



The Leadership Conference
Education Fund

Nondiscrimination In Dress and Grooming Codes

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National
Urban League



**ADVANCEMENT
PROJECT**





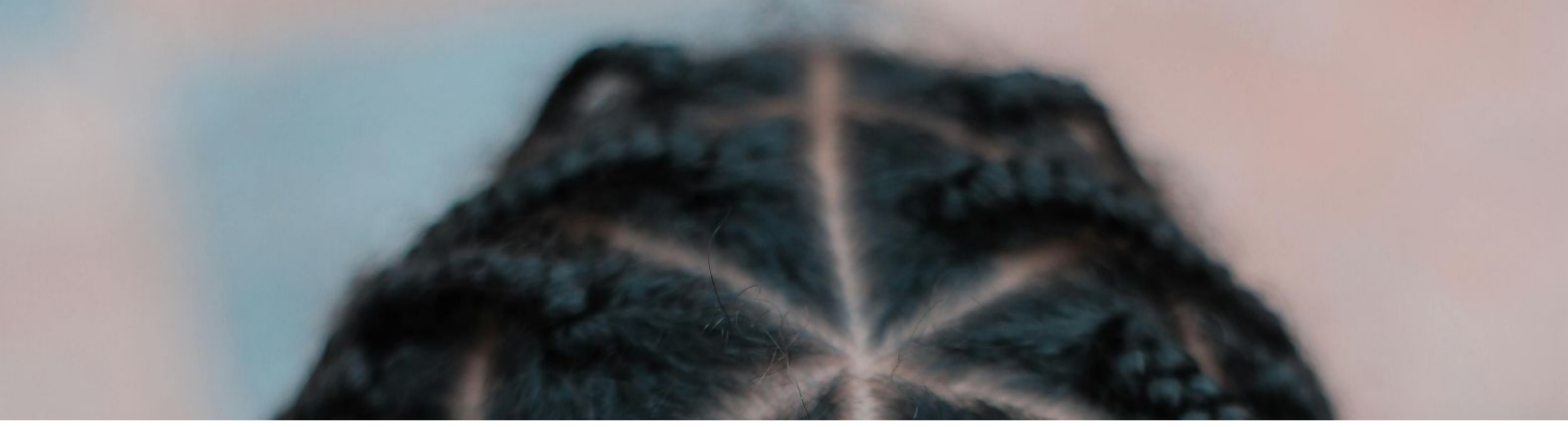
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Introduction

All children deserve to feel safe and supported in schools and deserve every opportunity to focus on their academic and socioemotional growth. Building positive school climates free from discrimination is essential to ensuring the safety and wellbeing of everyone in the school building.¹ Students' expression through dress and grooming is often a deeply meaningful reflection of their identities. Policing students' dress and grooming — including natural or protective hairstyles and hair textures, hair-coverings, clothing that reflects their gender or cultural identities, and tribal regalia — may target students based on their identity, including their race, ethnicity, or gender, and is unlawful discrimination.² Such policies and practices also miss opportunities to welcome and include all students in the school community. Dress and grooming code discrimination occurs when a school's dress code is written or implemented in a way that excludes or treats students differently based on their race, national origin, or sex (including gender expression).

Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination based on race, color, or national origin in programs or activities that receive federal financial assistance.³ Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in education programs or activities that receive federal financial assistance.⁴ Even with federal antidiscrimination laws in place, students across the United States continue to experience race- and sex-based discrimination through the discriminatory enforcement of school dress and grooming codes. School leaders must ensure that their dress and grooming codes comply with nondiscrimination obligations in policy, practice, and enforcement. The following brief provides information for school administrators and leaders, educators, advocates, students, and families about the ways students continue to experience race- and sex-based discrimination in dress and grooming codes, the ways our federal civil rights laws apply to these situations, and the need to bridge the gap between the civil rights protections guaranteed to students and their lived experiences. While the U.S. Department of Education and U.S. Department of Justice are responsible for meaningfully preventing and responding to discrimination based on race, color, national origin (including shared ancestry or ethnic characteristics), and sex (including sex stereotypes, sexual orientation, and gender identity) and ensuring learning environments nurture all students, school districts are responsible for developing affirming and supportive nondiscriminatory dress and grooming codes that contribute to positive learning environments for all students, even without federal enforcement.⁵

