



children
at Risk



The Education Trust
IN TEXAS



January 30, 2024

Mike Morath
Commissioner of Education
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas, 78701
commissioner@tea.texas.gov
cc: rules@tea.texas.gov

Re: Guidance Regarding the Texas CROWN Act

Dear Commissioner Morath:

We are writing to urge the Texas Education Agency (the “TEA”) to issue detailed guidance to school districts concerning the implementation of Texas’s Creating a Respectful and Open World for Natural Hair Act (the “Texas CROWN Act”), which took effect on September 1, 2023. Legislative sponsors of the Texas Crown Act have encouraged proper interpretation and enforcement of the Act, including ensuring that grooming policies do not unfairly penalize Black students.¹ Given flagrant, “bad faith” noncompliance with the Texas CROWN Act, it is critical that the TEA issue guidance to clarify the application of the law in February of 2024.²

The Texas CROWN Act, also known as House Bill No. 567, amends the Texas Education Code to prohibit racial discrimination based on students’ hair texture or protective hairstyles. Specifically, the law states:

Any student dress or grooming policy adopted by a school district, including a student dress or grooming policy for any extracurricular activity, may not discriminate against a hair texture or protective hairstyle commonly or

¹ See Press Statement of Rep. Rhett Andrews dated Sep. 22, 2023 (“I support any and all means necessary to bring justice, proper enforcement and implementation to all school districts and places of employment when it comes to compliance with the Texas CROWN Act.”); see also, Cheyanne Mumphrey, *Texas High School Sends Black Student Back to in-school Suspension over his Locs*, AP News (Dec. 5, 2023), <https://apnews.com/article/locs-hairstyle-texas-crown-act-racial-discrimination-929f38ec279b672efd78ba61422f4ca8>.

² See Mumphrey, *supra* note 1 (where Representative Ron Reynolds, Texas CROWN Act co-sponsor, describes schools with dress and grooming code hair length restrictions for male students as acting in “bad faith to continue discriminating against African American students”); See also Adam Zuvanich, *Barbers Hill ISD violating CROWN Act While Punishing Black Student with Dreadlocks*, Lawmaker Says, Houston Pub. Media (Jan. 22, 2024), <https://www.houstonpublicmedia.org/articles/news/education-news/2024/01/22/475104/crown-act-co-author-barbers-hill-isd-skirting-new-law-acting-in-bad-faith-while-continuing-to-punish-black-student-with-dreadlocks/>.

historically associated with race.³

It further defines “protective hairstyles” that are subject to the law’s prohibition on discrimination to include “braids, locks, and twists.”⁴

The statute unequivocally prohibits discrimination based on hair texture, hair type, and hair formation. As such, school dress and grooming codes that include language prohibiting locs, braids, twists, or other hair textures, types, and formations commonly or historically associated with race are strictly prohibited. This prohibition also includes grooming codes that may not include such specific language, but nonetheless effectively target students of color based on their hair texture or protective hairstyles.⁵ Grooming policies that appear neutral on their face, but have a discriminatory impact on Black, Indigenous, or other students of color may violate the Act. For instance, gender-specific hair length restrictions may disproportionately affect male students of color. Boys-only hair length restrictions may infringe on students’ abilities to wear and maintain culturally significant hairstyles like braids and locs and disproportionately impact Black and Indigenous male students, who are more likely to refrain from cutting their hair consistent with their cultural heritage.⁶ For Indigenous students and their families, these disparate impacts further implicate generational traumas associated with assimilative hair cutting at Indian residential boarding schools.⁷ With Texas’s recent enactment, versions of the CROWN Act are now law in 23 states, including Louisiana, Nevada, New Mexico, Tennessee, and Virginia. In addition, Arizona’s Governor recently signed an executive order barring hair discrimination, inspired by the CROWN Act.⁸

School dress and grooming policies that discriminate based on race result in lost educational

³ H.B. No. 567 ¶¶ 7–14; *see also* Tex. Ed. C. § 25.902.

⁴ H.B. No. 567 ¶ 9.

