

CHAPTER 370

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 21-116

BY SENATOR(S) Danielson, Bridges, Buckner, Coleman, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter;
also REPRESENTATIVE(S) Benavidez and McLachlan, Amabile, Bacon, Bennett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jackson, Jodeh, Kipp, Lontine, McCluskie, McCormick, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Titone, Valdez A., Weissman, Young, Garnett.

AN ACT**CONCERNING THE PROHIBITION OF AMERICAN INDIAN MASCOTS IN COLORADO.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The presence and use of derogatory American Indian mascots across Colorado creates an unsafe learning environment for American Indian students by having serious negative impacts on those students' mental health and by promoting bullying of American Indian students;

(b) American Indian mascots teach non-American Indian children inaccurate information about American Indian culture and teach them that it is acceptable to participate in culturally abusive and prejudicial behaviors;

(c) In the early twentieth century, American Indian boarding schools across Colorado forced American Indian children to relinquish their tribal identities and give up inherited customs so that they would better assimilate into the majority white culture;

(d) Young American Indian children were coerced into leaving their families, giving up their culture and language, and changing their appearances to pass for a white person. At the same time, non-American Indian students in many communities in Colorado were dressing up in war bonnets at pep rallies that they called "pow-wows".

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) In 1925, the same year that La Veta high school became the "R*dsk*ns", a Loveland yearbook stated that the school decided to adopt the "Indian" moniker to depict "bravery, loyalty, patriotism, and dauntless pride". Several years later, Cheyenne Mountain high school would also claim that its "Indian" mascot's purpose was to "preserve the legacy of the Cheyenne and Ute tribes, which were fading in the area".

(f) Despite continued claims that such mascots honored American Indian peoples, the majority of such mascots in Colorado regularly employed racist stereotypes, from Eaton high school's large-nosed caricatures to Lamar high school's "Chief Ugh-Lee" mascot;

(g) By the time of the civil rights movement in the 1960s, the first wave of American Indian activists began calling for an end to American Indian mascots. By the end of the 1990s, only three Colorado schools had listened. Although organizations like the National Commission on Civil Rights, the NAACP, the National Congress of American Indians, and the American Psychological Association published statements condemning American Indian mascots, few Colorado schools would take heed, even into the early 2000s.

(h) In 2015, Colorado Governor John Hickenlooper signed an executive order to establish the commission to study American Indian representations in public schools;

(i) The commission, comprised of American Indian leaders from across the state, visited the Colorado schools that wanted to be a part of this conversation. There were only four: Strasburg, Loveland, Eaton, and Lamar. After visiting each of these communities, the commission's recommendation was to completely eliminate American Indian imagery and nomenclature in schools in Colorado.

(j) Since that time, a few Colorado schools have voluntarily abandoned their American Indian mascots, but change, for the most part, has not come easily; and

(k) Currently, public sentiment is moving in favor of abandoning these discriminatory mascots. Many national athletic teams have abandoned them, and similar changes are happening at the college level and on down to the local level. In 2019, Maine successfully paved the way with legislation for an American Indian mascot ban at the state level.

(2) Therefore, the general assembly declares that passing legislation to retire all American Indian mascots in the state will provide another step toward justice and healing to the descendants of the survivors of the Sand Creek Massacre, most notably the Cheyenne and Arapaho tribes, as well as other American Indians in Colorado who have been harmed or offended by these discriminatory mascots.

SECTION 2. In Colorado Revised Statutes, **add** 22-1-133 as follows:

22-1-133. Prohibition on use of American Indian mascots - exemptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AMERICAN INDIAN MASCOT" MEANS A NAME, SYMBOL, OR IMAGE THAT DEPICTS OR REFERS TO AN AMERICAN INDIAN TRIBE, INDIVIDUAL, CUSTOM, OR TRADITION THAT IS USED AS A MASCOT, NICKNAME, LOGO, LETTERHEAD, OR TEAM NAME FOR THE SCHOOL.

(b) "COMMISSION" MEANS THE COLORADO COMMISSION OF INDIAN AFFAIRS, ESTABLISHED PURSUANT TO SECTION 24-44-102.

(c) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

(d) "PUBLIC SCHOOL" MEANS:

(I) AN ELEMENTARY, MIDDLE, JUNIOR HIGH, HIGH SCHOOL, OR DISTRICT CHARTER SCHOOL OF A SCHOOL DISTRICT THAT SERVES ANY OF GRADES KINDERGARTEN THROUGH TWELVE; AND

(II) AN INSTITUTE CHARTER SCHOOL THAT SERVES ANY OF GRADES KINDERGARTEN THROUGH TWELVE.

