

# UNIVERSITY OF ILLINOIS

Chicago • Springfield • Urbana-Champaign

The Board of Trustees  
352 Henry Administration Building, MC-350  
506 South Wright Street  
Urbana, IL 61801

October 13, 2005

National Collegiate Athletic Association  
1802 Alonzo Watford Sr. Drive  
Indianapolis, Indiana 46202  
Attention: Dr. Bernard Franklin  
Senior Vice President  
Governance and Membership

Ladies and Gentlemen:

On behalf of the University of Illinois at Urbana-Champaign (UIUC), I submit this appeal of the new National Collegiate Athletic Association (NCAA) policy regarding American Indian mascots, nicknames and imagery and its application to UIUC.

This new policy conflicts directly with established NCAA principles of institutional responsibility and autonomy. It also incorrectly and unfairly characterizes UIUC as an institution that displays “hostile or abusive” American Indian mascots, nicknames and imagery because of UIUC’s use of the names Illini and Fighting Illini and the Chief Illiniwek tradition.

For the reasons cited in this letter, we request that the NCAA exempt UIUC from this policy. Your failure or refusal to exempt UIUC from this arbitrarily derived policy will significantly affect our institutional autonomy and impair our ability to participate fully and equally as a member institution in NCAA competition.

Our grounds for appeal are as follows:

## **University Self-Determination**

Illinois statutes designate the University of Illinois Board of Trustees as the governing entity for the University. As with other significant University policy issues, the policies regarding the use of the names Illini and Fighting Illini and the Chief Illiniwek tradition lie within the jurisdiction of the Board. In June 2004 the Board adopted a resolution that began a process to reach a “consensus conclusion” to the issue regarding the Chief Illiniwek tradition. Subsequent actions by the Board further moved the University toward this goal of reaching a consensus conclusion. In September 2004 the Board approved a policy that “the State’s heritage and its American Indian culture and traditions shall be preserved, affirmed and publicly celebrated.” In July 2005 the Board adopted a set of principles to help focus the consensus process. The Board supplemented these guidelines in September 2005 to take into account the new NCAA policy. Among these principles is a call to retain the names Illini and Fighting Illini as

part of any consensus solution to the issue of Chief Illiniwek, based upon the studied conclusion that the overwhelming majority of the debate and opinion center on the Chief Illiniwek tradition, not the names. The Board resolutions are enclosed with this letter.

The Board's actions indicate that the outcome of its consensus process will satisfy neither the most ardent proponents nor the most ardent opponents of the Chief Illiniwek tradition. Its goal is to conclude the matter in a way that serves the best interests of the University and that can be embraced by a majority of the affected constituencies, which include the citizens of Illinois as well as students, faculty, staff and alumni. The University's Board of Trustees should be allowed to continue its work unfettered by the NCAA's arbitrary new policy and the corresponding deadline. Permitting the University to resolve this situation without undue interference by the NCAA comports with principles set forth in the NCAA Constitution and acknowledged by the Executive Committee to be vital. (See Section 2.1 of 2005-06 NCAA Division I Manual).

### **“Illini” and “Fighting Illini”**

The names Illini and Fighting Illini as used by the University derive from the state's name, not from American Indian imagery. Both also pre-date the Chief Illiniwek tradition.<sup>1</sup>

The Illini name was coined in 1874 by the University's student newspaper, which left no ambiguity when it declared at the time that “Illini” was derived as a measure of respect for the name of the State of Illinois.<sup>2</sup>

Publications from the early 1900s plainly show that Illini was a common reference to the people of Illinois or Illinoisans. At the University, Illini is a reference not only to athletic teams, but also to students (nearly 40,000), living alumni (374,500) and all those who wish to associate themselves in a positive way with Illinois' largest public university and one of the nation's great land grant universities.

More than 70 campus organizations have Illini in their names. The business telephone directory for the Champaign-Urbana community alone contains nearly four-dozen listings with Illini in the name. A search of the Illinois Secretary of State registration of corporations yields 618 listings statewide containing the word Illini, from an Akita club to a youth football league.

“Fighting” is common nomenclature for competitive athletic teams, such as “Fighting Irish” of the University of Notre Dame. A sampling of other official

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1. A chronology of the Illini and Fighting Illini names is contained in the enclosed document, “History of Names Illini and Fighting Illini.” A website at the University of Illinois at Urbana-Champaign Archives has a link to frequently asked questions about Illini and Fighting Illini: <http://web.library.uiuc.edu/ahx/illini>.
  2. As the student newspaper, now known as the *Daily Illini*, declared in its pages in January of 1874: “Shall our name be known in future time as far and wide as that of the broad fair state we honor, and shall it be cherished and loved like that?”

intercollegiate uses of “Fighting” in the NCCA and NAIA includes the Fighting Gamecocks of the University of South Carolina; the Fighting Leathernecks of Western Illinois University; the Fighting Scots of Monmouth College (IL) and Maryville College (TN); the Fightin’ Blue Hens of the University of Delaware; the Fighting Owls of Kennesaw State University (GA); the Fighting Bees of St. Ambrose University (IA); the Fighting Muskies of Muskingum College (OH); and the Fighting Saints of Carroll College (MT).

