

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Avis Little Eagle

Dave Archambault II

Joseph McNeil Jr. Dear House Education Committee,

Jesse McLaughlin Greetings from the Standing Rock Sioux Tribe (SRST). The long history related to the use of the

Fighting Sioux name at the University of North Dakota (UND) has put all interested parties into a continuing state of drudgery. In 2007 UND entered into a settlement with the National Collegiate Athletic Association (NCAA) that required UND to drop the Fighting Sioux name if UND could not obtain permission from the Spirit Lake and Standing Rock Sioux Tribes to keep the name. The SRST has made its position known time and again that it does not approve of UND's use of the name.

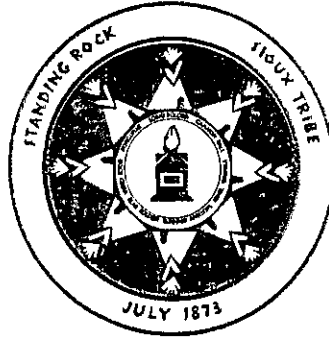
In 2010, SRST Tribal members garnered 1,004 signatures for a petition that urged the SRST to support the use of the Fighting Sioux name. Likewise, other Tribal members gathered over 1,010 signatures for an opposite petition that urged the SRST to maintain its position against the use of the name. Both petitions were considered and given weight in a meeting of the SRST Tribal Council on June 17, 2010. At the conclusion of that meeting the SRST Tribal Council once again affirmed, by resolution, that it does not support the use of the name. Regardless of any opinion on this matter, I have the following concerns regarding the State Legislature's apparent attempts to prolong this highly divisive issue via HB 2208, HB 2257, and/or HB 2263:

1. The Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of petitions of enrolled members;
2. Currently there are no provisions in the Constitution of the Standing Rock Sioux Tribe that provide for a referendum vote;
3. Whether the SRST supports or does not support UND'S use of the Fighting Sioux name is an internal matter and any prolonging of this divisive issue, that has been around since the 1960s, will result in additional wasted time and resources to a matter that likely will not go away.

In the interest of furthering the purpose of education in the State of North Dakota and in preventing the continued divisive in-fighting on our reservation created by the UND Fighting Sioux name, the SRST urges you to let UND abide by the mandates of the State Board of Higher Education and the Federal Court Settlement of 2007 and let the name retire with dignity.

Respectfully,

Charles W. Murphy
Charles W. Murphy, Chairman



Adele M. White
Secretary

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol D. Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
Porcupine District

RESOLUTION

NO. 356-92

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, and the recognizing governing body of the Tribe is known as the Standing Rock Sioux Tribal Council, and

WHEREAS, the racially insensitive events of October 24, 1992, at the Homecoming Parade, are not isolated events but, rather an example of what Native Students at UND must endure while attempting to gain an education at the University, and

WHEREAS, the University Administration has stated in the past that such actions, like the ones of October 24, 1992, will not be tolerated on campus, and

WHEREAS, the University's continued use of the 'Fighting Sioux' nickname places Native Students in the position of being mascots and subjects those students to such racially insensitive actions, and

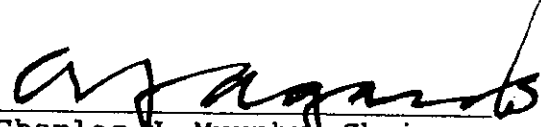
WHEREAS, the University is sending a Dual Message to the students of UND,

NOW THEREFORE BE IT RESOLVED, the undersigned feel that the University of North Dakota should discontinue the use of the 'Fighting Sioux' nickname. The undersigned further believe that the President of the University has the authority to discontinue the use of that nickname.

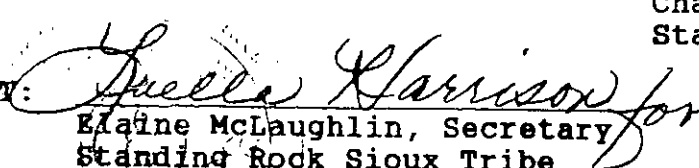
CERTIFICATION

We, the undersigned Chairman and Secretary of the Tribal Council do hereby certify that the Standing Rock Sioux Tribal Council is composed of 17 members of whom 12 constituting a quorum were present at a meeting therefore duly and regularly called, noticed, convened, and held on the 3rd day of December, 1992, and the following resolution was duly adopted by the affirmative vote of 9 members, with 4 members not voting and with 1 opposing. The Chairman's vote is not required except in case of a tie.

DATES THIS 3rd DAY OF December, 1992


Charles V. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:


Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

OFFICIAL SEAL

MOTION NO. 27 IS CONTINUED.

JAMERSON, J.	YES	TWO BEARS, A.	YES
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

#28. MOTION WAS MADE BY ALBERT TWO BEARS, SECONDED BY PAT MCLAUGHLIN, TO APPROVE OF THE ECONOMICS COMMITTEE REPORTS DATED FOR NOVEMBER 16, 23, 1992 AND DECEMBER 2, 3, 1992.

ROLL CALL VOTE: MURPHY, C. - NOT VOTING

AGARD, A. (CHAIRING)	N.V.	MCLAUGHLIN, E.	YES
BILLINGSLEY, K.	E.	MCLAUGHLIN, P.	YES
CLAYMORE, S.	YES	MENTZ, T.	YES
FAITH, JR., M.	YES	RED BEAR, K.	E.
GIPP, A.	YES	STRONG HEART, J.	E.
HARRISON, L.	N.V.	TAKEN ALIVE, J.	YES
JAMERSON, J.	YES	TWO BEARS, A.	YES
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

H.E.W COMMITTEE - Luella Harrison reporting
December 3, 1992 (SPECIAL MEETING)

#29. MOTION WAS MADE BY PAT MCLAUGHLIN, SECONDED BY JAY TAKEN ALIVE, TO APPROVE TO SUPPORT, BY RESOLUTION, THAT UND SHOULD DISCONTINUE THE USE OF THE "FIGHTING SIOUX".

ROLL CALL VOTE: MURPHY, C. - NOT VOTING

AGARD, A.	YES	MCLAUGHLIN, E.	YES
BILLINGSLEY, K.	E.	MCLAUGHLIN, P.	YES
CLAYMORE, S.	YES	MENTZ, T.	YES
FAITH, JR., M.	YES	RED BEAR, K.	E.
GIPP, A.	NO	STRONG HEART, J.	E.
HARRISON, L.	YES	TAKEN ALIVE, J.	YES
JAMERSON, J.	N.V.	TWO BEARS, A.	N.V.
KEEPSEAGLE, J.	YES	WHITE MOUNTAIN, SR., J.	N.V.

VOTE: YES - 9 NO - 1 NOT VOTING - 4

MOTION CARRIED. 3 - EXCUSED

#30. MOTION WAS MADE BY PAT MCLAUGHLIN, SECONDED BY SAM CLAYMORE, TO APPROVE OF GENERAL BULLETIN NO. 43-92. IN REFERENCE TO THE OKLAHOMA TAX COMMISSION V. SAC AND FOX NATION.

RESOLUTION NO. 078-98

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Article 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe had issued Resolution No. 356-92 to demand that the University of North Dakota discontinue the use of the name and mascot of the "Fighting Sioux"; and

WHEREAS, the University Administration has stated in the past that such actions, like the racially insensitive ones of October 24, 1992, will not be tolerated on campus; and

WHEREAS, the University's continued use of the "Fighting Sioux" nickname places Native American students in the position of being mascots and subjects those students to such racially insensitive actions; and

WHEREAS, the University is sending a Dual Message to the students of UND, by attempting to provide a quality education for its students, but subjects indigenous students, namely those from the Lakota/Dakota Peoples of North America, to continued racial actions, by not changing its "Sioux" and "fighting Sioux" nicknames; and

NOW THEREFORE BE IT RESOLVED, the undersigned Standing Rock Sioux Tribal Council hereby reaffirms the Resolution of December 3, 1992, specifically that the University of North Dakota should discontinue the use of the "Fighting Sioux" nickname.

BE IT FURTHER RESOLVED, that the foregoing resolution shall be effective on this date and shall remain in full force and effect thereafter.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] members, of whom 16 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 11th day of FEBRUARY, 1998, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 0 opposing, and with 6 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

Dated this 11th day of FEBRUARY, 1998.



Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

ATTEST:



Elaine McLaughlin, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

REGULAR TRIBAL COUNCIL MEETING
FOLLOW-UP

MEETING DATE: February 11, 1998

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#104. MOTION WAS MADE BY JOE STRONG HEART, SECONDED BY PALMER DEFENDER, TO APPROVE TO PURCHASE LAND IN THE AMOUNT OF \$517.00 WITH THE SRST LAND PURCHASING FUNDS FROM THAT PORTION OF THE CRAZY BEAR ALLOTMENT SR-2052-E, LYLE LAFROMBOISE ESTATE, BY RESOLUTION.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	N.V.	KEEPSEAGLE, J.	N.V.
BAILEY, V.	YES	LONG CHASE, F.	YES
BEAR RIBS, D.	N.V.	MCLAUGHLIN, E.	YES
BROWN OTTER, M.	YES	SEE WALKER, R.	YES
CORDOVA, R.	YES	STRONG HEART, J.	YES
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	YES	TWO BEARS, S.	N.V.
IRON, T. (Chairing)	N.V.	WHITE, R.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 6

MOTION CARRIED. 1 - EXCUSED

#105. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY FARRON LONG CHASE, TO APPROVE OF THE RESOLUTION: **NOW THEREFORE BE IT RESOLVED**, THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL HEREBY REAFFIRMS THE RESOLUTION OF DECEMBER 3, 1992, SPECIFICALLY THAT THE UNIVERSITY OF NORTH DAKOTA SHOULD DISCONTINUE THE USE OF THE "**FIGHTING SIOUX**" NICKNAME.

ROLL CALL VOTE: MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	N.V.	KEEPSEAGLE, J.	N.V.
BAILEY, V.	YES	LONG CHASE, F.	YES
BEAR RIBS, D.	N.V.	MCLAUGHLIN, E.	YES
BROWN OTTER, M.	YES	SEE WALKER, R.	YES
CORDOVA, R.	YES	STRONG HEART, J.	YES
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	YES	TWO BEARS, S.	N.V.
IRON, T. (Chairing)	N.V.	WHITE, R.	N.V.

VOTE: YES - 10 NO - 0 NOT VOTING - 6

MOTION CARRIED. 1 - EXCUSED

REGULAR TRIBAL COUNCIL MEETING
FOLLOW-UP

MEETING DATE: December 2, 1998

PAGE: 27

✓ #59. MOTION WAS MADE BY DEAN BEAR RIBS, SECONDED BY RANDY WHITE, TO APPROVE FOR ART JOCHIM TO OFFICIALLY USE THE TRIBAL EQUIPMENT TO MOVE FEMA TRAILERS.

