

# Oriskany Central School District

*Timothy J. Gaffney*  
Superintendent of Schools

*1313 Utica Street*  
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*Michelle S. Tikalsky*  
School Business Executive

March 2, 2023

Dear Oriskany Community Members:

As you may know, The New York State Department of Education (NYSED) has issued a mandate that all schools “end the use of Native American mascots as soon as practical.”

Please know I have attached for your review the following information from the State Education Department, to date, communicating this information.

Attached for your preview are the following supporting documents:

- Use of Native American Mascots
  - James Baldwin, Senior Deputy Commissioner
  - NYSED – New York State Department of Education
  - November 17 , 2022
- Use of Native American Mascots
  - James Baldwin, Senior Deputy Commissioner
  - NYSED – New York State Department of Education
  - November 17, 2022
  - **Edited Version**
- Commissioner of Education Relating to prohibiting the Use of Indigenous Names, Mascots, and Logos by Public Schools
  - Angelique Johnson-Dingle
  - NYSED – New York State Department of Education
  - December 1, 2022
- Commissioner of Education Relating to prohibiting the Use of Indigenous Names, Mascots, and Logos by Public Schools
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  - **Edited Version**
- Statement from Ray Halbritter, Oneida Indian Nation Representative and Founder of Change the Mascot Campaign in Response to New York State Removing Native American Mascots in Schools

The Board of Education is currently reviewing this information provided by the New York State Department of Education and is exploring options to address this mandate from NYSED. To date, we are awaiting additional information from NYSED, including projected timelines, implementations, and expectations.

As addressed in the December 1, 2022 communique from Angelique Johnson-Dingle (NYSED), regarding the Use of Indigenous Names, Mascots, and Logos by Public Schools please note the following:

## **Timetable for Implementation**

### *Board of Education*

*James P. Chase, President*      *Carl V. Graziadei, Vice President*  
*Michelle M. Anderson*   *Louis A. Ciotti*   *Therese M. Hanna*   *Brian C. Judycki*   *Amy L. Mayo*

- *It is anticipated that the proposed amendment will be presented for permanent adoption at the April 2023 Regents meeting after publication of the proposed amendment in the State Registrar and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the April 2023 meeting, the proposed amendment will become effective as a permanent rule on May 3, 2023.*

We are very conscientious and respectful of the culture and history of the Oriskany community and the Oriskany Central School District. As we continue to review and analyze current and future guidelines and mandates issued by the New York State Department of Education, we will keep everyone apprised of the ongoing information and updates.

To date, we have not yet explored any changes in our mascot or logo. Should, or when that process begins, we will communicate that information out to the community as soon as practical.

Thank you for your support and understanding as we navigate through this change.

In closing, I would like to leave you with the following:

### **A Brief History of Oriskany**

Oriskany was founded in the eighteenth century as the Oneida village of Oriska at the confluence of the Oriskany Creek and the Mohawk River.

On August 6, 1777, American Brigadier General Nicholas Herkimer, the Tryon County Militia, and their Oneida allies, led by Hanyery, left from Oriska to relieve the British siege of Fort Stanwix (Schuyler). En route, they were ambushed by Loyalists who had joined forces with the Mohawk in what is now known as the Battle of Oriskany. The allied American forces held the field, but took immense casualties in what became known as one of the bloodiest battles of the American Revolution.

Not long after the battle, the Oriska village was attacked in retaliation for supporting the Americans, destroying homes and provisions. War raged throughout the Mohawk Valley over the coming years.

In June 1785, the "Oriskany Patent" was surveyed for the new State of New York, with "Oriskany" noted where the creek joins the river. Almost twenty years later, the surveyor, Col. Gerrit Lansing, returned to settle on the west bank of the Oriskany Creek.

In 1810, Lansing would help form the Oriskany Manufacturing Company, one of the first mills in the United States to turn wool into finished cloth. Soon after, Oriskany also became one of the first communities along the Erie Canal and enjoyed many prosperous decades of commerce and manufacturing with notable businesses related to textiles, iron working, and agriculture. The village was formally incorporated in 1914.