⁵ *See, e.g., City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432, 439 (1985) (“The equal protection clause of the Fourteenth Amendment provides that no state shall deny to any person within its jurisdiction the equal protection of the laws”; that provision commands that all persons similarly situated should be treated alike); *see also* U.S. Dept. of Justice and U.S. Dept. of Educ., Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (2014) p. 7-8, 11 (stating that unlawful discrimination occurs (1) “when a school has a discipline policy that is neutral on its face . . . but the school administers the policy in a discriminatory manner[,] even if the school punishes students of other races under the policy”; or (2) when a school “evenhandedly implement[s] facially neutral policies and practices that . . . have an unjustified effect of discriminating against students on the basis of race” (citing *Hunter v. Underwood*, 471 U.S. 222, 227, 231-32 (1985))).

⁶ *See e.g., Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 526 (S.D. Tex. 2020) (enjoining a grooming code regulating boys’ hair and noting statistical evidence of disproportionate enforcement against Black students with culturally significant hair).

⁷ *See* Jenna Kunze, *Harvard Museum Says It Has Hair Clippings from 700 Native Children Who Attended Indian Boarding Schools*, Native News Online (Nov. 10, 2022), <https://nativenewsonline.net/sovereignty/harvard-museum-says-it-has-hair-clippings-from-700-native-children-who-attended-indian-boarding-schools> (recounting a boarding school survivor’s experience in which nuns cut her hair at the St. Francis Indian School on the Rosebud Indian Reservation).

⁸ *See* AZ Exec. Order No. 9 (Mar. 17, 2023).

opportunities and violate multiple provisions of federal and state law. Disparate treatment of students based on their hair texture or culturally significant hairstyles constitutes discrimination based on race in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 (“Title VI”), and Texas Civil Practice and Remedies Code Section 106.001.⁹ Such practices also violate students’ rights to freely express their heritage and ethnicity; a right protected by the First Amendment to the United States Constitution. Courts have also found that public schools likely violate the U.S. Constitution and Title IX of the Education Amendments of 1972 when they require students to conform to gender stereotypes or adhere to gender-based rules, such as boys-only hair length rules.¹⁰ Such gender-based discrimination may also result in race- and religious-based discrimination because gender-based rules may be used to target students with culturally significant hair types, hair formations, or hairstyles.¹¹

A student’s decision to wear their hair in a racially or culturally significant way is not simply a matter of personal preference or style. Dating back to the fifteenth century, “hair was not only a cosmetic concern [for Black people], but ‘its social, aesthetic, and spiritual significance has been intrinsic to their sense of self for thousands of years.’”¹² Likewise for Indigenous American peoples, hair represents strength, power, virility, and even the unique relationships a person has with themselves and their loved ones.¹³ School dress and grooming policies that prohibit students from wearing culturally significant hair formations and styles like locs and braids or require boys to wear short hair unfairly impose white, Anglo Saxon, Protestant cultural norms on everyone. Such policies fail to recognize the cultural significance of other hair styles, particularly for Black, Indigenous, and other students of color. Such policies also are

⁹ In *Arnold*, 479 F. Supp. 3d at 524 and *Gray v. Needville Indep. Sch. Dist.*, No. 22-CV-1245, 2022 WL 1438765, at *1 (S.D. Tex. May 4, 2022), courts barred the continued enforcement of hair policies on which school officials relied in trying to force Black students to cut their locs, which are often worn in connection to one’s Black heritage.

¹⁰ See *Peltier v. Charter Day Sch., Inc.*, No. 20-CV-1001, 2022 WL 2128579 (4th Cir. June 14, 2022), *cert. denied* June 26, 2023; *Hayden ex rel. A.H. v. Greensburg Cmty. Sch. Corp.*, 743 F.3d 569, 571 (7th Cir. 2014); see also *A.C. et al. v. Magnolia Independent School District, Case No. 21-cv-03466*, Dkt. 20 (S.D. Tex. Oct. 26, 2021), https://www.aclutx.org/sites/default/files/field_documents/dkt_20_-_temporary_restraining_order.pdf; *Arnold*, 479 F. Supp. 3d at 524.