AMENDED TO: To be use only for this project and be returned upon completion of the project.

ROLL CALL VOTE:

MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	NO
BROWN OTTER, D.	YES	SEE WALKER, R.	NO
CORDOVA, R.	NO	STRONG HEART, J.	NO
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	NO
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 7 NO - 5 NOT VOTING - 1

MOTION CARRIED. 4 - EXCUSED

✓ #60. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DEAN BEAR RIBS, TO APPROVE THAT THE STANDING ROCK SIOUX TRIBAL COUNCIL APPROVES OF SUBMISSION OF LEGISLATION TO THE NORTH DAKOTA STATE GOVERNMENT OPPOSING THE USE OF AMERICAN INDIAN MASCOTS AND MONIKERS BY UNIVERSITY'S AND INSTITUTIONS OF HIGHER EDUCATION IN NORTH DAKOTA SUCH LEGISLATION WILL BE CONSISTENT WITH PREVIOUS ACTIONS TAKEN BY THE STANDING ROCK TRIBAL COUNCIL.

ROLL CALL VOTE:

MURPHY, C. - EXCUSED

ARCHAMBAULT, D.	E.	KEEPSEAGLE, J.	YES
BAILEY, V.	E.	LONG CHASE, F.	YES
BEAR RIBS, D.	YES	MCLAUGHLIN, E.	YES
BROWN OTTER, D.	YES	SEE WALKER, R.	YES
CORDOVA, R.	YES	STRONG HEART, J.	YES
DEFENDER, P.	YES	TAKEN ALIVE, J.	YES
GATES, R.	E.	TWO BEARS, S.	YES
IRON, T. [CHAIRING]	N.V.	WHITE, R.	YES

VOTE: YES - 12 NO - 0 NOT VOTING - 1

MOTION CARRIED. 4 - EXCUSED

RESOLUTION NO. 438-05

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribe passed motions and resolutions in 1992 and 1998 against the use of the "***Fighting Sioux***" nickname by the University of North Dakota, and

WHEREAS, other Sioux Tribes have consistently opposed the use of the "***Fighting Sioux***" nickname by the University of North Dakota (see www.und.edu/org/bridges/index2.html); and

WHEREAS, the University of North Dakota has appropriated the nickname "***Fighting Sioux***" without consulting or seeking the permission of Sioux Tribes; and

WHEREAS, Native American students and alumni of the University of North Dakota must endure professional, social and academic hardships due to the "***Fighting Sioux***" nickname; and

WHEREAS, the University's continued use of the "***Fighting Sioux***" nickname places Native American students and alumni in the position of being mascots and subjects these individuals to racially insensitive actions; and

WHEREAS, the University of North Dakota professes to support Native American issues;

NOW THEREFORE BE IT RESOLVED, the Standing Rock Sioux Tribe supports the recent decision by the National Collegiate Athletic Association to bar the use of Native American Tribal names in post-season games by colleges and universities. We the undersigned feel that the University of North Dakota should discontinue the use of the "***Fighting Sioux***" nickname; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] of whom 14 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 15th day of **SEPTEMBER, 2005**, and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with 0 opposing, and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.**

DATED THIS 15th DAY OF SEPTEMBER, 2005.

ATTEST:



Charles W. Murphy, Chairman
Standing Rock Sioux Tribe



Sharon Two Bears, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 09-15-05
Motion No. 100

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: September 15, 2005

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#94. MOTION WAS MADE BY JESSE MCLAUGHLIN, SECONDED BY RANDY WHITE, TO APPROVE TO CONCURR WITH THE REQUEST FROM LOIS TWO BEARS – TRIBAL HEALTH ADMINISTRATION TO SCHEDULE THE YOUTH LEADERSHIP/SUICIDE PREVENTION TRAINING ON SEPTEMBER 19-20, 2005 AND A GATHERING OF NATIVE AMERICANS PROGRAM AT PRAIRIE KNIGHTS CASINO ON SEPTEMBER 21-23, 2005 AT NO COST TO THE PROGRAM.

ROLL CALL VOTE:

MURPHY, C. – EXCUSED

BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES
CADOTTE, M.	YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.	N.V.	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.	YES	TWO BEARS, S.	YES
IRON, T. (Chairing)	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.	YES	WHITE BULL, F.	YES
LOPEZ, M.	YES	WHITE EAGLE,, C.	A.

VOTE: YES – 11 NO – 0 NOT VOTING – 3

MOTION CARRIED.

1 – EXCUSED

2 – ABSENT

#95. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY ALMA MENTZ, TO APPROVE TO REAFFIRM THE POSITION OF THE S.R.S.T. REGARDING THE USE OF THE FIGHTING SIOUX NICKNAME BY THE UNIVERSITY OF NORTH DAKOTA (U.N.D.) WHICH IS TO QUOTE: “TO ELIMINATE AND STOP THE USE OF THE FIGHTING SIOUX NICKNAME AND CHARACTER TODAY, FURTHER MORE THAT THE S.R.S.T. DOES NOT CONSENT TO THE USE OF THE FIGHTING SIOUX NICKNAME, MASCOT, AND CHARACTER”, BY **RESOLUTION NO. 438-05.**

ROLL CALL VOTE:

MURPHY, C. – EXCUSED

BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES
CADOTTE, M.	YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.	YES	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.	YES	TWO BEARS, S.	YES
IRON, T. (Chairing)	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.	YES	WHITE BULL, F.	YES

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: September 15, 2005

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MOTION NO. 95 IS CONTINUED.

LOPEZ, M.	YES	WHITE EAGLE,, C.	A.
VOTE:	YES - 12	NO - 0	NOT VOTING - 2
MOTION CARRIED.	1 - EXCUSED	2 - ABSENT	

H.E.W. COMMITTEE - Adele White reporting.
September 1, 2005

#96. MOTION WAS MADE BY VERNA BAILEY, SECONDED BY JESSE TAKEN ALIVE, TO APPROVE TO AUTHORIZE SUBMISSION FOR A TRIBAL EMERGENCY MEDICAL ASSISTANCE (T.E.M.A.) GRANT TO THE ABERDEEN AREA BUREAU OF INDIAN AFFAIRS OFFICE.

ROLL CALL VOTE:	MURPHY, C. - EXCUSED		
BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES
CADOTTE, M.	YES	TAKEN ALIVE, J.	YES
CLAYMORE, M.	N.V.	TAKES THE GUN, D.	N.V.
FOOL BEAR, A.	N.V.	TWO BEARS, S.	YES
IRON, T. (Chairing)	N.V.	WHITE, R.	YES
LITTLE EAGLE, A.	YES	WHITE BULL, F.	YES
LOPEZ, M.	N.V.	WHITE EAGLE,, C.	A.
VOTE:	YES - 9	NO - 0	NOT VOTING - 5

MOTION CARRIED.	1 - EXCUSED	2 - ABSENT
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#97. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY ALMA MENTZ, TO APPROVE OF A CONSULTANT AGREEMENT BETWEEN THE H.E.W. PROGRAM MANAGER AND THE ABERDEEN AREA TRIBAL CHAIRMAN'S HEALTH BOARD (A.A.T.C.H.B) FOR TRIBAL INSTITUTIONAL REVIEW BOARD (I.R.B.) TRAINING.

ROLL CALL VOTE:	MURPHY, C. - EXCUSED		
BAILEY, V.	YES	MCLAUGHLIN, J.	YES
BROWN OTTER, M.	A.	MENTZ, A.	YES

RESOLUTION NO. 562-07

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of the Tribe and to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the University of North Dakota [hereafter "UND"], signed a settlement agreement with the NCAA late last month, ending a year-long legal battle over a 2005 NCAA mandate that barred the nickname's continued use in postseason play; and

WHEREAS, that settlement requires the university to retire its nickname in three years if the school cannot win support from the Tribal Councils of both the Standing Rock and Spirit Lake reservations; and

WHEREAS, the Standing Rock Sioux Tribe [hereafter "SRST"], was not consulted during negotiation of UND-NCAA settlement; and

WHEREAS, because the SRST was not consulted concerning the said settlement, it is the recommendation of the Tribal Council's Health, Education and Welfare Committee that the Tribal Council maintain its position that the SRST opposes the use of the UND "Fighting Sioux" nickname and logo; and

WHEREAS, the SRST rejects the notion that the Tribal Council will change the Tribe's position concerning the use of UND "Fighting Sioux" nickname and logo in the next three years and rejects the possibility that UND can "win support" of the SRST on this issue;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribal Council hereby states definitively that the SRST opposes the use of the UND "Fight Sioux" nickname and logo and rejects the notion that UND can "win support" of the SRST on this issue; and

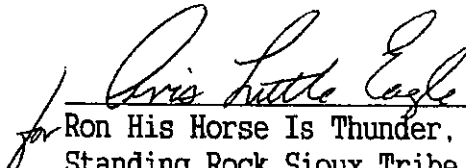
BE IT FURTHER RESOLVED, that the Tribal Chairman is further authorized and directed to advise UND and the NCAA of this, the Tribal Council's ultimate response regarding the said issue; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

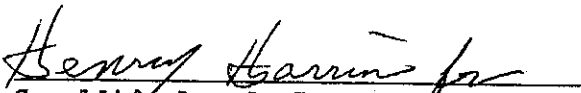
CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council, hereby certify that the Tribal Council is composed of seventeen [17] members of whom 11 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 9th day of NOVEMBER, 2007, and that the foregoing resolution was duly adopted by the affirmative vote of 8 members, and 1 opposing, and with 2 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.

DATED THIS 9th DAY OF NOVEMBER, 2007.


for Ron His Horse Is Thunder, Chairman
Standing Rock Sioux Tribe

ATTEST:


Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 11-09-2007
Motion No. 61

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: November 9, 2007

PAGE: 30

#61. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY DAVE ARCHAMBAULT, TO APPROVE TO REAFFIRM OUR POSITIONS IN OPPOSITION OF THE U.N.D. LOGO NICKNAME AND TO REJECT THE MOST RECENT FEDERAL COURT DECISION, **BY RESOLUTION NO. 562-07**.

AMEND: TO STATE "FEDERAL COURT SETTLEMENT."