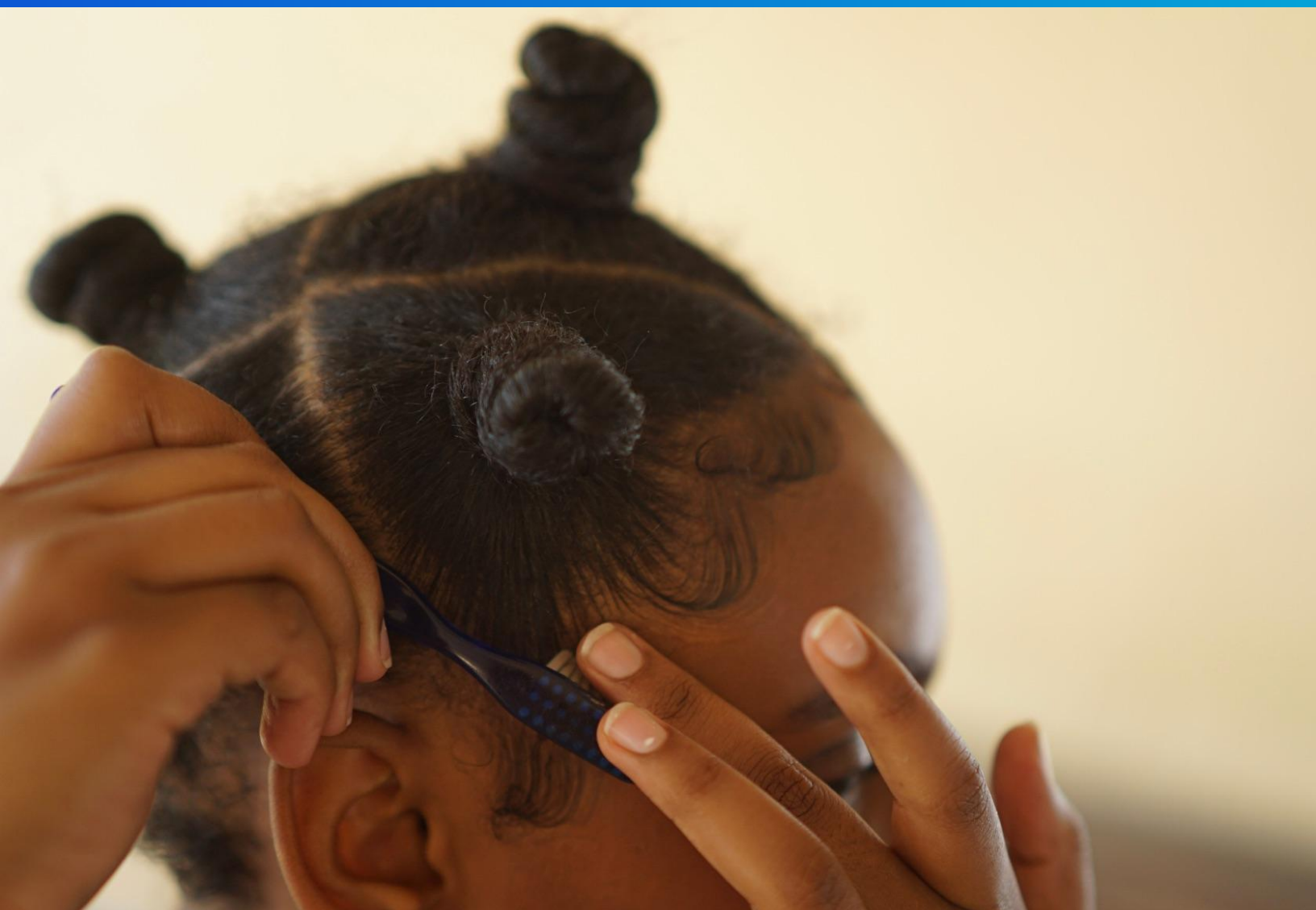


Hair Discrimination Limits Educational Opportunities for Black Students

Many school dress and grooming codes have centered European notions of beauty and professionalism in ways that reflect anti-Blackness and negatively and disproportionately impact Black students through the regulation and policing of their hair.⁶ It is well-documented that racial hair discrimination, which has its roots in American slavery, impacts the health and wellbeing of Black people and is often experienced as a deeply traumatic event.⁷ The textures, curl patterns, and coils associated with Black hair can require specific care to maintain. Black people often wear protective hairstyles like braids, twists, Bantu knots, and locs to maintain healthy hair, reduce the amount of time spent on daily styling and hair care, and prevent breakage by avoiding constant manipulation. An expression of identity and culture for many, Black hair and hairstyles are intrinsically linked to a long, storied history and carry profound meaning. Discriminatory dress and grooming codes that establish Eurocentric features and norms as the standard for beauty and professionalism by prohibiting and penalizing hairstyles that fall outside of those narrow bounds deny equal educational opportunities to Black students. Indeed, there have been many publicized instances of Black students being punished at or excluded from

school for wearing natural and protective hairstyles. For example, in 2018, two Black girls at a Massachusetts high school were penalized with multiple hours of detention, threats of suspension, and removal from all extracurricular activities for wearing their hair in box braids, which the school dress code prohibited.⁸ In 2020, two Black male students in Texas were removed from class, barred from extracurricular activities, and confined to in-school suspension when they refused to cut off their locs.⁹ In 2021, an 11-year-old Black child at a Texas middle school received more than 10 days of in-school suspension for braiding his hair with a knot and was prohibited from rejoining class until he changed his hairstyle.¹⁰ In 2022, officials in Mississippi informed a Black female high school athlete that she would be disqualified if she did not remove the beads from her braided hair.¹¹ These examples illustrate the range of racial discrimination that Black students experience in schools for simply existing and expressing themselves and their racial identity¹² and demonstrate the ways in which hair discrimination denies students valuable instructional time by removing them from the classroom and otherwise limits their ability to fully and fairly participate in extracurricular activities.

Even dress and grooming codes that appear neutral on their face may be racially discriminatory — interfering with students’ equal access to an education and in violation of Title VI’s protections — if they target or disproportionately burden Black students and students of color when enforced. In 2017, for example, the U.S. Department of Education Office for Civil Rights (OCR) found that Paramount Academy in Peoria, Arizona violated Title VI when it discriminated against a Black male student for wearing his hair in an afro and told him to cut his hair.¹³ The school did not have an express prohibition on the wearing of afros, but it instead relied on a student handbook policy that barred “distracting” or “trendy” hairstyles.¹⁴ However, OCR found the school selectively enforced the policy against the student based on the student’s race, thereby denying or limiting the student’s access to education services, benefits, or opportunities in violation of the student’s rights under Title VI.¹⁵



Sex Stereotyping, Racial Stereotyping, and the Policing of Gender Expression

The selective enforcement of school dress and grooming codes also subjects Black girls to unique and egregious harms due to the intersection of anti-Black racism and sexism. Adultification bias is a harmful racial and gendered stereotype through which Black girls are misperceived to be older than they actually are, treated as if they are less deserving of opportunities to learn from youthful and age-appropriate behaviors, and receive harsher treatment than their white counterparts.¹⁶ This stereotype also contributes to the hypersexualization and disproportionate policing of Black girls in school.¹⁷ Sex stereotyping is a form of sex discrimination where a student is punished because of beliefs about how girls or boys should look or behave. Assumptions about boys and girls can also be shaped by beliefs about people based on their race.¹⁸ A 2018 National Women's Law Center report found that Black girls are often perceived as older and more sexually mature than they are, leading to punishment based on racist and sexist interpretations of their natural body shapes.¹⁹ In the report, Black girls described receiving more dress code violations than white girls — even while wearing identical clothing.²⁰ Teachers' and administrators' selective enforcement of dress code policies for Black girls demonstrates the discrimination Black girls experience at the intersection of race and sex.²¹ For Black boys, intersectional discrimination may show up in restrictions on the length of a boy's protective hair style, as with the Texas middle schoolers example above. Not only does this interfere with the learning environment in general and cost

students valuable instructional time, but it is also a violation of their rights under Title VI and Title IX.²²