At the University of Illinois, the earliest known references to “fighting” Illini are circa 1919-20 media accounts and promotional material from the era of legendary University of Illinois coach Bob Zuppke, whose scrappy teams had a knack for come-from-behind victories. A *Chicago Tribune* account of a 1920 Illinois victory over Ohio State described it as “the greatest upset of the year ... Zuppke’s Fighting Illini beat Ohio State! If ever a football team deserved its nickname stressed and reiterated as a real courage-bringer during a disastrous season, it was these young men who fully earned the adjective on Ohio field.”

In one of the earliest uses by the University of Illinois, “Fighting Illini” was the theme of a 1921 fundraising campaign for Memorial Stadium, which was dedicated in honor of University of Illinois students, alumni and staff who fought and died in World War I.

It is also worth noting that the NCAA has not challenged other uses of Illini within its jurisdiction. For example, there is the Illini-Badger Football Conference (IBFC), an NCAA Division III football conference with eight colleges and universities from Illinois and Wisconsin. The Illini-Badger Football Conference website reports that in 2004 the conference co-champion, Aurora University, “represented the IBFC well in an NCAA playoff game....”

In responding to four prior appeals of the policy, the NCAA indicated that approval by namesake tribes of the institutions’ respective names or mascots is “one primary, but not exclusive” factor that will be considered in the appeal process. The University, unlike several others of the 18 listed institutions, has no tribe with the name Illini (or more properly Illiniwek) from whom it could seek approval. “Illiniwek,” from which the name Illinois is derived,<sup>3</sup> is a 17<sup>th</sup> Century Algonquin term for a confederation of Indian tribes that inhabited the region. That confederation no longer exists. The remaining descendant tribe is the Peoria Tribe of Indians of Oklahoma. The NCAA’s ruling in this regard should take into account this differentiating historical fact. As you have stated, each appeal has its own unique facts and should stand on its own merit.

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3. Illinois is the French transliteration of Illiniwek. The State of Illinois (and the territory that preceded it) was named after the Illinois River. The river was named by French explorer Rene-Robert Cavalier Sieur de La Salle in 1679 after the Indians he encountered living along the riverbanks. Illinois is the French spelling for the Indian word “iliniwok” (tribe of men), a confederation of Cahokia, Kaskaskia, Michiganmea, Moinwena, Peoria and Tamaroa Indian tribes.

## Chief Illiniwek

The Chief Illiniwek tradition is a four-minute half-time performance established in 1926 in conjunction with the University's Marching Band, a performance that currently takes place only at home athletic events – football, basketball and volleyball. Chief Illiniwek does not act in the manner of stereotypical sports mascots. The Chief Illiniwek performer does not roam the sidelines, lead cheers or engage in high jinks. Supporters of the Chief Illiniwek tradition emphasize the value of and their pride in the tradition as well as the opportunity to preserve and showcase tradition, heritage and culture.

The Chief Illiniwek tradition is an interpretive performance of the American Indian practice known as “Fancy Dance.” This vigorous, freestyle dance form originated in the early 1900s in Oklahoma and spread among tribes throughout the country with differences in dress and style. Since the inception of the Chief Illiniwek tradition, performers have attended various tribal meetings and powwows at which such dances are performed. The Chief Illiniwek tradition is not a ceremony, but it is a form of individualized artistic expression shared with audiences.

The NCAA's labeling of Chief Illiniwek as hostile and abusive directly contradicts a 1995 finding by the U.S. Department of Education Office of Civil Rights (OCR). After a lengthy investigation that entailed interviews of more than 40 individuals, an extensive document review and four on-site visits, including observation of the Chief Illiniwek performance at a University event, the OCR concluded that the existence of the Chief Illiniwek tradition, even though perceived as offensive by particular individuals, did not constitute a “racially hostile environment at the University.” A copy of the November 30, 1995, OCR letter is enclosed.<sup>4</sup>

During the NCAA's August 5, 2005, news conference to announce the new policy, questions arose on how the “hostile and abusive” determination was made for the affected institutions. Charlotte Westerhouse, NCAA Vice President, explained as follows: “In trying to look at what we're defining as being hostile and/or abusive, we're looking for guidance that we've had in various civil rights cases that deal with discrimination and the educational environment.”

A federal agency charged with enforcing Title VI of the Civil Rights Act of 1964 concluded that neither the Chief Illiniwek tradition nor the name Fighting Illini created a hostile environment. We submit that an NCAA committee or subcommittee could not sensibly reach the opposite conclusion.

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4. Other evidence of support for the Chief Illiniwek tradition can be found in legislation enacted in 1996. This legislation states: “Consistent with a long-standing, proud tradition, the General Assembly hereby declares that Chief Illiniwek is, and may remain, the honored symbol of a great university, the University of Illinois at Urbana-Champaign.” (110 ILCS 305/1f). Also, a student referendum in March 2004 demonstrated support for the Chief Illiniwek tradition by a better than 2-to-1 margin in a record turnout vote.