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

WHITE MOUNTAIN, J.	NO	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	YES
WHITE BULL, F.	E.	MURPHY, C.	YES
HARRISON, H.	YES	MCLAUGHLIN, J.	E.
BIRD, R.	E.	MCNEIL, J.	E.
JAMERSON, F.	E	TAKEN ALIVE, J.	YES
BROWN OTTER, M.	E.	LITTLE EAGLE, A.	YES
STRONG HEART, J.	YES	AGARD, G.	N.V.

VOTE: YES - 8 NO - 1 NOT VOTING - 2

MOTION CARRIED. 6 - EXCUSED

#62. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MARGARET GATES, TO APPROVE OF THE H.E.W. COMMITTEE MINUTES FOR OCTOBER 22, 23, 25, 2007 AND NOVEMBER 9, 2007.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

WHITE MOUNTAIN, J.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	YES
WHITE BULL, F.	E.	MURPHY, C.	YES
HARRISON, H.	YES	MCLAUGHLIN, J.	E.
BIRD, R.	E.	MCNEIL, J.	E.
JAMERSON, F.	E.	TAKEN ALIVE, J.	YES
BROWN OTTER, M.	E.	LITTLE EAGLE, A.	YES
STRONG HEART, J.	YES	AGARD, G.	YES

VOTE: YES - 10 NO - 0 NOT VOTING - 1

MOTION CARRIED. 6 - EXCUSED

RESOLUTION NO. 208-08

- WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, [48 stat. 984], with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and
- WHEREAS, the Standing Rock Sioux Tribe Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and
- WHEREAS, for a number of years the nickname bestowed on Athletic teams at the University of North Dakota [hereafter "UND"], i.e., the "*Fighting Sioux*," and the logo it is used with have been a divisive issue. The Standing Rock Sioux Tribe and other Sioux Tribes, including the Cheyenne River Sioux and Rosebud Sioux Tribe, acting through their Tribal Council, have passed resolutions opposing UND's nickname and logo; and
- WHEREAS, the Dakota, Lakota and Nakota Tribes opposing the use of the UND nickname and logo have set forth a variety of reasons for their resistance to the nickname and logo, including: the misappropriation of sacred spiritual images; the practices of non-Indians at sporting events; the reduction of complex Tribal, cultural and linguistic issues to a Hollywood stereotype; the attribution of violent images to Indian people by identifying them as "fighting;" and because Indian women, men and children become invisible when their cultures are represented only by historical images of male warriors; and
- WHEREAS, more recently a group of American Indian students at UND filed discrimination complaint with UND's affirmative action office because the Gamma Phi Beta Sorority held a party in November during which students dressed up in American Indian costumes and slathered their faces and bodies with red makeup. Photos from the party show a female students wearing "*Indian Maiden*" dresses, stitched up the side with fringe at the bottom, and feather headdresses. Some male students are naked in the photos except for underwear and brown t-shirts wrapped around their waists as makeshift loincloths and red makeup smeared across their faces and chests. Several photos show one for the scantily clad male students with one had raised and a solemn expression on his face, seemingly imitating a stereotypical Indian pose; and
- WHEREAS, the actions of those at Gamma Phi Beta Sorority part last November appear to be based on fundamental ignorance at best and out-and-out racism at

worst; and

WHEREAS, UND, in a settlement arising out of litigation with the National Collegiate Athletic Association [hereafter "NCAA"], has agreed to give up the name "Fighting Sioux" within three [3] years unless the Spirit Lake Nation and the Standing Rock Sioux Tribe support the name. The Standing Rock Sioux Tribe has already passed a resolution against the name; and

WHEREAS, the Standing Rock Sioux Tribal Constitution, Article III, § 12 mandates that: "[a]ll members of the Tribal Council and all other Tribally elected officers shall act in accordance with a Code of Ethic." So, Council Representatives and all other Tribally elected officers to carry out their duties consistent with the "faith and diligent discharge of duties and responsibilities for and in the best interest of the Standing Rock Sioux Tribe." SRST Constitution, Article III, § 12a.; and

WHEREAS, as noted above, UND's settlement with the NCAA requires UND to obtain support for the use of the "Fight Sioux" nickname within three [3] years unless the Spirit Lake Nation and the Standing Rock Sioux Tribe support UND's use of the nickname. Accordingly, the Tribe views UND's call for a referendum vote on this issue as a modern version of the Long Knives' "divide and conquer tactics;" and

WHEREAS, recently, some Tribal members have expressed their belief that the Standing Rock Sioux Tribe should hold a referendum on the UND nickname issue. It is clear that the sole beneficiary of such a referendum would be UND while the SRST would bear the entire financial burden of a referendum vote pursuant to the SRST Constitution Article III § 12[b]; and

WHEREAS, the SRST has expended substantial time and resources in arriving at its current position on this issue and in upholding its position the SRST, the government of the SRST seeks to promote the general welfare of its members, including mental, emotional and spiritual welfare pursuant to SRST Constitution Article IV, §§ 1[c] and 1[o]; and

WHEREAS, the Tribal Council is vested with the authority to regulate its own procedure under the Tribal Constitution Article IV, § 1[f]. The Tribal Council hereby proposes a moratorium on a referendum vote on the UND nickname issue for the foregoing reasons;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby authorizes and directs that from the date of this Resolution is adopted by the Tribal Council, and certified, there is a moratorium on a referendum vote on the UND nickname issue; and

BE IT FURTHER RESOLVED, that the Tribal Chairman is further authorized and directed

to communicate with UND Chancellor Goetz and advise him of the moratorium established through this Resolution; and

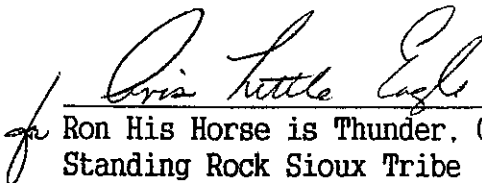
BE IT FINALLY RESOLVED, that the Tribal Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe

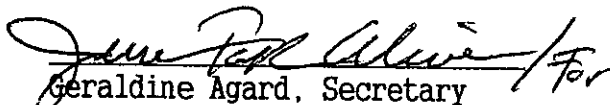
CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council do hereby certify that the Tribal Council is composed of [17] members of whom 13 constituting an quorum, were present at a meeting, thereof, duly are regularly called, noticed, convened and held on the 8th day of MAY, 2008, and that the foregoing resolution was adopted by the affirmative vote of 7 members, with 5 opposing, and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

DATED THIS 8th DAY OF MAY, 2008.

ATTEST:


for Ron His Horse is Thunder, Chairman
Standing Rock Sioux Tribe


Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 05-08-2008
Motion # 33

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: May 08, 2008

PAGE: 16

MOTION #31 IS CONTINUED.

JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 0 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#32. MOTION WAS MADE BY HENRY HARRISON, SECONDED BY GERALDINE AGARD, TO APPROVE TO ALLOCATE \$4,000.00 FROM THE FY-2008 CASINO FUNDS TO THE PARDON BOARD, BY RESOLUTION [NO. 207-08].

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	N.V.
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 11 NO – 0 NOT VOTING – 2

MOTION CARRIED. 4 – EXCUSED

#33. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY AVIS LITTLE EAGLE, TO APPROVE TO ESTABLISH A MORATORIUM ON THE REFERENDUM VOTE TO THE U.N.D. LOGO ISSUE, BY RESOLUTION [NO. 208-08].

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	NO	AGARD, G	NO
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	NO	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: May 08, 2008

PAGE: 17

MOTION #33 IS CONTINUED.

STRONG HEART, SR., J.	NO	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	NO
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 7 NO – 5 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#34. MOTION WAS MADE BY RICHARD BIRD, JR., SECONDED BY MILTON BROWN OTTER, TO APPROVE OF H.E.W. COMMITTEE REPORTS FOR APRIL 7, 21, 2008 AND MAY 5,7, 2008.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 0 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#35. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY HENRY HARRISON, TO APPROVE TO AMEND THE AGENDA TO ADD AN ICWA ISSUE [RE: Valerie Hill].

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, JR., R	YES	AGARD, G	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATE, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	NO
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	EX.
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	EX.
WHITE BULL, F.	EX.	MURPHY, C.	NO
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: April 16, 2009

PAGE: 26

MOTION NO. 49 IS CONTINUED.

HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	E.	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 8 NO – 4 NOT VOTING – 1

MOTION CARRIED. 4 – EXCUSED

#50. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY CHARLES MURPHY, TO APPROVE TO PUT THE ISSUE OF “THE FIGHTING SIOUX” LOGO ON THE BALLET COME ELECTION.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	E.	AGARD, G.	N.V.
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	E.
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	E.	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 5 NO – 6 NOT VOTING – 2

MOTION DID NOT CARRY. 4 – EXCUSED

#51. MOTION WAS MADE BY FRANK WHITE BULL, SECONDED BY JOSEPH MCNEIL, TO TABLE MOTION NO. 50.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	E.	AGARD, G.	N.V.
BROWN OTTER, M.	YES	ARCHAMBAULT, D.	E.
CORDOVA, R.	NO	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	YES
JAMERSON, F.	E.	MCLAUGHLIN, J.	NO

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: August 11, 2009

PAGE: 1

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR AUGUST 11, 2009.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 11 NO – 4 NOT VOTING – 1
MOTION CARRIED. 1 – EXCUSED

#2. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JOSEPH MCNEIL, TO AMEND THE MAIN MOTION TO INCLUDE THE UND LOGO.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 9 NO – 6 NOT VOTING – 1
MOTION CARRIED. 1 – EXCUSED

H.E.W. COMMITTEE – Adele White reporting.
July 20, 2009

#3. MOTION WAS MADE BY CHARLES MURPHY, SECONDED BY JESSE MCLAUGHLIN, TO APPROVE TO INCLUDE THE BIRD HORSE FAMILY TO THE NEW GRAND RIVER WATERLINE EXTENSION THAT IS BEING CONSTRUCTED IN THE WAKPALA DISTRICT.

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: August 11, 2009

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#20. MOTION WAS MADE BY JOSEPH MCNEIL, SECONDED BY FRANK WHITE BULL, TO APPROVE TO ADD ELDERLY NEEDS PROGRAM FOR \$500,000.00 TO CASINO REVENUE PRIOR COMMITMENTS, **BY RESOLUTION NO. 513-09**.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	YES	ARCHAMBAULT, D.	NO
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, F.	YES	MCLAUGHLIN, J.	N.V.
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 12 NO – 2 NOT VOTING – 2

MOTION CARRIED. 1 – EXCUSED

#21. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JOSEPH MCNEIL, TO APPROVE TO MOVE THE UND LOGO UP ON THE AGENDA.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 10 NO – 5 NOT VOTING – 1

MOTION CARRIED. 1 – EXCUSED

#22. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY ROBERT CORDOVA, TO **RESCIND RESOLUTION NO. 208-08**, PASSED BY THE

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: August 11, 2009

PAGE: 12

MOTION NO. 22 IS CONTINUED.

