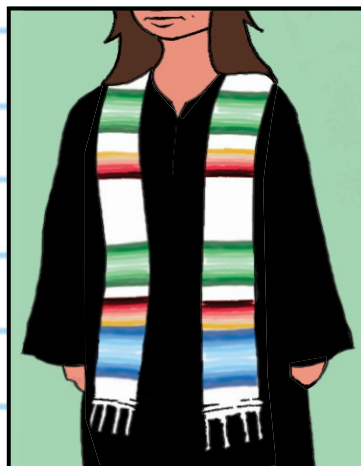


DRESSED TO EXPRESS:

ACLU

Texas

HOW DRESS CODES DISCRIMINATE AGAINST TEXAS STUDENTS AND MUST BE CHANGED



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ACKNOWLEDGMENTS

Primary authors of this report are Chloe Kempf, Brian Klosterboer, Carunya (Caro) Achar, Samantha Maldonado, Ash Hall, and Dominique Huerta.

THE AUTHORS OF THIS REPORT WOULD LIKE TO ACKNOWLEDGE THE FOLLOWING INDIVIDUALS

For their assistance in data collection:

Nina Kumar, Anisa Noor, Morgan Njeri, Tiffany Dulaca, and Julia Montiel, ACLU of Texas; Priyam Madhukar and Kalyn Mizelle, University of Texas School of Law Civil Rights Clinic (under the supervision of Professor Lia Sifuentes Davis); The University of Texas School of Law Mithoff Pro Bono Program coordinators and volunteers; South Texas College of Law Volunteers; SMU Dedman School of Law Volunteers.

For their assistance in data analysis and visualization:

Moksha Data Studio.

For their assistance with the design of this report:

T.J. Colligan and Amanda Powers.

For their contributions, feedback, and invaluable work towards achieving equity and inclusivity in schools:

ACLU Women's Rights Project
Children's Defense Fund Texas (CDF)
Equality Texas (EQTX)
First Christian Church Katy TX
Human Rights Campaign (HRC)
Intercultural Development Research Association (IDRA)
Juvenile Children's Advocacy Project (JCAP)
Katy Pride
Lambda Legal
NAACP Legal Defense Fund (LDF)
National Women's Law Center (NWLC)
Native American Rights Fund (NARF)
Students Engaged in Advancing Texas (SEAT)
Texas Appleseed
Texas Civil Rights Project (TCRP)
Texas Freedom Network (TFN)
The Mahogany Project
Transgender Education Network of Texas (TENT)
Young Leaders, Strong City (YLSC)

For their generous support of this report:

The Michael and Alice Kuhn Foundation.

The authors would like to acknowledge the entire ACLU of Texas team, for their support, dedication, feedback, and mentorship throughout the development of this report.

We are also immensely grateful to the thousands of students, parents and guardians, and educators who have long spoken out against dress code discrimination in Texas schools.

For well over 50 years, students in Texas have spoken out, gone to school board meetings, and filed lawsuits to express themselves in public schools free from government discrimination. The ACLU of Texas and our partners have been honored to represent dozens of students and families over the years who have fought to make our schools fairer and more equal for all. We are especially grateful to our past and current clients mentioned in this report and everyone who has advocated against dress code discrimination.

The signatories below endorse the recommendations in this report, and are thrilled to join the ACLU of TX in advocating for a Texas free from discriminatory school dress codes:

- ACLU Women's Rights Project
- Children's Defense Fund Texas (CDF)
- Equality Texas (EQTX)
- First Christian Church Katy TX
- Human Rights Campaign (HRC)
- Intercultural Development Research Association (IDRA)
- Juvenile Children's Advocacy Project (JCAP)
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FOREWORD

Dear Friend,

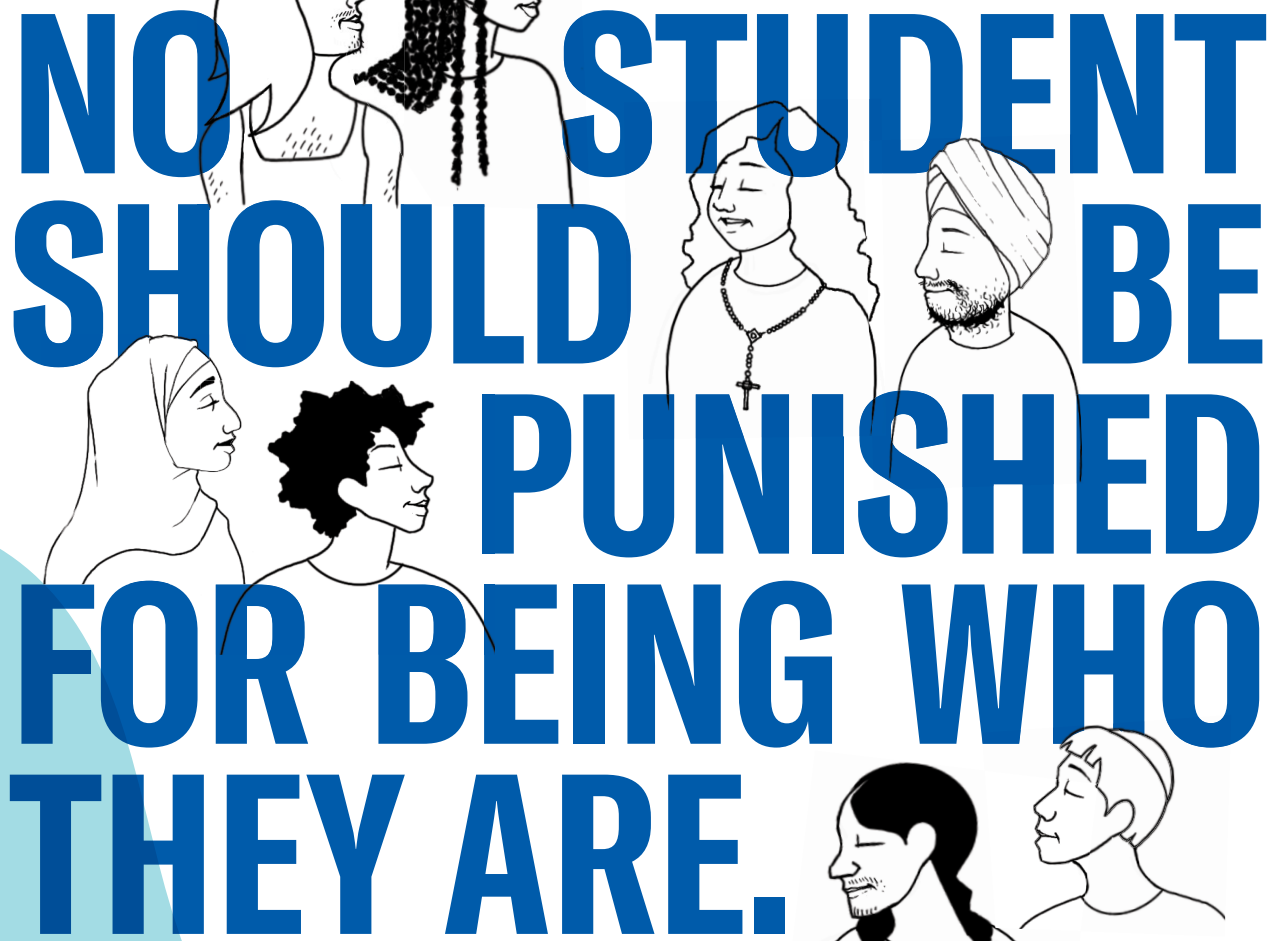
I am excited to share the American Civil Liberties Union of Texas' new report, *Dressed To Express: How Dress Codes Discriminate Against Texas Students and Must Be Changed*. In addition to data collected from 1,178 Texas school district-wide handbooks, our in-depth analysis uses data from public information requests and first-hand accounts from students and parents. The report provides insight into the prevalence of inequitable dress and grooming codes across Texas schools, their negative impacts on students, and recommendations for creating more inclusive policies.

As a Black mom of three public school students, I want my kids — and every kid across our state — to have the opportunity to express themselves in ways that honor their backgrounds and heritages. Whether they choose to wear locs in their hair or a skirt instead of trousers, students should never face punishment for being who they are or be limited by what other people think they should look like. Dress and grooming codes stifle self-expression when they discriminate based on students' identities and/or outdated stereotypes.

Students' freedoms to understand and express racial, gender, sexual, religious, and cultural identities are essential to the health of our democracy. As elected officials in our state work to restrict the books students read and the topics they learn about in the classroom, our commitment to protecting and celebrating self-expression must be stronger than ever. Providing an educational environment that allows students to learn about their own identities and those of their classmates prepares them for success throughout their careers and lives.

Whether you are a student, raising a student, or educating a student, I hope this report helps you start a broader conversation with your school board and administrators. By honoring students' rights to self-expression, we will improve the school experience for the diverse student body leading Texas into our shared future.

Sincerely,
Oni K. Blair

A collection of line-art illustrations of diverse young people, including a woman with braids, a woman with a headscarf, a woman with a cross necklace, a man with a turban, a woman with a headscarf, a man with curly hair, a woman with braids, and a man with a headscarf. The text is overlaid on these illustrations.

NO STUDENT SHOULD BE PUNISHED FOR BEING WHO THEY ARE.

Young people, like all Texans, have constitutional rights to self-expression and equal treatment.

Yet, as our research reveals, a majority of Texas public schools have dress code policies that shame and penalize students for simply showing up in the classroom as their authentic selves.

In a time when students' rights are under attack—from book and curriculum censorship to religious encroachment into the classroom and incursions on LGBTQIA+ students' equality and dignity—the effects of dress code discrimination are all the more concerning.

THROUGH AN EXTENSIVE EXAMINATION OF K-12 PUBLIC SCHOOL DRESS CODES, WE FOUND THAT:

- Over half of the surveyed Texas school districts mandated and reinforced rigid and outdated gender norms through explicitly gender-based dress code requirements, including boys-only hair length rules in over 300 districts.
- Over 7% of surveyed districts explicitly prohibited hairstyles and textures associated with race in their 2022–2023 dress codes. If left unchanged, these constitute CROWN Act violations if enforced after the Act’s September 1, 2023 effective date.
- About 80% of surveyed districts used vague and subjective hair standards, which invite discriminatory enforcement against certain student groups, including Black students.
- Over 80% of surveyed districts prohibit essentially all head coverings—many without clear religious exemptions—thereby jeopardizing students’ rights to religious and cultural expression.
- Almost 80% of surveyed districts have rules prohibiting worn, frayed, or mis-sized clothing that disproportionately affect low-income students.

This report is a tool for students, families, educators, and policymakers to understand and rectify the harms caused by discriminatory dress codes in Texas.

Background

Schools and school districts use dress and grooming codes (“dress codes”) ostensibly to teach hygiene and maintain order in schools, but dress codes regularly contain discriminatory rules. This report shows that school officials also enforce dress codes in discriminatory ways. After a comprehensive review of almost every Texas public school district’s dress code, we find that hundreds of these codes contain language that discriminates on the basis of race, gender, religion, and other protected characteristics and that uneven and targeted enforcement can disproportionately affect marginalized students. However, this report also provides concrete and equitable steps schools can take to improve dress codes and their enforcement.

Methodology

Our research reviews almost 1,200 Texas public and charter school dress codes primarily from the 2022–2023 academic year. To understand how school districts enforce these policies, we sent public records requests to 50 school districts seeking data on dress code enforcement, disciplinary actions, and the demographic information of affected students. These dual data sets provide a comprehensive understanding of both policy content and real-world impact. ACLU of Texas staff members and University of Texas School of Law legal volunteers conducted the research.

RECOMMENDATIONS

Our review of Texas dress codes and enforcement data reveals common mistakes, prejudices, and pitfalls in dress code drafting and implementation. Based on these observations, the following summarizes policy recommendations that students, families, educators, and policymakers can use as they work toward more equitable and non-discriminatory dress codes. For more detailed recommendations, please see the Conclusions and Recommendations section below.

