

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Article 2 and sections 101, 207, 305, 308, 309, and 2854 of the Education Law.

Subchapter E of the Regulations of the Commissioner of Education is amended by adding a new Part 123 to read as follows:

Part 123

Use of Indigenous Names, Logos, or Mascots Prohibited

§123.1 Definitions.

As used in this Part, "Indigenous name, logo, or mascot" means a name, symbol, or image that depicts or refers to Indigenous persons, tribes, nations, individuals, customs, symbols, or traditions, including actual or stereotypical aspects of Indigenous cultures, used to represent a public school, including but not limited to such schools sports teams. It does not include a public school, school building, or school district named after an Indigenous tribe.

§123.2 Prohibition.

Except as provided in section 123.4 of this Part, no public school in the State of New York may utilize or display an Indigenous name, logo, or mascot other than for purposes of classroom instruction.

§123.3 Timelines.

(a) Boards of education must commit, via resolution, to eliminating use of all Indigenous names, logos, and mascots by the end of the 2022-23 school year. Such resolution shall identify a plan to eliminate all use of the prohibited name, logo, or

mascot within a reasonable time, which shall be no later than the end of the 2024-2025 school year.

(b) Upon a showing of good cause, the commissioner may grant an extension of the timelines prescribed in subdivision (a) of this section.

§123.4 Exceptions; Tribal Use or Approval.

(a) Tribal Use. Nothing in this section shall be construed to prohibit a federally recognized tribal nation within the State of New York or a New York State recognized tribal nation from choosing to use an Indigenous name, logo, or mascot for a sports team comprised of its tribal members, including an Indigenous name, logo, or mascot for a sports team comprised of its tribal members, including a tribal school or intramural league.

(b) Tribal Approval. This Part shall not apply where a written agreement exists prior to the effective date of this part between a federally recognized tribal nation within the State of New York or a New York State recognized tribal nation and a public school permitting the use of an Indigenous name, mascot, or logo that is culturally affiliated with such tribe. A public school shall not offer or accept any money, consideration, or thing of value pursuant to any such agreement. The tribal nation shall have the right and ability to revoke any such agreement at any time. Upon termination of such an agreement, the public school shall have the remainder of the school year in which such agreement is revoked and one additional school year to discontinue its use of an Indigenous name, logo, or mascot.

§123.5 Implementation.

Public schools shall prohibit school officers and employees when located on school property or at a school function from utilizing or promoting any Indigenous name, logo, or mascot. This provision shall not apply to any school officer or employee who is a member of a tribal nation and is utilizing or promoting an Indigenous name, logo, or mascot of such tribal nation.