¹¹ See *Arnold*, 479 F. Supp. 3d at 524 (finding that student challenging gender-based hair policy that barred culturally relevant locs had a substantial likelihood of success in proving that such policy constitutes unlawful race and gender discrimination); *A.A. ex rel. Betenbaugh v. Needville Independent School District*, 701 F. Supp. 2d 863, 882 (S.D. Tex. 2009) (granting preliminary injunction where student challenged gender-based policy that required male students to cut their hair and finding that the student’s “braids convey[ed] a particularized message of his Native American heritage and religion.”).

¹² Tracey O. Patton, *Hey Girl, Am I More than My Hair?: African American Women and Their Struggles with Beauty, Body Image, and Hair*, 18:2 Nat’l Women’s Stud. Ass’n J. 24, 27 (Summer 2006) (noting that, dating back to the fifteenth century, “[t]he complicated and time-consuming task of hair grooming included washing, combing, oiling, braiding, twisting, and/or decorating the hair with any number of adornments including cloth, beads, and shells. The process could last several hours, sometimes several days”), <https://www.jstor.org/stable/4317206>.

¹³ See Brianna Holt, *For many Native Americans, Hair Tells a Life Story*, Business Insider, (Nov. 24, 2022), <https://www.businessinsider.com/what-hair-signifies-in-native-american-culture-2022-11>.

often premised on discriminatory stereotypes about the appropriateness or acceptability of racially or culturally significant hairstyles.

Our organizations have been contacted by several Texas school districts, parents, and students requesting further information and guidance on the Texas CROWN Act. It is critical that the TEA issue guidance to clarify the application of the law and how it will be enforced statewide. The TEA must immediately demand full compliance from district and school leaders across the state and should provide opportunities for parents and students to provide feedback throughout the process. More specifically, the TEA's guidance should encourage school districts to review and revise student handbooks and codes of conduct to ensure that all grooming policies serve a legitimate educational purpose and are applied in a manner that does not target Black, Indigenous, LGBTQI+, and other students with racially or culturally significant hair formations, hair textures, and hairstyles. It is important to review policies both written and as applied, which can reveal the disproportionate effects of even seemingly neutral policies. For example, dress code rules that contain subjective language or that are open to interpretation risk being "disproportionately applied to vulnerable student groups including LGBTQI+ students, Black students, and students with disabilities."¹⁴ In the context of hair-based dress code rules, these subjective standards often include prohibitions on hair textures and styles that are "trendy," "distracting," and "extreme," or that require hair to look "natural," "clean," or "well-groomed."¹⁵ Guidance should also ensure that educator training programs include an overview of the CROWN Act and provide guidance on administering dress and grooming codes in a non-discriminatory manner.

Adequately responding to inequality and unfair treatment in schools is vital to protect the civil rights of students, reject harmful stereotypes, and to ensure school safety and inclusivity for all. We hope that this letter and the attached fact sheet can be useful resources in constructing clear guidance to school districts. We request an opportunity to meet and discuss these issues with you. If you wish to discuss any of the aforementioned issues, please contact Patricia Okonta at pokonta@naacpldf.org. Together, we can work to ensure all students, regardless of race or ethnicity, have equal access to educational and extracurricular opportunities.

Respectfully,

Janai S. Nelson
President and Director-Counsel

¹⁴ U.S. Accountability Office, *Department of Education Should Provide Information on Equity and Safety in School Dress Codes* (Oct. 2022), p. 13, <https://www.gao.gov/assets/gao-23-105348.pdf>. For example, "Black girls are disciplined primarily for less serious and more subjective offenses, such as disruptive behavior, dress code violations, disobedience, and aggressive behavior." *Id.* at 27.

¹⁵ *Id.* at 14-15.

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Legal Defense Fund (LDF) is the nation's oldest civil and human rights law organization. Since its inception, we have worked to defend and advance racial equality and civil rights for Black Americans, including in education. We litigated the landmark case *Brown v. Board of Education*, which ended de jure segregation in public schools. Today, we continue to challenge discriminatory school policies and practices, including racially discriminatory grooming policies.



The ACLU of Texas is a nonpartisan, nonprofit organization dedicated to defending the civil rights and civil liberties of all Texans with nearly 200,000 supporters across the Lone Star State.



