

Via Electronic Mail

Aaron Hood, Superintendent
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Dear Superintendent Hood:

In light of a recent state court ruling about the Texas Creating a Respectful and Open World for Natural Hair Act (“Texas CROWN Act”)¹, we write to emphasize the continued harm of dress and grooming codes that prohibit culturally significant styles—such as afros, cornrows, braids, locs and twists. Such discriminatory policies are also inconsistent with both state and federal law and harm children of color. We continue to urge your school district to review dress and grooming codes to ensure that your policies will allow Black, Indigenous, and other students of color to express their authentic selves and feel welcome and safe.

I. Many Students Wear Culturally Significant Hairstyles to Honor Their Heritage.

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.’”² Likewise for Indigenous American peoples, hair represents strength, power, and even the unique relationships a person has with themselves and their loved ones.³ Policies that prohibit hair textures, types, formations, and lengths—and accommodating hair accessories—commonly or historically associated with a student’s racial or ethnic heritage ignore the

¹ The Texas CROWN Act took effect in September 2023 and mandates that “[a]ny student dress and 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 historically associated with race.” CROWN Act, H.B. 567, 88th Leg., Reg. Sess. (2023), <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00567F.pdf#navpanes=0>; see also Tex. Educ. Code. § 25.902.

² Tracey O. Patton, *Hey Girl, Am I More than My Hair?: African American Women and Their Struggles with Beauty, Body Image, and Hair*, 18 Nat’l Women’s Stud. Ass’n J. 24, 27 (2006), <https://www.jstor.org/stable/4317206> (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”).

³ See Brianna Holt, *For many Native Americans, hair tells a life story*, Bus. Insider, (Nov. 24, 2022), <https://www.businessinsider.com/what-hair-signifies-in-native-american-culture-2022-11>.

cultural significance of certain hair styles, particularly for Black, Indigenous, and other students of color. Such policies unjustly require students to assimilate to the norms of a different culture. Such policies are often also premised on discriminatory stereotypes about the appropriateness or acceptability of racially or culturally significant hairstyles. For example, Black people have long battled the prevalent stereotype that natural and protective styles and formations are unsanitary, unkempt, and unsuitable for the workplace.⁴ Moreover, when policies prohibiting culturally significant hairstyles only apply to students of one gender, they disproportionately affect transgender, non-binary, gender diverse, and intersex students—through increased risks of harassment, stress, and lower academic performance—because they do not allow for gender diversity or variance from prevailing gender norms.⁵

II. Dress and Grooming Codes Must Comport with the United States Constitution, and State and Federal Anti-Discrimination Laws.

In addition to protections offered by the Texas CROWN Act, federal and state law also prohibit policies that target students with culturally significant hair types, formations, and styles. Targeting students with culturally significant hairstyles or formations 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 106.001.⁶ Such practices may also violate students’ rights to freely express pride in their heritage and ethnicity as protected by the First Amendment to the United States Constitution. Similarly, policies that discriminate on the basis of gender violate Title IX of the Education Amendments of 1972 (“Title IX”) and the Equal Protection Clause. Such policies can also infringe on students’ religious expression, in

⁴ A 2017 study found that white women, on average, believe that “[B]lack women’s textured hair” is “less professional than smooth hair.” Alexis McGill Johnson et al., *The “Good Hair” Study: Explicit And Implicit Attitudes Toward Black Women’s Hair* 6, Perception Inst. (Feb. 2017), <https://perception.org/wp-content/uploads/2017/01/TheGood-HairStudyFindingsReport.pdf>; see Dawn D. Bennett-Alexander & Linda F. Harrison, *My Hair Is Not Like Yours: Workplace Hair Grooming Policies for African American Women As Racial Stereotyping in Violation of Title VII*, 22 *Cardozo J.L. & Gender* 437, 446 (2016), <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cardw22&div=24&id=&page=>; David S. Joachim, *Military to Ease Hairstyle Rules After Outcry from Black Recruits*, *N.Y. Times* (Aug. 14, 2014), <https://www.nytimes.com/2014/08/15/us/military-hairstyle-rules-dreadlocks-cornrows.html>; Maya Rodan, *U.S. Military Rolls Back Restrictions on Black Hairstyles*, *Time* (Aug. 13, 2014), <http://time.com/3107647/military-black-hairstyles/>.