## **Flawed “Process” Followed by the NCAA Executive Committee**

The “process” that led the NCAA Executive Committee to issue the new policy and to include the University in the list of “hostile and abusive” institutions is murky at best. As stated above, during the August 5 news conference, NCAA Vice President Charlotte Westerhouse explained that the original list of 18 schools was reached in large part by reviewing civil rights cases to determine what constituted a “hostile” or “abusive” use. Later, however, NCAA spokesperson Gail Dent stated that no such determination was made. Instead, she said any reference to American Indians simply was presumed to be “hostile and abusive.” Assuming that some process was used to establish the policy and apply it to the 18 institutions, indications that the process was seriously flawed include the following:

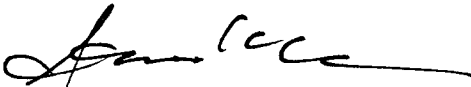
- The NCAA failed to follow its own policies and procedures. First, the NCAA Executive Committee exceeded its proper role in issuing the new policy. Under the NCAA Constitution, the Executive Committee is given various powers, but enacting legislation is not one of them. (See NCAA Manual, Section 4.1.2). Second, the NCAA ignored provisions that provide for membership votes on significant matters, as well as the detailed legislative process for bylaws and regulations. (See Sections 5.01 – 5.3).
- The “process” led to inaccurate and erroneous results, as acknowledged by the NCAA. For example, just days after the policy was announced, the NCAA admitted that it had failed to take into account what even casual fans of college football knew: that Florida State University’s use of the name Seminoles had the approval of the Seminole Tribe in Florida. Acknowledging this oversight, the NCAA promptly removed FSU from the list.
- The institutional self-evaluation process itself was flawed in that the questionnaire sought information relative to a limited period of time (“complaints filed within the past thirty-six months that have been made against the institution”), thereby arbitrarily excluding other, more relevant information. In the case of UIUC, this other, more relevant information includes the 1995 OCR finding, referred to above, that the Chief Illiniwek tradition did not create a racially hostile environment at the University of Illinois at Urbana-Champaign.
- In reaching its determination concerning Chief Illiniwek and Fighting Illini, the Executive Committee relied heavily and inappropriately upon inaccurate, incomplete and misleading information supplied by one individual. UIUC was denied the opportunity to know of or respond to that information – the antithesis of a just and fair process for a member institution.

**Conclusion**

The NCAA should exempt the University of Illinois at Urbana-Champaign from its new policy, and withdraw the NCAA's unflattering and incorrect characterization of the University by removing its name from the list of member institutions cited in the policy. We respectfully request your favorable review of this appeal as soon as possible.

University representatives, including the undersigned, are available to respond to your questions.

Sincerely,



Lawrence C. Eppley  
Chair

Enclosures

**Resolutions of UI Board of Trustees**

Approved by the Board of Trustees,  
June 17, 2004

Board Meeting  
June 17, 2004

## RESOLUTION CONCERNING CHIEF ILLINIWEK

*Whereas*, Chief Illiniwek has been a treasured symbol of the University of Illinois at Urbana-Champaign since its introduction in 1926;

*Whereas*, many students have performed well and ably in the role of Chief Illiniwek;

*Whereas*, Chief Illiniwek was created and intended as an honorable and respectful representation of the indigenous people whose name is commemorated in the name of this State and its flagship university;

*Whereas*, Chief Illiniwek has symbolized the dignity, strength, intelligence, and grace to which athletic teams at the Urbana-Champaign campus have aspired;

*Whereas*, at the Board's request, the Honorable Judge Louis B. Garippo prepared a comprehensive report titled The Chief Illiniwek Dialogue – Intent and Tradition vs. Reaction and History - A Report to the Board of Trustees of the University of Illinois, which contains a historical record of Chief Illiniwek and many opinions about the tradition;

*Whereas*, Trustee Roger Plummer delivered a report to the Board concerning the varying views on the matter of Chief Illiniwek, as well as the historical support for the terms "Illini" and "Fighting Illini" as they pertain to the athletic teams at the Urbana-Champaign campus;

*Whereas*, as representatives of a great 136 year-old land grant university, the diverse people and cultures of Illinois, the university's nearly 71,000 students and its 300,000 proud in-state alumni, the Board of Trustees affirms that these constituencies are deserving of a conclusion to the Chief Illiniwek matter that is based upon a consensus among concerned parties;

*Whereas*, through dialogue, the Board of Trustees acknowledges that opportunities exist for consensus to be reached;

*Whereas*, such a conclusion provides an opportunity to resolve the Chief Illiniwek matter in a manner that is in the very best interest of the University and not of any particular constituency or interest group, that is consistent with the values espoused



and practiced by the University, that has a compelling rationale found acceptable by a large majority of the University's constituencies, and that brings finality to the subject;

*Therefore, Be It Resolved* that the Board shall seek a consensus conclusion to the matter of Chief Illiniwek; and

*Further Be It Resolved*, that the Board shall next consider and approve guidelines pursuant to which a consensus conclusion will be based.

