



**Testimony of Matthew Campbell  
Staff Attorney, Native American Rights Fund  
Regarding CO HB 15-1165 A Bill Concerning American Indian Mascots, Imagery,  
and Team Names in Colorado Schools**

**Submitted to the Colorado House Education Committee  
March 23, 2015**

Good afternoon, Mr. Chair and members of the Committee. Thank you for allowing me to testify on CO HB 15-1165. My name is Matthew Campbell. I am a staff attorney at the Native American Rights Fund (“NARF”), and I am also an enrolled member of the Native Village of Gambell in Alaska. I represent the Tribal Education Departments National Assembly (“TEDNA”), a non-profit organization for tribal education departments and agencies nationwide. I’d like to thank you, Representative Salazar, and all the other Representatives for sponsoring this bill. NARF and TEDNA are greatly appreciative of it and we support it.

HB 15 -1165 acts to end the use of disparaging American Indian mascots in Colorado K-12 schools and universities. This is accomplished through a functional procedure outlined in the bill. A Mascot Subcommittee determines whether Indian-inspired team names should be approved or disapproved. An American Indian mascot is automatically deemed approved if it refers specifically to a single federally recognized American Indian tribe and that tribe has permitted use of the mascot. Otherwise, disapproved mascots must be retired within two years of notice of disapproval. Schools and school districts that receive notice that a mascot is disapproved face a substantial penalty for continued use if the mascot is not retired within the prescribed timeframe.



Those schools whose mascots are disapproved may apply for a grant to mitigate costs associated with changing their mascots. This bill is a step in the right direction for Colorado because it holds our schools to a standard that our students deserve.

The dispute over the use of American Indian mascots is rooted in an extensive history of abuse, discrimination, and conquest. American Indian mascots became popular during a time in our country when racism and cultural oppression were the norm.<sup>1</sup> Many present day Indian-based team names were once widely used as derogatory terms to describe American Indian characters. Beginning in the early 20th century, sports clubs ranging from the professional level to local schools began appropriating American Indian imagery to represent their teams.<sup>2</sup> This imagery was often based on stereotypical and false historical narratives of violence, ferociousness, and savagery.<sup>3</sup> American Indian cultures were portrayed using these highly exaggerated caricatures, and such renderings still exist today. Some supporters of these mascots cite to the importance of tradition and argue that the mascots act to honor Native American cultures. This is not so, as the history behind these mascots tells a different story of racism and subjugation, and tradition should not be a reason to continue racist practices.<sup>4</sup>

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<sup>1</sup> National Congress of American Indians, *Ending the Legacy of Racism in Sports & the Era of Harmful "Indian" Sports Mascots*, 2 (2013), [http://www.ncai.org/attachments/policypaper\\_mijapmouwdbjqftjayzqwqldrwzvsyfakbwthpmatcoroyolpn\\_ncai\\_harmful\\_mascots\\_report\\_ending\\_the\\_legacy\\_of\\_racism\\_10\\_2013.pdf](http://www.ncai.org/attachments/policypaper_mijapmouwdbjqftjayzqwqldrwzvsyfakbwthpmatcoroyolpn_ncai_harmful_mascots_report_ending_the_legacy_of_racism_10_2013.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> J. Gordon Hylton, *Before the Redskins Were the Redskins: The Use of Native American Team Names In the Formative Era of American Sports, 1857-1933*, 86 N.D. L. Rev. 879, 891 (2010).

<sup>4</sup> In its formal position against the term used for Washington, D.C.'s NFL team, the National Congress of American Indians ("NCAI") stated that the term "is not and has never been one of honor or respect, but instead, it has always been and continues to be a pejorative, derogatory, denigrating, offensive, scandalous, contemptuous, disreputable, disparaging, and racist designation for Native Americans."