While Black girls are uniquely targeted by intersectional racial and sex-based discrimination, girls of all racial and ethnic backgrounds experience sexualization and unequal, stricter dress code enforcement compared to boys. The U.S. Government Accountability Office (GAO) found that school dress code policies more frequently prohibit clothing items typically worn by students who identify as girls than those typically worn by students who identify as boys.²³ In 2021, for example, 15 middle school girls in Georgia were written up and removed from class on the first day of school for wearing jeans with ripped holes, which their teacher described as “too revealing.”²⁴ In another example, a Florida parent criticized their daughter's high school for disproportionately disciplining female students for violating its “finger-tip policy,” which prohibits students from wearing skirts or shorts that do not go past their fingertips. The parent reported that the school administration did not enforce this dress code requirement for male students who wore shorts.²⁵



Discipline practices such as these have long-term consequences for the students and families who experience it. Lost instructional time has long-term adverse educational, economic, health, and community impacts for individual children and their families.²⁶ In addition, this type of gendered dress code and exclusionary discipline practice sends the message that it is girls' responsibility — and burden — to self-regulate and surveil their own bodies in ways that blame them for how others perceive, misperceive, and respond to their bodies, rather than teaching all members of the school community that it is their obligation to control their own behaviors and respect people's bodies. Finally, a school's choice to not educate its students and staff about their duty to regulate their own behaviors, particularly in response to gendered dressing and grooming policies, also sends the message of what certain genders, most notably girls, are "supposed" to look like and that girls' appearances are more important than their right to learn. These harmful messages to girls undermine bodily autonomy and constitute a violation of their rights under Title IX.²⁷

LGBTQ+ students are also disproportionately targeted and impacted by dress codes requiring gender-conformance that are often rooted in transphobia and enforce antiquated and inaccurate binary conceptions of gender.

In 2020, a Texas high school senior shared with her fellow classmates and teachers that she was a transgender girl. She began wearing her shoulder-length hair down, earrings, and clothes that reflected her gender identity. Consequently, she was suspended indefinitely for violating the school's dress code policy for male students and threatened with expulsion if she failed to comply.²⁸ Not only did this student experience unlawful sex discrimination when she was misgendered, but the dress code's reliance on sex stereotypes in establishing gender-separated dress codes violated her civil rights. Targeting and excluding transgender students from participation in school programming alongside their cisgender²⁹ peers is harmful to all students and undermines the learning environment for everyone. If schools sanction identity-based discrimination against student groups, they foster an environment where no student is included or safe. Title IX's protections from discrimination based on sex mean that students should not experience discrimination based on their sexual orientation or gender identity in the context of the school's dress code.³⁰ Different dress codes for boys and girls rely on sex stereotyping and are discriminatory.³¹

Persistent Discrimination Against Native Students

Similar to Black students, cisgender girls, and LGBTQ+ students, Native students are also disproportionately discriminated against by dress and grooming codes.³² School dress codes that police Native students' hair length trace as far back as the genocidal and assimilationist policies prevalent during the boarding-school era, in which Native children were forcibly removed from their homes and required to cut their hair.³³ In 2021, for example, a Native and Latino kindergarten boy in Texas was placed in in-school suspension for violating the school dress code that prohibited long hair for boys. The student, who did not cut his hair in observance of cultural practices, was isolated from his peers, removed from his learning environment, and denied access to timely and vital educational instruction. Returning to class without cutting his hair was only permitted if he submitted documentation attesting to his ancestry and tribal affiliation.³⁴ In 2021, for example, a Native and Latino kindergarten boy in Texas was placed in in-school suspension for violating the school dress code that prohibited long hair for boys. The student, who did not cut his hair in observance of cultural practices, was isolated from his peers, removed from his learning environment, and denied access to timely and vital educational instruction. Returning to class without cutting his hair was only permitted if he submitted documentation attesting to his ancestry and tribal affiliation.³⁵ In this example, the child experienced discrimination because of his sex, national origin, race, and religion.³⁶

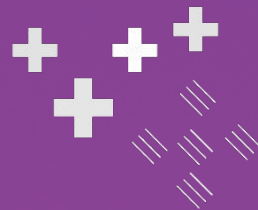


In 2023, an 8-year-old Native boy in Kansas was forced to cut his hair to avoid school suspension for violating the school's dress code, which prohibited boys from growing their "hair past their neck or earlobes."³⁷ This demonstration of sex stereotyping related to hair length, coupled with the policing of cultural identification, shows again the intersection of sex and national origin discrimination and the need to reinforce civil rights protections. Since time immemorial, many Native communities have placed significant cultural importance on hair, and to many, it is an important aspect of their Native identity.³⁸ School leaders must ensure that policies are neither written nor implemented in ways that reinforce sex stereotyping or that privilege some ethnic and cultural backgrounds over others.