(2) (a) EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(b) OF THIS SECTION, ON OR AFTER JUNE 1, 2022, A PUBLIC SCHOOL IN THE STATE IS PROHIBITED FROM USING AN AMERICAN INDIAN MASCOT. NOTWITHSTANDING THE DEFINITION OF THE TERM "AMERICAN INDIAN MASCOT" IN SUBSECTION (1) OF THIS SECTION, A PUBLIC SCHOOL THAT IS NAMED AFTER AN AMERICAN INDIAN TRIBE OR AMERICAN INDIAN INDIVIDUAL MAY USE THE TRIBE'S OR INDIVIDUAL'S NAME, BUT NOT AN IMAGE OR SYMBOL, ON THE PUBLIC SCHOOL'S LETTERHEAD. ANY PUBLIC SCHOOL THAT IS USING SUCH AN AMERICAN INDIAN MASCOT AS OF JUNE 1, 2022, SHALL IMMEDIATELY CEASE USE OF SUCH AMERICAN INDIAN MASCOT.

(b) THE PROHIBITION SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO:

(I) ANY AGREEMENT THAT EXISTS PRIOR TO JUNE 30, 2021, BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC SCHOOL. A PUBLIC SCHOOL THAT IS A PARTY TO SUCH AN AGREEMENT IS HELD TO A HIGH STANDARD AND EXPECTED TO HONOR THE AGREEMENT. THE FEDERALLY RECOGNIZED INDIAN TRIBE HAS THE RIGHT AND ABILITY TO REVOKE ANY SUCH AGREEMENT AT ANY TIME AT ITS DISCRETION. IF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (2)(b)(I) BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC SCHOOL IS TERMINATED BY EITHER PARTY, THE PUBLIC SCHOOL HAS ONE YEAR FROM THE DATE OF TERMINATION TO DISCONTINUE ITS USE OF ITS AMERICAN INDIAN MASCOT BEFORE THE PENALTIES SET FORTH IN SUBSECTION (3) OF THIS SECTION APPLY.

(II) ANY PUBLIC SCHOOL THAT IS OPERATED BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR WITH THE APPROVAL OF A FEDERALLY RECOGNIZED INDIAN TRIBE AND EXISTING WITHIN THE BOUNDARIES OF SUCH TRIBE'S RESERVATION.

(III) (A) THE ABILITY OF ANY FEDERALLY RECOGNIZED INDIAN TRIBE TO CREATE AND MAINTAIN A RELATIONSHIP OR AGREEMENT WITH A PUBLIC SCHOOL THAT

FOSTERS GOODWILL, EMPHASIZES EDUCATION AND SUPPORTS A CURRICULUM THAT TEACHES AMERICAN INDIAN HISTORY, AND ENCOURAGES A POSITIVE CULTURAL EXCHANGE. SUCH RELATIONSHIPS AND AGREEMENTS MAY INCLUDE IMPORTANT HISTORICAL FIGURES, NAMES, IMAGERY, TRIBAL NAMES, AND MORE.

(B) ANY SUCH AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION BETWEEN A PUBLIC SCHOOL AND A FEDERALLY RECOGNIZED INDIAN TRIBE MAY ALLOW ANY AMERICAN INDIAN MASCOT THAT IS CULTURALLY AFFILIATED WITH THAT FEDERALLY RECOGNIZED INDIAN TRIBE AS DETERMINED AT THE DISCRETION OF THE TRIBE'S GOVERNING BODY. IF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (2)(b)(III) BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC SCHOOL IS TERMINATED BY EITHER PARTY, THE PUBLIC SCHOOL HAS ONE YEAR FROM THE DATE OF TERMINATION TO DISCONTINUE ITS USE OF ITS AMERICAN INDIAN MASCOT BEFORE THE PENALTIES SET FORTH IN SUBSECTION (3) OF THIS SECTION APPLY.

(C) FOR THE PURPOSES OF THIS SECTION, A "FEDERALLY RECOGNIZED INDIAN TRIBE" IS ONE OF THE FORTY-EIGHT CONTEMPORARY TRIBES WITH TIES TO COLORADO, DEVELOPED BY HISTORY COLORADO IN PARTNERSHIP WITH THE COLORADO COMMISSION OF INDIAN AFFAIRS. THIS LIST MAY CHANGE OVER TIME BUT IS THE OFFICIAL LIST TO BE USED FOR THE PURPOSES OF THIS SECTION.

(3) FOR EACH MONTH DURING WHICH A PUBLIC SCHOOL USES AN AMERICAN INDIAN MASCOT AFTER JUNE 1, 2022, THE SCHOOL DISTRICT OF THE PUBLIC SCHOOL, OR IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, THE STATE CHARTER SCHOOL INSTITUTE, SHALL PAY A FINE OF TWENTY-FIVE THOUSAND DOLLARS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY RECEIVED TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(4) (a) NO LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL IDENTIFY EACH PUBLIC SCHOOL IN THE STATE THAT IS USING AN AMERICAN INDIAN MASCOT AND THAT DOES NOT MEET THE CRITERIA FOR AN EXEMPTION AS OUTLINED IN SUBSECTION (2)(b) OF THIS SECTION. THE COMMISSION SHALL POST SUCH INFORMATION ON ITS WEBSITE.