- ① **Remove Discriminatory Language**
Prohibit discriminatory language and practices, especially those that target or disproportionately affect students based on race, ethnicity, gender, religion, disability, or socioeconomic status.
- ② **Inclusivity and Equity Focus**
Guided by an equity policy, design dress codes with a strong focus on inclusivity and equity.
- ③ **Community Involvement and Regular Review**
Actively involve stakeholders in dress code development by taking measures such as forming committees for ongoing review and revision.
- ④ **Clear and Specific Guidelines**
Avoid subjective terms prone to discriminatory enforcement; provide clear and specific guidelines.
- ⑤ **Respect for Student Expression**
Within reasonable limits, emphasize respecting students' rights to express themselves through clothing and hairstyles.
- ⑥ **Fair and Non-Disruptive Enforcement**
Implement fair and non-disruptive dress code enforcement practices and ensure consequences prioritize education over punishment.
- ⑦ **Data Collection and Review**
Collect and analyze disaggregated data, including student demographics, on dress code violations and consequences to identify and rectify disparities.
- ⑧ **Training and Sensitivity**
Provide yearly comprehensive training for school staff on equitable dress code enforcement, cultural sensitivity, and respect for students' rights.
- ⑨ **Dress Code Consistency**
Consistently apply non-discrimination principles to the dress codes of every grade level and extracurricular activity.

BACKGROUND: DRESS AND GROOMING CODES, DISCRIMINATION, AND THE LEGAL LANDSCAPE

DRESS AND GROOMING CODES

Dress codes dictate how students must dress, cut and style their hair, and wear makeup and accessories at school. School districts typically set district-wide rules, written by the school board and/or superintendent. Other times, school districts allow individual campuses to create their own dress codes. School districts often justify dress codes for a variety of reasons, including as ways to prevent disruption and maintain a positive learning climate.

Even if dress codes are written with “neutral” or non-discriminatory language, they can be enforced in uneven, targeted, or discriminatory ways.

Despite these justifications and the widespread use of dress codes, these policies can lead to harm, discrimination, stigmatization, and lost class time. Dress codes sometimes reflect harmful racist, sexist, and anti-LGBTQIA+¹ stereotypes; infringe on students’ religious liberties; and discriminate based on disability or socioeconomic status. In addition, school officials disproportionately enforce dress codes against students whom those officials are already more likely to police.

Dress codes lead to discrimination in two main ways: first, some policies contain discriminatory language. As written, these dress codes treat students differently based on their gender, race, religion, or other characteristics or are based on stereotypes about “appropriate” dress and appearance. Second, even if dress codes are written with “neutral” or non-discriminatory language, school officials may enforce them in uneven, targeted, or discriminatory ways. Discriminatory dress code enforcement often targets students of color, LGBTQIA+ students, students with disabilities, and students from other diverse backgrounds.² Discriminatory enforcement tends to occur when dress codes utilize subjective language, which gives too much leeway to administrators and teachers to determine if students are breaking the rules. For example, rules that prohibit dress or grooming that is “immodest,” “distracting,” “extreme,” “too tight,” or “trendy” or that require students to appear “appropriate,” “clean,” or “well-groomed” run the risk of discriminatory enforcement.³

LEGAL HISTORY AND TRENDS IN DRESS CODE DISCRIMINATION

When many students and parents experience dress code discrimination, one of the first questions they ask is, “How is this possibly legal?”

The answer is that discrimination based on race, gender, religion, and other protected characteristics *is not* legal, but some courts have been slow to recognize that. For decades, students and families often were unable to seek recourse in federal and state courts for dress code discrimination, which would essentially give Texas school districts

free rein to impose discriminatory dress code rules. In recent years, however, multiple federal courts in Texas and across the country have blocked discriminatory dress codes. The tide has turned to encourage many school districts to change outdated and harmful rules. In fact, as outlined in the following paragraphs, many laws and Constitutional provisions protect against dress code discrimination.

The tide has turned to encourage many school districts to change outdated and harmful rules.

For example, courts have cited the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution to block the enforcement of dress codes that discriminate on the basis of race and gender.⁴ Courts have also found that gender-based dress code rules violate Title IX,⁵ a federal anti-discrimination law

that prohibits discrimination on the bases of sex, sexual orientation, or gender identity in public schools.⁶ Similarly, discriminatory, race-based dress code enforcement violates Title VI, a federal anti-discrimination law that prohibits race-based discrimination in public schools.⁷

Moreover, courts have found that dress codes targeting racially, culturally, or religiously significant expression may violate the First Amendment.⁸

Some Texas state laws also protect against dress code discrimination. In 2010, the Fifth Circuit Court of Appeals held that a Texas school district’s refusal to allow a student to wear long hair in accordance with his religious beliefs violates the Texas Religious Freedom Restoration Act (TRFRA).⁹ Further, in 2023, the Texas Legislature passed the CROWN (“Creating a Respectful and Open World for Natural Hair”) Act, which took effect on September 1, 2023. This law 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.”¹⁰

Finally, while school districts often make separate dress codes for extracurricular activities—like athletics, prom, and graduation—courts and the federal government have determined that these extracurricular dress codes cannot perpetuate discrimination.¹¹ Courts have mandated that students return to class if they were removed for dress code discipline and participate in extracurricular activities—such as prom and graduation—without conforming to discriminatory dress codes.¹²

ABBREVIATED METHODOLOGY

Our data collection volunteers—primarily law students from the University of Texas School of Law—analyzed and documented the characteristics of almost all K-12 public and charter school dress codes in Texas. Our volunteers assessed almost 1,200 dress codes: the vast majority were 2022–2023 school year dress codes, but in some instances in which the 2022–2023 dress code was not available, volunteers assessed a district’s 2021–2022 dress code.

In addition to the presence of problematic language in dress code policies, ACLU of Texas advocates are tracking discriminatory *enforcement* of dress codes. Therefore, to obtain data on dress code enforcement, especially among students of different races and genders, our researchers sent approximately 50 public records requests to a sampling of school districts. We asked each of the 50 districts to supply their dress and grooming policies, guidelines, training materials; any records of dress and grooming code violations and disciplinary consequences; and the ages, races, and genders of students accused of these violations.

For a complete Methodology, please see the Appendix.

While text, citations, and data are, to the best of the authors’ knowledge, current as of the report date and current to the dress codes analyzed for this report (predominantly 2022–2023 codes), subsequent developments, including legislative actions, court decisions, and dress code revisions, could alter the information and conclusions of this report. This report is not legal advice. If dress code discrimination has affected you, please consult with legal counsel.

FINDINGS

One of the main justifications for school dress codes is to limit distractions and enable students and teachers to focus on learning. However, far too often, dress code enforcement actually hinders students' abilities to learn because it can cause students to feel unwelcome at school or even lead to their removal from the classroom.

Discriminatory language in dress codes and discriminatory enforcement of them intensifies these harms. For example, the language or enforcement of some dress codes reflect or reinforce racist and sexist stereotypes or enable school officials to unfairly single out students of certain religious backgrounds. Dress code discrimination often targets particular student groups, such as LGBTQIA+ students, Black students, and students with disabilities.¹³ This type of discrimination is also common when dress code rules are subjective or open to interpretation.¹⁴

The following is an overview of our findings on (a) Texas school dress codes, which our volunteers determined are discriminatory based on their reviews of almost 1,200 Texas dress codes; and (b) Texas school districts' discriminatory enforcement of dress codes based on disciplinary records received via Public Information Act requests. Following the presentation of these findings, this report provides an overview of other problems—such as invasions of privacy, exclusionary discipline, and incomplete record keeping—that often accompany dress code implementation and enforcement.

The findings are divided by discrimination type, but it is important to note that many students are affected by multiple, intersecting forms of discrimination based on their various racial, gender, religious, and other identities. As we learn about how dress codes affect students differently, we can all play a role in advocating for more inclusive and equitable policies and practices that allow every Texas student to thrive.



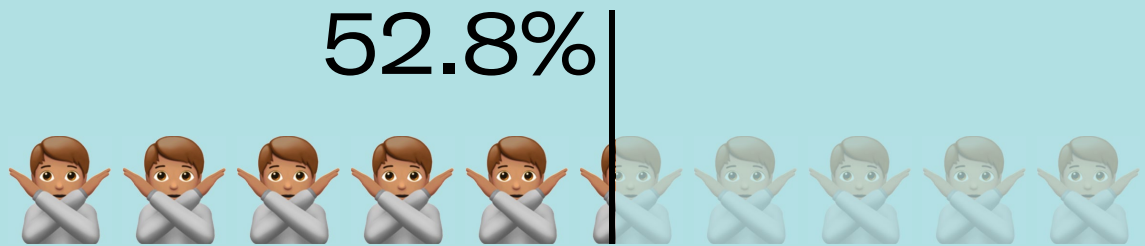
GENDER DISCRIMINATION

Many Texas dress codes make gender-based distinctions based on a rigid gender binary. Some require boys, but not girls, to wear short hair or refrain from wearing dresses, skirts, earrings, makeup, or nail polish.

Others specify that girls, and only girls, must follow certain rules, such as refraining from wearing tank tops or low-cut shirts. Rules like these force students to conform their appearance or behavior to rigid, binary, and discriminatory gender norms and stereotypes. They also may reflect the sexist and harmful view that girls' bodies are inherently vulgar or inappropriate and that boys will be "distracted" by them. Such policies may also punish non-binary, transgender, and gender-nonconforming students for their gender expression and send the harmful message that these students do not belong at school.

EXPLICIT GENDER-BASED DRESS AND GROOMING REQUIREMENTS

622/1178 surveyed districts have explicitly gender-based dress and grooming requirements—or, rules that pertain just to boys or just to girls. These requirements include boys-only hair-length and facial hair rules; boys-only earring, nail polish, and makeup rules; girls-only mandatory dress or skirt rules; and other boys- or girls-only dress and grooming rules.



Dress codes with explicitly gender-based dress and grooming requirements (e.g. boys-only nail polish rules, girls-only skirt rules)

Typical rules (quoted or adapted from actual dress codes) include:

Male students may not wear earrings or have any object in the ear lobe or ear.

Male students will not be permitted to wear make-up or nail polish.

For male students, sleeveless or open-arm shirts are not permitted.

Male students will not be permitted to wear skirts or dresses.

Ladies should wear a dress [to graduation].

Girls: Shirts and tops must have a shoulder strap at least one inch wide with no undergarments exposed. Low-cut tops exposing cleavage are not allowed at any time.

Girls will not be allowed to wear any clothing with spaghetti straps or razorbacks, or a garment with large armholes.

Rules like these can negatively affect students of all genders and sexual orientations by reinforcing rigid, binary, and outdated gender norms and stereotypes.

1

For girls

Girls suffer from the policing and sexualization of their bodies and the subjective, discriminatory enforcement of school dress codes. In many school districts across the country, girls are “dress coded,” or found in violation of the dress code, at a much higher rate than their male peers.¹⁵ Dress code policies often give school administrators and staff broad discretion to police and regulate girls’ bodies. Such oversight is uncomfortable and embarrassing for many girls at school.¹⁶

“I want people to know that this is a new generation, and you can’t continue to follow the same misogynistic and sexist rules that you may have followed in the 50s.”

SPRING BRANCH ISD STUDENT

The prevalence of over-enforcing dress code rules on girls is so great that one high school in Flower Mound, Texas published a video about its dress code that only featured girls. Even though students of all genders attend the school, the video exclusively showed the principal reprimanding girls for wearing shorts that were too short or tank tops or blouses that revealed their shoulders. Students and parents decried the video as “blatantly sexist,” and one high school senior, Catherine, voiced her concerns: “So sad how ONLY girls are shown as the violators. I understand why my school has a dress code, but what about the boys who wear shorts, or show their shoulders? It’s 2018 . . . Why are we still over-sexualizing teen girls?”¹⁷

In Spring Branch Independent School District (ISD), a cross-country team coach told an African American member of the girls’ team that she couldn’t practice in a sports bra, even though coaches allowed runners on the boys’ team to practice shirtless. This runner filed a discrimination complaint against her school and said, “I want people to know that this is a new generation, and you can’t continue to follow the same misogynistic and sexist rules that you may have followed in the 50s . . . We are not that—it’s a new generation.”¹⁸

2

For boys

While school officials often scrutinize girls for what they wear and call girls to the office for dress code violations at higher rates than boys, teachers and staff discipline and target boys with gender-specific rules that seek to reinforce a strict gender binary in Texas schools. By requiring boys to wear short hair to achieve a “professional” or “clean-cut” look, these rules also send a message to boys that they cannot express characteristics conventionally understood as feminine and must live up to the stereotypical notions of gender imposed by their school district.