Approved by the Board of Trustees,  
September 9, 2004

Board Meeting  
September 9, 2004

POLICY TO PRESERVE AND RECOGNIZE THE STATE'S AMERICAN  
INDIAN HERITAGE

WHEREAS, at its June 17, 2004 meeting, the Board of Trustees resolved to reach a consensus conclusion to the issue of Chief Illiniwek. In respect of that resolution and in recognition of the heritage of the State of Illinois and the culture and traditions of the American Indians, it is the board's belief that the University should pursue a solution that recognizes the heritage of the State and the culture and traditions of the American Indians; and

WHEREAS, many opinions expressed on the issue share a mutual concern for finding ways to preserve and celebrate the State's heritage and American Indian culture and traditions; and

WHEREAS, an essential step toward reaching a consensus conclusion to the issue of the Chief is the establishment of a board policy that affirms that the core of the issue concerns the preservation and celebration of the State's heritage and American Indian culture and traditions; and

WHEREAS, the University's Urbana-Champaign campus, the State of Illinois' great land-grant university, has long drawn on and paid tribute to the culture and traditions of the native people of Illinois; and

WHEREAS, the State's name is a French transliteration of Illiniwek, a confederation of American Indian tribes that thrived throughout the State and the region; and

WHEREAS, the term Illini, taken from the State's name, has been used in referring to students, alumni, the campus' student newspaper since 1874, and later to its athletic teams; and

WHEREAS, the campus possesses rich collections of research materials and art works related to American Indian culture and traditions that attract scholars and students at all levels; and

WHEREAS, these resources provide the basis for education and appreciation of our State's heritage and American Indian culture and traditions; and

WHEREAS, the preservation of the State's heritage and American Indian culture and traditions is a fitting goal for the Urbana-Champaign campus; and

WHEREAS, the Board of Trustees has resolved to reach a resolution on the issue of the Chief through consensus; and

WHEREAS, a solution must best serve the University rather than particular interest groups;

NOW THEREFORE, BE IT RESOLVED that in implementing a consensus solution, it shall be the policy of the University and the Urbana-Champaign campus that the State's heritage and its American Indian culture and traditions shall be preserved, affirmed, and publicly celebrated.

Board Meeting  
July 14, 2005

RESOLUTION CONCERNING GUIDELINES FOR CONSENSUS REGARDING  
CHIEF ILLINIWEK

*Whereas*, at its meeting on June 17, 2004, the Board of Trustees adopted the “consensus resolution” calling for a consensus conclusion regarding Chief Illiniwek:

*Whereas*, at its meeting on September 9, 2004, the Board of Trustees adopted the “heritage policy” that specifies that in implementing a consensus solution,

“...it shall be the policy of the University and the Urbana-Champaign campus that the State’s heritage and its American Indian culture and traditions shall be preserved, affirmed, and publicly celebrated.”

*Whereas*, the June 17, 2004, resolution of the Board of Trustees called for the consideration and approval of guidelines to aid the process of reaching a consensus conclusion;

*Whereas*, the board, after much consideration and review, has formulated several guidelines to serve as a framework for further discussion leading to a consensus conclusion;

*Whereas*, the Board of Trustees believes that a consensus conclusion that follows these guidelines will lead to a solution that is in the best long-term interest of the University;

*Whereas*, these formulated guidelines are presented here and include the following:

1. Seek consensus.
2. Preserve tradition and heritage in concert with the board’s heritage resolution.
3. Retain the names “Illini” and “Fighting Illini.”
4. Recognize the diversity of Illinois’ American Indian culture, past and present.

5. Engage American Indian involvement in our efforts.
6. Reflect the University's core values of excellence, integrity, and respect.
7. Recognize the significant opportunities that University events, venues, and forums provide to educate and inform our community and the public about American Indian culture, history, and heritage.

*Further Be It Resolved* that the Board of Trustees wishes to adopt these guidelines for use as a framework for reaching a consensus conclusion regarding Chief Illiniwek.

Board Meeting  
September 8, 2005

RESOLUTION TO ADD EIGHTH GUIDELINE FOR CONSENSUS PROCESS  
REGARDING CHIEF ILLINIWEK

*Whereas*, the Board of Trustees has established a process by which it will seek a consensus conclusion to the matter of Chief Illiniwek;

*Whereas*, at its meeting on June 17, 2004, the Board of Trustees adopted the “consensus resolution” and said it would “consider and approve guidelines pursuant to which a consensus conclusion will be based,” and on July 14, 2005, the Board of Trustees after much consideration and review adopted a set of seven guiding principles to frame a solution in the best long-term interests of the University;

*Whereas*, three weeks later, on August 5, 2005, the National Collegiate Athletic Association (NCAA) issued a policy regarding use of Native American imagery that was directed to 18 member institutions, including the University of Illinois at Urbana-Champaign;

*Whereas*, portions of the NCAA policy take effect on February 1, 2006;

*Whereas*, the board believes the guidelines it adopted to aid the consensus process would be strengthened by the addition of the following eighth guideline:

8. Recognize the University’s goals of having high integrity athletic programs, winning teams and athletes who are successful students and who have the opportunity to compete at the highest levels.