TRIBAL COUNCIL ON MAY 8, 2008 THAT PUT A MORATORIUM ON THE UND
LOGO.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	NO	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	NO
CORDOVA, R.	YES	GATES, M.	E.
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	NO
WHITE BULL, F.	NO	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	NO

VOTE: YES – 7 NO – 8 NOT VOTING – 1

MOTION DID NOT CARRY. 1 – EXCUSED

#23. MOTION WAS MADE BY JOE WHITE MOUNTAIN, SECONDED BY JESSE
TAKEN ALIVE, TO CALL FOR QUESTION ON MOTION NO. 22.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON – NOT VOTING

BIRD, R.	YES	AGARD, G.	YES
BROWN OTTER, M.	NO	ARCHAMBAULT, D.	YES
CORDOVA, R.	NO	GATES, M.	E.
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, J.	YES	MCNEIL, J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, J.	YES	TAKEN ALIVE, J.	YES

VOTE: YES – 13 NO – 2 NOT VOTING – 1

MOTION CARRIED. 1 – EXCUSED

JUDICIAL COMMITTEE – Cheryl Long Feather reporting.
July 21, 2009

REGULAR TRIBAL COUNCIL MEETING

INTER-OFFICE FOLLOW-UP

MEETING DATE: September 08, 2009

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MOTION #69 IS CONTINUED.

STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES - 14 NO - 0 NOT VOTING - 1

MOTION CARRIED. 2 - EXCUSED

#70. MOTION WAS MADE BY RICHARD BIRD, JR., SECONDED BY ROBERT CORDOVA, TO AMEND THE AGENDA TO ADD ON THE UND LOGO ISSUE.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

BIRD, JR., R.	NO	AGARD, G.	NO
BROWN OTTER, M.	EX.	ARCHAMBAULT, JR., D.	NO
CORDOVA, R.	YES	GATES, M.	NO
HARRISON, H.	NO	LITTLE EAGLE, A.	NO
JAMERSON, JR., F.	N.V.	MCLAUGHLIN, J.	YES
STRONG HEART, SR., J.	NO	MCNEIL, JR., J.	NO
WHITE BULL, F.	N.V.	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	NO

VOTE: YES - 3 NO - 9 NOT VOTING - 3

MOTION DID NOT CARRY. 2 - EXCUSED

#71. MOTION WAS MADE BY AVIS LITTLE EAGLE, SECONDED BY JOSEPH MCNEIL, JR., TO AMEND THE AGENDA TO ADD ON THE RESOLUTION REQUESTING BIA TO MONITOR THE SEPTEMBER 30, 2009 GENERAL ELECTION.

ROLL CALL VOTE: HIS HORSE IS THUNDER, RON - NOT VOTING

BIRD, JR., R.	NO	AGARD, G.	YES
BROWN OTTER, M.	EX.	ARCHAMBAULT, JR., D.	YES
CORDOVA, R.	YES	GATES, M.	NO
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
JAMERSON, JR., F.	YES	MCLAUGHLIN, J.	YES
STRONG HEART, SR., J.	YES	MCNEIL, JR., J.	YES
WHITE BULL, F.	YES	MURPHY, C.	YES
WHITE MOUNTAIN, SR., J.	EX.	TAKEN ALIVE, J.	YES

VOTE: YES - 12 NO - 2 NOT VOTING - 1

MOTION CARRIED. 2 - EXCUSED

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Vacant

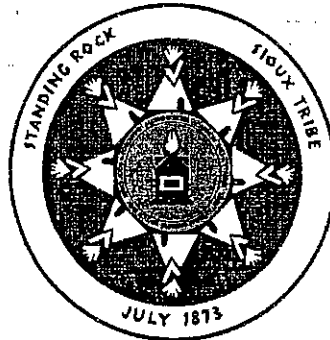
Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Mike Faith
Vice Chairman

Charles W. Murphy
Chairman



Adele M. White
Secretary

TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol "Doug" Crow Gho
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel "Ben" Harrison
Porcupine District

MEMORANDUM

April 6, 2010

TO: Archie Fool Bear

FROM: Susan White Eagle/Recording Clerk *SWK*

SUBJECT: Excerpt from Regular Tribal Council meeting held on April 6, 2010.

EXCERPT

EXCERPT

EXCERPT

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETIREMENT OF THE UND LOGO AND NICKNAME.

ROLL CALL VOTE:

MURPHY, CHARLES - NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CLAYMORE, D.	NO	FAITH, JR., M.	NO
CROW GHOST, E.	E.	GATES, M.	YES
HARRISON, H.	YES	LITTLE EAGLE, A.	YES
HARRISON, B.	YES	MCLAUGHLIN, J.	E.
JAMERSON, JR., F.	NO	MCNEIL, JR., J.	YES
ST. JOHN, K.	NO	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	NO

VOTE: YES - 8 NO - 6 NOT VOTING - 1

MOTION CARRIED 2 - EXCUSED

Should you have any questions please do not hesitate to contact me at 854-8577.
pc: file

TRIBAL COUNCIL
(AT LARGE)

Jesse "Jay" Taken Alive

Margaret M. Gates

Vacant

Dave Archambault II

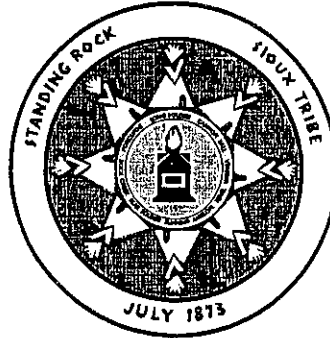
Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman

Adele M. White
Secretary



TRIBAL COUNCIL
(DISTRICTS)

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol "Doug" Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel "Ben" Harrison
Porcupine District

MEMORANDUM

MAY 4, 2010

TO: Jesse Taken Alive/H.E.W. member

FROM: Susan White Eagle/Recording Clerk *DWE*

SUBJECT: Excerpt from Regular Tribal Council meeting held on May 4, 2010.

EXCERPT

EXCERPT

EXCERPT

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE TO REAFFIRM MOTION NO. 2 OF APRIL 6, 2010 TRIBAL COUNCIL MEETING.

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOSEPH MCNEIL, JR., TO APPROVE DUE TO THE RECENT DEVELOPMENTS REGARDING THE UND LOGO ISSUE THE S.R. SIOUX TRIBAL COUNCIL WILL RESUME DISCUSSING THE MATTER ONCE THE N.D. STATE BOARD OF HIGHER EDUCATION MAKES IT'S FINAL DECISION ON THE RETTIREMENT OF THE UND LOGO AND NICKNAME.

ROLL CALL VOTE:

MURPHY, CHARLES - EXCUSED

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	YES
CLAYMORE, D.	NO	FAITH, JR., M.	[Chairing] N.V.
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	YES	LITTLE EAGLE, A.	E.
HARRISON, B.	YES	MCLAUGHLIN, J.	NO
JAMERSON, JR., F.	NO	MCNEIL, JR., J.	YES
ST. JOHN, K.	NO	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	NO

VOTE: YES - 7 NO - 7 NOT VOTING - 1

Due to a tie vote the Chairman's vote is required, he voted "YES", the vote is as follows.

VOTE: YES - 8 NO - 7 NOT VOTING - 0

MOTION CARRIED 2 - EXCUSED

Should you have any questions please do not hesitate to contact me at 854-8577.

**TRIBAL COUNCIL
(AT LARGE)**

Jesse "Jay" Taken Alive

Margaret M. Gates

Avis Little Eagle

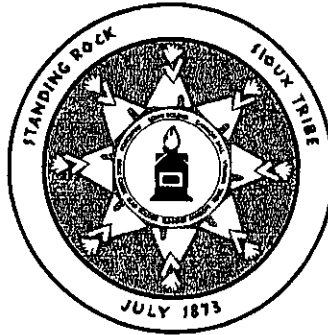
Dave Archambault II

Joseph McNeil Jr.

Jesse McLaughlin

Charles W. Murphy
Chairman

Mike Faith
Vice Chairman



Adele M. White
Secretary

**TRIBAL COUNCIL
(DISTRICTS)**

Sharon Two Bears
Cannonball District

Henry Harrison
Long Soldier District

Duane Claymore
Wakpala District

Kerby St. John
Kenel District

Errol D. Crow Ghost
Bear Soldier District

Milton Brown Otter
Rock Creek District

Frank Jamerson Jr.
Running Antelope District

Samuel B. Harrison
Porcupine District

MEMORANDUM

**TO: ALL TRIBAL COUNCIL MEMBERS, ALL PROGRAM
DIRECTORS SRST**

**FROM: CHARLES W. MURPHY, CHAIRMAN
SRST**

DATE: June 14, 2010

RE: SPECIAL TRIBAL COUNCIL MEETING.

Please be advised that a Special Tribal Council meeting is scheduled for June 17, 2010, regarding the referendum vote. The meeting will begin at 10:00 a.m. and will be held in the Tribal Council Chambers.

If you should have any questions, please contact my office. Thank you.

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010

PAGE: 1

#1. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY MILTON BROWN OTTER, TO APPROVE OF THE AGENDA FOR JUNE 17, 2010.

ROLL CALL VOTE:

MURPHY, C. - NOT VOTING

BROWN OTTER, M.	NO	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	NO
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	YES	MCNEIL, J.	NO
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE:

MOTION CARRIED.

YES - 10 NO - 4 NOT VOTING - 1
2 - EXCUSED

#2. MOTION WAS MADE BY JESSE TAKEN ALIVE, SECONDED BY JOE MCNEIL, TO APPROVE THAT IT SHALL BE THE FINAL DECISION OF THE STANDING ROCK SIOUX TRIBE THAT THE UND LOGO AND NICKNAME IS RETIRED AND FURTHER DISCUSSION IS NOT NECESSARY AND WILL NOT BE CONDUCTED AS THERE ARE MANY ISSUES OF PRIORITY THAT NEED TIMELY ATTENTION.

AMENDED: "BY RESOLUTION".

ROLL CALL VOTE:

MURPHY, C. - NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	NO
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	NO
JAMERSON, F.	NO	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	NO	WHITE, A.	YES

VOTE:

MOTION CARRIED.

YES - 10 NO - 4 NOT VOTING - 1
2 - EXCUSED

SPECIAL TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: June 17, 2010

PAGE: 2

#3. MOTION WAS MADE BY JOE MCNEIL, SECONDED BY MILTON BROWN OTTER, TO ADJOURN THE SPECIAL TRIBAL COUNCIL MEETING AT 10:45 A.M. CENTRAL TIME.