3

For transgender, non-binary, gender diverse, or intersex students

Gender-specific rules especially harm students who are transgender, non-binary, gender diverse, or intersex¹⁹ because these policies do not allow for gender diversity or variance from gender norms. These rules can bring negative attention to gender expression outside of traditional norms and stereotypes and can lead to increased harassment and stress, lower academic performance, increased dropout rates, and a heightened risk of entering the school-to-prison pipeline for transgender, non-binary, gender diverse, or intersex students.²⁰

In the fall of 2020, a high school principal in Louise ISD stopped a transgender girl named Sanay from entering the school building because she was dressed as the girl she is.²¹ The principal charged Sanay with violating the school’s boys-only short-hair rule and the boys-only prohibition on wearing earrings. Sanay said, “I’m here to tell everyone, that transgender students should be allowed [to get] their education. . . . It is their rightful purpose for them to go into the school and get their education. It doesn’t matter what race, gender, sexuality.”

4

For lesbian, gay, bisexual, pansexual, and asexual students

Gender-based rules that reinforce stereotypical, heteronormative notions of gender in schools also negatively affect students who are lesbian, gay, bisexual, pansexual, asexual, or have other sexual orientations.²² When educators seek to enforce strict gender norms through dress and grooming, they send a message to students that they must fit within these norms or they will not be accepted or welcome at school.

“I would not change who I am for the world. And I am learning to fully love myself and be comfortable in my own skin and sexuality, and I think that is an amazing thing.”

CLYDE CISD STUDENT

In December 2020, Clyde CISD suspended a student named Trevor for coming to school with painted nails. Although the district allowed all female students to decorate their nails, it prohibited boys from doing so. Trevor painted his nails to challenge stereotypical gender norms in his West Texas town and express his sexual orientation by wearing LGBTQIA+ Pride colors. After the school district suspended him, Trevor started a petition that gathered hundreds of thousands of signatures online, and he shared his story on *Good Morning America*. While Clyde CISD ultimately changed its dress and grooming

code to be gender-neutral and to allow students to decorate their nails regardless of gender or sexual orientation, the district interfered with and partially derailed Trevor’s senior year.²³

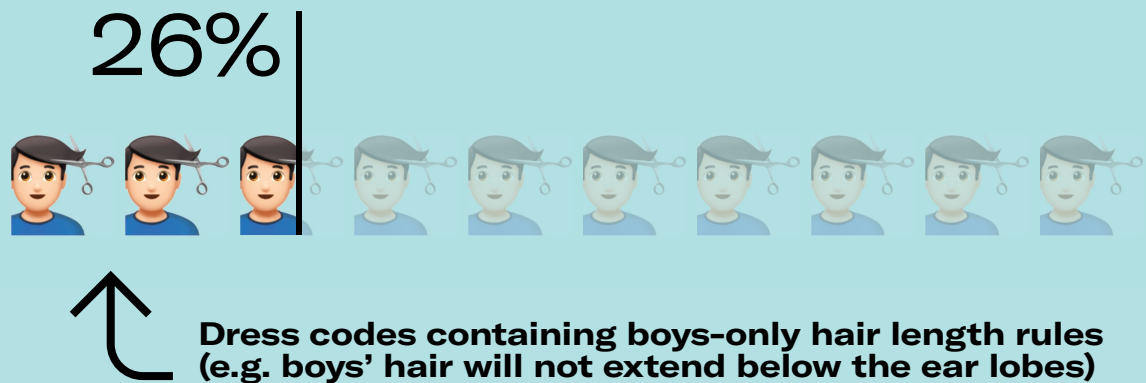
Trevor described the importance of his expression to celebrating his sexual orientation: “The fact that I’m even painting my nails right now means so much to me. And it shows my growth. I would not change who I am for the world. And I am learning to fully love myself and be comfortable in my own skin and sexuality, and I think that is an amazing thing.”²⁴

BOYS-ONLY HAIR LENGTH RULES

Many school districts in Texas still require boys to have short hair. While these districts allow girls to have long hair, they typically require boys to cut their hair above their ears, above their eyebrows, and above or off the collar of their shirt. These rules date to the 1960s, when school districts tried to make boys look “clean-cut,” as compared to rock stars like the Beatles, amidst a growing trend of men wearing longer hair to challenge traditional gender or social norms.²⁵

In 2020, the ACLU of Texas identified 477 districts with boys-only hair length rules and sent each district a letter explaining that those rules violate the Constitution and federal anti-discrimination law.²⁶ Since then, 242 of the districts named on that list have removed their boys-only hair length rules.

There is still work to do. In our survey of the 2022–2023 school year, we found that over a quarter of Texas school districts still have boys-only hair length rules.



Typical rules (quoted or adapted from actual dress codes) include:

Boys’ hair will not extend below the eyebrows, below the ear lobes, or below the top of a t-shirt collar.

Braids and dreadlocks—or locks²⁷—must meet appropriate dress code hair length for boys.

While boys-only hair length rules discriminate based on sex and gender identity, they can also cause discrimination on the bases of race, religion, or income.

These policies often disproportionately target and penalize Black and Indigenous students and potentially violate the CROWN Act for preventing boys from maintaining culturally significant hairstyles like braids, locs, and twists. These rules also penalize students who wear religiously significant hairstyles and students who cannot afford frequent haircuts and other grooming services.

In Magnolia ISD, school officials pushed three students out of school and suspended many others because the school district insisted on trying to force all boys to wear short hair.²⁸ One of those

penalized students, A.C., is Latino and, as many other men in his family did before him, has worn long hair his entire life. While the district allowed A.C.'s sister to go to school every day with long hair, it suspended A.C. and kept him out of school for over a month simply because of his gender and hairstyle.

“You have de-humanized me and de-moralized me by forcing me to cut my hair or remain in ISS [In-School Suspension].”

MAGNOLIA ISD STUDENT

Magnolia ISD suspended another student named T.M. for wearing long hair because of the boys-only hair policy even though T.M. is non-binary. T.M. does not identify as male or

female and uses they/them pronouns. Because T.M. was assigned the sex of male at birth, Magnolia ISD tried to force them to cut their hair in compliance with the district's boys-only hair-length rules. T.M. suffered the injustice of the district erasing their gender identity and faced the same suspension as the boys that the district punished for wearing long hair.

After facing an ACLU of Texas lawsuit, Magnolia ISD eventually changed its dress code to be gender-neutral. However, before the change, Magnolia ISD disrupted the educations of many students for multiple months.²⁹

Speaking at a school board meeting, one Magnolia ISD student said, “You have de-humanized me and de-moralized me by forcing me to cut my hair or remain in ISS [In-School Suspension].”³⁰

Boys-only hair length rules, facial hair restrictions, and restrictions on certain hairstyles also negatively affect students of certain religious and cultural backgrounds.

Many Native and Indigenous male students wear long hair to honor their ancestry and beliefs. Even though the ACLU of Texas successfully sued Needville ISD in 2010 to uphold the rights of Native students to wear long hair in schools,³¹ boys-only hair length rules continue to force Indigenous and Native students to take burdensome steps to seek exceptions to this policy or to “prove” their ancestry or beliefs to be able to wear long hair in school. For example, Monahans-Wickett-Pyote ISD tried to force two Indigenous students to prove their ancestry through a tribal membership card or DNA test before it would grant them permission to wear long hair, and the principal even sent the school district police chief to one of the student’s homes to interrogate the student and his family about their heritage.³² However, ancestry or DNA do not determine the rights of Indigenous students to wear long hair because those rights are based on religious beliefs. Since the law requires districts to make exceptions to dress code rules for all students with sincerely held religious beliefs, it is unnecessary and unlawful for school districts to interrogate students about their genetics or genealogy.

In another potential infringement on students’ religious liberties and religious and cultural expressions, many surveyed dress codes banned the mohawk hairstyle, which is historically linked to the hairstyles of some Indigenous peoples.³³ A Seneca Nation Tribal Councilor who advocated against a mohawk ban in a Utah school explained, “From past centuries to the modern era, Native boys have worn their hair in various lengths and styles to demonstrate their pride in their

heritage. . . . It is common for Seneca boys to wear a Mohawk because after years of discrimination and oppression, they are proud to share who they are.”³⁴

Boys-only hair length rules impact students with other religious beliefs as well. In Mathis ISD, two students who are Catholic wore long hair as a promise to God, or *promesa*. Their district threatened to prohibit them from extracurricular activities because of its boys-only hair-length rule. The students sued their school district and won.³⁵

It is unnecessary and unlawful for school districts to interrogate students about their genetics or genealogy.

Requiring boys to wear short hair and frequently get haircuts also has disparate impacts on students based on their socioeconomic status. In February 2019, Hico ISD humiliated a student by requiring a teacher to cut his hair without his parents’ permission.³⁶ This student’s family recently had moved to the area and did not have money to buy him a haircut to ensure that his hair was above his eyebrows, ears, and collar. By forcibly giving this student a choppy and uneven haircut at school, the teacher embarrassed the student and added to pressure on other families in the district to pay for haircuts and avoid such public shaming.

RULES THAT DO NOT EXPLICITLY MENTION BOYS OR GIRLS, BUT THAT EMPHASIZE THE IMPORTANCE OF “MODESTY”

630/1178 surveyed districts have rules that emphasize the importance of “modesty,” for example by prohibiting clothing that is “sexual,” “suggestive,” “immodest,” or “revealing.”



Typical rules (quoted or adapted from actual dress codes) include:

Apparel that is too tight or too short to prevent modesty will not be allowed.

Appropriate and modest attire is required.

All tops/shirts must have sleeves and be modestly cut, which also means not too tight or revealing.

No clothing may be worn that fits so tightly as to be immodest or cause distractions.

Clothing should be worn in a manner that it is designed and constructed for and worn in a manner that is not suggestive or indecent.

Cleavage must be fully covered. See-through, provocative, or excessively tight clothing is not allowed.

Although these rules do not mention girls by name, they disproportionately impact girls, can reinforce harmful stereotypes, and can create a hostile and negative educational environment for all students.

For example, many dress code rules that require “modesty” or prohibit clothing that is “revealing” “often apply to standards of appearance typically associated with girls and women.”³⁷ Further, rules that are open to interpretation allow teachers and administrators to impose their own personal views of modesty, and subjective interpretations can lead to discriminatory enforcement and confusion for students who are trying to comply with the dress code. When school districts target girls for dress code



enforcement at school under these rules, they imply that girls’ bodies are inherently shameful or inappropriate and that the regulation of their appearance is more important than their need to learn.³⁸ The disparate enforcement of “modesty” rules also suggests that girls’ bodies will “distract” other students, particularly boys. That notion of “distraction” reinforces the harmful stereotypes that boys and men are unable to control their sexual impulses and that women are responsible for men’s behaviors. It also indicates that a school district has prioritized creating a “distraction”-free environment for boys over girls’ freedom, self-esteem, and comfort. Overall, these policies send students the message that boys are not responsible for their bad behavior and reinforce a culture of victim-blaming girls who experience sexual harassment.³⁹

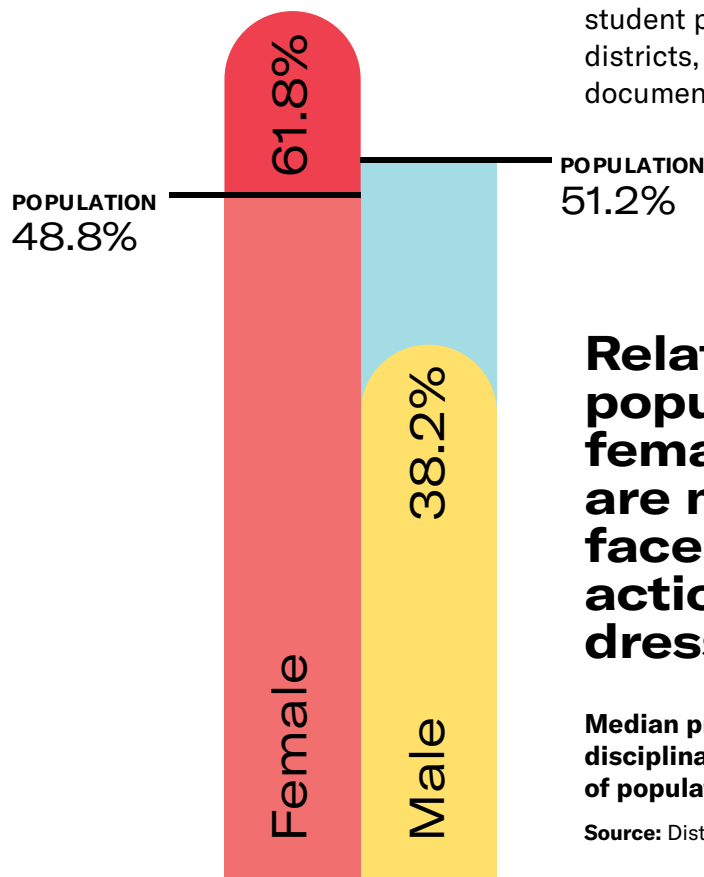
Rules like these particularly impact Black girls, who have long been subject to racial and sexual stereotypes and whose bodies are heavily policed and scrutinized throughout society.