Not only are American Indian mascots extremely offensive, but they also cause real, documented harm to the mental health of Native students. American Indian youth already face some of the harshest realities in the nation. For example, the poverty rate for American Indians under age 18 was 36.5% in 2012, as compared to 22.2% for the overall population.<sup>5</sup> Further, American Indian youth are more likely to suffer from addiction and substance abuse issues than the general population. A disproportionate 18.3% of American Indian eighth graders reported binge drinking, versus 7.1% nationally.<sup>6</sup> These modern challenges, combined with a history of cultural oppression and trauma, result in feelings of hopelessness for many Native youth.<sup>7</sup> As such, suicide is the second leading cause of death for American Indians and Alaska Natives ages 15 to 34, at a rate 2.5 times higher than the national average.<sup>8</sup>

The use of Indian-based mascots further escalates these already dire statistics for American Indian youth, as they result in lower self-esteem, sense of community worth, and view of personal potential.<sup>9</sup> American Indian mascots affirm negative stereotypes, directly harming the mental health of American Indian youth.<sup>10</sup> Studies partly attribute feelings of inferiority to negative characterizations that are materialized in racist school

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<sup>5</sup> Bureau of the Census, *Selected Population Profile in the United States: 2010-2012 American Community Survey 3-Year Estimates*,

[http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12\\_3YR/S0201/0100000US/popgroup~001|006](http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12_3YR/S0201/0100000US/popgroup~001|006).

<sup>6</sup> Colorado State University, College of Natural Sciences, *Comparing Rates of Substance Use Among AI Students to National Rates: 2009-2012*, available at [http://triethniccenter.colostate.edu/ai\\_epi1.htm](http://triethniccenter.colostate.edu/ai_epi1.htm).

<sup>7</sup> Victoria Phillips, Erik Stegman, *Missing the Point: The Real Impact of Native Mascots and Team Names on American Indian and Alaska Native Youth*, Center for American Progress, 7 (July 2014).

<sup>8</sup> *Suicide Facts at a Glance*, <http://www.cdc.gov/violenceprevention/pdf/Suicide-DataSheet-a.pdf>.

<sup>9</sup> Phillips, *supra* note 7, at 7.

<sup>10</sup> *Id.*



mascots.<sup>11</sup> Native youth are faced with these undesirable images, showing them the constrained ways in which others view them.<sup>12</sup> This further limits the ways in which Native youth may view themselves.<sup>13</sup> American Indian youth continue to struggle to find their sense of identity as they are presented with caricature versions of themselves, and this in turn affects how Native youth view their place in society.<sup>14</sup>

Further, the American Psychological Association (“APA”) found that derogatory representations like Indian-based mascots create hostile learning environments for American Indian students.<sup>15</sup> Native students often face ridicule and harassment in the classroom and at sporting events.<sup>16</sup> These students are constantly subjected to racist remarks from schoolmates and even parents.<sup>17</sup> Hostile environments result in lower academic achievement and success rates across the board.<sup>18</sup> The federal government recognizes that schools should work toward eliminating hostile learning environments, as they lead to serious challenges to students’ success.<sup>19</sup>

Studies also show that the continued use of American Indian mascots is harmful to all students, not just American Indian students.<sup>20</sup> Schools take on the role of educating

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<sup>11</sup> *Id.*

<sup>12</sup> American Psychological Association, *APA Resolution Recommending the Immediate Retirement of American Indian Mascots, Symbols, Images, and Personalities by Schools, Colleges, Universities, Athletic Teams, and Organizations* (2005), <http://www.apa.org/pi/oema/resources/indian-mascots.aspx>.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Phillips, *supra* note 7, at 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 5.

<sup>19</sup> *Id.*

<sup>20</sup> American Psychological Association, *APA Resolution Recommending the Immediate Retirement of American Indian Mascots, Symbols, Images, and Personalities by Schools, Colleges, Universities, Athletic Teams, and Organizations* (2005), <http://www.apa.org/pi/oema/resources/indian-mascots.aspx>.

and influencing students. By using American Indian mascots, schools are teaching students that stereotyping minority groups is an acceptable practice, further legitimizing discrimination against American Indians.<sup>21</sup> These images perpetuate misrepresentations portraying American Indians as a “culture of people frozen in time.”<sup>22</sup> For many non-Indian students with little contact with Indigenous peoples, a mascot may be the only Indian encounter they have in their lives.<sup>23</sup> Non-Indian students come to rely on these stereotypes to inform their own understanding of American Indians’ place in society, often times leading to discriminatory behavior.<sup>24</sup>