The unique experience of LGBTQ+ Native students demonstrates the intersectional impact of discriminatory dress codes. For many generations, some Native people have identified as Two-Spirit, both male and female or intersex.³⁹ Students who are policed for their Two-Spirit identity, not falling into non-Native normative gender stereotypes, experience discrimination at the intersection of national origin, race, and sex, which indicates a violation of their rights under Title VI and Title IX. This ranges from being subjected to bullying and harassment in school,⁴⁰ experiencing higher rates of school discipline,⁴¹ and being more vulnerable to violence.⁴²

Discriminatory dress codes may also impact Native students' freedom to participate in cultural celebrations by restricting the use of tribal regalia⁴³ during graduation ceremonies. In 2021, for example, a Utah high school senior was forced to remove her graduation cap — decorated by her family in traditional hand-made beads and an eagle feather — in order to participate in the ceremony.⁴⁴ There have been similar cases across the country.⁴⁵ Preventing Native students' full participation in cultural practices limits their educational opportunities and indicates a violation of their rights under Title VI.⁴⁶ Discriminatory dress codes also violate schools' obligations to comply with federal civil rights laws and their ability to provide a safe and inclusive environment for all students. Title VI's prohibitions on discrimination based on national origin also include discrimination based on shared ancestry or ethnic characteristics.⁴⁷ Dress codes that preclude students from wearing religious garb such as a hijab, turban, or yarmulke are likely discriminatory under Title VI.⁴⁸





Recommendations

RECOMMENDATIONS

In order to advance safe, healthy, and inclusive learning environments free from discrimination, school systems that have dress and grooming codes must:

- 1** Issue guidance clarifying that hair discrimination is a form of racial discrimination and directing schools to ensure compliance with federal civil rights laws and applicable state laws;
- 2** Eliminate subjective language from school discipline policies, including dress and grooming codes, which often lead to discriminatory enforcement;
- 3** Create affirming and nondiscriminatory dress code policies that do not target or disproportionately impact students based on race, national origin, and sex and that also specifically allow for expressions of racial, ethnic, and cultural identities, such as natural or protective hairstyles, tribal regalia, and religious garb;
- 4** Create dress code policies that prohibit sex stereotyping and the use of gendered language (e.g., boys and girls) when there are gender neutral alternatives available (e.g., students, scholars, or children) and exclude distinctions based on sex, gender identity, or gender expression;
- 5** Include examples of unlawful discrimination arising from dress and grooming rules into existing dress and grooming code policies and other resources discussing prohibited conduct. This information provides critical rights-based information to students and families and reminds schools of their ongoing legal obligations to address unlawful conditions that undermine students' ability to learn and their well-being;
- 6** Collect and publish disaggregated data to determine the ways in which some students in that school, district, or state are punished more often or more harshly than others due to dress or grooming code infractions, and investigate whether the policy itself or its implementation is resulting in disparities in outcomes;
- 7** Conduct annual anonymous climate surveys to hear directly from students about how school policies, like dress and grooming codes, affect them. Based on data and climate surveys, school systems should facilitate self-audits to assess whether or not their policies are disproportionately impacting specific student populations;
- 8** Ensure consequences for student noncompliance with dress or grooming codes do not result in lost instructional time; and
- 9** Require professional development focused on cultural competency and implicit bias awareness for all staff involved in dress code enforcement.

Additionally, school systems should consider whether dress codes are necessary and whether code of conduct expectations around treating all students with respect and dignity can be achieved without a dress code and its related enforcement and compliance costs.

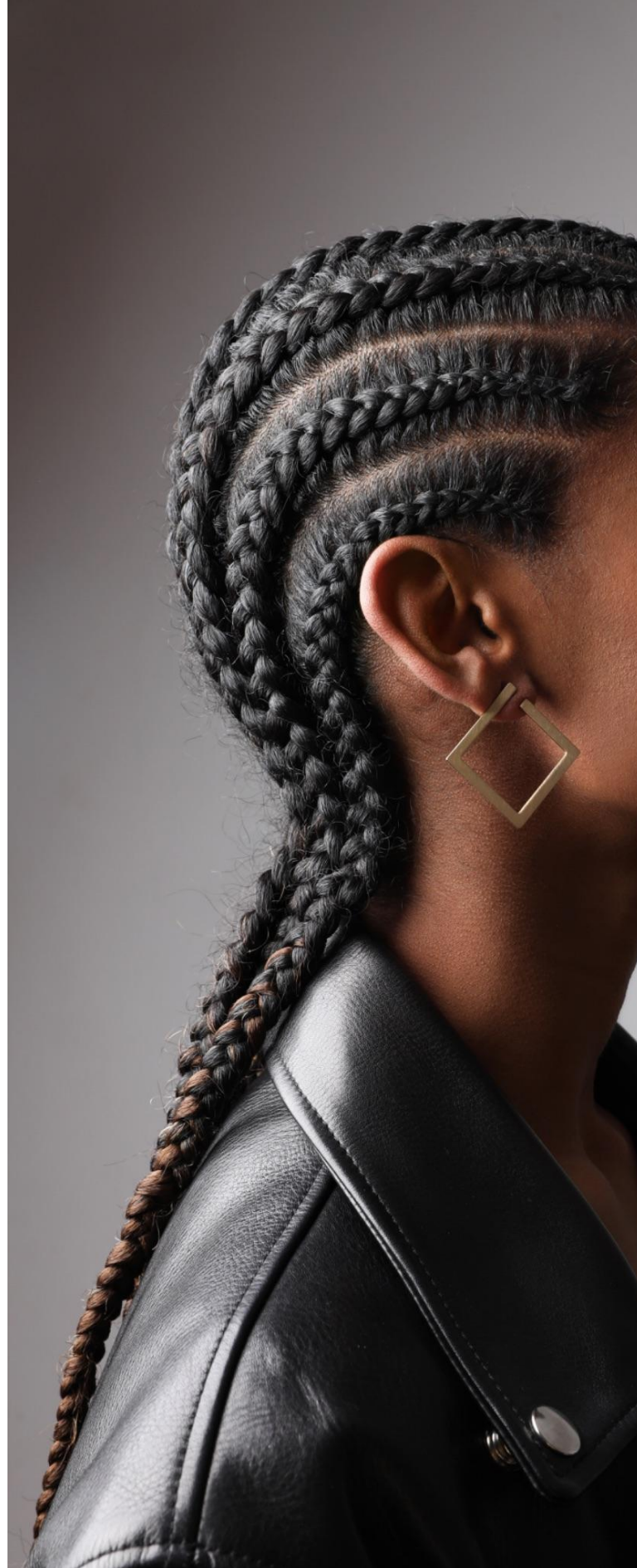


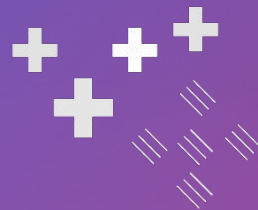
Conclusion

Every child deserves and should be included in a warm, welcoming, and responsive school that provides them with an environment in which they are treated with respect and dignity and have the opportunity to learn and grow socially, emotionally, and academically.