⁵ Chloe Kempf et al., *Dressed to Express: How Dress Codes Discriminate Against Texas Students and Must Be Changed*, ACLU of Tex. (2024), <https://www.aclutx.org/en/publications/dressed-express-how-dress-codes-discriminate-against-texas-students-and-must-be-changed>.

⁶ In *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 526 (S.D. Tex. 2020), and *Gray v. Needville Indep. Sch. Dist.*, No. 22-CV-01245, 2022 WL 1438765 *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.

violation of the First Amendment to the United States Constitution and the Texas Religious Freedom Restoration Act.⁷

Title VI of the Civil Rights Act of 1964 bars programs receiving federal funding from engaging in discrimination based on race, color, or national origin.⁸ It also prohibits discrimination based on characteristics and stereotypes associated with a protected class.⁹ Thus, policies that target culturally significant hairstyles are discriminatory if they are intimately connected to a protected class and derived from invidious stereotypes. Section 106.001 of the Texas Civil Practice and Remedies Code similarly prohibits various forms of discrimination based on a person’s race, color, or national origin. Therefore, dress and grooming codes that target Black, Indigenous, or other students of color may also be in violation of state law.

Policies that discriminate against culturally significant hairstyles also infringe on students’ rights to express themselves freely.¹⁰ Expression that is not verbal or written is protected under the First Amendment when it is intended to communicate a message that is received by others.¹¹ It is well established that a person is “capable of communicating” their heritage by “[v]isibly wearing [their] hair in a particular manner.”¹²

III. Policies that Discriminate Against Students Based on Their Culturally Significant Hair Are Legally Infirm and Constitutionally Suspect.

Make no mistake, policies that discriminate against students based on their culturally significant hair are legally infirm and constitutionally suspect. Indeed, in 2020, a federal court in *Arnold v. Barbers Hill Independent School District* held that a Black student in Texas was substantially likely to succeed in showing that a hair length restriction applicable only to male students was unconstitutional race and sex discrimination as well as a violation of the student’s First Amendment rights.¹³ Other Texas students have also obtained temporary restraining orders barring the enforcement of such policies in their school

⁷ Tex. Civ. Prac. & Rem. Code § 110.003.

⁸ Most educational programs or activities receiving federal assistance are covered by Title VI.

⁹ See *Price Waterhouse v. Hopkins*, 490 U.S. 228, 250-56 (1989) (plurality opinion) (explaining that “discrimination” within Title VII—another provision of the Civil Rights Act of 1964—encompasses discrimination on the basis of stereotypes, including “mutable” traits of a female employee’s demeanor, dress, and hairstyle); see also *E.E.O.C. v. Boh Bros. Const. Co.*, 731 F.3d 444 (5th Cir. 2013) (finding plaintiff could rely on gender-stereotyping evidence, such as coworkers taunting plaintiff with “sex-based epithets” “directed at [his] masculinity,” to show sex discrimination in violation of Title VII).

¹⁰ See e.g., *A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 611 F.3d 248, 272 (5th Cir. 2010) (Indigenous male student who wished to keep his hair long in keeping with his religious beliefs “has succeeded in his free exercise claim under TRFRA.”).

¹¹ *Littlefield v. Forney Indep. Sch. Dist.*, 268 F.3d 275, 283 (5th Cir. 2001).

¹² *Gonzales v. Mathis Indep. Sch. Dist.*, No. 2:18-CV-00043, 2018 U.S. Dist. LEXIS 216577, at *20 (S.D. Tex. Dec. 27, 2018); see also *A.A. v. Needville Indep. Sch. Dist.*, 701 F. Supp. 2d 863, 883 (S.D. Tex. 2009).