ROLL CALL VOTE:

MURPHY, C. - NOT VOTING

BROWN OTTER, M.	YES	ARCHAMBAULT, JR., D.	E.
CLAYMORE, D.	YES	FAITH, JR., M.	YES
CROW GHOST, E.	YES	GATES, M.	YES
HARRISON, H.	E.	LITTLE EAGLE, A.	YES
HARRISON, S.	YES	MCLAUGHLIN, J.	YES
JAMERSON, F.	YES	MCNEIL, J.	YES
ST. JOHN, K.	YES	TAKEN ALIVE, J.	YES
TWO BEARS, S.	YES	WHITE, A.	YES

VOTE:

YES - 14

NO - 0

NOT VOTING - 1

MOTION CARRIED.

2 - EXCUSED

RESOLUTION NO. 408-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§ 1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local government and others on behalf of the Tribe, and to authorize or direct subordinate boards, committee and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, in a duly and regularly called, noticed and convened meeting on the 17th day of June, 2010, to determine a course of action in the ongoing Fighting Sioux controversy, acted to reaffirm all the governing body's earlier actions to end the use of the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the duly enacted positions of its six [6] Governing Districts that have acted to support an end to the use of the Fighting Sioux name by the University of North Dakota; and

WHEREAS, the Standing Rock Sioux Tribe recognizes that off reservation influences, including the Ralph Englestad Arena, have proven to be disruptive and divisive to our people, are not necessary and will not be tolerated within our homelands; and

WHEREAS, the Standing Rock Sioux Tribe hereby supports the position and action of the North Dakota State Board of Higher Education to retire the Fighting Sioux Nickname and Logo; and

WHEREAS, the Standing Rock Sioux Tribe recognizes the importance of ensuring the safe and effective transition from the Fighting Sioux Nickname and Logo at the University of North Dakota and the State at large and hereby supports any such related efforts; and

WHEREAS, the Standing Rock Sioux Tribe has not adopted policies and procedures to govern the certification of the petitions of enrolled members, both petitions submitted to the Chairman of the Standing Rock Sioux Tribe are not applicable;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby reiterates that this decision is the Final Decision of the governing body of the Standing Rock Sioux Tribe, that officially authorized copies of the foregoing Resolution will be forwarded to the North Dakota State Board of Higher Education, the Chancellor of the North Dakota University System, the University of North Dakota, North Dakota Governor's Office, National Collegiate Athletic Association, and the Honorable Lawrence Janke of the Federal District Court in Grand Forks, North Dakota presiding over the related settlement forthwith; and

BE IT FURTHER RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves that it shall be final decision of the Standing Rock Sioux Tribe, that the Fighting Sioux Nickname and Logo is retired and further discussion is not necessary and will not be conducted, as there are many issues of priority that need timely attention; and

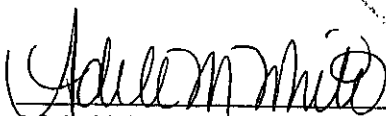
BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] member, of whom 15, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the 17th day of **JUNE, 2010**, and that the foregoing resolution was duly adopted by the affirmative vote of 10 members, with 4 and with 1 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 17th DAY OF JUNE, 2010.

ATTEST:


Adele M. White, Secretary
Standing Rock Sioux Tribe


Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06-17-2010
Motion No.: 02

TESTIMONY ATTACHMENT 21

To : ND Legislature

Steve Fool Bear
Grand Forks, North Dakota

Good day, my name is Steve Fool Bear. I am a senior at the University of North Dakota. I am an enrolled member of the Standing Rock Sioux Nation and a veteran of the United States Marine Corps. I'm writing this letter in reference to the laws that are being discussed in retaining the "Fighting Sioux" nickname and logo. It has always been my opinion that Sioux people should decide whether the name stays or goes. I have placed my trust in our tribal democratic process to settle the issue, but unfortunately Standing Rock's leadership has failed. It has been publicly observed over the past several years that a great majority of Sioux people indeed supports the nickname and logo.


These democratic facts have been very clear. Spirit Lake voted 2 to 1 to keep the name, Standing Rock's Sioux vs. Oyate vote, which was a direct result of the nickname debate, had identical results. Our current Chairman, Charles Murphy, a pro-logo candidate defeated Ron McNeal "His Horses Thunder" the anti-logo candidate, by identical results. It is always been the same 2/3rds support shown. Yet the logo is still being removed. Maybe I'm just a simple-minded man, but does this make sense to anyone?

You are going to hear many arguments today why the logo should be removed, "it causes division, it's hurtful, it's degrading, it's easier just to retire it, etc". Emotionally charged language is a basic tactic I have come across the years in this debate. As tribal members we have heard it all. We have been told that we're uneducated, we are oppressed; we are colonized, that we should take offense to the logo. That there's something wrong with us, for not agreeing the anti-American mentality they harbor, my response has always been, do not tell me what I should think or feel, or anyone else for that matter, I can distinguish right and wrong for myself.

Who do these people think they are? Their elitist mentality only holds weight within their minority circles. They DO NOT speak for the majority. The one thing all their arguments cannot account for is "why" the majority of Sioux people support UND's use of the name and logo. Those along with the 1969 name giving ceremony giving UND the right to use the name and logo are issues they refuse to acknowledge or debate.

Over the past year while studying at UND, I have not come across a racist incident. The social circles I travel in, which are comprised primarily of Native Americans carry the same opinion. Many of who are fellow students, Dr's, Lawyers, Nurses and Teachers. Are these people "not as" educated as the anti-logo academics? Does my opinion matter more than an anti-logo freshman's? No it does not. The answer comes down to this. The people need to decide. Education levels, service to country or social status does not matter. This is America, where the "collective" voice decides.

We do not live in a country or state where the minority dictates the majorities' opinion. We live in a society where our constitutional freedoms ensure our progress and stability. Contrary to that idea, it is now apparent that the minority does in fact control the majority on Standing Rock. Which is an issue only our future generations can fix. Dysfunctional and corrupt politics has brought this issue to where it is today. If the state wishes to intervene on behalf the tribal members rights, I am full support, as the majority will also be. If the democratic process succeeds where the tribe failed, then so be it. Corrupt politicians on Standing Rock may have won within the reservation boundaries, but that does not mean they have to outside its limits. Thank you for your time

Steve Fool Bear 

SUBMITTED TESTIMONY

ATTACHMENT 22

Testimony to the House Education Committee
HB 1208, HB 1257, and HB 1263
Andrew Varvel
January 26, 2011

Madam Chairman and Members of the Committee:

Anpa na Woahophe

This is the motto of the University of North Dakota in the Dacotah language. UND's motto at present is "Lux et Lex", which is Latin for "Light and Law". If we truly seek to honor the Sioux, let's shift the language of UND's motto from Latin to Dacotah.

To those who fought long and hard for UND to use Indian nicknames, mascots, and logos, you won. You won when the Spirit Lake Dakota gave UND permission to use their name. If you force UND to keep the "Fighting Sioux" nickname against the will of the National Collegiate Athletic Association, you would snatch defeat from the jaws of victory. On the other hand, if either the Legislature or UND chooses to use the nickname "Dacotah", supporters of that nickname would be on solid ground.

I hope UND remains a member in good standing of the National Collegiate Athletic Association. I don't want the Legislature to do anything that could jeopardize that membership.¹ Moreover, the University of North Dakota started using "Dacotah" – that's D-A-C-O-T-A-H – for its yearbook in 1904, twenty-six years before the editorial staff of the Dakota Student pushed to replace the Flickertails nickname with the "Fighting Sioux" in 1930.² The 1926 Dacotah was dedicated to Dr. Orin G. Libby specifically as "a friend of the Dacotah" and to honor Dacotah Indians.³

¹ According to my lay reading of the North Dakota Constitution, it would appear to be within your power to do so. In Section 6.6.b. of Article 8 of the North Dakota Constitution, it states, "The said state board of higher education shall have full authority to organize and reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions." The key words are "*within constitutional and statutory limitations*" which would appear to be a strong limitation upon the Board's power.

So, I think you can. However, "can" and "should" are quite different from each other.

² See Appendix A. Also See Appendix B. According to New Lakota Dictionary of the Lakota Language Consortium, "Odz-dzo-dzi" (ožiži) means "whispering"; "Ri-ri-ri" (LILILILILILILILI), means a woman's praise of the bravery of warriors; and "Hyah, Hyah" (Hiyá, Hiyá) means "No! No!" Although parts of this "Sioux War Cry" are definitely authentic, it is probably garbled.

³ See Appendices C and D. During the 1920's, any dedication of the Dacotah Yearbook to Dr. Libby would have been seen as an implicit rebuke toward President Kane. President Kane was a

Those who have been to UND can see an example of sympathetic magic. Oxford Street, Cambridge Street, Harvard Street, Princeton Street, Yale Drive, Stanford Road, Columbia Road, Berkeley Drive, Cornell Street, Tulane Drive – the list goes on and on. It is as if the reputation or quality of each of these schools is intended to rub off onto the University of North Dakota with the invocation of these names. When the streets of UND advertise the excellence of other schools, it sends a clear message.

One of the most important events in North Dakota sports history happened on October 4, 1929. Dignitaries from around the region including the president and vice president of the Great Northern Railroad, the president of the state board of administration, Governor George F. Schafer, and Joseph Chapman of the L. S. Donaldson company were present for a pep rally before the game. A special train was chartered to bring alumni from Fargo. This was the third anniversary of the dedication of the Memorial Stadium, a football game at night under lights. The banner headline for the *Dakota Student* that day was "Redskin Horde Invades Stadium". The Haskell Indian football team was coming to town.⁴

The Haskell Indians came. They saw. They conquered. They defeated the Flickertails thirteen to six. The 1931 Yearbook later claimed "it held no bitterness for the losers". It was an epic defeat.⁵ One day before the one-year anniversary of Haskell's victory over the Flickertails, the University of North Dakota adopted the "Fighting Sioux" nickname after a major press campaign by the staff of the *Dakota Student* in the fall of 1930.⁶

controversial president known for attending a church where he would listen to the sermons of Halsey Ambrose, who was an energetic leader of the Ku Klux Klan in North Dakota during the 1920's.

⁴ See Appendix E and F.

⁵ See Appendix G.

⁶ In pages 9-10 of the UND's Centennial Departmental History of the Journalism Department, Tom Deats recounts the story of how journalism students pushed the "Fighting Sioux" nickname:

In the second edition, the student newspaper began a campaign to change the university's "pep name" from Flickertails to Sioux. The campaign was largely one of staff-authored bogus letters-to-the-editor and public opinion polls that purported to show university-wide support for the name change. Several years later, former editor Al Austin recalled the Dakota Student campaign: "For years our cartoonists (Ernie Wenner most of the time) had been trying to draw convincing pictures of huge Flickertails chasing midget Bison, by they never clicked.