For example, adults often view Black girls “as less innocent and more adult-like than their white peers” and as hypersexualized.⁴⁰ Schools are unfortunately no exception, and many districts apply and enforce dress code rules that seem neutrally phrased—such as requirements that students dress “modestly” or do not wear anything “inappropriate”—more frequently and with greater punishment on Black girls and other girls of color. For example, The National Women’s Law Center published a report about the experiences of Black girls with dress codes and found that even when schools phrase rules neutrally, Black girls “face adults’ stereotyped perceptions that they are more sexually provocative because of their race, and thus more deserving of punishment for a low-cut shirt or short skirt.”⁴¹ In addition, studies show that Black girls are more likely to “experience exclusionary discipline outcomes for subjective reasons,” such as dress code violations, “which depend on the subjective judgment of school personnel.”⁴²

HOW DISTRICTS ENFORCE THESE DRESS CODE RULES

To better understand dress code enforcement in our state, our researchers asked 50 school districts of different sizes from across Texas to provide us with their records of dress and grooming code violations, including disciplinary consequences and the age, race, and gender of the students accused of these violations. However, as discussed below, because such a small number of districts responded to our requests and even fewer provided information usable in a statistical analysis, the data are incomplete and may not reflect larger, statewide patterns. Our review of school district disciplinary data indicates that certain student groups in the surveyed districts are more likely to face dress code discipline than others. For example, in the surveyed districts, girls faced a

disproportionate amount of discipline compared with boys. Even though girls make up about one-half (48.8%) of the student population in the surveyed districts, they received over 60% of the documented disciplinary actions.



Relative to their population, female students are more likely to face disciplinary action related to dress codes

Median proportion of disciplinary actions vs. share of population, by gender

Source: District enforcement data

Rules requiring “modesty,” which often disproportionately target girls, likely explain some of this disparity. Further, according to a review by the Government Accountability Office, “[a]n estimated 90 percent of dress codes prohibit clothing items typically associated with girls [such as yoga pants, spaghetti straps, and short skirts/shorts] compared to 69 percent that prohibit items typically associated with boys.”⁴³ This disparity demonstrates that the design of many dress codes impact female students more than male students.



RACE DISCRIMINATION

Race discrimination is one of the most common and harmful types of discrimination. Racist stereotypes are deeply embedded in our society, and dress codes are no exception.

Because many dress and grooming policies are written based on Euro-centric standards of dress and beauty, dress codes have historically marginalized, discounted, and suppressed styles of dress, hair, and grooming associated with Black people and other people of color. For example, some dress codes prohibit hair styles and textures—like Afros, braids, and locs—that are historically associated with African American hair practices. Others prohibit clothes and accessories—like du-rags, hair beads, and picks—based on associations with race and racial stereotypes, particularly those associated with Black people. Rules like these are rooted in racist standards of professionalism and respectability, and they marginalize many students of color.

RULES THAT PROHIBIT RACIALLY OR CULTURALLY SIGNIFICANT HAIRSTYLES AND TEXTURES

87/1178 surveyed districts have rules that prohibit or restrict racially significant hairstyles and textures. Examples we asked volunteers to look for include restrictions against braids, twists, cornrows, Afros, dreadlocks, locs, excessive curls/tightly coiled hair, knots/bantu knots, hair extensions, and fades. We did not include rules on hair color (except for hair extensions) or hair ornaments and accessories like beads, picks, combs, or rollers. This category also does not include rules about shaved lines in the hair or mohawks. However, those rules can also lead to problematic racial stereotyping and race-based enforcement.

7.39%



Typical rules (quoted or adapted from actual dress codes) include:

Any hairstyle—such as mushrooms, afros, or any other kind—must not exceed 2 inches high. Afro hair styles are to be no longer than four (4) inches.

No excessively bushy hair.

Boys may not wear braids.

No wigs.

Dreadlocks and braids must meet appropriate dress code hair length.

Braided hair must be pinned flat against the scalp and cannot be puffed out; braids may not be in ponytails or buns.

Cornrows are not permitted.

No “fros” or “puffs.”

Braided hair must be tight to the head and not hanging down off of the head.

Excessive curls or flips are prohibited.

Unusual or distracting haircuts or styles such as . . . dread locks . . . are not allowed.

Afros must be shaped.

Fades are not permitted.

These rules are racist and disproportionately target students of color, particularly Black students.

Importantly, this report analyzes districts' 2022–2023 dress codes, and many or all of the 87 school districts identified here may have removed for the 2023–2024 school year the rules that prohibit racially or culturally significant hairstyles and textures. However, if districts have not removed these rules, they are likely violating Texas' CROWN Act, which became effective on September 1, 2023 and prohibits school districts from discriminating “against a hair texture or protective hairstyle commonly or historically associated with race,” including, but not limited to, “braids, locks, and twists.”⁴⁴

Much dress code discrimination in Texas concerns school districts' attempts to regulate and restrict Black students' hair. Hair styles, textures, and lengths differ around the world. Black people from the African diaspora often wear hairstyles that align with and protect the natural texture of their hair. These “natural” or “protective” hairstyles have roots dating back millennia and often have deep cultural meaning for students and their families.⁴⁵ Cornrows, braids, bantu knots, and locs are all examples of natural Black hairstyles that protect students' hair from breakage, damage, or loss and are all culturally significant.⁴⁶



twists



bantu knots



braids



locs



cornrows

Unfortunately, many school districts and school administrators in Texas have not valued or embraced this cultural and racial diversity in hair style and texture.

In January 2020, Barbers Hill ISD officials told De’Andre Arnold and his cousin, Kaden Bradford, that they had to cut their locs because they were too long even though they wore their locs as a protective hairstyle and as a demonstration of their “cultural heritage and Black identity.”⁴⁷ De’Andre attended Barbers Hill ISD since pre-kindergarten and worked hard to earn the right to graduate, but the district prohibited him from walking across the stage at graduation solely because of his locs.⁴⁸ In addition, district officials told Kaden that his school would keep him in “indefinite in-school suspension and [excluded] from school activities, such as the band program, unless he cut his locs.”⁴⁹ Even though a judge later ruled that the policy was likely unconstitutional and that the district must allow Kaden to return to class without cutting his locs,⁵⁰ Barbers Hill ISD

Barbers Hill ISD prohibited De’Andre Arnold from walking across the stage at graduation solely because of his locs.

continues to enforce this discriminatory rule against its students.⁵¹ In October 2023, the District suspended yet another Black student with locs for refusing to comply with its hair length policy.⁵²

Sadly, Barbers Hill ISD is not alone in failing to value and appreciate Black students’ natural hair. Across Texas, school districts have punished or suspended students of color and, in some cases, pushed these students out of school altogether, because of the style and texture of their hair.

In October 2018, a Black male student in Greenwood ISD was told by school administrators that he would no longer be allowed to play football if he did not cut his cornrows.⁵³ In January 2019, a six-year-old Black student in Midway ISD was told to cut his locs because they touched his ears and collar.⁵⁴ In the spring of 2021, Troy ISD sent an 11-year-old student to ISS for more than ten days because his top knot, which he wore to honor his African heritage, violated the district’s dress code.⁵⁵

These are just a handful of examples of numerous instances of Black students—and Black boys in particular—being punished for hairstyles and hair length closely associated with their race.

RULES ON STUDENT HAIR WITH SUBJECTIVE LANGUAGE

944/1178 surveyed districts have rules about student hair that use subjective language. Rules on hair color were not documented here.

80.1%



Dress codes containing rules about student hair that use subjective language (e.g. “no extreme or distracting hairstyles”)

Typical rules (quoted or adapted from actual dress codes) include:

Hair will be neat, clean, well groomed, and natural color. Hairstyles that are extreme enough to create a disturbance or disrupt the normal routine shall be deemed inappropriate.

Student’s hair, including facial hair, must be clean, groomed, and, by the nature of the style, does [sic] not tend to create a distraction.

Students are to wear their hair clean and well-groomed. Any hairstyle or grooming that is contrary to good hygiene or which is considered a distraction or disruptive to the purpose, conduct, and safety of the school will not be permitted.

No extreme hairstyles, as determined by administrators.

Students must wear hair out of their eyes, well groomed, a natural color, and clean at all times. Hairstyles, which in the judgment of administrators, pose a health or safety hazard and/or disrupt the educational process, are not permitted.

“Radical” hairstyles are not allowed.

All students must have a standard, conservative hairstyle.

Even though these rules don't explicitly mention hairstyles and textures historically associated with race, dress code rules that contain subjective language or that are open to interpretation risk being "disproportionately applied to vulnerable student groups including . . . Black students"⁵⁶ as well as students of various cultural and religious backgrounds.

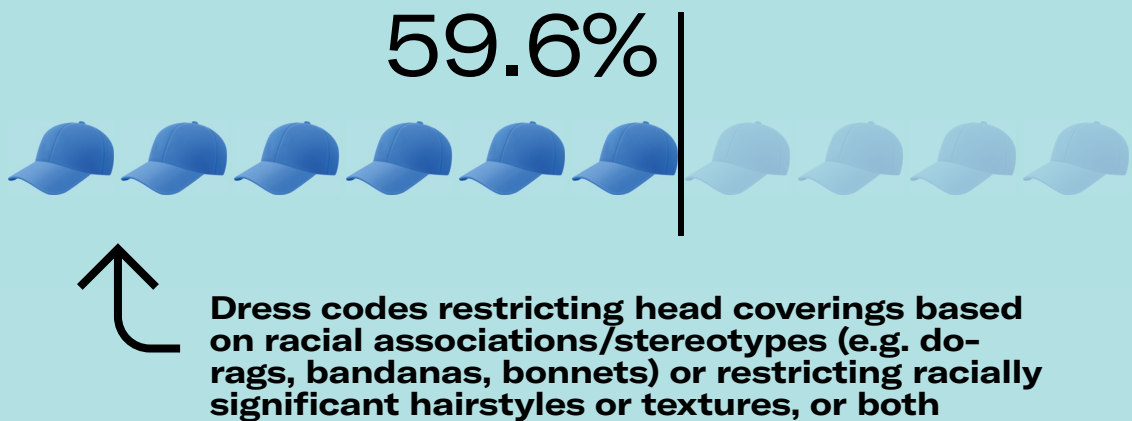
In the context of hair-based dress code rules, these subjective standards often include prohibitions on hair textures and styles that are "trendy," "distracting," and "extreme" or that require hair to look "natural," "clean," or "well-groomed."

"Locs is a natural Black hair formation and I am an African American . . . Not a lot of kids that have come through Barbers Hill have had locs like we have, so yeah, of course I felt that I was being targeted because of my significant hairstyle."

A BARBERS HILL ISD STUDENT,⁵⁷

RULES ON HAIRSTYLES AND HEAD COVERINGS ASSOCIATED WITH RACE OR RACIAL STEREOTYPES

702/1178 surveyed districts have rules that prohibit or restrict racially significant hairstyles and textures (discussed separately, above) or that restrict or prohibit head coverings based on racial associations/stereotypes or both. Examples of terms for head coverings for which we asked volunteers to search include durags, do-rags, bandanas, bonnets, hoods/hoodies, and/or beanies.