Dress and grooming codes, when drafted or applied in a discriminatory manner, undermine that goal and deny children the education they need to be ready for college, career, and life. The federal government's role in ensuring schools are free from discrimination has been articulated by the Supreme Court of the United States in the *Brown v. Board of Education* (1954) decision, by Congress in the Civil Rights Act of 1964 and the Education Amendments of 1972, and by previous administrations of the U.S. Department of Education and the U.S. Department of Justice in regulations and guidance implementing those laws. It is imperative for children, families, educators, advocates, researchers, and policymakers to ensure that progress continues, equal educational opportunity is upheld, and efforts to erode civil rights protections are stopped.

Students' decisions about how to wear their hair, whether and how to cover their hair, and what clothing or regalia to wear are not simply a matter of personal preference or style but are very often deeply significant expressions of identity.⁵¹ Moreover, natural or protective and culturally significant hairstyles and tribal regalia are racial, ethnic, and cultural expressions that historically have been acts of resistance to white supremacy. To deny students the opportunity to represent themselves or their heritage in ways that most reflect their personal identities would necessarily deny their equal participation in education, and as such, would violate their rights under federal law.





Endnotes

¹ The Leadership Conference on Civil and Human Rights. “Civil Rights Principles for Safe, Healthy, and Inclusive School Climates.” Available at: https://civilrights.org/wp-content/uploads/2021/02/Civil-Rights-Principles-for-Safe-Healthy-and-Inclusive-School-Climates_2.pdf.

² This policy brief is focused on the nondiscrimination obligations of schools under Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 and does not address the additional protections students have under the First Amendment, such as the right to free expression and free exercise of religion. For more information about those topics see: *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503 (1969).

Uzunlar, Eda. “Our First Amendment Rights Don’t Disappear at the Schoolhouse Gates.” June 19, 2024. Available at:

<https://www.aclu.org/news/free-speech/our-first-amendment-rights-dont-disappear-at-the-schoolhouse-gates>.

Additionally, many states and municipalities have additional protections that build on the rights every public school student has under federal civil rights laws. These laws may provide more explicit protections. Visit www.thecrownact.com to learn about the CROWN Coalition, CROWN Acts, and advocacy to protect people from hair discrimination.

³ U.S. Department of Education. “Education and Title VI.” Available at:

<https://www.ed.gov/laws-and-policy/civil-rights-laws/race-color-and-national-origin-discrimination/education-and-title-vi>.

The Department of Education’s Office for Civil Rights is responsible for receiving and responding to complaints of discrimination in schools based on race, color, national origin, sex, and disability. Our civil rights laws prohibiting discrimination are not subject to change by any administration.

However, since January 20, 2025, the Trump administration has sought to redefine discrimination and undermine enforcement of the law (see, for example: Stone, Matthew. “Trump Can’t Enforce Anti-DEI Directives in Schools, 3 Judges Say.” *Education Week*. April 24, 2025. Available at:

<https://www.edweek.org/policy-politics/trump-cant-enforce-anti-dei-directives-in-schools-2-judges-say/2025/04>.

and Modan, Naaz. “Half of OCR eliminated after Trump Education Department layoffs.” *K-12 Dive*. March 12, 2025. Available at:

<https://www.k12dive.com/news/half-of-ocr-fired-after-trump-education-department-layoffs/742374/>).

Students and their families should exercise caution when considering filing a complaint with the U.S. Department of Education’s Office for Civil Rights and when relying on representations of the law made by the current administration.

⁴ U.S. Department of Education. “Title IX and Sex Discrimination.” Available at:

<https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination>.

In 1975, the Department of Education published regulations that explicitly stated that dress codes were covered under Title IX. Although that regulation was rescinded in 1982, the U.S. Court of Appeals for the Fourth Circuit found in *Peltier v. Charter Day School* in 2022 that Title IX “was clear and unambiguous in prohibiting sex discrimination, including in dress codes.” See:

<https://www.ca4.uscourts.gov/opinions/201001.P.pdf>.

As referenced above, the Trump administration has sought to change the longstanding application of Title IX and to narrow the scope of the law’s protections. Students and families should exercise caution when considering filing a complaint with the U.S. Department of Education Office for Civil Rights and when relying on representations of the law made by the current administration.

⁵ The U.S. Government Accountability Office (GAO) has provided specific recommendations to the U.S. Department of Education, and formal subregulatory guidance on this topic would be of tremendous value to students, families, and educators.

U.S. Government Accountability Office. (2022). “K-12 Education: Department of Education Should Provide Information on Equity and Safety in School Dress Codes.” Available at:

<https://www.gao.gov/assets/gao-23-105348.pdf>.

U.S. Department of Education. “U.S. Department of Education Initiates Reduction in Force.” March 11, 2025. Available at:

<https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force>.”

Modan, Naaz. “Half of OCR eliminated after Trump Education Department layoffs.” *K-12Dive*. March 12, 2025. Available at:

<https://www.k12dive.com/news/half-of-ocr-fired-after-trump-education-department-layoffs/742374/>.

Jotkoff, Eric. “Federal court grants preliminary injunction against Department of Education’s unlawful directive.” National Education Association. April 24, 2025. Available at:

<https://www.nea.org/about-nea/media-center/press-releases/federal-court-grants-preliminary-injunction-against-department-educations-unlawful-directive>.

⁶ Legal Defense Fund. “Black Hair Belongs Everywhere.” July 12, 2023. Available at:

Uzunlar, Eda. “Our First Amendment Rights Don’t Disappear at the Schoolhouse Gates.” June 19, 2024. Available at:

<https://www.naacpldf.org/wp-content/uploads/2023-07-12-Black-Hair-Belongs-larger-5-1.pdf>.

