



July 7, 2022

Via E-mail

Re: Discriminatory Dress and Grooming Rules

Dear Superintendent:

We are writing to ensure that your school district's dress and grooming code does not discriminate against students in your district. In recent years, we have seen how certain dress code rules—such as requiring boys to wear short hair—have harmed Texas students, particularly Black, Indigenous, and LGBTQ+ students. Such policies often disproportionately target and penalize Black and Indigenous children for wearing their hair in culturally significant hairstyles and LGBTQ+ students for not adhering to gender stereotypes. Such discriminatory treatment results in lost educational and extracurricular opportunities and, in certain instances, violates state and federal law. We ask that your district not impose these harms but instead update your student handbook this summer to remove any gender-based or discriminatory rules from your dress code.

Dress and grooming policies that discriminate based on gender, race, or religion are unlawful and unconstitutional. Indeed, federal courts in Texas have recently held that students suing school districts had a substantial likelihood of success in legal challenges alleging that such policies constitute unlawful race and gender discrimination. Likewise, appellate courts have found that public school districts violate the U.S. Constitution and Title IX when they require students to conform to gender stereotypes or adhere to gender-based rules. Dress codes that treat students differently based on gender often lead to discrimination based on race or religion. Targeting students with culturally significant hairstyles constitutes discrimination based on race in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Title VI. Such practices also violate students' rights to freely express their heritage, ethnicity, or religious beliefs as protected by the First Amendment. As your school district updates its dress code and student handbook, it is critical to ensure that your district's policies do not lead to gender, race, or religious discrimination. Nothing in this communication prohibits a district from having a dress code as long as it is nondiscriminatory and serves an educational purpose.

Federal courts in Texas have repeatedly found in recent years that public school districts that impose gender-based dress codes on students likely violate the U.S. Constitution, Title VI, and Title IX. In *Arnold v. Barbers Hill ISD*¹ and *Gray v. Needville ISD*,² courts barred the continued enforcement of gender-based hair policies that school officials relied on in trying to force Black students to cut their locs, which are often worn in homage to one's Black heritage. In *A.C. v. Magnolia ISD*, a court ordered a school district to allow boys and a non-binary student to return to class without being forced to cut their hair, finding that the district likely violated the Constitution and Title IX by imposing gender-based rules.³

¹ *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 524 (S.D. Tex. 2020).

² *Gray v. Needville Indep. Sch. Dist.*, No. 4:22-CV-01245, 2022 WL 1438765, at *1 (S.D. Tex. May 4, 2022).

³ *A.C. et al. v. Magnolia Independent School District*, Case No. 4:21-cv-03466, Dkt. 20 (S.D. Tex. Oct. 26, 2021), available at https://www.aclutx.org/sites/default/files/field_documents/dkt._20_-_temporary_restraining_order.pdf

These decisions in Texas follow trends across the country, where federal courts of appeals have struck down dress codes that discriminate based on gender. Just recently, on June 14, the Fourth Circuit issued an *en banc* decision that a charter school’s decision to require girls, but not boys, to wear skirts violates the U.S. Constitution and Title IX.⁴ The Seventh Circuit reached that same conclusion in 2014 while striking down a gender-based hair-length rule.⁵ Recently, 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.⁶ The Texas Association of School Boards (TASB) also recommends that districts “refrain from including distinctions based on gender in the student dress code.”⁷

Across the country, legislatures at the federal, state, and local level are working to address discrimination against people of color based on their hair through legislation known as the CROWN (“Creating a Respectful and Open World for Natural Hair”) Act.⁸ The CROWN Act prohibits discrimination in employment and educational opportunities based on hair texture or protective hairstyles historically linked to ethnicity, such as locs, cornrows, twists, braids, Bantu knots, or Afros.⁹ In March 2022, the United States House of Representatives voted 235-189 to pass the CROWN Act and the bill is now before the Senate.¹⁰ Seventeen states, dozens of major municipalities (including here in Texas), and school districts across the country have also passed versions of the CROWN Act.¹¹

We have repeatedly seen how outdated dress code rules harm Texas students. Mathis ISD, near Corpus Christi, was sued after punishing two Catholic students for growing out their hair as a promise to God.¹² In Troy ISD, near Temple, Texas, an 11-year-old student was suspended for ten days for wearing long hair to honor his Black and Indigenous heritage.¹³ And Clyde CISD, near Abilene, Texas, made national news after suspending a gay student for decorating his nails.¹⁴ Troy ISD, Clyde CISD, and dozens of school districts across the state have now updated their dress code policies to remove gender-based language, and all districts should do the same.