¹³ *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511 (S.D. Tex. 2020).

districts.¹⁴ In addition, the U.S. Department of Education’s Office for Civil Rights has opened multiple investigations into Texas school districts for discriminating against students based on sex, race, and religion through dress and grooming codes.¹⁵ The Texas Association of School Boards recommends that districts avoid dress codes that create different rules for students based on gender or race.¹⁶

IV. Policies that Discriminate Against Students Based on Their Culturally Significant Hair Hurt Students.

Such discriminatory policies harm students. For example, “dress codes that ban hairstyles most commonly associated with Black Americans . . . signal to Black students that they must manipulate the natural state of their physical self just to belong in the classroom,” thereby marginalizing them as the “other.”¹⁷ “Othering experiences have psychological consequences not only for the Black students who have been directly victimized by discriminatory institutional policies but also for those who learn of such events through exposure to these students’ stories.”¹⁸ “The conditional acceptance of the Black physical self in school environments is likely to shape the way Black students interpret and respond to commonly assessed Likert-type school-belonging items such as ‘[i]t is hard for people like me to be accepted here.’”¹⁹ Given this, racially discriminatory hair policies that target students for wearing culturally significant styles and formations are “detrimental to students’ motivation, engagement, development, learning, performance, and psychological well- being.”²⁰

Moreover, researchers have found that Black students are more likely to be suspended for discretionary reasons, such as hair violations, which have not been found to be predictive of student misconduct.²¹ In addition, a comprehensive study of nearly one million public secondary students in

¹⁴ See, e.g., *Gray v. Needville Indep. Sch. Dist.*, No. 22-CV-01245, 2022 WL 1438765 (S.D. Tex. May 4, 2022); *A.C. v. Magnolia Indep. Sch. Dist.*, No. CV H-21-3466, 2021 WL 11716732 (S.D. Tex. Oct. 26, 2021).

¹⁵ OCR has now opened an investigation into Monahans-Wickett-Pyote ISD for imposing gender-based hair rules against Indigenous students, and there are several other open OCR investigations against school districts in Texas relating to dress code discrimination. See, e.g., *Complaints Filed Urging Federal Civil Rights Agencies to Investigate Texas School District’s Discriminatory Dress Code*, ACLU of Tex. (Mar. 4, 2021), <https://www.aclutx.org/en/press-releases/complaints-filed-urging-federal-civil-rights-agencies-investigate-texas-school>.

¹⁶ Leslie Trahan, *Court Battles Prompt Districts to Reexamine Dress Codes*, Tex. Ass’n of Sch. Bds. (Mar. 1, 2022), <https://www.tasb.org/services/legal-services/tasb-school-law-esource/students/documents/dress-and-appearance-ofstudents.pdf>.

¹⁷ Gray, D. L., Hope, E. C., & Matthews, J. S., *Black and belonging at school: A case for interpersonal, instructional, and institutional opportunity structures*, 53:2 *Educ. Psychologist* 97–113 (2018), <https://doi.org/10.1080/00461520.2017.1421466>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ See Travis Riddle & Stacey Sinclar, *Racial disparities in school-based disciplinary actions are associated with county-level rates of racial bias*, *Proc. Natl. Acad. Sci. USA* (2019),

Texas²² showed that students subjected to exclusionary discipline for a discretionary violation—such as suspensions due to discriminatory grooming policies—were “twice as likely to repeat his or her grade,” more likely to drop out, and three times more likely to be in contact with the juvenile justice system the following year.²³

Furthermore, exclusion from extracurricular activities, like sports teams, due to culturally-intolerant dress and grooming policies also presents concerns because of the positive correlation between extracurricular activities and adolescent development. Indeed, research confirms that student participation in athletics and other extracurricular activities increases the likelihood of positive educational outcomes²⁴ allows students to establish social networks with their peers, create a community-based identity,²⁵ and build social skills.²⁶ Given this, depriving youth with culturally significant hairstyles of these opportunities imposes social and psychological harm.