Typical rules (quoted or adapted from actual dress codes) include:

Hooded sweatshirts and jackets cannot be worn in the building during school hours. No designs in hair and no hats, caps, bandanas, headbands, do-rags, or wave caps.

Bandanas are not permitted on school property or sponsored events.

Hoods on jackets, caps, beanies, hair scarves, or bandanas may not be worn except for documented religious or medical reasons.

Bandannas or “rags” will not be permitted, either on the head or hanging from students’ clothing.

No student shall wear curlers, caps, hats, bandannas, visors, or hoods inside any school facility during the school day.

Hats, caps, hoods, durags, bandanas or other distracting headgear will not be allowed in the building.

While hair is the most common area of dress code discrimination based on race, some school districts have also adopted policies seeking to impose Eurocentric standards of dress and grooming by targeting apparel perceived as culturally Black, including hoodies, bonnets, hair nets, or durags.

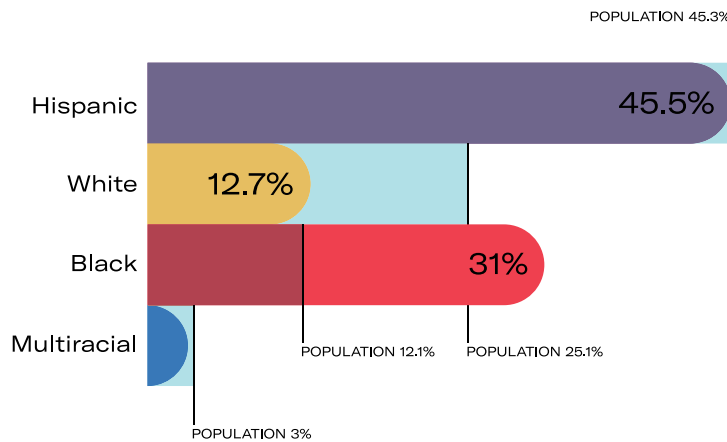


For example, in 2019, a Houston ISD principal implemented a “dress code for parents,” which prohibited anyone on campus from wearing hair rollers, bonnets, shower caps, or “sagging pants.”⁵⁸ Although the principal aimed the policy at all parents, for whom the principal said she had “high standards,” the dress code was heavily criticized as racist, classist, and aimed primarily at Black students and parents.⁵⁹

Additionally, although language concerning hair accessories, such as beads, hair picks, and combs, was not part of our formal data collection, our researchers noted alarming language about those culturally relevant accessories in hundreds of school district dress codes. These prohibitions are problematic because they disproportionately target certain racial and cultural groups that have historically used these accessories as part of their hair care. Beads and other hair accessories, including gold cuffs and multicolored string, have roots within African cultures.⁶⁰ Black people often use hair accessories to embellish protective or natural hairstyles or to express pride in their heritage or opposition to Eurocentric beauty standards.⁶¹ Hair picks, also known as Afro combs, similarly have strong ties to African cultures and play an important role in maintaining Black hairstyles.⁶² Furthermore, these combs represent broad political and cultural association with the civil rights movement of the 1970s.⁶³

HOW THESE DRESS CODE RULES ARE ENFORCED

Finally, our review of school district disciplinary data⁶⁴ indicates that students of certain races in the surveyed districts are more likely to face dress code discipline than others. Black students in the surveyed districts faced a hugely disproportionate amount of disciplinary action when compared to their share of the overall student population. Black students received 31.0% of the documented disciplinary instances but comprised only 12.1% of the surveyed student population. On the other hand, white students in the surveyed districts received a smaller share of the disciplinary instances (12.7%) than their share of the overall surveyed student population (25.1%), as did Asian, Native American, Pacific Islander, and multi-racial students. Hispanic students received a virtually identical share of disciplinary instances (45.5%) when compared to their share of the overall surveyed student population (45.3%).



Relative to their population, Black students are more likely to face disciplinary action related to dress codes

Median proportion of disciplinary actions vs. share of population, by race

Asian, Native American, and Pacific Islander students (not pictured) had a median of 0% disciplinary action

Source: District enforcement data

These findings align with national trends. Over the past half century, researchers have consistently highlighted the disproportionate disciplining of Black students in public schools.⁶⁵ Most recently, in 2018, Government Accountability Office reviewers examined public school districts across five states including Texas and found that school districts disproportionately disciplined Black boys and girls. Although Black students accounted for only “15.5 percent of all public school students, [they] represented about 39 percent of students suspended from school.”⁶⁶ Additional studies suggest that this general trend of over-disciplining Black students stems from systemic bias in schools and educators’ implicit biases and racial stereotypes of students.⁶⁷

When specifically considering school dress code enforcement, Pavlakis and Roegman (2018) found that school officials disproportionately dress code Black and multiracial girls. This disparity suggests that school officials perceive girls of color—and their bodies, specifically—as more sexual or problematic than their white peers.⁶⁸ The 2018 study also highlights that school officials dress code male students of color more frequently than their white peers for minor acts, such as wearing hoods or hats. This uneven application of dress codes sends the message to students that teachers view “males of color as potential threats who needed to be watched over and disciplined.”⁶⁹



RELIGIOUS DISCRIMINATION

Many school dress codes across the state also negatively affect students through religious discrimination.

Some dress codes prohibit all scarves, head coverings, long hair for boys, or facial hair; those prohibitions contradict the tenets and practices of some religious faiths. Some dress codes explicitly target religious symbols or accessories, such as rosaries or satanic symbols, even though the US Constitution protects many such symbols.

RULES ON HEAD COVERINGS

984/1178 surveyed districts prohibited essentially all hats and head coverings. Some of these rules specifically listed head coverings with religious significance, such as head scarves and turbans. Of all of the surveyed districts, volunteers identified only 248 that explicitly noted that religious exemptions to the dress code were available.



Dress codes prohibiting essentially all hats and head coverings (e.g. “caps, hoods, hats or head coverings should not be worn in the building.”)

Typical rules (quoted or adapted from actual dress codes) include:

Hats, scarves, bandanas, hair coverings, and sweat bands are not to be worn by students except under circumstances approved by the Principal.

No head coverings of any sort are to be worn in the building.

Caps, hoods, hats or head coverings should not be worn in the building.

Hats, caps, bandanas, scarves, or other distracting accessories are unacceptable.

Prohibited: Headgear of any kind at any time in the building or hallways, including caps, hats, headbands, sweatbands, headscarves, bandannas, head rags, or towels of any type.

No sweatbands, bandanas, scarves, toboggans, kerchiefs, wraps, turbans, nets, etc. will be permitted.

Headgear will not be worn or carried during school hours in any building to include hats, caps, bandanas, sweatbands, ear muffs, toboggans, kerchiefs, wraps, scarves, turbans, nets, etc.

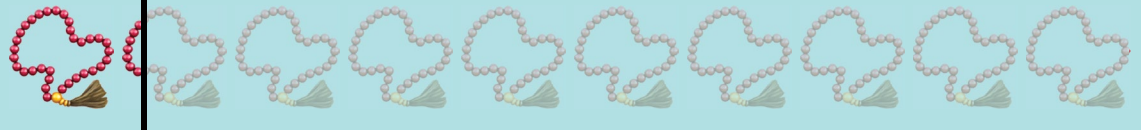
Rules that prohibit head coverings often conflict with and restrict students' rights to religious expression.

For example, students of various religious backgrounds may wear head coverings, such as head scarves, hijabs, yarmulkes, or turbans, to school in accordance with their religious faiths.⁷⁰ Despite the fact that our researchers identified only 248 districts that explicitly noted the potential for religious exemptions in their dress codes, the First Amendment and the Texas Religious Freedom Restoration Act (TRFRA) require schools to make exceptions to their dress codes for religious dress. These exceptions “allow students with sincerely held religious beliefs to freely exercise those beliefs” and engage in religious speech through religious dress.⁷¹

RULES ON RELIGIOUS SYMBOLS AND OTHER RELIGIOUS EXPRESSION

155/1178 surveyed districts imposed rules prohibiting or restricting religious symbols on jewelry or clothes.

13.2%



Dress codes prohibiting religious symbols on jewelry or clothes (e.g. rosaries, occult ideology)

Typical rules (quoted or adapted from actual dress codes) include:

Rosaries may not be worn as jewelry.

Rosaries must be worn inside clothes.

Rosaries must not be exposed.

Clothing, makeup, jewelry, patches, tattoos, or designs on clothing must not reflect or suggest in any manner . . . satanic ideology.

No pictures, emblems, or writing on clothing that are satanic.

Clothing or jewelry that depicts . . . satanism, occult, witchcraft . . . is prohibited.

[No items that] promote inappropriate subjects such as . . . religious cults.

In addition to restricting religious headwear, some dress codes explicitly target religious symbols or accessories even though the US Constitution protects the display of many of these symbols.

For example, multiple surveyed dress codes banned students from wearing rosary beads. However, rosary beads play a crucial role in the Roman Catholic faith and are a form of religious expression. They symbolize devotion to the Catholic faith, and practitioners use them during prayer.⁷³ When one Texas school district tried to prohibit students from wearing visible rosary beads on campus, a federal judge blocked the enforcement of that rule because it violated the students' First Amendment rights.⁷⁴



“[My rosary] reminds me of all the love [my grandmother] had for me”

A FORT BEND ISD STUDENT
SUSPENDED FOR WEARING A
ROSARY AT SCHOOL⁷²



INCOME DISCRIMINATION

School dress codes also impact students disproportionately based on wealth and socioeconomic status.

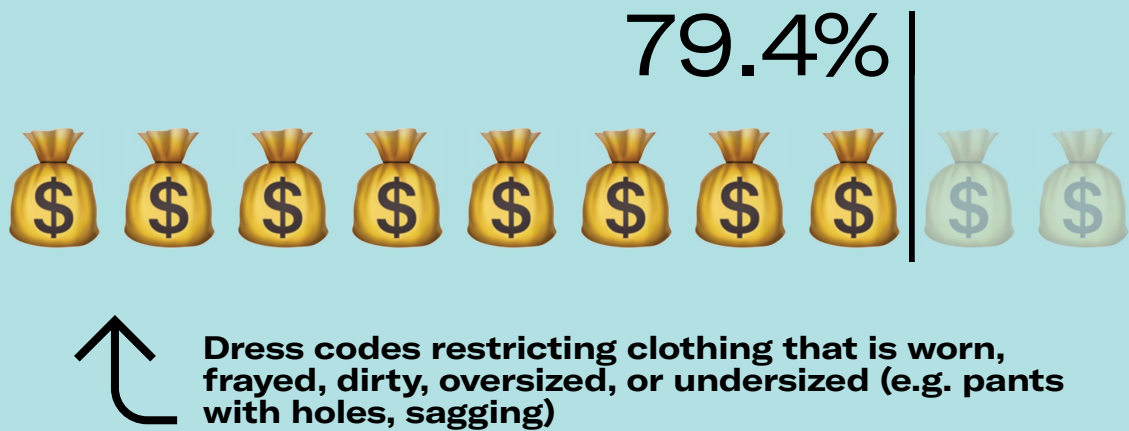
One of the most common dress code rules across Texas is that students' clothes cannot be frayed or have holes in them. While this policy seems straightforward, school leaders who strictly enforce it harm students who lack the economic means to replace or repair their clothing.

Rules that prohibit clothing that is worn, frayed, dirty, oversized, or undersized may disproportionately penalize low-income students, who may not have the resources to buy new, fitted, or undamaged clothing.⁷⁵

As noted above, other strict grooming rules, like boys-only hair length rules, can also unevenly affect students and families who cannot afford regular haircuts or grooming services.

RULES THAT CAN CAUSE INCOME DISCRIMINATION

935/1178 surveyed districts have rules that prohibit clothing that is worn, frayed, dirty, oversized, or undersized.



Typical rules (quoted or adapted from actual dress codes) include:

Excessively worn, torn, frayed, oversized or long clothing is not permitted.