ADL is the leading anti-hate organization in the world. Founded in 1913, its timeless mission is “to stop the defamation of the Jewish people and to secure justice and fair treatment to all.” Today, ADL continues to fight all forms of antisemitism and bias, using innovation and partnerships to drive impact.



Children At Risk is a non-partisan research and advocacy nonprofit dedicated to understanding and addressing the root causes of child poverty and inequality.



The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities.



The Education Trust in Texas advocates for an equitable education for historically-underserved students across the state. We believe in centering the voices of Texas students and families as we work alongside them for the better future they deserve.



The Human Rights Campaign strives to ensure that all LGBTQ+ people, and particularly those who are trans, people of color and HIV+, are treated as full and equal citizens within their movement, across the country and around the world.



The Intercultural Development Research Association (IDRA) is an independent, non-profit organization. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college.



MEASURE is a research and data activism organization committed to elevating lived experience while strengthening organizations with data to make anti-racist change in health, wealth, education, criminal justice and beyond.



National Women's Law Center (NWLC) fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls.



The Native American Rights Fund (NARF) is the oldest and largest nonprofit law firm dedicated to asserting and defending the rights of Native American tribes, organizations, and individuals nationwide. NARF holds governments accountable and fights to protect Native American rights, resources, and lifeways through litigation, legal advocacy, and legal expertise.



Texas Appleseed promotes social, economic, and racial justice for all Texans by leveraging the skills and resources of volunteer lawyers, other professionals, and community partners to identify practical solutions to difficult, systemic problems.



Transgender Education Network of Texas (TENT) is an organization dedicated to furthering gender-diverse equality in Texas. We work to accomplish this through education and networking in both 6 public and private forums. Through our efforts, we strive to halt discrimination through social, legislative, and corporate education.

ATTACHMENT



2023 TEXAS CROWN ACT

The 2023 Texas CROWN Act—which stands for “Creating a Respectful and Open World for Natural Hair”—became effective on September 1, 2023 and was passed to combat race-based hair discrimination. Race-based hair discrimination under the Act is the denial of employment and educational opportunities because of a person’s culturally significant hair texture, hair type, hair formation, or protective hairstyle.

Who is covered under the Texas CROWN Act?



The Act protects all Texans, including students and employees.

What is “culturally significant” hair?

Culturally significant hair refers to hair textures, hair types, hair formations, and protective hair styles commonly or historically associated with race, including, but not limited to afros, locs (including uncut locs), cornrows, twists, braids (including braids adorned with beads and/or cowrie shells), Bantu knots, and fades.

Can a policy or action violate the Texas CROWN Act, even if it does not explicitly ban culturally significant hair?

Yes. While some grooming policies or “dress codes” may not be explicitly discriminatory against culturally significant hair, they may be disproportionately enforced against people of color.

For instance, policies that require boys to keep their hair short, may disproportionately affect male students of color. Such policies infringe on students’ abilities to wear and maintain culturally significant hairstyles like braids and locs and disproportionately impact Black and Indigenous male students, who are more likely to wear long hair as an expression of pride in their culture and heritage.

What does the Texas CROWN Act mean for school districts and employers?

Institutions should review their grooming policies and remove those that have an adverse disparate impact on identifiable racial groups. Educational institutions and companies should educate employees and managers on dress and grooming codes in a non-discriminatory manner.

If you believe you have been subject to a Texas CROWN Act violation, please contact the Texas Education Agency or the Texas Workforce Commission. To learn more about the CROWN Act and natural hair discrimination generally check out naacpldf.org/crown-act.

Hair Has Nothing to do with Competency or Professionalism. Culturally Significant hair belongs in the classroom. In the workplace. Wherever it grows.

Black students are more likely to be suspended for discretionary reasons such as dress code or long hair violations, neither of which have been found to be predictive of student misconduct.

According to a study from to The Brookings Institution on discretionary discipline actions, Black students are disciplined at a rate

4X HIGHER

than any other racial or ethnic group.

SOURCE: [Brookings](https://www.brookings.edu/research/discretionary-discipline-actions/)



To learn more about the CROWN Act and natural hair discrimination, check out naacpldf.org/crown-act

THE CRIMINALIZATION OF BLACK HAIR MUST END.