⁷ Manka Nkimbeng, Bernice B. Malaika Rumala, Crystal, M. Richardson, Shemekka Ebony Stewart-Isaccs, and Janiece L. Taylor, *The Person Beneath the Hair: Hair Discrimination, Health, and Well-Being* (2023) Available at:

<https://pmc.ncbi.nlm.nih.gov/articles/PMC10457631/>.

⁸ Blay, Zeba. “Black Students Punished For Wearing Box Braids To School.” *Huffpost*. May 15, 2017. Available at:

https://www.huffpost.com/entry/black-students-punished-for-wearing-box-braids-to-school_n_5919eb04e4b0809be156f7fa.

After pressure from parents and local activists, as well as media attention brought by LDF, the school’s trustees lifted a no-extension ban that prohibited the students’ box braids and permitted Deanna, Mya, and other students who received similar penalties to resume all extracurricular activities. See Press Release, Civil Rights Groups Retained to Represent African American Teens Punished for Wearing Braids at Massachusetts Charter School (2017),

<https://www.naacpldf.org/press-release/civil-rights-groups-retained-to-represent-african-american-teens-punished-for-wearing-braids-at-massachusetts-charter-school/>.

⁹ See, e.g., *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 528 (S.D. Tex. 2020) (preliminarily enjoining the enforcement of the hair policy against the plaintiff student given that the plaintiff was substantially likely to succeed in establishing that the policy was unconstitutional race and sex discrimination and violated the student’s right to freedom of expression).

¹⁰ Moore, Troy. “Troy mother says son is being isolated in school because of his haircut.” April 15, 2021. *Kcentv.com*. Available at:

<https://www.kcentv.com/article/news/local/troy-mother-says-son-is-being-isolated-in-school-because-of-his-haircut/500-fcac172c-3a6f-4b0d-a41e-719bf7716a1d>

¹¹ See Letter from LDF to Mississippi High School Activities Association and National Federation of State High School Associations (April 25, 2022),

<https://www.naacpldf.org/wp-content/uploads/NAACP-Legal-Defense-Fund-LDF-Letter-to-NFHS-and-MHSA-4.25.22.pdf>.

¹² ACLU Texas. “Dressed to Express: How Dress Codes Discriminate Against Texas Students and Must Be Changed.” February 2024. Available at:

https://www.aclutx.org/sites/default/files/dresscode-report_2-22-24.pdf.

¹³ U.S. Department of Education Office for Civil Rights. “Resource on Confronting Racial Discrimination in Student Discipline.” May 2023. Available at:

<https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/investigations/more/08171341-a.pdf>.

¹⁴ Id at 4-5.

¹⁵ Ibid.

¹⁶ Rebecca Epstein, Jamilia J. Blake and Thalia González, Georgetown Law, *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*. (2017). Available at:

<https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf>.

¹⁷ Ibid.

¹⁸ See more: Buchert, Sasha. “Price Waterhouse v. Hopkins at Thirty.” *Alliance for Justice*. May 1, 2019.

<https://afj.org/article/price-waterhouse-v-hopkins-at-thirty/#:~:text=The%20Price%20Waterhouse%20v.,this%20understanding%20of%20Title%20VII>.

¹⁹ National Women’s Law Center. “Dress Coded.” 2018. Available at:

https://nwlc.org/wp-content/uploads/2018/04/5.1web_Final_nwlc_DressCodeReport.pdf.

Bellafante, G. “When Breaking the Dress Code Depends on Skin Color, and If You’re Skinny.” *New York Times*. August 16, 2024. Available at:

<https://www.nytimes.com/2024/08/16/nyregion/nyc-public-schools-dress-code.html>.

Education Law Center-PA. “We Need Supportive Spaces that Celebrate Us Black Girls Speak Out About Public Schools.” May 2023. Available at:

<https://www.elc-pa.org/wp-content/uploads/2023/05/FINAL-Supportive-Spaces-for-web.pdf>.

²⁰ Ibid.

²¹ Ibid.

U.S. Government Accountability Office, Nationally, Black Girls Receive More Frequent and More Severe Discipline than Other Girls, (September 2024), GAO-24-106787,

<https://www.gao.gov/assets/gao-24-106787.pdf>.

²² As referenced earlier, the Trump administration has sought to narrow the scope of Title IX’s protections, although the law has not changed.

²³ U.S. Government Accountability Office. (2022). “K-12 Education: Department of Education Should Provide Information on Equity and Safety in School Dress Codes.” Available at:

<https://www.gao.gov/assets/gao-23-105348.pdf>.

²⁴ Grullón Paz, Isabella. “‘Sexist,’ ‘Racist,’ ‘Classist’: Georgia 8th Grader Challenges School Dress Code.” *New York Times*. September 4, 2021. Available at:

<https://www.nytimes.com/2021/09/04/us/politics/mask-dress-code-protest.html>.

²⁵ Barrett, Kira. “When School Dress Codes Discriminate.” July 24, 2008. Available at:

<https://www.nea.org/nea-today/all-news-articles/when-school-dress-codes-discriminate#:~:text=Looking%20at%20public%20schools%20in%20the%20District,what%20they%20are%20wearing%2C%E2%80%9D%20said%20NWL%20Edu>.

²⁶ National Disability Rights Network. “Out from the Shadows: Informal Removal of Children with Disabilities from Public Schools.” January 25, 2022. Available at:

<https://www.ndrn.org/wp-content/uploads/2022/01/Out-from-The-Shadows-1.pdf>.

²⁷ *Peltier v. Charter Day School, Inc.*, 37 F.4th 104, 127-131 (4th Cir. 2022), cert. denied, 143 S. Ct. 2657 (2023).

²⁸ Simon, Erica. “Transgender student says she's banned from school until she follows male dress code.” *ABC 13 Eyewitness News*. October 2, 2020. Available at:

<https://abc13.com/sanay-martinez-transgender-teen-student-dress-code-louise-isd/6700252/>.