No garment may be worn that is cut-off, faded, ragged, or torn. Clothing must have appropriate hems, exhibit no slits, tears, or holes.

All clothing must be properly hemmed, clean, and free from holes or tears.

Unacceptable: Pants with holes, frays or patches.

Clothing must be appropriately sized and worn at the waistline.

Pants or shorts shall not be more than one size too large, and must be worn at the natural waist, with no "sagging." Shirts and blouses shall be appropriately sized.

Any article of clothing must be fitted correctly being neither too tight nor too loose.

DISABILITY AND OTHER TYPES OF DISCRIMINATION

School dress codes can disparately impact students with disabilities who are already disproportionately disciplined in comparison to their peers for behavioral or other rules infractions at school.⁷⁶

Additionally, students with disabilities may already have restricted clothing options due to sensory sensitivities or limited physical mobility⁷⁷ and may require exceptions or accommodations to thrive in school. In addition, dress codes may harm students in ways not examined closely in this report.

We are all learning more about dress codes and how they affect us every day. As school boards and administrators think critically about their dress code policies, they must listen closely to students, families, teachers, and members of the community.

PROBLEMS WITH DRESS CODE IMPLEMENTATION: HARMFUL ENFORCEMENT & DISCIPLINARY PRACTICES AND RECORD KEEPING

Dress code enforcement and the discipline accompanying that enforcement can result in lost class time and educational opportunities, embarrassment, invasions of privacy, and a negative and hostile learning environment.

Therefore, school districts must keep track of dress code enforcement and disciplinary statistics so administrators can ensure that they are implementing dress codes in non-discriminatory and non-harmful ways.

1

Types of Discipline, Loss of Class Time, and Effect on the Learning Environment

1.

Disciplinary consequences for dress code violations can be deeply disruptive to students' learning. Below, our review of districts' disciplinary records, received via Public Information Act requests, indicates that detention and in-school suspension (ISS) are common forms of discipline for dress code violations. These punishments can be forms of "exclusionary discipline"—or, actions that remove students from the classroom.⁷⁸ Even less severe consequences, like sending a student to an administrator's office or being required to change clothes *during class*, are considered exclusionary and "can add up to hours of lost instruction."⁷⁹ Exclusionary discipline is associated with negative educational outcomes, increased drop-

out rates, and increased risk of incarceration through the school-to-prison pipeline.⁸⁰ School districts surveyed for this report use many forms of dress code discipline—including ad hoc warnings and conferences, detentions, and in-school and out-of-school suspensions—that may be or are always exclusionary depending on when school officials administer the punishments.



Disciplinary Consequences for Dress Code Violations in Surveyed Districts

Verbal Warning

29.4%

Detention/Timeout

28.5%

Student Conference or Counseling

16.5%

In-School Suspension (ISS)

13.6%

Other

3.4%

Discipline Class

3.3%

Change or Modify Clothes

3.1%

Parent Action

1.5%

Out-of-School Suspension (OSS)

0.7%

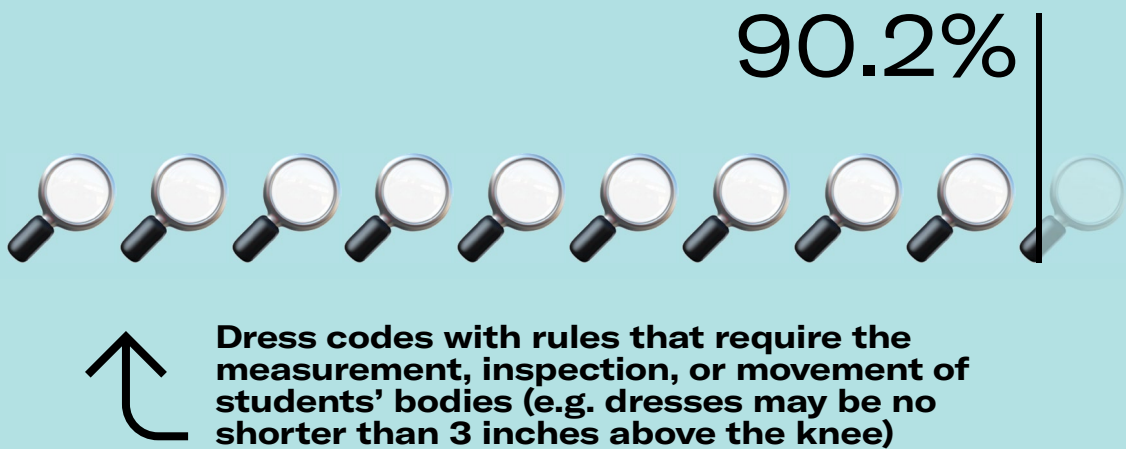
Suspensions make up 14.3% of dress code disciplinary actions

Note: the “OTHER” category includes the confiscation of items that violated the dress code, restorative justice practices, behavior agreements, demerits, cleaning duties, loss of privileges, corporal punishment, and community service.

Source: District enforcement data

No matter the type of discipline received, when students are “dress coded” at school, disciplinary action can cause punished students to experience embarrassment, stigma, or loss of privacy, and the ordeal can send negative messages to the student body at large. Even non-exclusionary forms of discipline that occur outside of class time—like verbal reprimands, after-school detention, calling parents, and disqualification from clubs and extracurricular activities—“can create a more negative environment for all students in school,” especially the punished students.⁸¹ In our records review, we found many instances of these punishments and other punitive consequences, like cleaning duties, Saturday school, community service, and even being required to cover exposed skin or holes in clothes with duct tape. In one instance, a 15-year-old Black girl in a North Texas district received corporal punishment for wearing a nose ring.⁸²

Additionally, when a teacher or staff member inspects a student for dress code compliance, students may experience shame, embarrassment, or violations of privacy—especially when the inspection happens in front of other students or if the rules require the student to move their body for inspection.⁸³ Further, dress code rules that require students’ clothing or bodies to be measured may lead to adults touching students’ bodies. This proximity leaves students—particularly girls—at risk of inappropriate touching, sexual harassment, and a loss of bodily autonomy.⁸⁴ Our review of written dress codes revealed that 1063/1178 surveyed districts have rules that require the measurement, inspection, or movement of students’ bodies.



Typical rules (quoted or adapted from actual dress codes) include:

Shorts cannot be shorter than 5 inches above the knee when kneeling on the floor.

Skirts and dresses may be no shorter than 3 inches above the knees.

All tops are to have shoulder straps at least three inches wide.

All shoulder straps will be a minimum width of the “three finger rule.”

Dresses, skirts, and shorts shall extend below the fingertips when the arms are relaxed at the side.

Shirts must not show any skin when hands are raised above the head, sitting, or bending over.

Pants/shorts shall be worn so as not to expose underwear when sitting or bending over.

Clothing must allow students to walk, stoop, kneel, and sit with modesty.

2

Record Keeping and Access to Information

1.

To better understand dress code enforcement in Texas, ACLU of Texas researchers asked 50 school districts from across Texas to provide us with all of their records of dress and grooming code violations and disciplinary consequences and the ages, races, and genders of students accused of these violations. We sent these requests through the Public Information Act, which gives the public the right to request access to government information.

Of the 50 information requests we sent, 11 districts either never responded to our request at all, refused to waive their fees for data retrieval, or provided unreadable data files. Approximately 24 districts provided us with some information but either did not provide any enforcement information at all, provided enforcement information without usable racial and/or gender demographic data, claimed that they do not impose formal discipline for dress code violations, or claimed that no dress code violations have occurred since August 2021. Only about 15 districts provided us with a full response, including dress code enforcement data that included usable gender and race demographics.

The information that districts did provide was often difficult to read (due to district-specific coding and abbreviations), difficult to digitize and analyze, or difficult to compare with other districts due to inconsistencies in racial and disciplinary categorizations. For example, only 15 districts provided racial demographic data in a standardized manner that allowed our researchers to compare those data with other districts' data. It was also difficult or impossible to determine the details and severity of certain disciplinary consequences listed in the records. For example, many school districts noted that a student received detention or a disciplinary conference but did not indicate whether or how much class time the student missed as a result.

Data on “disciplinary actions, including less severe types of discipline, are critical for ensuring all students have equal access to educational opportunity.”

Finally, some school districts only keep records of formal student discipline, such as suspensions and expulsions, but not other forms of discipline, like verbal warnings, parent conferences, being forced to change or cover their clothes, being told to get a haircut, etc.

Problems with consistent record keeping are not unique to Texas. The United States Government Accountability Office (GAO) has noted that schools nationwide are informally removing students from class or sending them home without recording those events in disciplinary data.⁸⁵ The GAO and the Department of Education have called on districts to keep accurate records, including formal and informal classroom removals and the reasons and lengths of time school officials removed students from the classroom.⁸⁶ Data on “disciplinary actions, including less severe types of discipline, are critical for ensuring all students have equal access to educational opportunity.”⁸⁷ When these data are not tracked, accurate, or accessible to the public, it is impossible to detect or correct any trends of discriminatory discipline or to determine the long-term educational effects of such discipline.

CONCLUSIONS AND RECOMMENDATIONS

Our research shows that school districts across Texas often write and enforce dress codes in discriminatory ways. Regardless, students have constitutional and other civil rights to self-expression and equal treatment. Dress codes should reflect those rights and protect and celebrate students' personal, cultural, and religious expressions.

We hope students, families, educators, and policymakers will use this report and the following dress code policy recommendations as tools to understand and rectify the harms caused by discriminatory dress codes in Texas.

RECOMMENDATIONS⁸⁸

1

Remove Discriminatory Language from School Dress Codes

- Every student deserves to learn and thrive at school without suffering discrimination. Texas school districts must ensure that their dress codes and dress code enforcement do not target or disproportionately impact students based on race, ethnicity, gender, religion, disability, socioeconomic status, or other characteristics.
- Especially in consideration of the CROWN Act, districts must ensure that their dress codes do not discriminate based on race or ethnicity. School officials should not base dress codes on racial stereotypes or prohibit clothing, hairstyles, or accessories associated with racial or cultural expression. For example, dress codes should not prohibit hair styles, textures, and accessories such as braids, locs, Afros, Afro-puffs, cornrows, wigs, extensions, long hair for boys, weaves, natural hair textures, combs, picks, or beads. Dress codes should also not prohibit head coverings with racial or cultural significance, such as hair wraps, du rags, hoodies, or bandanas.
- In accordance with multiple recent court cases, the Constitution, and civil rights laws, districts should ensure that their dress codes are gender-neutral and do not impose different requirements based on gender. For example, every student should have the same rules on hair length, pants/skirts/dresses, makeup, and nail polish.
- Districts should also ensure that dress codes do not discriminate based on religious expression. Dress code rules should not prohibit clothing, hairstyles, or accessories associated with religious expression, such as religious jewelry and symbols, hairstyles associated with religion, and religious head coverings. Dress codes should also contain a fair and transparent process for seeking religious exemptions.
- Dress codes should contain a fair and transparent process for seeking exemptions and accommodations based on disability.
- Dress codes must not penalize students for wearing old, worn, mis-sized, or damaged clothing because those penalties harm students based on socioeconomic status.

2

Inclusivity and Equity Focus

- Design dress codes with a strong focus on inclusivity, recognizing and respecting the diverse identities, expressions, and cultural backgrounds of the student body. All dress codes should include and be guided by a transparent equity policy.

Sample Equity Policy:

“Our school dress code policy is rooted in the principles of inclusivity and equity with the aim of accommodating the diverse identities and cultural backgrounds of our students. The dress code and its enforcement by staff will not reinforce stereotypes or discriminate based on race, national origin, disability, sex, gender identity, gender expression, sexual orientation, ethnicity, religion, cultural observance, household income, or body type/size.”

3

Community Involvement and Regular Review

- Actively involve students, families, educators, and community members in the development or revision of the dress code to ensure that a wide range of perspectives informs the dress code. Establish dress code committees for students and parents to ensure they have the yearly opportunity to review, challenge, and shape these policies.
- Considering the input of the dress code committee, periodically review the dress code and make necessary revisions to align the policy with evolving best practices and legal standards.