"So in the fall of 1930, while I was homecoming chairman and editor of the Student at the same time, we decided it was time for something to be done about it – especially since a Sioux Pow Wow theme would be a natural for homecoming. So what did we do but start writing opinions to ourselves about why the name Flickertail wasn't so hot, and how Sioux would be a natural 'handle' for the U athletes!

To quote Jose, a fictional minor league baseball player who believed in Voodoo, from the movie *Bull Durham*, "No, that is not belief. That is desperation."⁷

The first cartoon depicting the "Fighting Sioux" was, shall we say, raucous;⁸ it is easy to imagine how many Sioux might not feel honored by it. Moreover, opposition to the "Fighting Sioux" nickname is as old as the nickname itself.⁹

"The next step was to take it up editorially, pointing out how the student body was demanding change. After that the Athletic Association was a cinch. 'Sioux' was adopted as the official name, and gradually became accepted all over the country."

A front-page banner headline in the Oct. 3, 1930, Dakota Student proclaimed the name change.

Also see Appendix H.

⁷ It may interest the Legislature what the meaning of the word "Sioux" happens to be in Dacotah.

According to the New Lakota Dictionary by the Lakota Language Consortium, "su" means "seed", "kernel", "hail", or "bullet". This etymology is also found in Lakota Dictionary by Eugene Buechel and Paul Manhart, A Dakota-English Dictionary by Stephen R. Riggs, and An English-Dakota Dictionary by John P. Williamson. According to New Dakota Dictionary, Lakota Dictionary, and A Dakota-English Dictionary, the word "susu" means "testicles". So, "Fighting Su" could be variously regarded as a "fighting seed", a "fighting bullet" or a "fighting testicle".

The word "su" is an ancient word in North America. According to A Dictionary of the Biloxi and Ofo Languages, by James Owen Dorsey and John R. Swanton, "su" meant "seed" or "pupil of the eye" in Biloxi, a distant and extinct Siouan language from modern day Mississippi. According to A Grammar and Dictionary of Tutelo by Giulia Oliverio, "su" meant "seed" or "pupil of the eye" in Tutelo, an extinct Siouan language from modern day Virginia. Possible cognates may include "asunt" meaning "testicle" in Mandan (Mandan Dictionary, by Robert Hollow) and "ifhu" meaning "seed" in Ofo (A Dictionary of the Biloxi and Ofo Languages, by Dorsey and Swanton).

Although there is a professional basketball team called the "Denver Nuggets" and the "Washington Wizards" were known until 1997 as the "Washington Bullets", the closest analogy to the meaning of "Su" in college sports probably comes from the Rhode Island School of Design. Its nickname is the "Nads", its chant is "Go Nads", its unofficial mascot is an anthropomorphized penis called "Scrotie", and its cheerleaders are called the "Jockstraps".

⁸ See Appendix I.

⁹ See Appendix J.

While the Arikara are related to the Pawnee, the Hidatsa are related to the Crow, and the other tribes have counterparts elsewhere, North Dakota is the only part of the world where Mandan (Nu'eta) is spoken at all.

Indian languages are part of our common heritage. They are part of what makes us special as a state.

As well meaning as these proposed statutes may be, at least one of the them should be hoghoused into a statute establishing an Indian Languages Department.¹¹ I think the Spirit Lake Dakota would regard an Indian Languages Department (with a four semester series of courses on Lakota/Dakota, of course) as recognition of their intrinsic importance beyond any nickname.

If you want the Legislature to take control of UND's nickname, it would be wise to establish its nickname as the Dacotah;¹² after all, you already have permission to use it. A bird in hand is worth two in the bush. If you would like, UND's nickname could be turned into the "Dacotah" by legislative fiat; alternatively, it could be turned into a concurrent resolution calling upon the University of North Dakota to restore the "Dacotah" as its nickname. Take the victory you have.

Anpa na Woahophe

Andrew Varvel
1800 East Capitol Avenue #258
Bismarck, ND 58501
kiksuya74@yahoo.com

¹¹ A proposed hoghouse amendment is shown in Appendix K. It is loosely based upon language establishing the Alaska Native Language Center at the University of Alaska at Fairbanks found in Title 14, Chapter 40, Section 117 of the Alaska Statutes, which is the following:

"The University of Alaska shall establish an Alaska Native Languages Center, the purposes of which are to

- (1) study languages native to Alaska;
- (2) develop literacy materials;
- (3) assist in the translation of important documents;
- (4) provide for the development and dissemination of Alaska Native literature; and
- (5) train Alaska Native speakers to work as teachers and aides in bilingual classrooms"

¹² A proposed amendment is shown in Appendix L.



The
Harcourt
'04

Odz-dzo-dzi,

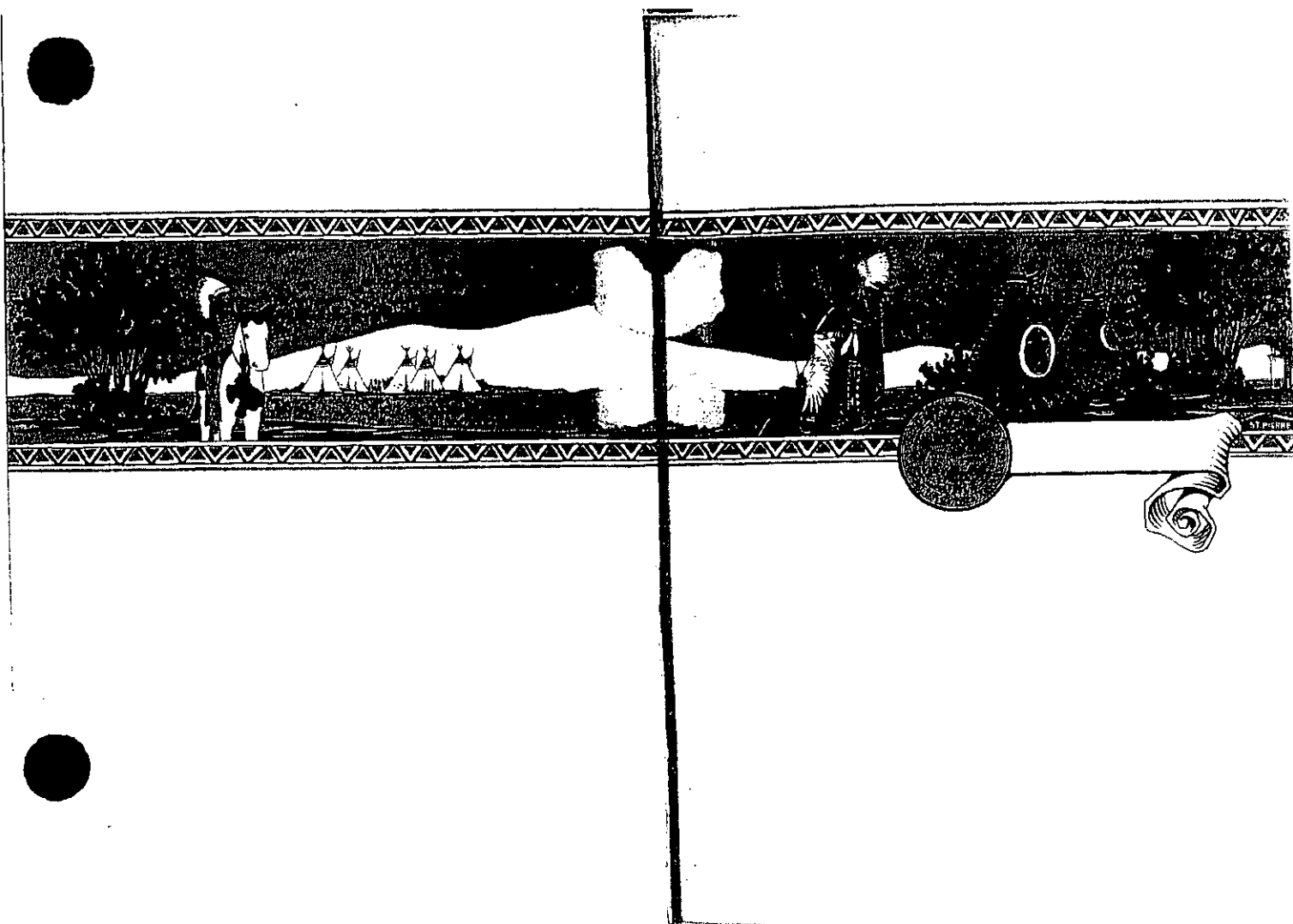
Ri-ri-ri,

Hyah Hyah!

North Dakota!

(SIOUX WAR CRY)

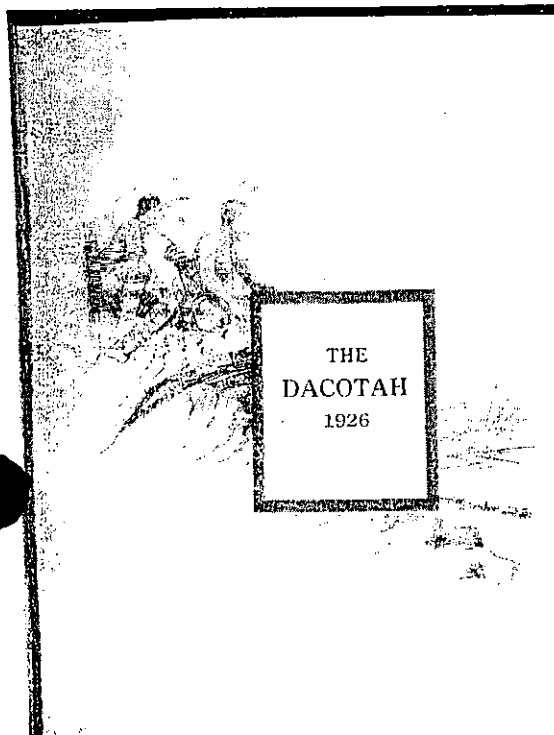




APPENDIX C: 1926 Dacotah Yearbook

Below left: title page

Below right: page 1



Source: North Dakota State Historical Society

FIGHTING Nodaks; lofty hours spent in halls of learning; evenings on the coulee; gayeties and perplexities of campus life; men who have come, gone and made good, make up the pages of this book.

