

**Background and Frequently Asked Questions
Regarding Part 123 of the Regulations of the
Commissioner of Education Relating to Prohibiting
the Use of Indigenous Names, Mascots, and Logos by
Public Schools**

May 2023



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Introduction

The New York State Board of Regents (BOR) voted unanimously to adopt a new Part 123 of the Regulations of the Commissioner of Education ("the regulation") relating to prohibiting the use of Indigenous team names, mascots, and logos by public schools on April 18, 2023.¹ This regulation was effective on May 3, 2023. The requirements of the regulation reflect a longstanding Department policy (dating back over twenty-two years) and are clear in their purpose. This guidance, in the form of a frequently asked questions document, reinforces such requirements for the limited number of districts still using such names, mascots, and logos, or using vestiges of their prior use, and provides an aid to implementation.

Specifically, team names, mascots, and logos derived from, or that have connections to, Indigenous peoples, in the past or at present, which are being used without the express consent of such peoples are contrary to the requirements of the regulation and New York State's Dignity for All Students Act and must change.

"Speaking for myself as a tribal leader and as an Indigenous person, the message that is being sent by this is that we're not a symbol, we're not a mascot, we're not history. We're real people that are still here and still exist"

Germain Smith, General Council Secretary, Shinnecock Indian Nation

"The use of American Indian mascots as symbols in schools and university athletic programs is particularly troubling because schools are places of learning. These mascots are teaching stereotypical, misleading and too often, insulting images of American Indians. These negative lessons are not just affecting American Indian students; they are sending the wrong message to all students."

Ronald F. Levant, EdD, Former American Psychological Association President

¹ <https://www.regents.nysed.gov/sites/regents/files/423brca4.pdf>.

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Heeding Commissioner Rosa's 2022 statement on civility,² the New York State Education Department (NYSED) expects that districts across New York will collaborate with their communities to convey a sense of understanding and purpose about the removal of team names, mascots, and logos connected with Indigenous peoples.

Timeline Summary

Timeframe	Action	Resource
April 2001	Release of Memo by then Commissioner Mills calling upon communities using Indigenous symbols, names, or mascots to end their use.	https://www.nysed.gov/sites/default/files/programs/indigenous-education/public-schools-use-of-native-american-names-symbols-and-mascots.pdf
September 2010	Adoption of New York State's Dignity for All Students Act (DASA)	https://www.p12.nysed.gov/dignityact/
November 2021	Appeal of McMillan et al. to the Commissioner of Education.	https://www.counsel.nysed.gov/Decisions/volume61/d18058
June 2022	Supreme Court (Albany County) affirmation of the Commissioner's determination in McMillan et al.	
November 2022	Release of Memo by Senior Deputy Commissioner James N. Baldwin stating that "public school districts are prohibited from utilizing Native American mascots" and must commit to changing them by the end of the 2022-23 academic year.	https://www.nysed.gov/sites/default/files/programs/main/indigenous-native-american-mascot-memo.pdf
December 2022	Release of draft regulation proposing the addition of Part 123 of the Regulations of the Commissioner of Education relating to prohibiting the use of Indigenous Names, Mascots, and Logos by Public Schools.	https://www.regents.nysed.gov/sites/regents/files/1222p12d2.pdf
April 2023	Final adoption of regulation adding Part 123 of the Regulations of the Commissioner of Education relating to prohibiting the use of Indigenous Names, Mascots, and Logos by Public Schools.	https://www.regents.nysed.gov/sites/regents/files/423brca4.pdf
Ongoing	Any district that requires assistance or has questions can contact NYSED by emailing the Office of Indigenous Education.	mascotadvisory@nysed.gov
May 3, 2023	Effective date of Part 123 of the Regulations of the Commissioner of Education relating to prohibiting the use of Indigenous Names, Mascots, and Logos by Public Schools.	https://www.regents.nysed.gov/sites/regents/files/423brca4.pdf
May 3, 2023	If applicable, written agreements between federally or state-recognized tribal nations must be in effect.	§ 123.4(b)
June 30, 2023	Boards of education must commit, via resolution, to eliminating the use of all Indigenous names, logos, and mascots.	§ 123.3(a)
June 30, 2025	Prohibited team names, mascots, or logos shall be eliminated.	§ 123.3(a)