4

Clear and Specific Guidelines

- Provide clear and specific guidelines for permissible and prohibited attire. Include concrete examples to help students better understand dress code expectations. Avoid subjective terms, which allow for discriminatory enforcement, such as “modest,” “suggestive,” “unnatural,” “well-groomed,” “trendy/faddish,” “distracting,” “extreme,” “inappropriate,” and “too tight/loose.”

5

Respect for Student Expression

- Emphasize a commitment to respecting students' rights to express themselves through clothing, including religious, cultural, and political expression, as long as those expressions do not substantially disrupt the learning environment.

6

Fair and Non-Disruptive Enforcement

- Implement dress code enforcement practices that prioritize education over punitive or invasive measures. Students should never have to leave school or miss class time for violating the dress code. Law enforcement or school resource officers should never enforce the dress code. School staff should never touch a student or their clothing and/or require the student to move their body to inspect the student's compliance with the dress code. School staff should never apply or require a student to apply materials like tape to their skin to address a dress code violation. Visual inspections of students' dress and verbal warnings should be conducted in a respectful manner, away from other students, to avoid public embarrassment and stigmatization.
- Institute clear and consistently applied consequences for dress code violations. Consider using verbal warnings and conversations outside of class time with students and parents to address dress code violations.
- Establish a clear and fair process for students and parents to appeal dress code decisions and ensure transparency and accountability in the enforcement of the policy.
- Establish a policy and free resources to assist students who may struggle with meeting the requirements of the dress code due to obstacles caused by financial difficulties, disabilities, or other reasons.

7

Data Collection and Review

- Collect and analyze data on dress code violations and disciplinary consequences—disaggregated by race, gender, disability, language proficiency, and other demographics (to the extent possible while respecting student privacy)—to identify potential disparities in enforcement and make necessary adjustments. Require tracking of all dress code-related disciplinary consequences, including whether they caused students to miss class time. Make this information available to the public in a yearly report.

8

Training and Sensitivity

- Provide yearly comprehensive training on the dress code policy that emphasizes equitable enforcement and cultural sensitivity for school staff. Encourage staff to prioritize students' learning, dignity, privacy, and cultural and religious expression when using discretion to address dress code violations to avoid unintended consequences.

9

Dress Code Consistency

- Apply the above non-discrimination principles and recommendations to all school district dress codes, including for every grade level and for extracurricular activities such as athletics, clubs, homecoming, prom, and graduation.

APPENDICES

FULL METHODOLOGY

Our data collection team consisted primarily of law school student volunteers from the University of Texas School of Law. To analyze the characteristics of all K-12 dress codes statewide, these data collection volunteers sought to obtain the 2022–2023 general student dress and grooming codes of every public and charter school district in Texas. The list of districts was obtained via the Texas Education Agency’s public database. Generally, most districts had published their 2022–2023 dress and grooming codes online. However, some school districts had not done so at the time of our volunteer data collection. In those instances, volunteers were instructed to use the most up-to-date published district dress and grooming code, which was most often a district’s 2021–2022 code. In other cases, some school districts lacked a district-wide code and instead used different dress and grooming codes for every individual campus. In those cases, volunteers were instructed to use the dress and grooming code of the alphabetically first high school that had its dress and grooming code posted online.

Once the dress and grooming codes were identified, the data collection volunteers began their analysis. In this process, this list of districts with their associated dress and grooming codes was divided into numerous subsets. Each subset was assigned to two volunteers to independently analyze. Each volunteer was asked to answer, in a spreadsheet, a series of yes-or-no questions about each assigned dress and grooming code, such as:

- **Does the dress code contain a boys-only hair length rule?**
- **Does the dress code contain rules that prohibit or restrict racially stereotypical hairstyles and textures (examples: braids, twists, cornrows, afros, dreadlocks, locs, excessive curls/tightly coiled hair, knots/bantu knots, hair extensions, fades, “hair may be no deeper than x inches when measured from the scalp.”)?**
- **Does the dress code contain rules on student hair that use subjective language (example: “hair must look natural, clean, and well-groomed”; no “un-natural styles”; or students’ hair must not be “distracting” or “extreme” or “trendy”)?**
- **Does the dress code use explicit language restricting or prohibiting head coverings or hair styles/hair accessories based on religion (example: hijabs, yarmulkes, turbans, feathers, mohawks)?**
- **Does the dress code mention a religious exemption or contain information about requesting a religious exemption?**

If the volunteer answered “yes” they were instructed to document an example of such language from the dress and grooming code.

After all data collection volunteers completed their analyses of all of their district subsets, the collected data went through a quality control phase. In this phase, another volunteer or ACLU of Texas staff member compared each of the matching subsets to ensure the accuracy of the data collection and to resolve any inconsistencies between the two subsets by conducting an independent review of the dress and grooming code. Once all inconsistencies were resolved, the final data set of written dress codes was complete and ready for global analysis.

All data were processed and analyzed in the statistical programming language R. Race and gender demographic data at the district level were downloaded from TEA’s 2021–2022 Texas Academic Performance Reports. The data sets were joined with the final data set of written dress codes to explore the relationships between these additional measures and the presence or absence of different dress code violations. Additionally, basic text analysis was conducted on the dress code text examples that volunteers flagged for each district to determine the frequency of how common certain words were represented in the dress code (e.g., afros, dreadlocks, locs).

Because we are also interested in discriminatory *enforcement* of dress codes (beyond just problematic language in the policies themselves), we also sent approximately 50 public records requests to a sampling of school districts to obtain data on how dress codes are enforced, especially among students of different genders and races. The 50 school districts were randomly selected to represent each Texas Education Agency “district type”—for example major urban, major suburban, independent town, and rural—in proportion with the number of students in attendance in each district type as a percentage of the total number of students in the state. We asked each selected district to supply its dress and grooming policies, guidelines, training materials, and any records of dress and grooming code violations, disciplinary consequences, and the age, race, and gender of the students accused of these violations.

Race: Of the sample of 50 districts, 15 provided complete data on the breakdown of the enforcement rates across race. Race was standardized into the following categories: African American/Black, Asian, white, Hispanic, American Indian/Native American, Mixed (Two or More Races), and Pacific Islander. Following Texas Education Agency guidelines, available at <http://castro.tea.state.tx.us/tsds/teds/2020P/teds-appF.pdf>, districts with students identified as “Hispanic/Latino,” were reported as Hispanic regardless of their reported race(s). The category “Asian” was used for a district that did not differentiate between Asian and Pacific Islander students.

Enforcement Action: The same 15 districts also provided data on the types of enforcement actions taken. Enforcement action types were standardized into the following categories: Verbal Warning, In-School Suspension (ISS), Out-of-School Suspension (OSS), Student Conference/or Counseling, Detention/Time-out, Discipline Class, Change or Modify Clothes, and Parent Action. Actions that could not be feasibly standardized were put into an “Other” category.

Gender: 24 districts provided complete data on the breakdown of enforcement rates across gender.

FULL LEGAL HISTORY AND TRENDS OF DRESS CODE DISCRIMINATION

When many students and parents experience the type of dress code discrimination mentioned above, one of the first questions they ask is, “How is this possibly legal?” The answer is that discrimination based on race, gender, religion, and other characteristics is *not* legal, but some courts have been slow to recognize that. For many decades, students and families often were unable to seek recourse in federal and state courts for dress code discrimination, which would essentially give Texas school districts free rein to impose discriminatory dress code rules. In recent years, however, multiple federal courts in Texas have blocked discriminatory dress codes, and the tide has turned to encourage many school districts to revise and change outdated and harmful rules.

***Karr v. Schmidt* and Judicial Non-Intervention**

The legal history of dress code discrimination in Texas begins in the 1960s, when many school districts started adopting more stringent hair rules in response to male musicians and celebrities wearing longer hair and defying stereotypical gender and social norms.

One such school district, El Paso ISD, adopted a policy in 1970 prohibiting boys from having long hair that hung “over the ears or the top of the collar of a standard dress shirt,” while still allowing all girls in the district to wear long hair.⁸⁹ Shortly thereafter, a 16-year-old student named Chesley Karr tried to enroll in the district, but he was prevented from doing so because he wore long hair. Chesley’s family repeatedly asked El Paso ISD to reconsider its policy, but the district refused. In response, the family filed a lawsuit in federal court.

In *Karr v. Schmidt*, Chesley’s family claimed that El Paso ISD’s boys-only hair-length rule was unconstitutional because it violated: (1) the First Amendment by restricting students’ free expression; (2) the Due Process Clause by infringing on personal autonomy; and (3) the Equal Protection Clause by denying students an equal access to a public education based on hair length.⁹⁰

Although the district court ruled in Chesley’s favor, the Fifth Circuit reversed that decision and found the boys-only hair-length rule to be constitutional. The court found that (1) “the right to style one’s hair as one pleases in the public schools” is not protected by the First Amendment; (2) the choice of whether to wear long hair does not implicate a fundamental constitutional right for purposes of the Due Process Clause; and (3) “as between male students, any classification based upon hair length” does not violate the Equal Protection Clause.⁹¹

Critically, the Fifth Circuit did *not* rule on claims of gender discrimination. Just a year earlier, the U.S. Supreme Court struck down a government gender classification for the first time under the Fourteenth Amendment’s Equal Protection Clause.⁹² Before that, government entities could generally discriminate based on gender without any constitutional scrutiny. But five years later, the Supreme Court made clear for the first time that *all* government-drawn gender classifications are subject to heightened scrutiny.⁹³

Karr v. Schmidt did not mention or address gender discrimination under the Fourteenth Amendment, because it predates its development. The U.S. Supreme Court has now made clear that the Equal Protection Clause requires heightened scrutiny for “*all* gender-based classifications,”⁹⁴ which means that any gender-based rule must serve “important governmental objectives” and be “substantially related to the achievement of those objectives.”⁹⁵ All gender-based governmental actions

are now presumed unconstitutional unless they “demonstrate an ‘exceedingly persuasive justification.’”⁹⁶

If *Karr* had been decided a few years later, the Fifth Circuit might have reached a different result based on binding Supreme Court precedent. However, based on the court’s decision in 1972, even as gender-based dress codes were struck down in other parts of the country, Texas school districts were essentially given broad discretion to impose gender-based rules.⁹⁷ In two cases in the 1990s, the Texas Supreme Court also decided that the Texas Constitution and Texas state laws did not prohibit school districts from imposing gender-based hair rules. The court did so without addressing or mentioning U.S. Supreme Court case law requiring heightened scrutiny for all government-drawn gender classifications.⁹⁸

Modern Scrutiny and the Changing Tide

For nearly 40 years, the rule from *Karr v. Schmidt* that school districts could force boys to wear short hair remained unchallenged, and Texas school districts freely imposed gender-based dress code rules. In 2008, Needville ISD refused to allow an Indigenous kindergarten student to enroll in school without cutting his hair or wearing it in a single braid tucked into the back of his shirt.⁹⁹ This student, named A.A. in court, had never cut his hair and wore it with two braids as part of his religious beliefs. After the school district denied the family’s repeated requests for a religious exemption, A.A.’s family filed a lawsuit in federal court and was represented by the ACLU of Texas.

In 2010, the Fifth Circuit found that Needville ISD’s refusal to allow A.A. to wear long hair in accordance with his religious beliefs violated the Texas Religious Freedom Restoration Act (TRFRA). Although the court noted that the school district allowed girls to wear long hair without repercussion, it did not reach the issue of sex discrimination, since the court found it obvious that A.A.’s right to religious free exercise had been violated.

A few years later, in 2014, the U.S. Court of Appeals for the Seventh Circuit held that a public school in Indiana violated the Equal Protection Clause and Title IX when it prohibited boys but not girls from wearing long hair.¹⁰⁰ The court reasoned that “the hair-length policy deprives [the student], A.H., of equal protection because it discriminates against him on the basis of his sex. Because A.H. is a boy, he must cut his hair in order to play interscholastic basketball at Greensburg; were he a girl, he would not be subject to that requirement, as the girls team has no hair-length policy.”¹⁰¹

Over the next few years, some school districts took note of this decision and binding case law from the Supreme Court requiring heightened scrutiny for all government-drawn gender rules and started updating and changing their dress codes to be gender-neutral. But many other districts did not and kept enforcing gender-specific rules against their students.