During World War II, the Battle of Oriskany was selected as the namesake of aircraft carrier CV-34, the USS *Oriskany*. The ship was not completed for service before the end of the war, but was finally commissioned in 1950. *Oriskany* served with distinction in Korea and Vietnam before being decommissioned in 1976.

Starting in 1992, the carrier's starboard anchor, ship's bell, and an A-4E Skyhawk jet came to rest in the Village of Oriskany as memorials to the USS *Oriskany* and the crew who served aboard.

As of 2020, the Village of Oriskany covers about one square mile and is home to 1,315 residents.

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*Michelle S. Tikalsky*  
*School Business Executive*

Please do not hesitate to reach out to me should you have any additional questions or inquiries.

Respectfully,

Timothy Gaffney  
Superintendent of Schools

## *Board of Education*

*James P. Chase, President*      *Carl V. Graziadei, Vice President*  
*Michelle M. Anderson*   *Louis A. Ciotti*   *Therese M. Hanna*   *Brian C. Judycki*   *Amy L. Mayo*





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## Statement from Ray Halbritter, Oneida Indian Nation Representative and Founder of Change the Mascot Campaign in Response to New York State

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### Statement from Ray Halbritter, Oneida Indian Nation Representative and Founder of Change the Mascot Campaign in Response to New York State Removing Native American Mascots in Schools

Oneida Indian Nation Homelands (November 22, 2022) – The Oneida Indian Nation released a statement today in support of the New York State Department of Education’s notice to school districts throughout the state, calling for the removal of all Native American mascots.

“The Oneida Indian Nation believes that the institutions that teach our children need to be places of safety and tolerance. Schools should be going out of their way to make children of all ethnicities and heritages feel comfortable – that is what the New York State Education Department is attempting to do with their notice to schools to remove Native American mascots. At its core, this issue is really about how this state views its responsibilities to an increasingly diverse population. For too long, we have permitted old traditions to persist – the kind that suggest, in some circumstances, that it is acceptable to use dictionary defined slurs as mascots, like was the case with the Washington NFL team before they changed their names.”

Native American organizations, civil rights groups and public health organizations have made clear the damage that the mascotization of Native people has on our youth. Promoting inclusivity and mutual respect is the best way to unify our communities moving forward.”

The Oneida Indian Nation founded the Change the Mascot Campaign in 2013, which successfully advocated for the change of the Washington NFL team’s derogatory name.

About the Oneida Indian Nation

The Oneida Indian Nation is a federally recognized Indian nation in Central New York. A founding member of the Haudenosaunee Confederacy (also known as the Six Nations or Iroquois Confederacy), the Oneida Indian Nation sided with the Americans in the Revolutionary War and was thanked by Congress and President George Washington for its loyalty and assistance. Today, the Oneida Indian Nation consists of about 1,000 enrolled Members, most of them living in Central New York.

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Categories: Press Releases | Tags: Change the Mascot, Native Mascots

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THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK STATE / ALBANY, NY 12234

James N. Baldwin, Senior Deputy Commissioner for Education Policy  
Education Building, Room 2M EB (518) 474-3862  
89 Washington Avenue  
Albany, NY 12234  
[jim.baldwin@nysed.gov](mailto:jim.baldwin@nysed.gov)

To: All School Districts

From: James N. Baldwin, Senior Deputy Commissioner

Date: November 17, 2022

Re: Use of Native American Mascots

The State Education Department (SED) wishes to ensure school districts' knowledge of a recent legal decision and their concomitant need to ensure that district mascots, team names, and logos are non-discriminatory.

SED has consistently opposed the use of Native American mascots. In 2001, former Commissioner of Education Richard P. Mills issued a memorandum "conclud[ing] that the use of Native American symbols or depictions as mascots can become a barrier to building a safe and nurturing school community and improving academic achievement for all students." Commissioner Mills recognized that, while a role for local discretion existed, "there is a state interest in providing a safe and supportive learning environment for every child." He asked boards of education "to end the use of Native American mascots as soon as practical."