² <https://www.nysed.gov/news/2022/statement-commissioner-betty-rosa>

Additional Guidance

Many school districts across the state, large and small, urban, suburban, and rural, have engaged in extensive community-driven processes to rebrand their team names, mascots, and logos in the twenty-two years since the initial memo by Commissioner Mills. These exemplar districts can offer advice and guidance on how to successfully transition away from Indigenous team names, mascots, or logos. NYSED has provided ongoing guidance and technical assistance to schools and districts with specific inquiries about this regulation through the NYSED Office of Indigenous Education via email at mascotadvisory@nysed.gov. School districts may also obtain technical assistance through their Board of Cooperative Educational Services (BOCES).

Frequently Asked Questions

Q: If my district has any questions regarding this regulation who should I contact?

A: The NYSED Office of Indigenous Education can help answer any questions regarding this regulation and its implementation via email at mascotadvisory@nysed.gov. You can also contact the District Superintendent of your BOCES.

Q: Does this regulation require us to change the name of our school, school building, school district, or town?

A: No, public schools, school buildings, school districts, or towns named after Indigenous nations, tribes, or people, or derivatives of such usage, are outside of the scope of this regulation.

Q. Do these regulations pertain to the names of public schools, school buildings, or school districts named after Indigenous nations, tribes, or people, or derivatives of such?

A. No, this regulation only applies to school team names, mascots, and logos. Anything else is outside the scope of this regulation.

Q: As a district, how do we know if our team's name, mascot, or logos have a connection with Indigenous nations or peoples in the past?

A: Districts can conduct research using a variety of primary sources including historical photos, yearbooks, or district/local records.

Q: Can we “appeal” the prohibition on using team names, logos, and mascots in my district?

A: Boards of education are responsible for determining whether their team names, logos, or mascots are prohibited by the regulation. An individual aggrieved by the action or inaction of a school district may commence an appeal to the Commissioner under Education Law § 310

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or a petition for removal of school officers under Education Law § 306. More information about that process is on the NYSED website at <https://www.counsel.nysed.gov/appeals>.

If a school district does not comply with this regulation the Department may take several actions as prescribed under the education law including, but not limited to, the removal of school officers, or as a last resort, withholding of State Aid, pursuant to Education Law § 306 [2].

Q: Can my district keep our team's name if it eliminates all associated Indigenous imagery?

A: Those districts that never utilized Indigenous imagery in connection with their team name will not be required to change. However, those districts that currently use, or previously used team names associated with Indigenous imagery or symbols must change their team's name.

Although some imagery and other aspects of the connection between a team's name and Indigenous Nations or individuals may have been changed, removed, or used within a broader context, the connection, connotations, and history of these practices remain associated with the use of team names that have or have had connections to Indigenous nations or peoples.

Continued use of the vestiges of these names and/or images, either explicitly or implicitly, contributes to the continued stereotyping, caricaturing, and denigration of Indigenous peoples. Districts in this situation should take this opportunity to re-brand, as many districts across the state have already done, through collaborative engagement with stakeholders.

Q: The team logo for my district contains imagery connected to Indigenous peoples, such as feathers and tomahawks, but there is currently no other mention or connection to Indigenous nations or peoples. Do we still need to change our team logo?

A: Yes. Any team name, mascot, or logo that has any connection to Indigenous peoples in the past or present, including logos that incorporate symbols associated with Indigenous peoples such as feathers, historical weapons like tomahawks or spears, or logos utilizing stylization generally attributable to or in association with Indigenous peoples such as feathers or traditional Indigenous clothing are prohibited (8 NYCRR 123.1).

Q: How should districts with a team name, mascot, or logo that has a connection to Indigenous nations or peoples commit, via resolution, to eliminating the use of all Indigenous names, logos, and mascots by the end of the 2022-2023 academic year as required by the regulation?

A: While each resolution might slightly differ based on the needs of the district, the regulation does not require specific language; boards of education are encouraged to be concise about their intentions consistent with the regulation. The details of the districts' comprehensive plan to replace Indigenous team names, logos, and mascots may be developed

separately and incorporated by reference (e.g., “In accordance with the district’s mascot replacement plan, attached as Exhibit A and incorporated by reference...”).