Using Indian-based names and imagery cements in the minds of all students that cultural abuse is an acceptable practice in society.<sup>25</sup> This leads to cultural intolerance, and unfortunately, results in higher rates of hate crimes against American Indians.<sup>26</sup> For example, just last year, Native students in California reported being taunted with names like “wagon burners,” “savages,” and “dirty Indians.”<sup>27</sup> Two students at the same high school were forced to transfer schools after finding notes on their lockers reading “White Pride Bitch” and “Watch Your Red-skinned Back.”<sup>28</sup> According to the Department of Justice, “American Indians are more likely than people of other races to experience

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics, *American Indians and Crime*, (1999), available at <http://www.bjs.gov/content/pub/pdf/aic.pdf>.

<sup>27</sup> Alysa Landry, *Racial Bullying Persists in Northern California* (Apr. 17, 2014), <http://indiancountrytodaymedianetwork.com/2014/04/17/racial-bullying-persists-northern-california-154494>.

<sup>28</sup> *Id.*



violence at the hands of someone of a different race.”<sup>29</sup> Colorado should work to eliminate such cultural intolerance, and this bill would be a step in the right direction for our schools.

HB 15-1165 aligns with the national trend of schools opting to retire offensive American Indian mascots. The movement to end the use of American Indian mascots has gained national attention as of late, but this effort is nothing new. Activists have been vigorously fighting the use of these mascots for over 60 years.<sup>30</sup> In 1970, the University of Oklahoma became the first school to retire an American Indian mascot.<sup>31</sup> Since then, over 2/3rds of American Indian mascots have been retired at K-12 schools across the country,<sup>32</sup> including Colorado’s own Arvada High School.<sup>33</sup> The harm caused by continued use of disparaging mascots is undeniable, and because of this, schools at all levels across the country have opted for mascot retirement. Notable universities that have taken this course include Stanford, Dartmouth, and Syracuse, and more recently Arkansas State and the University of North Dakota, among many others.<sup>34</sup>

For years, organizations such as the American Psychological Association, American Sociological Association, and the National Association for the Advancement of Colored People, or NAACP, have called for the immediate retirement of American

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<sup>29</sup> U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics, *American Indians and Crime*, (1999), available at <http://www.bjs.gov/content/pub/pdf/aic.pdf>.

<sup>30</sup> Phillips, *supra* note 7, at 14.

<sup>31</sup> *Id.*

<sup>32</sup> *Suzan S. Harjo, Et Al., v. Pro-Football, Inc.*, 09-326, available at [http://www.ncai.org/attachments/LegalBriefing\\_TB yaxkdqYwYRDohDiQUvSVlcVeXOGzqntVkEXTaEnFailZrpGfN\\_Amici-NCAI-et-al-10-16-09.pdf](http://www.ncai.org/attachments/LegalBriefing_TB yaxkdqYwYRDohDiQUvSVlcVeXOGzqntVkEXTaEnFailZrpGfN_Amici-NCAI-et-al-10-16-09.pdf).

<sup>33</sup> In 1993, Arvada High School retired their racist mascot. Once called the “Redskins,” the school is now known as the Arvada Bulldogs. <http://www.changethemascot.org/history-of-progress/>

<sup>34</sup> *Id.*



Indian mascots in schools and professional sports.<sup>35</sup> These organizations urge schools to discontinue use of these mascots, citing to the harmful psychological, social, and educational effects the mascots have on all students.<sup>36</sup> In 2005, the National Collegiate Athletic Association, or NCAA, established a new policy banning colleges with “abusive mascots, nicknames or imagery” from participation in postseason events, prompting several schools to abandon their offensive monikers.<sup>37</sup> The NCAA Minority Opportunities and Interests Committee concluded that “Indian mascots that promote Indian caricatures and mimic ceremonial rites do not comply with the NCAA’s commitment to ethnic student welfare.”<sup>38</sup> The NCAA carves out exceptions, however, for schools with close relations to tribes and have tribal permission to continue use.<sup>39</sup>

Additionally, policy changes in some states and localities have triggered more schools to retire their mascots. For example, in 2009 the Wisconsin State legislature passed a law allowing citizens to initiate mascot changes if the school mascots are deemed discriminatory.<sup>40</sup> In 2012, the Oregon State Board of Education prohibited all Native American team names and mascots in their schools.<sup>41</sup> Likewise, the Michigan Board of Education passed a resolution calling on schools to retire American Indian mascots in 2003.<sup>42</sup> Both the Los Angeles Consolidated School District and the Houston

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<sup>35</sup> *Supra* note 1, at 6.