*Now Therefore Be It Resolved* that the Board of Trustees hereby adopts this eighth guideline for use with the existing seven guidelines as a framework for reaching a consensus conclusion regarding Chief Illiniwek.

**“History of Names Illini and Fighting Illini”**

# History of the terms “Illini” and “Fighting Illini”

*Derivatives of the name of the State of Illinois;*

*A reflection of University spirit, honor for WWI service*

The names “Illini” and “Fighting Illini” used in connection with the University of Illinois at Urbana-Champaign refer not only to athletic teams, but also to students, alumni and all who wish to associate in a positive way with the largest public university in the State of Illinois.

## **Taken from name of the state:**

- The State of Illinois (and the territory that preceded it) was named after the Illinois River. The river was named by French explorer Rene-Robert Cavalier Sieur de La Salle in 1679 after the Indians he found living along the riverbanks.
- Illinois is the French spelling for the Indian word “iliniwok” (tribe of men), a confederation of Cahokia, Kaskaskia, Michiganmea, Moinwena, Peoria and Tamaroa Indian tribes.
- Twenty-eight (28) states’ names are derived from Indian terms. They are: Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah, Wisconsin and Wyoming.
- Residents of the nation’s fifth largest state (population 12.5 million) are known as Illinoisans.

## **“Illini” nickname coined by students:**

- Students of the university brought “Illini” into existence in 1874, within the first decade of the university’s creation and more than a decade before the institution was officially renamed the University of Illinois.
- It was the student newspaper that coined the term “Illini” when it changed names in January 1874 from *The Student* to *The Illini*.
- An editorial in that first edition explained the name this way:
- “...(W)e are all aglow over our new name. Had you noticed it? Did you ever see it before? Do you know what it means and where it comes from? Sound it ‘trippingly on the tongue.’ Accent the second syllable and pronounce it with us, Il-li-ni. Good! Try, try again until it fits the tongue as well as Illinois, simply a Frenchman’s modification of the same word. Here ambition steals away our modesty and with a thrill of excitement we



hopefully query: **Shall our name be known in future time as far and wide as that of the broad fair state we honor, and shall it be cherished and loved like that?** Shall generation after generation pass and find unfailling stores of richness and worth? ...Illinois! Queen of the Union, we place up on thy fair brow the diadem of the States; Illini!-ah!..." (emphasis added).

- Eight years later, on Dec. 9, 1882, the student newspaper, *The Illini*, editorialized on the origin of its name:
- "...the organ of the State University may with propriety bear a name similar to that of its patron and supporter. **Illini is but another form of the Indian word Illinois, and has the same meaning, i.e., 'real men.'** Perhaps it is a French abbreviation of the term. **The originator of the paper might have searched the world over and would have found no better name than that of our great state.**" (emphasis added).

#### **University's name changed 11 years after "Illini" coined:**

- The name of the university itself was changed by state statute to the University of Illinois from the Illinois Industrial University. The legislation passed June 19, 1885, by coincidence the university's commencement day.
- Impetus for changing the name of the university came from students and prominent Chicago-area alumni.

#### **Definition of "Fighting" is accepted vernacular for striving to succeed:**

- Dictionary definition of "fighting": "to contend in any manner; to strive vigorously for or against something; to make one's way by fighting or striving; to struggle, endure or surmount."
- The term "Fighting Illini" reflects the competitive spirit of the University of Illinois at Urbana-Champaign's athletic teams, students, university organizations, alumni and those who associate themselves positively with the university.
- Former Trustee Roger Plummer explained it in his March 14, 2002, report to the Board of Trustees this way:
- "...We seem to apply it to athletic teams in the same was as it is used by all those political candidates who are promising to 'fight' for us in Springfield and Washington, D.C. The names Fighting Irish, Fighting Scots, Fighting Knights, Fighting Saints, Fighting Gamecocks, Fighting Owls and Fighting Squirrels, among others, **are meant to suggest college teams that strive for victory, not ones that seek literal combat.**" (emphasis added).
- A sampling of other "Fighting" competitors in the NCCA and NAIA includes the Fighting Irish of the University of Notre Dame (Ind.); the Fighting Gamecocks of the University of South Carolina; the Fighting Leathernecks of Western Illinois University; the Fighting Scots of Monmouth (Ill.) College, and Maryville (Tenn.) College; the Fightin' Blue Hens of the University of Delaware; the Fighting Owls of Kennesaw State

(Ga.) University; the Fighting Bees of St. Ambrose University (Ia.); the Fighting Muskies of Muskingum (Ohio) College; and the Fighting Saints of Carroll College (Mont.).