We have gone for tradition and counsel to the Dacotah Indians whose trail, marked by the embers of smoldering campfires, is blazed across the pages of our history. We have attempted to depict, as applicable to college life, the many-sided, colorful existence of an Indian. The calm of meditation, exhilaration of play, work, love and laughter—this was his life and is ours.

In honoring the Indian, we have tried to give you a Dacotah full of things remembrances are made of; a book that will live with you, and hold you fast to your Alma Mater—to the school "in the land of the Dacotahs."



TO a friend of the Dakota Indians, educator and historian; a man who has worked as secretary of the State Historical Society to preserve the story of the Redman's dwindling nation that we might have permanently intact this source of inspiration and tradition; a man who has completed twenty-three years of faithful service to the University of North Dakota—



128 G. G. LIBET

A STUDENT'S OBLIGATION

[illegible]

THE FRESHMAN TRIBE.

[illegible]

W. K. & B. F. A.



CONTROLLED, FOUNDED IN 1888
H DAKOTA, FRIDAY, SEPTEMBER 27, 1929.

Yea Frosh!
Look Out Behind

**Additional Initiation Of
Frosh Begins Saturday**
N.E.A. Delegates To
Attend S. D. U. Game
Asks Freshmen To Uphold
Unwritten Law On
Campus
NO ULTIMATUM ISSUED
President Gives Annual
Lecture

Initiation of the new members of the Student Body will begin Saturday morning at 10 o'clock in the gymnasium. The new members will be initiated by the members of the Student Body. The initiation will be a serious affair and the new members will be expected to uphold the unwritten law on campus.

**Pep Contest To
Be Featured At
Next Grid Clash**
Rally Will Be Staged In Stadium Wednesday Evening
The pep contest will be a feature of the next grid clash between the Dakota and the University of Minnesota. A rally will be staged in the stadium on Wednesday evening to cheer on the Dakota team.

**Men's Glee Club
Personnel Named**
Twenty-two Applicants Successful In Tryouts For Group
The personnel of the men's glee club has been named. Twenty-two applicants were successful in the tryouts held last week. The group will be led by the club's president.

**Debate Season
Opens Oct. 31**
Nodak Squad To Clash With
The debate season will open on October 31. The Nodak squad will clash with the University of Minnesota squad. The debate will be held in the gymnasium.

**U Will Observe Stadium
Dedication Anniversary**
At Haskell Game Friday
The University will observe the anniversary of the stadium dedication on Friday. The dedication was held on the same day last year. The anniversary will be celebrated at the Haskell game.

**49 Girls Named
To Form Second
Coed Glee Club**
Must Spend Year In Junior
Division To Join
The names of the 49 girls who have been selected to form the second coed glee club have been announced. The girls must spend a year in the junior division before they can join the club.

**Press Group To
Hold Convention
November 22, 23**
Plans Under Way For Annual Meeting Of
N. I. P. A.
The press group will hold a convention on November 22 and 23. Plans are under way for the annual meeting of the N. I. P. A. The convention will be held in the city.

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STUDENT OWNED AND CONTROLLED, FOUNDED IN 1888
GRAND FORKS, NORTH DAKOTA, TUESDAY, OCTOBER 1, 1929.

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U WILL OBSERVE STADIUM
DEDICATION ANNIVERSARY
AT HASKELL GAME-FRIDAY
(Continued From Page 1)

People from all parts of North Dakota will be on hand for the Haskell game, and an additional influx will come from Northern Minnesota. Last fall some 8,000 fans jammed their way through the stadium to see the game, but it is expected that this year will be eclipsed by 2,000 when the Indians play.

A special train is coming from Fargo for the occasion and special rates of fare and one-third have been secured on railroads in the state by John E. Howard, Grand Forks will be club members and Nodak football players. The Haskell game will be a practice of U. N. D. song and songs during their regular song periods and cheers are to be given the club members.

Paul Todd will attend the Kiwanis Club meeting and O. T. Tergeson will be in the city. The Haskell game will be a practice of U. N. D. song and songs during their regular song periods and cheers are to be given the club members.

Practice Wednesday
Night football practice will be held Wednesday between 7:30 and 9:15 p. m. Under Tergeson and the school band directed by Mr. Howard will be present and a special practice will be arranged for the football team and the band. The Haskell game will be a practice of U. N. D. song and songs during their regular song periods and cheers are to be given the club members.

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October 1, 1929. p.4

October 1, 1929. p.1

September 27, 1929. p.1

APPENDIX E: Hype for the UND-Haskell Game in the Dakota Student
(source: University of North Dakota Special Collections)

North Dakota Student

FOUNDED IN 1888

Student Owned and Controlled

Entered as Second Class Matter at the Postoffice, Grand Forks, N. D., under the act of March 3, 1879.

Published Each Tuesday and Friday at the Record Publishing Company, East Grand Forks, Minn. Telephone 2338. After 7 p. m. call 1940.

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Maxine Haglund, Assistant Editor
Bertha Turner, News Editor

Henry Frank, Desk Editor
Donald Reinhold, Desk Editor

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Billy Ogden, Joseph Carlin, Don-
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Floyd Jennings, Advertising Solicitor

Edgar Sailor, Advertising Solicitor

We Can Help Our Team Win Tonight!

It may have been the flooding glare of lights on the Nodak gridiron, the stirring strains of martial music floating out on the evening air from that brick-inclosed-howl-or-just-the-plain-voice students take not to miss any-thing of importance anyway, the pep rally at the stadium Wednesday night was one of the most successful held at the University in recent years.

The gathering was successful for two reasons—the large number of students who turned out, and the spirit with which they responded to the overtures of their cheerleaders.

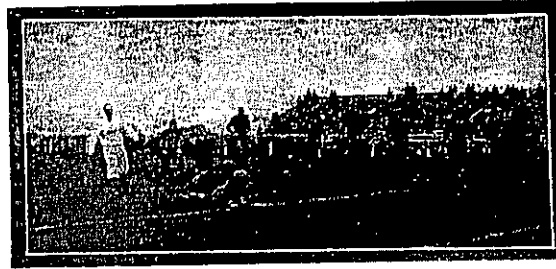
No one would say that yelling was a pleasant and enjoyable diversion. And "practice" yelling much less so. But if the spirit manifested Wednesday is any criterion of what the student body will do when the Nodaks clash with the Indians tonight, then

all we can say, is that those who planned the stadium were wise not to put a roof on it.

There will be hundreds of visitors from all parts of the state at the

game. It is up to us to show them that North Dakota University has not only a fighting football team, but a loyal student body with a school spirit that backs up that team in every way it can.

Helen Hanson, of the Theta house, has gone home to Bolette to rest until she recovers completely from the injuries sustained in an accident a week ago.



HASKELL, 13; NORTH DAKOTA, 6

Led to victory by the flashiest halfback that ever stepped on a Flickertail gridiron the great Haskell team fought their way to a 13 to 6 victory over the Nodaks, Friday night, October 4, in Memorial stadium. It was a defeat that held no bitterness for the losers, for it was a battle all the way through between two great machines.

Weller, 150 pound Caddoe from Arkansas, was the outstanding star of the fast, smooth working Indian machine. It was he that fumbled a high punt on his own 30 yard line, recovered it from under half a dozen Nodaks, slipped away from them and the rest of the Nodak team for the first score of the game.



WELLER

North Dakota's score came in the first quarter, when Kahl, playing quarter, switched to an aerial attack, enabling the Nodaks to work their way to the only university counter of the game. Richmond's place kick went wild.

With the score 7-6 for the invaders the Flickertails braced and play was even in the remainder of the first period.

The second half brought another change, this time in the favor of the Indians, who marched right back in the last counter of the game.

Haskell had the whip hand for the rest of the way until, with but five or six minutes to play, the Flickers suddenly opened up, Burma and Kahl making several nice gains. However, the timekeeper's gun ended the Nodak rally before a counter was materialized.



WELLER



WESTMEN EVEN UP HASKELL DEFEAT

Win From Manitoba Closes Whirlwind Week End

Score 27-1

(By Gil Stewart)

Following an intensive game week end during which the Nodaks held Haskell to a 13-6 score in a thrilling night classic, Friday, and downed Manitoba University 27-1 at Winnipeg Saturday afternoon in a turn and turn about mixture of rugby and straight football, Coach C. A. West is preparing for the Nodak's fall night in North Central Conference circles, against the University of South Dakota at Memorial Stadium Friday evening.

It was a grueling contest with the Indians that best gave the coach his insight into combat details, with the Manitoba game serving more as an annual feature struggle than a football game of the first class.

Containing many thrills and with many brilliant plays, even bringing fans to their feet, the tussle with the Haskell Indians, Lawrence, Kansas, may well be classed as the most sensational gridiron contest ever to take place in the Memorial stadium. Exceptional broken field running on the part of the invaders and the plucky fight displayed by the Nodaks in the face of defeat last Friday night's contest will be remembered among the significant battles of the year.

North Dakota entered the fray considerably strengthened by the return of two veterans in the lineup. Carl Schave and Al Smith, who had not played in inter-collegiate competition this year up to the time of the Haskell game on account of academic difficulties, were declared eligible. However, the lineup missed to a great extent the assistance of Bernie Schmidt in the backfield and Jacobson in the line. Although crippled by injuries received in previous encounters, Captain "Stew" MacMillan entered the game at his customary post of center and Feller held down the end position for the greater part of the contest.

Captain Weller of the Indians proved to be the most scintillating star of the struggle, bringing many a prize moment for both opponents and spectators by his spectacular broken field running and his uncanny knack of dodging tacklers. His seventy-eight yard run in the first period when netted the visitors' first counter served only as a starter for many more heart-breaking plays.

Cy Kahl, the galloping fullback for the Nodaks, perhaps outshone his teammates with his rapid-fire passing attack which netted North Dakota her only touchdown of the game.

A conglomerate of rugby and football was an enigma for a devastatingly football-erazy Nodak eleven Saturday afternoon. Playing their second game in twenty-four hours a journey of 160 miles, sandwiched between contests, North Dakota waited to easy victory over the University of Manitoba team. The first half was played according to the rules of straight football and the last half according to rugby regulations. Resulted in a 27 to 1 decision in favor of the University aggregation. The U. N. D. representatives outplayed their opponents in their half of the struggle by a score of 27 to 0. The rugby side of the question was ruled by the Canadians by a score of 1-0. Burma, Cy Kahl, and "Kante" Stenroos were the boys who put the ball over the line, the latter making his counter after picking up a fumbled kick.

The starting lineup was as follows: Burma, center; Warner and Elmer, guards; Stenroos and MacDermott, tackles; and Nelson, end; House, quarterback; Simpson and Smith, halfbacks; Kahl, fullback.