²⁹ The term “cisgender” means that someone’s gender identity is the same as the gender they were thought to be at birth. A transgender person is someone whose gender identity is different from the gender they were thought to be at birth.

³⁰ *Bostock v. Clayton County, Georgia*, 590 U.S. ___, 140 S. Ct. 1731 (2020). The Trump administration has asserted that the use of the word “sex” in the *Bostock* decision (which was about Title VII of the Civil Rights Act, an employment nondiscrimination law), has a different meaning than the use of the word “sex” in Title IX, an education law. The Trump administration’s executive order on this topic is available here: Exec. Order No. 14168, <https://www.federalregister.gov/documents/2025/01/30/2025-02090/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal>, and the Biden administration’s interpretation is available here: Exec. Order No. 13988. Available at:

<https://www.federalregister.gov/documents/2021/01/25/2021-01761/preventing-and-combating-discrimination-on-the-basis-of-gender-identity-or-sexual-orientation>.

³¹ National Women’s Law Center. “Dress Coded.” 2018. Available at:

https://nwlc.org/wp-content/uploads/2018/04/51web_Final_nwlc_DressCodeReport.pdf.

ACLU Texas. “Dressed to Express: How Dress Codes Discriminate Against Texas Students and Must Be Changed.” February 2024. Available at:

https://www.aclutx.org/sites/default/files/dresscodereport_2-22-24.pdf.

Hayden ex rel. A.H v. Greensburg Community School Corporation, 743 F.3d at 583; *A.C. v. Magnolia Indep. Sch. Dist.*, No. CV H-21- 3466, 2021 WL 11716732, at *1 (S.D. Tex. Oct. 26, 2021). *Peltier v. Charter Day School, Inc.*, 37 F.4th 104, 127-131 (4th Cir. 2022), cert. denied, 143 S. Ct. 2657 (2023).

³² Students occupy many identities. These identities are listed separately here to show how students may experience different types of discrimination. Intersectionality, a term coined by Kimberlé Crenshaw, describes the way in which race, sex, and other individual characteristics intersect with one another to create unique experiences of discrimination and oppression. See: Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 *Stanford L. Rev.* (1991), 1241-1299.

³³ Native American Rights Fund. See: <https://www.narf.org/nill/documents/202340426narf-letter-ccsl-hair-policy.pdf>.

³⁴ Thompson, Darren. “Native American Kindergarten Student Punished for Having Long Hair.” *Native News Online*. November 18, 2021. Available at:

<https://nativenewsonline.net/currents/native-american-kindergarten-student-punished-for-having-long-hair/>.

³⁵ Pendharkar, E. “Native American Children Endured Brutal Treatment in U.S. Boarding Schools, Federal Report Shows.” *Education Week*. May 11, 2022. Available at:

<https://www.edweek.org/leadership/native-american-children-endured-brutal-treatment-in-u-s-boarding-schools-federal-report-shows/2022/05>.

Koenning-Rutherford, Abbey. “US Truth and Healing Commission on Indigenous Boarding Schools is Long Overdue.” *Human Rights Watch*. March 18, 2024. Available at:

<https://www.hrw.org/news/2024/03/18/us-truth-and-healing-commission-indigenous-boarding-schools-long-overdue>.

³⁶ Students may also experience discrimination in school dress codes related to their free exercise rights under the First Amendment. Although Title VI does not prohibit discrimination based on religion, there are times when shared ancestry discrimination may violate Title VI. See OCR resource:

<https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-shared-ancestry-202301.pdf>.

The First Amendment does protect students from religious discrimination in school and is enforced by the U.S. Department of Justice. Native students have been prevented from exercising their religion in school through the wearing of tribal regalia. This issue is very similar to the issues discussed in this letter, but it relies on protections found in other laws.

³⁷ Duster, Chandelis. “Native American boy forced to cut hair to comply with school hair policy, ACLU says.” *CNN*. November 22, 2023. Available at:

<https://www.cnn.com/2023/11/22/us/indigenous-elementary-student-forced-cut-hair-aclu-reaj/index.html>.

³⁸ Lomboy, Ashley. “My Son’s Hair is Part of a Thousand-Year-Old Tribal Culture. His School Called it a ‘Fad.’” *ACLU*. March 22, 2023. Available at:

<https://www.aclu.org/news/racial-justice/my-sons-hair-is-part-of-a-thousand-year-old-tribal-culture-his-school-called-it-a-fad>.

³⁹ See Indian Health Service:

<https://www.ihs.gov/lgbt/twospirit/#:~:text=Two%2DSpirit%20identity%20was%20widely.Same%2Dsex%20relations>.

See:

<https://www.ihs.gov/lgbt/twospirit/#:~:text=Two%2DSpirit%20identity%20was%20widely.Same%2Dsex%20relations>.

Koenning-Rutherford, A. and Nelson, B. “The Struggle to Reclaim Autonomy in the Two-Spirit Movement.” July 15, 2024. Available at:

<https://www.hrw.org/news/2024/07/15/struggle-reclaim-autonomy-two-spirit-movement>.

⁴⁰ Yurcaba, J. “Oklahoma’s queer community mourns 16-year-old in state that leads the nation in anti-LGBTQ bills.” February. 22, 2024. Available at:

<https://www.nbcnews.com/nbc-out/out-news/nex-be-nedict-death-oklahoma-lgbtq-community-mourns-rcna139800>.

⁴¹ GLSEN. “Erasure and Resilience: The Experiences of LGBTQ Students of Color.” 2020. Available at:

<https://www.glsen.org/sites/default/files/2020-06/Erasure-and-Resilience-Native-2020.pdf>.

⁴² U.S. Department of Health and Human Services Administration for Children and Families. “Building Equitable Solutions for Transgender and Two-Spirit Individuals Impacted by Human Trafficking.” June 30, 2022. Available at:

<https://www.acf.hhs.gov/blog/2022/06/building-equitable-solutions-transgender-and-two-spirit-individuals-impacted-human>.