Many school districts have heeded Commissioner Mills' directive and retired their mascots. Most recently, the Waterloo and Lyme Central School Districts retired their mascots. SED commends the efforts of these districts.

Other school districts have not complied. Among them, until recently, was the Cambridge Central School District. After extensive study in 2020 and 2021, Cambridge voted to retire its "Indians" team name, logo, and mascot in June 2021. It hastily reversed itself in July 2021 upon the election of a new board member. Community members challenged this action in an appeal to the Commissioner of Education under Education Law § 310.

In *Appeal of McMillan, et al.*,<sup>1</sup> the Commissioner held that: (1) Cambridge "offered no meaningful explanation as to why [it] no longer found the information it had previously cited persuasive"; and (2) Cambridge's retention of the "Indians" logo "inhibit[ed] the creation of a safe and supportive environment for all students." On the latter point, the Commissioner noted that:

<sup>1</sup> 61 Ed Dept Rep, Decision No. 18,058, available at <http://www.counsel.nysed.gov/Decisions/volume61/d18058>.

- A 2020 literature review on studies of Native American mascots by Laurel R. Davis-Delano, *et al.* concluded that each study reviewed “demonstrate[d] either direct negative effects on Native Americans or that these mascots activate[d], reflect[ed], and/or reinforce[d] stereotyping and prejudice among non-Native persons.”
- The New York Association of School Psychologists (NYASP) concluded that “research studies have consistently shown that the use of mascots and Indigenous symbols and imagery have a negative impact on not only Indigenous [students], but all students ...”
- The Dignity for All Students Act prohibits “the creation of a hostile environment ... that ... reasonably causes or would reasonably be expected to cause ... emotional harm to a student,” a condition that could be created through the use of Native American mascots.
- The Board of Regents (BOR) has taken affirmative measures, consistent with the Dignity Act, to promote positive learning environments in schools, including its Culturally Responsive-Sustaining Education Framework and policy on Diversity, Equity, and Inclusion.

Cambridge appealed the Commissioner’s decision. Supreme Court (Albany County) affirmed the Commissioner’s determination in its entirety on June 22, 2022. Crucially, the court held that the Commissioner

determined correctly that the continued use of the ‘Indians’ nickname and imagery, given the 20 years that have passed since Commissioner Mills’ directive, and given the imperatives of the District’s Diversity Policy, was itself an abuse of discretion ....

Thus, the court’s decision establishes that public school districts are prohibited from utilizing Native American mascots. Arguments that community members support the use of such imagery or that it is “respectful” to Native Americans are no longer tenable.

Those school districts that continue to utilize Native American team names, logos, and/or imagery without current approval from a recognized tribe must immediately come into compliance. Should they require guidance, districts may reach out to those districts that successfully retired their mascots or their local Board of Cooperative Education Services. The Department is developing regulations that will clarify school districts’ obligations in this respect.

Should a district fail to affirmatively commit to replacing its Native American team name, logo, and/or imagery by the end of the 2022-23 school year, it may be in willful violation of the Dignity Act. The penalties for such a violation include the removal of school officers and the withholding of State Aid.<sup>2</sup>

Schools are learning environments; students learn as much through observation of their surroundings as they do from direct instruction. In addition to their legal obligations, boards of education that continue to utilize Native American mascots must reflect upon the message their choices convey to students, parents, and their communities.

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<sup>2</sup> Education Law § 306.





directive, and given the imperatives of the District's Diversity Policy, was itself an abuse of discretion...

- The court's decision establishes that public schools are prohibited from utilizing Native American mascots. Arguments that community members support the use of such imagery or that it is "respectful" to Native Americans are no longer tenable.
- Those schools that continue to utilize Native American team names, logos, and/or imagery without current approval from a recognized tribe must immediately come into compliance.
- Should a district fail to affirmatively commit to replacing its Native American team name, logo, and/or imagery by the end of the 2022-23 school year, it may be in willful violation of the Dignity Act.
- The penalties for such a violation include removal of school officers and the withholding of State Aid.