Q: My district is in the process of changing our team's name, mascot, and logo. Do we need to change plaques on historical trophies in our school trophy case or remove championship banners from decades ago that might contain team names or logos prohibited by this regulation?

A: Legacy or memorial items, such as plaques on trophies, are historical artifacts that do not need to be removed or changed. However, NYSED encourages districts to contextualize these artifacts and, if possible, locate them to areas conducive to conversations that permit contextualization regarding the impact such team names, mascots, or logos have on Indigenous peoples as well as the history and cultures of such peoples and nations.

Q: How far does a school district’s obligation extend in prohibiting its employees “from utilizing or promoting any Indigenous name, logo, or mascot?”

A: The regulation prohibits school district employees from displaying paraphernalia or clothing associated with their own school district’s retired Indigenous team name, logo, or mascot. This would encompass retired Indigenous team names, logos, or mascots in school districts throughout New York State. While other Indigenous team names, logos, or mascots (such as professional sports teams) may also be inconsistent with the Dignity for All Students Act, their use is outside the scope of this regulatory provision.

Q: Our district’s team name, mascot, and logo have connections to Indigenous nations and peoples. However, a substantial portion of district residents are opposed to the change. What should we do?

A: This can be challenging for school districts and boards of education. It may be helpful to engage and motivate community groups and staff to see re-branding as an opportunity, explaining why the change is necessary. Schools and districts making these required changes might want to follow the example of other districts across New York that have already engaged in this process—for example, the Brentwood Union Free School District and the Waterloo, Lyme, Watkins Glen, and Candor Central School Districts are a few that have engaged in this process.

Although rebranding might not be easy for communities, the harm that the continued use of team names, mascots, or logos connected to Indigenous peoples has on Indigenous and non-Indigenous peoples, including students, is well established. According to the American Psychological Association,³

³ <https://www.apa.org/pi/oema/resources/indian-mascots#:~:text=The%20symbols%2C%20images%20and%20mascots,misconceptions%20about%20American%20Indian%20culture.>

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

- ***Undermining the educational experiences of members of all communities-especially those who have had little or no contact with Indigenous peoples. The symbols, images, and mascots teach non-Indian children that it is acceptable to participate in culturally abusive behavior and perpetuate inaccurate misconceptions about American Indian culture.***
- ***Establishing an unwelcome and often hostile learning environment for American Indian students that affirms negative images/stereotypes that are promoted in mainstream society.***

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

- ***Undermines the ability of American Indian Nations to portray accurate and respectful images of their culture, spirituality, and traditions. Many American Indians report that they find today's typical portrayal of American Indian culture disrespectful and offensive to their spiritual beliefs.***
- ***Presents stereotypical images of American Indians. Such mascots are a contemporary example of prejudice by the dominant culture against racial and ethnic minority groups.***
- ***Is a form of discrimination against American Indian Nations that can lead to negative relations between groups.***

Q: I heard there is an Indigenous Mascot Advisory group. Is this group making the decisions on which team names, mascots, or logos are acceptable or not under this regulation?

A: The regulation places the responsibility of eliminating Indigenous team names, logos, or mascots on local school boards. Therefore, it is the responsibility of each school board to determine the applicability of the regulation and ensure their district's compliance. While NYSED has convened an Indigenous Mascot Advisory group composed of representatives and leaders of Indigenous nations and peoples with relationships and connections to New York State, the purposes of the Advisory Group are to ensure that the voice of Indigenous nations and peoples is at the core of this important work; that NYSED is able to obtain technical assistance regarding this regulation and its implementation from Indigenous nations and peoples; and to provide advice on the potential connection of various names, symbols, and images to and with Indigenous nations and peoples. Questions regarding this regulation can be addressed to the NYSED Office of Indigenous Education at mascotadvisory@nysed.gov.

Q: What if my district, or a district I know about in New York State is not complying with the requirements of this regulation?

A: We encourage individuals to contact the NYSED Office of Indigenous Education at mascotadvisory@nysed.gov. If the matter cannot be resolved at the local level, an individual aggrieved by the action or inaction of a school district may commence an appeal to the Commissioner under Education Law § 310 or a petition for removal of school officers under Education Law § 306. More information on that process can be found on the NYSED website at <https://www.counsel.nysed.gov/appeals>.