<sup>36</sup> Phillips, *supra* note 7, at 15.

<sup>37</sup> *Supra* note 1, at 7.

<sup>38</sup> Change the Mascot, History of Progress: Indian Names Used in Sports/Mascots Chronology, <http://www.changethemascot.org/history-of-progress/> (last visited March 2, 2015).

<sup>39</sup> *Supra* note 1, at 7.

<sup>40</sup> *Id.* at 8.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*



Independent School District have moved to end the use of offensive mascots, requiring many schools to change their team names.<sup>43</sup>

Advancements have been made at the national level as well. In a landmark decision last year, the United States Patent and Trademark Office (“USPTO”) cancelled six of the Washington NFL team’s<sup>44</sup> federal trademark registrations of their team name.<sup>45</sup> This move ended federal trademark protection of the term.<sup>46</sup> In cancelling the trademarks, the USPTO cited to a statute prohibiting protection of discriminatory terms and phrases that tend to bring any person, institution, or belief into contempt.<sup>47</sup> The USPTO found that the Washington NFL team’s name is disparaging to Native Americans, and thus protection of the term was not warranted.<sup>48</sup>

These agencies, states, and organizations have all recognized the harmful effects of American Indian team names on our nation’s youth and taken steps to ameliorate the situation. Colorado should likewise take action by passing HB 15-1165. This bill is good public policy, as it promotes inclusion and fosters cultural tolerance and acceptance. Colorado is home to numerous Indian tribes. Condoning the use of American Indian mascots alienates these Colorado citizens, especially the youth that attend our schools

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<sup>43</sup> Phillips, *supra* note 7, at 16.

<sup>44</sup> I choose not to use the term designated for Washington, D.C.’s NFL team.

<sup>45</sup> Phillips, *supra* note 7, at 9. The trademark has been cancelled once before, but this decision was overturned on appeal due to an “unjustifiable delay” on the plaintiffs’ part, as the trademark had been in use for over 45 years. The recent cancellation comes after new, younger plaintiffs challenged the registered trademarks. The “unjustifiable delay” argument now fails because the new plaintiffs could not have possibly delayed in bringing a legal claim on account of their ages. The team is once again appealing the decision, and the trademarks will remain protected until a final decision has been made. Phillips, *supra* note 7, at 9-10.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*



and universities. Many supporters of these mascots argue that they should remain in use for the sake of community tradition and sentiments of school spirit. However, these mascots offend many different Native American cultures and inflict real, proven harm upon all Colorado students. Empirical research shows the extent of such harm. Colorado should make a change to end the use of these harmful and disrespectful team names.

Further, HB 15-1165 is good public policy because it puts control of traditions and heritage back into the hands of the tribes. HB 15-1165 allows tribal nations to work with school athletic programs to decide whether to continue mascot use. Schools using specific tribal names or historical figures may obtain approval from the respective tribal nation, allowing tribes to retain control of their cultural identity. For once, tribes can determine how their cultural heritage may be celebrated in the community, and whether their culture should be used at all.

Many supporters of American Indian mascots claim that those activists fighting against mascot use should be focused on bigger, more serious struggles that Native Americans encounter. However, it is important to note that the mascot issue, and the perpetuation of negativity, is very much intertwined with these other issues. These mascots contribute to the overall challenges that American Indians face.

HB 15-1165 is an affirmative step towards ending racial stereotyping and prejudice in Colorado schools. NARF and TEDNA support HB 15-1165. We would be happy to address any concerns or questions about this bill. Thank you for the opportunity to offer our input on this important bill.