**“Fighting Illini” traced to 1919 championship football season:**

- Promotional material for the 1919 Illinois vs. Michigan football game referred to “the fighting Illini”:
- “All roads lead to Champaign-Urbana Saturday for the big battle between the Illinois and Michigan football elevens. The state, proud as a mother of the state university eleven, will answer the call of “State Day” to back the fighting Illini against the invaders from Wolverinedom.
- “It is strictly Illinois against the visitors for the state university eleven is entirely representative of our own prairies, every mother’s son from end to end and back to back being a native.”
- A history of Illinois football recounted the 1919 season as follows: “The fighting spirit of the Illini was never better demonstrated than in the Iowa, Minnesota and Ohio games in which they had to overcome the lead of their opponents.”
- In the following 1920 season Illinois defeated Ohio State in what a Chicago Tribune sportswriter described as the “greatest upset of the year”:
- “Zuppke’s Fighting Illini beat Ohio State! If ever a football team deserved its nickname stressed and reiterated as a real courage-bringer during a disastrous season, it was these young men who full earned the adjective on Ohio field.”

**“Fighting Illini” theme to 1921 fundraising campaign for Memorial Stadium:**

- The “Fighting Illini” nickname was used in 1921 fundraising material for construction of Memorial Stadium, which was *dedicated in 1924 to the memory of university students and alumni who fought and died in World War I.*
- The fundraising material included references to American Indian imagery, wartime service and valor on the athletic field.
- The slogan “Build that Stadium for Fighting Illini” was used extensively beginning in 1921.
- The song “Fight, Illini” was composed in 1921 and sung at the stadium dedication three years later. It opens with the lines: “Standing our Stadium/Are all Illini true/Singing to our fighting men;/’ We built this just for you./’So fight for Alma Mater boys/As warriors proudly do;/Bringing home a victory/For Orange and for Blue.” The song ends: “Fighting in our Stadium or fighting far from home:/Osekey-Wow-Wow, Illinois!/For we’ll fight for you forever, Illinois.”
- Donations of approximately \$1.7 million by more than 200,000 students, alumni and other friends of the university funded construction of Memorial Stadium in 1923.
- Memorial Stadium was dedicated in 1924 in honor of the 189 alumni, faculty and staff members and students who died in WWI. They are

commemorated on the 200 limestone columns that support the stadium's upper stands.

**Timeline:**

1679, Illinois River named by French explorer de La Salle for native Indians, "Illiniwok"

1818, Illinois admitted as 21<sup>st</sup> state in the United States

1867, Illinois Industrial University established in Urbana

1874, student newspaper name changed to *The Illini* from *The Student*

1885, name of University changed by state statute to University of Illinois

1919, "the fighting Illini" are promoted in a flyer for a game vs. U. Michigan

1921, Slogan "Build that Stadium for Fighting Illini" used in fundraising campaign

1924, Memorial Stadium dedicated to honor students/alumni/staff killed in World War I

1926, Chief Illiniwek tradition established by Marching Illini Band

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**November 30, 1995 letter from OCR to UIUC**



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS-REGION V  
401 SOUTH STATE STREET-7TH. FLOOR  
CHICAGO, ILLINOIS 60605-1202

OFFICE OF THE  
DIRECTOR

November 30, 1995

Dr. Michael Aiken  
Chancellor  
University of Illinois  
at Urbana-Champaign  
Urbana, Illinois 61801

Re: 05942104

Dear Dr. Aiken:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaints, the first of which was filed on March 28, 1994, against the University of Illinois at Urbana-Champaign (University). The complainants alleged the following:

- o the University's use of Chief Illiniwek as its symbol, the University's use of a depiction of a male Native American head with a feather head dress and chest plate as its logo, the University's moniker, "Fighting Illini," and incidents of verbal and physical harassment at sporting events, threatening telephone calls, racial slurs and other forms of harassment have contributed to a racially hostile environment for Native Americans at the University; and,
- o after the complainants raised issues of harassment with various University officials, the officials did not respond appropriately to their concerns.

Under the totality of the circumstances standard described below, OCR has concluded that the evidence was insufficient to establish a violation of Title VI of the Civil Rights Act of 1964.<sup>1</sup>

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<sup>1</sup> OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100 which prohibit discrimination on the basis of race, color, and national origin in programs and activities receiving Federal financial assistance. Title VI prohibits recipients of Federal funds from subjecting students to a racially hostile educational environment on the basis of race, color, or national origin under any program which the recipient operates. 34 C.F.R. § 100.3(a) and (b)(1)(ii), (iii), (iv) and (vi); 59 Fed. Reg. 11448 *et seq.* (March 10, 1994) (Racial Incidents).