(b) IN ADDITION TO POSTING ON ITS WEBSITE THE INFORMATION CONCERNING PUBLIC SCHOOLS THAT ARE USING AN AMERICAN INDIAN MASCOT, THE COMMISSION, IN COORDINATION WITH THE DEPARTMENT OF EDUCATION, SHALL NOTIFY THE SCHOOL DISTRICT OF A PUBLIC SCHOOL IDENTIFIED BY THE COMMISSION PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION OF THE REQUIREMENTS RELATED TO THE USE OF AMERICAN INDIAN MASCOTS, AS SET FORTH IN SUBSECTION (2) OF THIS SECTION, AS WELL AS THE PENALTY FOR CONTINUED USED OF SUCH MASCOTS AS OUTLINED IN SUBSECTION (3) OF THIS SECTION. THE COMMISSION, IN COORDINATION WITH THE DEPARTMENT OF EDUCATION, SHALL ALSO PROVIDE THE SAME NOTIFICATION TO THE CHARTER SCHOOL INSTITUTE IF ANY INSTITUTE SCHOOLS ARE IDENTIFIED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

(c) WHEN A PUBLIC SCHOOL IDENTIFIED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION DISCONTINUES ITS USE OF ITS AMERICAN INDIAN MASCOT PRIOR TO JUNE 1, 2022, THE PUBLIC SCHOOL SHALL NOTIFY ITS SCHOOL DISTRICT, OR, IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, ITS AUTHORIZER, THE COMMISSION, AND THE

DEPARTMENT OF EDUCATION OF SUCH DISCONTINUATION.

(5) A PUBLIC SCHOOL THAT IS IDENTIFIED TO BE IN VIOLATION OF SUBSECTION (2) OF THIS SECTION FOR USING AN AMERICAN INDIAN MASCOT MAY APPLY TO THE DEPARTMENT OF EDUCATION FOR A GRANT THROUGH THE "BUILDING EXCELLENT SCHOOLS TODAY ACT", ARTICLE 43.7 OF TITLE 22, TO ACCOMPLISH ANY STRUCTURAL CHANGES THAT MIGHT BE NECESSARY TO COME INTO COMPLIANCE WITH THIS SECTION. THE TIME REQUIRED FOR MAKING AN APPLICATION OR FOR THE AWARDING OF SUCH GRANT DOES NOT IMPACT THE TIME REQUIREMENT SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 22-43.7-109, **add** (5)(c.3) as follows:

22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements - technology grants - career and technical education capital construction grants - rules - definition. (5) The board, taking into consideration the financial assistance priority assessment conducted pursuant to section 22-43.7-108, shall prioritize applications that describe public school facility capital construction projects deemed eligible for financial assistance based on the following criteria, in descending order of importance:

(c.3) PROJECTS THAT ASSIST PUBLIC SCHOOLS TO REPLACE PROHIBITED AMERICAN INDIAN MASCOTS AS REQUIRED BY SECTION 22-1-133 (2).

SECTION 4. In Colorado Revised Statutes, **add** 23-1-137 as follows:

23-1-137. Prohibition on use of American Indian mascots - exemptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AMERICAN INDIAN MASCOT" MEANS A NAME, SYMBOL, OR IMAGE THAT DEPICTS OR REFERS TO AN AMERICAN INDIAN TRIBE, INDIVIDUAL, CUSTOM, OR TRADITION THAT IS USED AS A MASCOT, NICKNAME, LOGO, LETTERHEAD, OR TEAM NAME FOR THE SCHOOL.

(b) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC COLLEGE, UNIVERSITY, COMMUNITY COLLEGE, AREA VOCATIONAL SCHOOL, EDUCATIONAL CENTER, OR JUNIOR COLLEGE THAT IS SUPPORTED IN WHOLE OR IN PART BY GENERAL FUND MONEY.

(2) (a) EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(b) OF THIS SECTION, ON OR AFTER JUNE 1, 2022, A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE IS PROHIBITED FROM USING AN AMERICAN INDIAN MASCOT. ANY PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS USING SUCH AN AMERICAN INDIAN MASCOT AS OF JUNE 1, 2022, MUST IMMEDIATELY CEASE USE OF SUCH AMERICAN INDIAN MASCOT.

(b) THE PROHIBITION SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO:

(I) ANY AGREEMENT THAT EXISTS PRIOR TO JUNE 30, 2021, BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC INSTITUTION OF HIGHER EDUCATION. A PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS A PARTY TO SUCH AN AGREEMENT IS HELD TO A HIGH STANDARD AND EXPECTED TO HONOR THE AGREEMENT. THE FEDERALLY RECOGNIZED INDIAN TRIBE HAS THE RIGHT AND ABILITY TO REVOKE ANY SUCH AGREEMENT AT ANY TIME AT ITS DISCRETION.

(II) ANY PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS OPERATED BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR WITH THE APPROVAL OF A FEDERALLY RECOGNIZED INDIAN TRIBE AND EXISTING WITHIN THE BOUNDARIES OF SUCH TRIBE'S RESERVATION.

(3) FOR EACH MONTH DURING WHICH A PUBLIC INSTITUTION OF HIGHER EDUCATION USES AN AMERICAN INDIAN MASCOT AFTER JUNE 1, 2022, THE PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL PAY A FINE OF TWENTY-FIVE THOUSAND DOLLARS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY RECEIVED TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 28, 2021