⁴ *Peltier v. Charter Day Sch., Inc.*, No. 20-1001, 2022 WL 2128579 (4th Cir. June 14, 2022)

⁵ *Hayden ex rel. A.H. v. Greensburg Cmty. Sch. Corp.*, 743 F.3d 569, 571 (7th Cir. 2014)

⁶ 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 Texas (March 4, 2021), <https://www.aclutx.org/en/press-releases/complaints-filed-urging-federal-civil-rights-agencies-investigate-texas-school>

⁷ *Student Dress and Appearance*, Texas Association of School Boards (August 2021), p. 6, <https://www.tasb.org/services/legal-services/tasb-school-law-esource/students/documents/dress-and-appearance-of-students.pdf>.

⁸ The CROWN Act, <https://www.thecrownact.com/about> (last visited June 30, 2022).

⁹ *Id.*

¹⁰ CROWN Act of 2022, H.R. 2116, 117th Cong. (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/2116/>.

¹¹ The CROWN Act, <https://www.thecrownact.com/about> (last visited June 30, 2022). The undersigned organizations have resources and recommendations to share, and TASB has also adopted a model policy based on the CROWN Act available to school districts upon request.

¹² *Gonzales v. Mathis Indep. Sch. Dist.*, No. 2:18-CV-43, 2021 WL 148947, at *2 (S.D. Tex. Jan. 15, 2021)

¹³ *Local student returns back to class after hairstyle controversy*, KWTX (April 24, 2021), <https://www.kwtx.com/2021/04/24/local-student-returns-back-to-class-after-hairstyle-controversey/>

¹⁴ *Student speaks out after being suspended for wearing nail polish*, Good Morning America (Dec. 7, 2020), <https://www.goodmorningamerica.com/living/story/student-speaks-suspended-wearing-nail-polish-74579948>

No school district should put its federal funding or taxpayer dollars at risk by engaging in unlawful discrimination. Instead, school districts should ensure that every student can thrive and succeed at school. As you update the district's student handbook this summer, we ask you to ensure that your district's dress code complies with federal law and does not treat students differently based on gender, race, or religion. We welcome the opportunity to speak with you, answer any questions you have, and suggest specific policy revisions to ensure compliance with federal law, and we thank you for your time and attention to this matter. Together, we can ensure that all students, regardless of race, ethnicity, or gender, have equal access to educational and extracurricular opportunities.

Sincerely,



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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. A global leader in combating antisemitism, countering extremism and battling bigotry wherever and whenever it happens, ADL works to protect democracy and ensure a just and inclusive society for all.

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.

Equality Texas works to secure full equality for lesbian, gay, bisexual, transgender, and queer Texans through political action, education, community organizing, and collaboration.

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.

Juvenile and Children’s Advocacy Project of Texas (JCAP) has devoted its energy to passionately advocating for juvenile justice. JCAP seeks to reduce juvenile delinquency and improve life outcomes for economically and socially disadvantaged youth through the provision of legal, educational, and social support services.

Lambda Legal is the oldest and largest national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people (“LGBT”) and everyone living with HIV through impact litigation, education and public policy work.

Legal Defense Fund (LDF) is the nation’s oldest civil and human rights law organization. LDF was founded in 1940 by Thurgood Marshall, who later became the first Black Supreme Court Justice. 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 NAACP mission is to achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color.

The Native American Rights Fund mission is to hold governments accountable by protecting Native American rights, resources, and lifeways through litigation, legal advocacy, and legal expertise.

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.

Organizing Network for Education (ONE) Houston is a network of students, parents, educators and community members who organize through political and social action to bring about educational change.

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.

Texas Civil Rights Project (TCRP) believes that legal advocacy and litigation are critical tools to protect and advance the civil rights of everyone in Texas, particularly our State’s most vulnerable populations, and to effect positive and lasting change to law and policy. We believe that by serving the rising social justice movement in Texas with excellent legal representation and bold strategies, we can respond to the needs of the communities we serve.

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

public and private forums. Through our efforts, we strive to halt discrimination through social, legislative, and corporate education.

Texas Freedom Network (TFN) is a grassroots organization of religious and community leaders, and young Texans building an informed and effective movement for equality and social justice.

Young Leaders Strong City was founded in 2014, with a mission to educate, equip and activate a community of youth leaders prepared to realize their visions for racial justice and equity.