### Case Overview

The allegations of a racially hostile environment in this case covered a broad array of incidents involving many different students and employees. Some of these allegations were serious in nature, including patently offensive racial slurs and threats of physical violence. In keeping with OCR's congressional mandate to investigate complaints of discrimination under Title VI, and given the range and seriousness of the allegations, OCR conducted a thorough investigation of the facts and circumstances relevant to the many complaints filed in this case. OCR's conclusions, based on a review of all of the evidence presented during the investigation, are summarized below:

- o The alleged specific incidents of harassment, especially those of which the University had notice, were not proven to be sufficiently severe, persistent or pervasive so as to establish a racially hostile environment. Most were isolated and not recent, having occurred between 1989 and 1992. Furthermore, there was insufficient corroborating evidence of most of these incidents.
- o Although the Chief Illiniwek symbol, logo, and the name "Fighting Illini" are offensive to the complainants and others interviewed by OCR, "offensiveness," in and of itself, is not dispositive in assessing a racially hostile environment claim under Title VI, particularly in light of the First Amendment to the United States Constitution.

At the same time, as discussed below, OCR is aware of the concerns about the use of Native American images and their official sanction by the University and urges continued dialogue regarding these concerns.

### Background

The University's symbol, Chief Illiniwek, has been part of its intercollegiate athletics program since 1926. Chief Illiniwek is portrayed by a University student dressed in Native American regalia whose performance at half-time of basketball and football games consists of a choreographed dance routine. According to the University, its official logo (a Native American image) was adopted by the University in the 1980s.

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and Harassment Against Students at Educational Institutions: Investigative Guidance) [hereinafter, "Investigative Guidance"]. The University receives funding from the U.S. Department of Education and is, therefore, subject to these provisions.

In 1990, some Native American students began to protest the University's use of Chief Illiniwek. Following an intense debate regarding the University's use of Chief Illiniwek, the University's Board of Trustees voted in October 1990 to retain Chief Illiniwek as the University's symbol. However, the debate over the Chief continued on the University's campus, as well as throughout the State of Illinois. In 1993 a group of University Native Americans formed the Native American Student, Staff and Faculty for Progress (NASSFP) to, in part, voice concerns of Native Americans at the University regarding the Chief. Beginning in March 1994, members of the NASSFP, including University employees and graduate students, began filing discrimination complaints with OCR alleging that Native Americans on campus were being subjected to a racially hostile environment.

#### Title VI Standards

A racially hostile environment, for which a recipient may be subject to Title VI liability, exists if:

- 1) Racial harassment is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the education services, activities or privileges provided by a recipient;
- 2) The recipient had actual or constructive notice of the racially hostile environment; and
- 3) The recipient failed to respond adequately to redress the racially hostile environment.

See Investigative Guidance. Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances. See generally id. During its investigation, OCR interviewed over forty individuals with relevant information, reviewed voluminous documents and conducted four on-site visits to the University. One of these visits included an observation of Chief Illiniwek at a University-sponsored sporting event and student and employee conduct related thereto, as well as observation of various sites on campus at which the Native American logo was used.

#### Analysis

OCR received numerous allegations by Native American students and employees that between 1989 and 1994 they were the targets of a pattern of offensive, racially motivated speech and conduct by students, members of the University community, and alumni who had returned to the University for sporting events. OCR determined that, based on information provided to us during interviews with the complainants and others, there is insufficient evidence to

conclude that the alleged incidents of racial harassment about which the University had actual or constructive notice were sufficiently severe, pervasive or persistent to constitute a current racially hostile environment for University Native Americans. OCR evaluated all of the allegations to determine whether and to what extent they could be corroborated, and to determine whether the University either knew or should have known about the alleged incidents. OCR did not find corroborating evidence for most of the small number of specific incidents of harassment the complainants told OCR they had reported to the University, although difficulty in obtaining evidence of this nature would be expected, given the nature of some of the alleged harassment, the passage of time, and problems in identifying other witnesses. Further, the limited number of incidents reported to the University appeared to be isolated incidents, because they were spread over a six-year period and directed at different individuals. Most of the alleged incidents were reported between 1989 and 1992.

In the course of its investigation of these allegations, OCR talked with a broad array of people associated with the University to assess the educational environment for Native Americans on campus, and to determine the causes of tensions that were alleged to be racial in nature. OCR attempted to contact over 45 graduate and undergraduate University students who identified themselves as being Native American in University records. OCR was able to interview 16 of these students. When asked by OCR if they had been subjected to different treatment, harassment or intimidation because of their national origin, all but two of the sixteen students told OCR that they had not been subjected to such treatment. Thus, these students did not corroborate the complainants' perception that a racially hostile environment existed on campus for Native Americans. The experience of these Native American students was in stark contrast to the reports of the Native American complainants and others who have openly expressed opposition to Chief Illiniwek. Moreover, OCR also obtained information that White, African-American and Hispanic persons were all subjected to similar types of verbal and/or physical hostility based on their expressed opposition to Chief Illiniwek, indicating that these incidents were apparently based on the viewpoint of individuals on this issue rather than the race of the individuals. Of course, the fact that 16 students with some Native American affiliation did not share the complainants' perception of the environment was not dispositive; the totality of circumstances in this case, including all of the allegations set forth by the complainants, was considered.