<https://www.pnas.org/doi/10.1073/pnas.1808307116>; see also Howard Henderson & Jennifer W. Bourgeois, *Penalizing Black hair in the name of academic success is undeniably racist, unfounded, and against the law*, Brookings Inst. (Feb. 23, 2021), <https://www.brookings.edu/articles/penalizing-black-hair-in-the-name-of-academic-success-is-undeniably-racist-unfounded-and-against-the-law/> (linking race-based hair discrimination to disproportionate enforcement of discretionary school discipline actions and citing to study that indicates that Black students are disciplined for discretionary school discipline actions at a rate four times higher than any other racial or ethnic group).

²² Council of States Just. Ctr. & Pub. Pol’y Rsch. Inst., *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement* (2011), https://csgjusticecenter.org/wp-content/uploads/2020/01/Breaking_Schools_Rules_Report_Final.pdf.

²³ Exclusionary discipline practices are also costly for school districts, where attendance rates impact the amount of state and federal funding that school districts receive. A study conducted by Texas Appleseed found that the eleven largest school districts in Texas lost a combined \$11.3 million in funding due to student absences from suspension or expulsion. Tex. Appleseed, *Breaking Rules, Breaking Budgets: The Cost of Exclusionary Discipline in Dallas ISD 1* (2012), <https://www.texasappleseed.org/sites/default/files/160-STPP-DISDCostAnalysis.pdf>.

²⁴ See Angela Lumpkin & Judy Favor, *Comparing the academic performance of high school athletes and non-athletes in Kansas in 2008-2009*, 4:1 J. of Sport Admin. & Supervision 41 (May 2012), <https://trace.tennessee.edu/cgi/viewcontent.cgi?article=1370&context=jasm> (a 2008-2009 study of approximately 140,000 high school students finding that student-athletes have higher graduation rates and perform better on state assessments, compared to non-athletes); Matthew J. Mitten & Timothy Davis, *Athlete Eligibility Requirements and Legal Protection of Sports Participation Opportunities*, 8 Va. Sports & Ent. L.J. 71, 112, 187 (2008), <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1551&context=facpub>; Susan A. Dumais, *Cohort and Gender Differences In Extracurricular Participation: The Relationship Between Activities, Math Achievement, and College*, 29 Socio. Spectrum 72 (2009), <https://psycnet.apa.org/record/2008-18990-003>; Claudia K. Fox et al., *Physical Activity and Sports Team Participation: Associations with Academic Outcomes in Middle School and High School Students*, 80 J. Sch. Health 31 (Jan. 2010), <https://pubmed.ncbi.nlm.nih.gov/20051088/>.

²⁵ See Mitten & Davis, *infra* note 24.

²⁶ Alan Smith & Kathleen Mellano, *Three Ways That Peers Matter in Youth Sport*, *Young Minds* (2022), <https://kids.frontiersin.org/articles/10.3389/frym.2022.68581> (finding that children who participate in youth sports

V. School Districts Have An Integral Role To Play In Ending Hair Discrimination.

School leaders should review their district’s policies to prevent unintended, negative outcomes and minimize legal exposure by ensuring compliance with anti-discrimination laws. It is important to review policies both written and as applied, as even facially neutral policies can be applied in ways that have a disproportionately adverse effect on racially identifiable groups of students. For example, gender-specific hair length restrictions discriminate on the basis of sex or gender on their face and may also disproportionately affect Black, Indigenous, and other male students of color by making it functionally impossible for them to wear and maintain culturally significant hairstyles (e.g., locs) or refrain from cutting their hair consistent with their cultural traditions.²⁷ For Indigenous students and their families, these disparate impacts may further aggravate generational traumas associated with assimilative hair cutting at Indian residential boarding schools.²⁸ Moreover, dress code rules that contain subjective language or that are open to interpretation risk being “disproportionately applied to vulnerable student groups including Black students, Indigenous students, LGBTQI+ students, and students with disabilities.”²⁹ These subjective standards often prohibit hair textures and styles that are “trendy,” “distracting,” and “extreme,” or that require hair to look “natural,” “clean,” or “well-groomed.” The enforcement of these restrictions may be legally infirm and subject to constitutional and statutory challenges, as described above. Your school district should maintain a policy that permits *all* students to wear culturally significant hairstyles and formations.³⁰