**Please know, the entire unedited document by Senior Deputy Commissioner James N. Baldwin may also be viewed on our District Website.**



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee

**FROM:** Angelique Johnson-Dingle *Angelique Johnson-Dingle*

**SUBJECT:** Proposed 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

**DATE:** December 1, 2022

**AUTHORIZATION(S):**

*Don McGreevey* *Betsy Maloney*

#### SUMMARY

#### Issue for Discussion

Should the Board of Regents adopt a new part 123 of the Regulations of the Commissioner of Education relating to prohibiting the use of Indigenous names, mascots, and logos by public schools?

#### Reason for Consideration

State statute (Education Law §10 *et seq.*, the "Dignity for all Students Act").

#### Proposed Handling

The proposed amendment is presented to the P-12 Education Committee for discussion at the December 2022 meeting of the Board of Regents. A copy of the proposed amendment is attached (Attachment A).

#### Procedural History

A Notice of Proposed Rulemaking will be published in the State Register on December 28, 2022, for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

## **Background Information**

The New York State Education Department (SED) has consistently opposed the use of Indigenous mascots. In 2001, former Commissioner of Education Richard P. Mills issued a memorandum “conclud[ing] that the use of Native American symbols or depictions as mascots can become a barrier to building a safe and nurturing school community and improving academic achievement for all students.” Commissioner Mills recognized that, while a role for local discretion existed, “there is a state interest in providing a safe and supportive learning environment for every child.” He asked boards of education “to end the use of Native American mascots as soon as practical.”

Many school districts have heeded Commissioner Mills’ directive. Most recently, the Waterloo and Lyme Central School Districts retired their mascots. SED commends the efforts of these districts and the many others that have or are embarking on this process. Other school districts have not complied. Among them, until recently, was the Cambridge Central School District. After extensive study in 2020 and 2021, Cambridge voted to retire its “Indians” team name, logo, and mascot in June 2021. It hastily reversed itself in July 2021 upon the election of a new board member. Community members challenged this action in an appeal to the Commissioner of Education under Education Law § 310.

In *Appeal of McMillan, et al.*,<sup>1</sup> the Commissioner held that: (1) Cambridge “offered no meaningful explanation as to why [it] no longer found the information it had previously cited persuasive”; and (2) Cambridge’s retention of the “Indians” logo “inhibit[ed] the creation of a safe and supportive environment for all students.” On the latter point, the Commissioner noted that:

- A 2020 literature review on studies of Native American mascots by Laurel R. Davis-Delano, *et al.* concluded that each study reviewed “demonstrate[d] either direct negative effects on Native Americans or that these mascots activate[d], reflect[ed], and/or reinforce[d] stereotyping and prejudice among non-Native persons.”
- The New York Association of School Psychologists (NYASP) concluded that “research studies have consistently shown that the use of mascots and Indigenous symbols and imagery have a negative impact on not only Indigenous [students], but all students ...”
- The Dignity for All Students Act (the Dignity Act, sometimes referred to as DASA) prohibits “the creation of a hostile environment ... that ... reasonably causes or would reasonably be expected to cause ... emotional harm to a student,” a condition that could be created through the use of Native American mascots.<sup>2</sup>
- The Board of Regents (BOR) has taken affirmative measures, consistent with the Dignity Act, to promote positive learning environments in schools, including its

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<sup>1</sup> 61 Ed Dept Rep, Decision No. 18,058, *available at* <http://www.counsel.nysed.gov/Decisions/volume61/d18058>.

<sup>2</sup> The Department is the agency tasked by the Legislature to administer the Dignity Act.

Culturally Responsive-Sustaining Education Framework and policy on Diversity, Equity, and Inclusion.

Cambridge appealed the Commissioner's decision. Supreme Court (Albany County) affirmed the Commissioner's determination in its entirety on June 22, 2022. Crucially, the court held that the Commissioner:

*determined correctly that the continued use of the 'Indians' nickname and imagery, given the 20 years that have passed since Commissioner Mills' directive, and given the imperatives of the District's Diversity Policy, was itself an abuse of discretion ....*

Thus, the court's decision establishes that public schools are prohibited from utilizing Indigenous mascots. Arguments that community members support the use of such imagery or that it is "respectful" to Indigenous persons are no longer tenable.