While it is unnecessary to describe specific conclusions about all of the evidence received, it should be noted that many of the allegations involving particular incidents of harassment, including some that appeared to be serious in nature, were not



fully substantiated. For example, during OCR's investigation, OCR determined that two Native Americans, after publicly expressing their opposition to Chief Illiniwek, received threatening telephone calls at their private residences. One interviewee informed OCR that she interpreted the calls she received in 1990 as sexual harassment, but that her son who had also answered some of the calls perceived them as death threats; however, she did not provide details about the substance of the threats. The other interviewee informed OCR that his wife had received a series of five telephone calls in one night in 1991 after he had appeared on a local television station to express his opposition to Chief Illiniwek. The threatening comments he reported included: "Shut up!;" "Get out of town;" "If you don't like it, leave;" and, "Your husband's going to get it."

In some circumstances, allegations of serious harassment like racially based death threats, standing alone, might be sufficiently severe to establish a racially hostile environment under Title VI standards. In this case, the complainants characterized certain telephone calls as "death threats." While the calls were apparently intimidating to the complainants and their family members, evidence about the actual language that was reportedly used failed to establish that death threats occurred. Moreover, evidence obtained by OCR did not substantiate that the alleged calls were racially based rather than a response to the targets' public opposition to the continued use of Chief Illiniwek. Given that the evidence failed to substantiate that the calls were racially based, the calls could not be characterized as incidents of racial harassment that established or contributed to a racially hostile environment.

Another major category of allegations in this case involved the use of Native American symbols, including Chief Illiniwek. The complainants in this case expressed the view that the performances of Chief Illiniwek during athletic events were offensive and had an adverse impact on students and staff at the University. Some of the complainants reported that primarily to avoid being subjected to the offensive symbols, they no longer participate in University activities and have, to the extent possible, limited their presence on campus. These individuals hold the conviction that the continued existence of Chief Illiniwek and the other Native American symbols reflects the University's insensitivity to their race. They have expressed that in the University community, which represents the pursuit of knowledge and wisdom, it is their perception that few are willing to understand the deeply felt insult that Chief Illiniwek represents to them or the difficulty they face in continuing to attend class and report to work at a University that in their opinion is indifferent to them.

The Chief, the perceived offensiveness of the symbol and the perception of insult to Native Americans was and continues to be a point of heated debate within the University community and among Native Americans on campus. For the purposes of OCR's analysis in this case, the offensiveness of the Chief as perceived by particular individuals, alone, is not a legally sufficient basis upon which to conclude that race discrimination in the form of a racially hostile environment existed on the campus of the University of Illinois. In order to establish a violation of Title VI, some limitation of students' or employees' educational benefits on the basis of race must be demonstrated. In addition, when expression in the form of the choice of symbols by universities and their students is involved, principles under the First Amendment to the United States Constitution must be considered. In this case, the emotive impact on the complainants as a result of the use of symbols the complainants found offensive does not, by itself, constitute discrimination under Title VI.

Finally, because OCR finds that the allegations of harassment of which the University had notice were not sufficiently severe, pervasive or persistent to rise to the level of a racially hostile environment for Native Americans on campus, as defined under Title VI, the adequacy of the University's response is not at issue in this case.

This concludes OCR's consideration of this complaint, and we are closing our file on this complaint effective the date of this letter.

#### Additional Information

Although there was insufficient evidence in this case to conclude that a racially hostile environment was created in violation of Title VI, as discussed above, the presence of Native American symbols was and continues to be pervasive on the University campus. OCR notes that the debate and controversy surrounding the University's official sanction and use of Native American images continues to be extremely heated on campus, particularly given the concerns and reaction that some Native American students and employees have demonstrated. OCR encourages the University to take proactive steps to respond to the concerns of all members of the University community and prevent the Chief Illiniwek controversy from leading to a hostile environment that impairs the educational opportunities available to Native Americans on campus. Moreover, OCR is available and willing to assist all of the parties involved by offering information about resources and strategies that may help address these issues proactively and constructively.

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Further, in the event that a University student, staff or faculty member believes that he/she has been subjected to racial harassment at the University, the University has grievance procedures in place to address such matters. By responding to allegations of racial harassment in a timely manner as they arise, a university can prevent the totality of circumstances from becoming sufficiently severe, pervasive or persistent so as to create a racially hostile environment under Title VI.

This letter addresses only the issues outlined above and should not be interpreted as a determination of the University's compliance with Title VI of the Civil Rights Act in any other respect.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

Please be advised that individuals filing a complaint or participating in an investigation of a complaint are protected by Departmental regulations which prohibit retaliation or intimidation under the Title VI regulation at 34 C.F.R. § 100.7(e). If individuals are subjected to retaliation, intimidation, or coercion by the University because of the filing of this complaint or because they have participated in the investigation of this complaint, such individuals may file a complaint with OCR alleging such retaliation, intimidation or coercion.

If you have any questions regarding this letter, please contact Dr. Karen H. Vierneisel, Project Director, at (312) 353-3874.

Sincerely,



Linda A. McGovern  
Regional Director

cc: Mr. Bryon Higgins  
Mr. Mark D. Henss