Q: If my board or district refuses to comply with this regulation, will my district have funding withheld or board members removed?

A: The Department hopes this matter can be managed through local leadership and will work to support district compliance with this regulation. If a school district will not make this necessary change on its own to ensure compliance, the Department may take action as prescribed under the Education Law including, but not limited to, the removal of school officers, or as a last resort, withholding of State Aid, pursuant to Education Law § 306 [2].

Q: What funding is available for my district to address capital construction costs relating to compliance with this regulation?

A: Districts should remove prohibited team names, mascots, and logos as quickly as possible but by the end of the 2024-2025 academic year. Districts should employ the most economical approach to addressing these requirements, in both time and capital. For example, rather than replacing an entire artificial turf field, the center section of the field containing the prohibited team, logo, or imagery could be replaced. Small sections of terrazzo tiles can be removed and replaced rather than entire floors, and images can be painted over rather than replacing walls.

Building Aid is available for this work and Districts must submit applications for capital construction projects to the Office of Facilities Planning for review, approval, and permitting. For more information on the permit process, please visit <https://www.p12.nysed.gov/facplan/>. Please note the permitting process takes several months and thus must be factored into the timeline for the construction work.

The \$10,000 requirement for Building Aid does not apply to these projects if it is limited to site work only (i.e., turf field partial replacements, site signage replacements, etc.). If the scope of the project extends beyond the activities necessary to comply with Commissioner's Regulation Part 123, then standard Building Aid rules apply at large. These capital projects are not considered new facilities.

For further guidance and information, the NYSED Facilities and State Aid offices can be reached via email at EMSCFP@nysed.gov.

Q: My district just completed a new capital project last year that included prohibited images or names. Do we still need to replace these new capital investments?

A: Yes. However, Districts have the right to request an extension of time as outlined in 8 NYCRR 123.3 (b).

Q: My district cannot afford the cost of making these changes. What can we do?

A: State building aid is available to defray and subsidize any capital expenses associated with eliminating prohibited team names, mascots, and logos connected to Indigenous nations and peoples. Additional funding can, and should, be sought through the school district budget or capital project processes.

Q: Many people in our community believe that our use of a team name, mascot, or logo connected to Indigenous nations or peoples “honors” them. How can we retain a connection to Indigenous nations or peoples once our district rebrands?

A: State learning standards that address the history and culture of Indigenous peoples can be found on the Department's [Office of Standards and Instruction's website](#). In addition, New York State has a rich history and connection to Indigenous nations and people. NYSED encourages all districts to connect with local Indigenous nations and peoples in or near their communities to foster authentic conversations with Indigenous nations regarding their history and present-day cultures. In addition, there are numerous cultural institutions near New York schools with a mission highlighting Indigenous cultures and peoples, past and present. More information on those institutions can be obtained from NYSED's Office of Indigenous Education.

Q: What if my district is unable to fully eliminate team names, mascots, or logos with connections to Indigenous Nations or peoples by the end of the 2024-2025 school year?

A: Upon a showing of good cause, the commissioner may grant an extension of the timelines prescribed in this regulation. The approval or denial of an extension shall be in writing and, if applicable, NYSED shall state the reasons for the denial.

Good faith compliance may include:

- The inability of specific staff members, contractors, or consultants to complete specific work on a timely basis if significant progress (approximately 75%) has been made and is ongoing;
- Replacement costs that could be substantially mitigated if postponed for a brief period; and
- In the case of capital projects needed to comply with this regulation, work toward compliance will have commenced, and a substantial percentage of the work needed to comply (approximately 75%) shall have been completed by the end of the 2024-2025 academic year with an attestation by the district, consultant, or contractor to such effect provided. These capital projects are not considered new facilities.

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To request an extension, districts should email mascotadvisory@nysed.gov, copying the district's sole supervisory (BOCES) District Superintendent with:

- An explanation as to why the extension is needed;
- A timeline of actions the district has taken to date to eliminate all use of prohibited names, logos, or mascots pursuant to this regulation, including specific dates of such actions; and
- A commitment by the president of the board of education as to the date by which the use of prohibited names, logos, or mascots pursuant to this regulation will be eliminated.