⁴³ Tribal regalia are culturally and religiously significant items of dress that are worn by some Native people during traditional ceremonies, activities, and important life events, including rites of passage like graduation. Tribal regalia can include a broad range of clothing items, accessories, and adornments. Some Native students opt to wear beadwork or an eagle feather on their graduation caps. Others have worn traditional moccasins and leggings, sealskin caps, or leis. Tribal regalia can also include hairstyles such as hair worn long or in braids. See:

<https://www.aclu.org/know-your-rights/tribal-regalia#:~:text=Tribal%20regalia%20are%20culturally%20and.rites%20of%20passage%20like%20graduation>.

⁴⁴ Joseph, Spencer. “Cedar City family upset after school removes daughter’s graduation cap with Native American symbols.” *Fox 13 Salt Lake City*. May 25, 2021. Available at:

<https://www.fox13now.com/news/local-news/cedar-city-family-upset-after-school-removes-daughters-graduation-cap-with-native-american-symbols>.

⁴⁵ Chavez, N. “Native American high school graduate sues school district after she says she wasn’t allowed to wear sacred eagle feather at graduation.” *CNN*. May 26, 2023. Available at:

<https://www.cnn.com/2023/05/26/us/tulsa-native-american-girl-feather-graduation/index.html>.

Silversmith, S. “Navajo leaders outraged after a Lakota student’s tribal regalia was removed at graduation.” *SourceNM*. May 17, 2024. Available at:

<https://sourcenm.com/2024/05/17/navajo-leaders-outraged-after-a-lakota-students-tribal-regalia-was-removed-at-graduation/>.

Rangel, L. “Liberty Hill senior denied request to wear tribal regalia at graduation.” *Fox7 Austin*. May 24, 2024. Available at:

<https://www.fox7austin.com/news/liberty-hill-senior-denied-request-wear-tribal-regalia-graduation>.

⁴⁶ ACLU. “Title VI Protections for Graduating Indigenous Students.” April 7, 2022. Available at:

https://assets.aclu.org/live/uploads/document/ACLU_Letter_Re_Tribal_Regalia_at_Graduation.pdf.

Many Native communities consider eagles to be spiritually significant. They believe that eagles carry the peoples’ prayers, and as eagles roam the sky, they have a special connection with the Creator. Their feathers represent honesty, truth, majesty, strength, courage, wisdom, power, and freedom. The U.S. government has long recognized the importance of eagles for Native religious and spiritual beliefs. In these communities, eagle feathers are given to individuals to mark and honor significant life accomplishments, such as graduation. Similar to other religious objects, such as a cross or a rosary, Native people have used the eagle feather or plumes to pray. Many tribal religions regard the eagle as the bird that carries human prayers to the Creator. Only a person with the maturity to handle a feather or plume with reverence may use one. Praying with eagle feathers and plumes, and bestowing them as a leadership honor, are religious practices that Native peoples have observed for thousands of years. See:

<https://narf.org/cases/graduation/>. For additional information about the ways in which Title VI protects students from discrimination on the basis of shared ancestry, such as with respect to Native people’s religious practice, see for example: Title VI and Title IX Religious Discrimination in Schools and Colleges, Letter from Kenneth L. Marcus to Colleagues (Sept. 13, 2004), <http://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>, Letter from Russlynn Ali to Colleagues (Oct. 26, 2010), <http://www2.ed.gov/about/offices/list/ocr/letters/college-201010.pdf>, and Letter from Catherine Lhamon to Colleagues (May 7, 2024), <https://www2.ed.gov/about/offices/list/ocr/letters/college-202405-shared-ancestry.pdf>. This letter does not address free speech and free exercise, but Native students are also afforded those rights and protections during graduation under the First Amendment of the U.S. Constitution.

⁴⁷ U.S. Department of Education, Office for Civil Rights. “Fact Sheet: Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics.” January 2023. Available at:

<https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/ocr-factsheet-shared-ancestry-202301.pdf>.

Catherine E. Lhamon, U.S. Department of Education, Office for Civil Rights. “Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics.” May 7, 2024. Available at:

<https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>.

This Dear Colleague Letter addresses nondiscrimination against students who are Jewish, Israeli, Muslim, Arab, Sikh, South Asian, Hindu, Palestinian, or of any other faith or ancestry.

⁴⁸ These policies would also violate students’ free exercise rights under the First Amendment, which is outside the scope of this brief.

⁴⁹ See The School District of Philadelphia’s Code of Conduct 2024-2025, 9 (2024). Available at:

<https://www.philasd.org/studentrights/wp-content/uploads/sites/67/2024/06/Code-of-Conduct-24-25-1.pdf>.

(Establishing in part that “students have the right to dress in a manner that celebrates their racial, cultural, religious, and gender identities, is reflective of their gender expression (including gender neutrality) and allows them to focus on their academic, social and emotional growth,” specifically enumerating that protective hairstyles are permitted and that “discrimination on the basis of protective hairstyles and/or hair texture is illegal racial hair discrimination,” and setting forth that “students have the right to dress in accordance with their stated gender identity and/or expression (including gender neutrality” within the constraints of the school’s dress code.”))

⁵⁰ In addition to these recommendations, schools should review the following reports:

National Women’s Law Center. “Dress Coded.” 2018. Available at:

https://nwlc.org/wp-content/uploads/2018/04/5.1web_Final_nwlc_DressCodeReport.pdf.

National Women’s Law Center. “Dress Coded II: Protest, Progress, and Power in D.C. Schools.” 2019. Available at:

https://nwlc.org/wp-content/uploads/2019/09/final_nwlc_DressCodedII_Report.pdf.

⁵¹ Guidance Regarding the Texas CROWN Act, NAACP LDF. January 30, 2024. “Re: Texas Governor Greg Abbott recently signed the Creating a Respectful and Open World for Natural Hair Act (Texas CROWN Act).” August 11, 2023. Available at:

<https://www.naacpldf.org/wp-content/uploads/01.30.2024-SBOE-Guidance-Letter-Regarding-the-Texas-CROWN-Act.pdf>.



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