Preventing unequal and unfair treatment in schools is vital to protecting the civil rights of students and ensuring safe and inclusive schools for all. As a nation, we cannot afford to forfeit the benefits of the talents and gifts of any of our children, including those who wear their hair in ways to celebrate their cultural heritage. Attached to this letter, we have included LDF’s [Hair Belongs](#) booklet and ACLU of Texas’ [Dressed to Express](#) report. You can also find additional information and answers to frequently

tend to develop stronger peer relationships); Thomas Rotolo, Monica Kirkpatrick Johnson, & James Richard McCall, *Examining the Effect of Adolescent Sport Participation on Civic Engagement and Orientation in Early Adulthood*, 49 Nonprofit & Voluntary Sec. Q. 180, 191-93 (2019), <https://doi.org/10.1177/0899764019853038> (finding that children who participate in youth sports tend to have a higher likelihood of participating in civic activities).

²⁷ See, e.g., *Arnold*, 479 F. Supp. 3d at 524-26 (noting that locs are often worn in homage to one’s Black heritage).

²⁸ 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/harvardmuseum-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).

²⁹ U.S. Accountability Off., *Department of Education Should Provide Information on Equity and Safety in School Dress Codes*, 13, 27 (Oct. 2022), <https://www.gao.gov/assets/gao-23-105348.pdf> (“Black girls are disciplined primarily for less serious and more subjective offenses, such as disruptive behavior, dress code violations, disobedience, and aggressive behavior.”).

³⁰ Wearing one’s hair in a bun or gathered, however, may not be possible for some Black children because of their hair length, hair texture, or for medical reasons. Students should also have an opportunity to receive an exemption from dress and grooming codes if they pose a personal or health concern.

asked questions concerning hair discrimination at <https://www.naacpldf.org/natural-hair-discrimination>. Together, we can work to ensure that all students, regardless of race or ethnicity, have equal access to educational and extracurricular opportunities.

Respectfully,

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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.



Advancing gender equity through research, education and advocacy. AAUW's policy work connects and rallies advocates at the local, state, national, and global levels to empower women and girls. AAUW uses lobbying and grassroots efforts to push forward policies that break through educational and economic barriers for women.



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.



**EDUCATION
LAW CENTER**

The Education Law Center-PA (ELC) is a statewide legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education. We advance the rights of students who are most underserved by our education system, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.



The Education Trust

The Education Trust (EdTrust) is a national, nonprofit organization committed to advancing policies and practices to dismantle the racial and economic barriers embedded in the American education system. Through our research and advocacy, EdTrust improves equity in education from preschool through college, engages diverse communities dedicated to education equity and justice, and increases political and public will to build an education system where students will thrive.



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.



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.



**National Center
for Youth Law**

The National Center for Youth Law's vision is a world in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. Our purpose is to amplify youth power, dismantle racism and other structural inequities, and build just policies, practices, and culture that center youth. Our mission is to center youth through impact litigation, policy advocacy, collaboration and research that fundamentally transforms our nation's approach to education, health, immigration, foster care, and youth justice.



Public Justice is a nonprofit legal advocacy organization that takes on the biggest systemic threats to justice of our time – abusive corporate power and predatory practices, the assault on civil rights and liberties, and the destruction of the earth's sustainability. We connect high-impact litigation with strategic communications and the strength of our partnerships to fight these abusive and discriminatory systems and win social and economic justice.



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.



PublicTSTA is a movement to change the way public schools, their students and employees are treated. Our mission statement says it best: “The Texas State Teachers Association will unite, organize and empower public education advocates to shape public education in Texas thus providing a quality public school for every child.”



The Sikh Coalition is the nation's largest Sikh civil rights organization. Founded in the immediate aftermath of September 11, 2001, in response to a torrent of hate crimes and acts of discrimination against Sikhs throughout the United States, we have worked in the community, courtrooms, classrooms, and halls of Congress for more than 20 years to protect the constitutional right of Sikhs to practice their faith without fear.