In a memorandum dated November 17, 2022<sup>3</sup>, the Department informed the field of the Commissioner's decision in *Appeal of McMillan et al.* and their concomitant need to eliminate the use of Native American mascots.

The Department now proposes a regulation to clarify public schools' obligations in this respect. In addition to prohibiting the use of Indigenous names, mascots, or logos by public schools, the regulation:

- defines Indigenous name, mascot, or logo and provides that such definition does not include a public school building, public school, or school district named after an Indigenous tribe;
- provides timelines by which such names, mascots, and/or logos must be eliminated;
- creates exceptions for federally or State-recognized tribes to (1) utilize such names, mascots, and/or logos for sports teams comprised of their tribal members; and (2) allows a public school to utilize an Indigenous name, mascot, or logo if an agreement exists in writing between the tribal nation and public school prior to the effective date of the proposed rule; and
- provides that public schools shall prohibit school officers, employees, and all individuals when located on school property or at a school function from utilizing or promoting any Indigenous name, logo, or mascot. This provision does not apply to individuals who are members of tribal nations.

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<sup>3</sup> <http://www.nysed.gov/common/nysed/files/programs/main/indigenous-native-american-mascot-memo.pdf>

**Related Regents Items**

Not applicable.

**Recommendation**

Not applicable.

**Timetable for Implementation**

It is anticipated that the proposed amendment will be presented for permanent adoption at the April 2023 Regents meeting after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the April 2023 meeting, the proposed amendment will become effective as a permanent rule on May 3, 2023.

**Attachment A**

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.

§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, employees, and all individuals 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 individual who is a member of a tribal nation and is utilizing or promoting an Indigenous name, logo, or mascot of such tribal nation.



- The Commissioner also notes that:
  - A 2020 literature review on studies of Native American mascots concluded that each study reviewed “demonstrated either direct negative effects on Native American or that these mascots activated, reflected, and/or reinforced stereotyping and prejudice among non-Native persons.”
  - The New York Association of School Psychologists (NYASP) concluded that “research studies have consistently shown that the use of mascots and indigenous symbols and imagery have a negative impact on not only Indigenous [students], but all students...”
  - The Dignity for All Students Act (DASA) prohibits the “the creation of a hostile environment...that...reasonably causes or would reasonably be expected to cause...emotional harm to a student,” a condition that could be created through the use of Native American mascots.
  - The Board of Regents (BOR) has taken affirmative measures, consistent with the Dignity Act, to promote positive learning environments in schools, including Culturally Responsive-Sustaining Education Framework and policy on Diversity, Equity and Inclusion.
- The Supreme Court (Albany County) affirmed the Commissioner’s determination in its entirety (regarding the appeal of Cambridge CSD) on June 22, 2022.
  - *“determined correctly that the continued use of the ‘Indians’ nickname and imagery, given 20 years that have passed since Commissioner Mills’ directive, and given the imperatives of the District’s Diversity Policy, was itself an abuse of discretion...”*
- In a memorandum dated November 17, 2022, the Department informed the field of the Commissioner’s decision and their commitment need to eliminate the use of Native American mascots.
- The Department now proposes a regulation to clarify public schools’ obligation in this respect. In addition to prohibiting the use of Indigenous names, mascots, or logos by schools, the regulation:
  - Defines Indigenous name, mascot, or logo and provides that such definition does not include a public school building, public school, or school district named after an indigenous tribe;
  - Provides timelines by which such names, mascots, and/or logos must be eliminated;
  - Creates expectations for federally or State-recognized tribes to (1) utilize such names, mascots, and/or logos for sports teams comprised of their tribal members; and (2) allows a public school to utilize an Indigenous name, mascot, or logo if an agreement exists in writing between the tribal nation and public school prior to the effective date of the proposed rule; and
  - Provides that public schools shall prohibit school officers, employees, and all individuals when located on school property or at a school function from utilizing or promoting any Indigenous name, logo, or mascot. This provision does not apply to individuals who are members of tribal nations.