Stadium's Third Anniversary Was Observed Friday

The third anniversary of the dedication of Memorial Stadium was observed last Friday evening, October 4. Short speeches were given by Governor George Shaler, Joseph Chapman, president of the U. N. D. Alumni company, and J. E. West, vice-president of the U. N. D. Alumni. Two numbers were sung by the Great Northern chorale of St. Paul.

The program took place in the stadium just before the football game between the Haskell Indians and the Nodaks at a winter last Friday night. The talks and music were broadcast in the crowd by the new loud speaker at the north end of the field. J. E. West, president of the state board of administration, introduced the speakers.

On April 22, 1926, a 918,161 project was let for the construction of the stadium. This was the result of 18 months of campaigning in favor of the necessary funds. On October 4 of the year the dedication game was played with completion. The stadium is the pride of the state.

APPENDIX G: UND Lost!

Left: Dakota Student editorial stressing

the importance of school spirit,

October 4, 1929, p. 2.

Center: 1931 Dacotah Yearbook, p. 298.

Upper Right: Article from the Dakota Student

referring to the UND-Haskell game as "sensational",

October 8, 1929, p. 3.

source: UND Special Collections

Source: North Dakota State Historical Society

Source: UND Special Collections

"Sioux" Replaces "Flickertail" as Caption of University Sport Teams



STUDENT OWNED
AND CONTROLLED



The Dakota Student

FOUNDED AT UND
-IN 1888

GRAND FORKS, NORTH DAKOTA, FRIDAY, OCTOBER 3, 1930.

SIoux BATTLE SENATORS TONIGHT

NODAKS PLAY
NEW ROLE AS
WARRIORS OF
THE PRAIRIE

Athletic Board Of Control
Approves Movement Be-
gun Two Weeks Ago.

NAME HAS GREAT
HISTORICAL VALUE

But of the Flickertails of
North Dakota, which will be no
more. The change of the caption
of the basketball team, and of the
college football team, under the
name of "Fighting Sioux" has been
approved by the Athletic Board of
Control. The change will be made
at once. The new name will be
used in all of the team's future
appearances. The change is a
great honor to the university and
to the state. It is a name of
great historical value and of
great significance. It is a name
which will be remembered for
many years to come. It is a
name which will be a source of
pride to all who are associated
with the university. It is a name
which will be a source of inspiration
to all who are associated with the
university. It is a name which
will be a source of strength to all
who are associated with the university.

Impromptu Pep
Rally Arouses
Student Body

Take This With You Tonight

North Dakota: 14
Fellers, 14
Ekholm, 17
Position: left end
left tackle
left tackle
Davis-Elkins: 71
Kerney, 71
Gibson, 81

Junior Class to
Dedicate Annual
Next Thursday

THE SCARLET HURRICANE FROM DAVIS AND ELKINS



These hunkies, constituting one of the most feared aggregations in the city, will clash with the Nodaks tonight in an effort to redeem themselves throughout the northwest for the unexpected defeat handed them at Fargo last weekend. Included in the line-up are three men from the famous point-to-point team that Haskell boasted a few years back. Haskell, it will be remembered, proved a little too tough for the North Dakota men last year.

'HURRICANE' IS
SET TO REGAIN
LOST PRESTIGE
IN BIG AFFRAY

Odds Slightly In Favor Of
Nodak Team After Bison
Victory.

SMITH TO ADD TO
VIRGINIAN OFFENSE

The "Scarlet Hurricane" of Davis-Elkins College takes on its second North Dakota grid team this evening at Memorial stadium when they meet Big Chief West's battling Sioux. This game, which is the university's first intercollegiate contest of the year is slated to begin at 5 P. M.

While odds slightly favor the Sioux warriors, Coach Cam Henderson's Davis-Elkins squad have caused the Nodak coaches a great deal of worry. Especially is this true since the South-Dakota Aggies, Tuesday afternoon, when they showed over four touchdowns, while holding the Bison scoreless in a brief workout. Henderson's squad opened up a list of brand new tricks and plays that they have been working especially for the Nodaks tonight.

APPENDIX J: Early Opposition to the "Fighting Sioux" Nickname

On page 2 of the October 28, 1930 issue of the Dakota Student, a UND supporter by the name of "J.M." wrote a letter in opposition to the "Fighting Sioux" nickname. He enunciated reasons against the nickname that would be regarded as politically incorrect by modern standards. Here is a reprint of that letter in its entirety:

To the Editor:

We on the sidelines of the Flickertail-Sioux controversy have gotten a good kick out of the argument. Perhaps the nickname of an institution is a matter of considerable importance but the writer for one refuses to consider it so. If the youngsters are feeling their oar mean porritch and want to play Indian for awhile, that's all right. Nobody will get hurt – very seriously – at least we hope now. And perhaps the boys and girls will grow up after awhile and prefer some more dignified title such as the Continentals or the Senators – but hold everything, some other college has copped the name Senators already, have they not. That's too bad. Well, the Continentals were a victorious army anyhow. The Blue Ridge Mountaineers sounds impressive also, except that the Nodaks do not hail from the Blue Ridge mountains. Well Red River then. Dress the team up in gleaming red uniforms and let them flow as the Red River From the North, overwhelming all opposition.

But laying all pleasantry aside the names Flickertail and Sioux bear further consideration before placing the feathered warrior upon our shield.

The Sioux have been referred to as warriors, fighters, yes – yet the Sioux came into this land as a fleeing people, driven westward by the Chippewa and other east central tribes and by the white man himself. They were a barbaric people as compared with the nations behind them and the Mandans and Arikaras of the Missouri Valley. It has been observed that the native name for Sioux was Dacotah. What better. Why take the name Sioux when we already have the genuine article Dacotah or Nodak for short. It has been pointed out that Nodak is a meaningless term. The name Nodak means what this University makes it to mean. Put the stamp of scholarship, good sportsmanship, intellectual power and artistic skill into everything about the institution and Nodak will be a name to conjure with, feared on the gridiron, loved by alumni, respected far and wide. The name Sioux stands for nothing save barbarism and warfare. Remember the Pact of Paris.

As for the name Flickertails, while the writer is not a particular friend of the little pest on our campus, not to speak of the farmers grain fields, the humble flickertail has some qualities which Nodaks might well emulate. No one will deny that the Flickertail possesses remarkable staying qualities. He was here before the Sioux came and he is still here. Then too, according to scripture "The Meek shall inherit the Earth." The humble flickertail has survived the haughty Sioux. The Flickertail is keen and quick and clever. He wins his war by digging in, rather than by gaudy headgear, hideous war cry, deadly arrow and tomahawk. How about it Nodaks, is it Flickertail or Sioux? Make it Flicker first and Flicker last and Nodak all the time, yea Nodak?

– J. M.

APPENDIX K: PROPOSED AMENDMENT TO HOUSE BILL NO. 1263

Page one, replace lines 6 through 15 with:

University of North Dakota Indian Languages Center.

The University of North Dakota shall establish an Indian Languages Department, which shall do the following:

1. Study Indian languages native to North Dakota
2. Develop literacy materials
3. Assist in the translation of important documents
4. Provide for the development and dissemination of literature in Indian Languages
5. Teach Indian languages native to North Dakota to continue North Dakota's common heritage
6. Develop and promote a curriculum for the study of Siouan languages and other language native to North Dakota

APPENDIX L: PROPOSED AMENDMENT TO HOUSE BILL NO. 1208

Page one, replace lines 7 through 13 with:

The intercollegiate athletic teams sponsored by the university of North Dakota shall be known as the Dacotah until the state board of higher education receives written notice from the chairman of the Spirit Lake Dakota Tribe indicating that members of that tribe have voted in a tribal referendum to revoke the permission granted to the university to use the Dacotah nickname and logo.

SUBMITTED TESTIMONY

ATTACHMENT 23

Education Committee Hearing, January 26, 2011.

To: Chairperson Rae Ann Kelsch, and the House Education Committee members

From: Barbara Handy-Marchello, Associate Professor Emerita, University of North Dakota History Department

RE: House Bills No. 1208, 1257

I oppose these bills for the following reasons:

- 1) The wording of the bill states that the actions of the State Board of Higher Education (SBHE), the University of North Dakota, the National Collegiate Athletic Association and their assigned duties and contractual relationships have no standing. This suggests that the legislature has overstepped its bounds in relation to the decisions of the SBHE and the University which are protected from specific actions of the Legislature for good reasons which have a strong legal and historical foundation.
- 2) University of North Dakota faculty teach classes in which students are expected to learn about the importance of a supportive educational environment, the historical roots of racism in our nation's past, the sovereignty of American Indian tribes, and efforts to apply the promise of the Declaration of Independence and the US Constitution to every citizen. A university that retains a logo which demeans (however innocently) any citizens or students undermines the efforts of the faculty and creates an educational environment that deprives some students of a supportive learning environment.
- 3) The American Indian tribes located on reservations in North Dakota have addressed the issue of the logo and have asked the university to give up the name and the image of a Sioux Indian as a logo and mascot. There is no substantial reason why these requests should not be honored.
- 4) The Faculty Senate of UND has voted to retire the logo and nickname. The Student Government of UND opposes these bills. Both are legitimately constituted bodies representing faculty and students and these votes should be recognized.
- 5) The NCAA process of admitting UND to a Division I conference is under way. Any effort to retain the "Fighting Sioux" logo and name would interfere with this process and cost UND a great deal of money.
- 6) While the people of North Dakota and the University's loyal alumni will feel a loss when the old logo and name are retired, they will adjust to a new logo and will especially appreciate the leadership of state officials in this process. The passage of these bills will send a message that individuals cannot adapt to a new institutional symbol. This is an insult to the good, wise, and generous people of this state.

7) It is the right thing to do. When someone declares that they are not “honored” by a nickname, then we, as decent, kind human beings, should respect their request to change. Those who support the logo are not harmed by changing to a new identity for UND’s athletic teams. Those who have been harmed by the old logo deserve consideration by abandoning what has become over the past eight decades a mockery of Indian identity and an embarrassment to the University.

Education Committee Hearing, January 26, 2011.

To: Chairperson Rae Ann Kelsch, and the House Education Committee members

From: Barbara Handy-Marchello, Bismarck. Associate Professor Emerita,
University of North Dakota History Department

RE: House Bill No. 1263

I oppose this bill because it states that the legislature is assuming illegal powers over the State Board of Higher Education (SBHE) and the University of North Dakota. This bill is therefore unconstitutional, illegal, and a waste of legislators' time and taxpayers money. If it should become law, the principle and precedents it presents will be detrimental to the operations and administration, as well as the educational and research environments of all state-supported institutions of higher education in the state of North Dakota.