Barbers Hill ISD and *Bostock*—Two Landmark Wins

In January 2020, De’Andre Arnold and Kaden Bradford were both suspended for wearing locs that Barbers Hill ISD deemed “too long” under its gender-based dress code. Even though both young men were outstanding students, had worn locs for years, and men in their family from the West Indies wore locs to honor their heritage, Barbers Hill ISD refused to change their policy or allow De’Andre to walk across the stage at graduation. De’Andre and Kaden’s families therefore filed a lawsuit against Barbers Hill ISD with representation from LDF, the NAACP Legal Defense Fund.

In August 2020, a federal court in Texas found that De'Andre and Kaden established a substantial likelihood of success on their claims against Barbers Hill.¹⁰² In this landmark win, the court found that Barbers Hill ISD's hair policy likely violated the Equal Protection Clause as a form of sex discrimination because the policy imposed different rules for boys and girls without being based on any "exceedingly persuasive justification." The court also found that prohibiting De'Andre and Kaden from wearing locs likely constituted unlawful race discrimination and violated their rights to free expression under the First Amendment.¹⁰³

Although the court's ruling was preliminary, it was a watershed moment for dress code discrimination in Texas, and it came on the heels of a critical decision from the U.S. Supreme Court clarifying the definition of sex discrimination under federal law. In *Bostock v. Clayton County, Georgia*, the Supreme Court held that Title VII's prohibition on employers discriminating "based on sex" includes discrimination based on gender identity and sexual orientation.¹⁰⁴ In attempting to discriminate against LGBTQ+ employees, the employers in that case tried to argue that they were not discriminating based on sex, since they were discriminating equally against gay men and lesbian women and also against transgender men and transgender women. However, the Supreme Court rejected this argument and held that "in both cases the employer fires an individual in part because of sex. Instead of avoiding Title VII exposure, this employer doubles it."¹⁰⁵ The Court clarified that the focus of nondiscrimination law "should be on individuals, not groups" and that if any individual is treated worse because of their sex, that treatment triggers a claim of sex discrimination.

This decision in *Bostock* implicitly overruled previous court rulings allowing for gender-specific dress codes in employment. For example, in *Jespersen v. Harrah's Operating Co., Inc.*, the U.S. Court of Appeals for the Ninth Circuit allowed a casino to require women, not men, to wear makeup without violating Title VII.¹⁰⁶ Even though this policy was clearly based on gender stereotypes, the court reasoned that the policy imposed "equal burdens" on both men and women and therefore was not discriminatory.¹⁰⁷ *Bostock* rejected this framework and made clear that individuals can bring claims for sex discrimination if they are treated differently based on sex, regardless of any "equal burden" imposed on people of a different gender.

New Guidance and New Lawsuits

Following these developments, the Texas Association of School Boards (TASB) updated its legal guidance on dress and grooming codes in August 2020 to "recommend districts refrain from including distinctions based on gender in the student dress code. As a practical matter, gender-neutral standards may be the best way to provide clear and consistent rules for campus administrators, avoid arbitrary enforcement, and promote equity for all students."¹⁰⁸

The landmark wins in *Bostock* and *Arnold v. Barbers Hill ISD* also led the ACLU of Texas to send a letter in September 2020 to 477 school districts that still had boys-only hair-length rules.¹⁰⁹ By early 2021, the ACLU of Texas heard back from many school districts that had changed and revised their dress codes to be gender-neutral, but some districts still chose to enforce discriminatory policies based on gender, which exacerbated discrimination based on race and religion.

For example, Monahans-Wickett-Pyote ISD told two Indigenous students that they could not wear long hair despite their religious beliefs because the district imposed a boys-only short-hair policy. In March 2021, the ACLU of Texas filed a complaint with the U.S. Department of Education's Office for Civil Rights (OCR) on behalf of

these two students, and OCR opened a federal civil rights investigation against the district for imposing a discriminatory dress code based on gender.¹¹⁰ The ACLU of Texas and parents, students, and nonprofits across the state have also filed similar OCR complaints, and OCR could determine in the coming months if districts that impose gender-based dress codes are actively violating Title IX.

As federal civil rights complaints remain pending, some school districts have still tried to cling to outdated and discriminatory policies. In the fall of 2021, Magnolia ISD punished dozens of students for wearing long hair even though the district had not enforced its gender-based hair rules at all during the prior school year.¹¹¹ The ACLU of Texas sued Magnolia ISD on behalf of six boys and T.M., a non-binary student, because these students' educational opportunities were upended by the district's gender-based rules. The plaintiffs won a temporary restraining order, and the federal court found that Magnolia ISD's gender-based dress code likely constituted sex discrimination under the Equal Protection Clause and Title IX. The school district eventually agreed to settle the case and change its dress code to be gender-neutral—allowing the plaintiffs and all other students in Magnolia ISD to wear long hair without repercussions.

Since the win in Magnolia ISD, several other lawsuits have been filed against school districts that have still tried to enforce outdated, gender-based dress code rules. In May 2022, Needville ISD tried to follow in Barbers Hill ISD's footsteps by telling a graduating senior named Treyvion Gray that he would not be able to walk at graduation or attend his senior prom if he did not cut his locs. As a Black student, Treyvion's locs are culturally significant to him and his family, so he sued the school district and won a temporary restraining order, which found that Needville ISD was likely discriminating against him on the basis of sex, as prohibited by the Equal Protection clause.¹¹²

Two young Black students who were expelled from Tatum ISD in 2019 for wearing long, natural Black hair also sued their school district and have an active lawsuit alleging that their school district discriminated against them based on sex, race, and free expression.¹¹³

The CROWN Act and the Continuing Struggle for Dignity and Equality

As federal courts have resoundingly found in favor of students' right to wear their hair free from discrimination, the Texas Legislature also passed new legislation addressing race-based dress code discrimination during the 2023 legislative session. The CROWN Act, which stands for Creating a Respectful and Open World for Natural Hair, prohibits any educational institution, employer, or landlord from discriminating "against a hair texture or protective hairstyle commonly or historically associated with race."¹¹⁴

The CROWN Act took effect on September 1, 2023 and prevents students from being discriminated against based on race or being punished based on the texture or style of their hair.¹¹⁵ Even since this law has gone into effect, however, Barbers Hill ISD once again severely punished Darryl George, a Black high school junior, and claimed that his locs were too long and needed to be cut.¹¹⁶ After being resoundingly criticized in the media for violating the recently enacted CROWN Act, Barbers Hill ISD sued the George family in state court and is trying to seek a court order clarifying that the CROWN Act only applies to hair style and texture not length. Dr. Greg Poole, who was the second highest-paid superintendent in 2022 in the entire state¹¹⁷ and has long advocated to strictly enforce Barbers Hill ISD's dress code, told CNN, "Although we believe the new law does not govern hair length, we are asking the judicial system of Texas to interpret."¹¹⁸

Darryl George and his family are fighting back and filed a lawsuit in federal court so that he can wear his locs in Barbers Hill ISD without being punished or excluded from educational opportunities. With multiple lawsuits pending on these issues in Texas, it seems likely that at least one of them will eventually end up before the Fifth Circuit and possibly the U.S. Supreme Court. As outdated and discriminatory dress code rules are repeatedly challenged in court, students, parents, and educators are urging school districts to proactively update their dress code policies. Those updates can help ensure that current and future students do not have to go to court simply to be who they are and will not be discriminated against in school.

ADVOCACY TOOLS

Talking Points

A note for advocates: make sure the talking points you use align with the language in your dress code! You don't want to distract from your argument with talking points that don't actually apply. Remember that your story is the most powerful advocacy tool you have. These talking points work best in conjunction with your stories rather than on their own.

- 1 Dress codes that treat students differently based on their gender, race, religion, or other characteristics or that are based on stereotypes about “appropriate” dress and appearance, are discriminatory and harmful to students.**
- 2 A dress code that’s written in a “neutral” or non-discriminatory way can still be enforced in a discriminatory manner. Students of color (especially Black and multiracial girls), LGBTQIA+ students, students with disabilities, and students from other diverse backgrounds are disproportionately impacted by dress code enforcement.**
- 3 Dress code enforcement and the discipline that comes along with enforcement can result in lost class time and educational opportunities, embarrassment, invasions of privacy, and a negative and hostile learning environment. All of these results negatively impact student mental health and academic performance.**
 - Dress code enforcement that involves pulling students out of the classroom has been shown to cause negative educational outcomes, increased drop-out rates, and increased risk of incarceration through the school-to-prison pipeline.
 - Gender-specific rules and their enforcement cause increased harassment, stress, lowered academic performance, increased dropout rates, and a heightened risk of entering the school-to-prison pipeline for transgender, non-binary, gender diverse, or intersex students.
- 4 Students deserve to feel welcome and safe at school. Dress codes that limit or ban certain kinds of hair styles or textures, makeup, head coverings, religious symbols, jewelry, or clothing, or limit who is allowed to enjoy them can send a message to some students that their cultures or that they themselves are not welcome on campus.**
 - Many kinds of hair styles and textures, head coverings, jewelry, types of clothing, and even makeup have religious or cultural significance that may not be immediately obvious. A dress code that unintentionally bans or limits religious or cultural expression can still cause students to feel that they must hide this part of their life from their teachers and peers.
 - LGBTQIA+ students who may use hair length, makeup, nail polish, jewelry, or traditionally-gendered clothing to express their gender identities may not only feel unwelcome at school but also may feel unsafe among their teachers and peers.

- When educators seek to enforce strict gender norms through dress and grooming, it sends a message to students that they must fit within these norms or they will not be accepted or welcome at school.
- Students who do not feel welcome or safe at school are more likely to experience anxiety and depression, more likely to suffer academically, and less likely to complete school.

5 Students deserve to have their legal rights respected at school. Discriminatory dress codes may violate the legal rights of students enshrined in numerous laws:

- First Amendment, if the dress code limits racially, culturally, or religiously significant expression;
- Fourteenth Amendment (Equal Protection Clause), if the dress code is not enforced evenly among students;
- Title VI, if the dress code discriminates on the basis of race;
- Title IX, if the dress code discriminates on the basis of sex, gender, sexual orientation, or gender identity;
- TRFRA (Texas Religious Freedom Restoration Act), if the dress code discriminates on the basis of religious expression; and,
- Texas CROWN (“Creating a Respectful and Open World for Natural Hair”) Act, if the dress code discriminates against a hair texture or protective hairstyle commonly or historically associated with race.

6 School districts shouldn’t wait to be sued, to make national news, or to be investigated by a federal agency to discover that their dress code violates federal law. Instead, districts should proactively update their policies to ensure that they do not discriminate, and listen to students and parents in the district to ensure that the dress code allows every student to learn and thrive.

7 Dress codes should be developed or revised as a community, focused on nondiscrimination, and enforced uniformly. We can all play a role in advocating for more inclusive and equitable policies and practices that allow all students to thrive.

Advocacy Letter to School District—Template

[Month DD, YYYY]

[To, Title]
[To, Title]
[To, Title]

[Address Name]
[Street Address]
[City, Texas ZIP]

[Delivery Method]

Re: Discriminatory Grooming Policies at [School District]

Dear Superintendent [XYZ] and Board of Trustees:

I write to express my concern about the student dress and grooming policies that the [School District] Board of Trustees recently revised on [Month DD, YYYY]. By imposing a requirement that [XYZ], the district has drawn explicit classifications on the basis of [protected class, like race, gender, religion, etc.] that treat students differently based on [protected class] stereotypes. As this letter explains, this policy is contrary to the values of [School District], will likely have detrimental effects on [School] students—particularly on [affected population] students—and likely constitutes unlawful [issue area] discrimination. For these reasons, I urge you to remove this discriminatory language from school district policies and the student handbook.

Factual Background

[Add any context you know about].

The district's current policies require that:

[Dress code language]

[School District's] dress and grooming code policies are likely unconstitutional, out of date, and especially harmful to [School] students from diverse backgrounds.

Concerns

[Ways the policy has been harmful to me, the letter writer—for example, diminished sense of individual expression and identity, feelings of exclusion and isolation, increased stress and isolation due to conformity, financial burden to comply with strict dress-code requirements, etc.].

[Ways the policy has been harmful to the students—for example, second class status among peers, loss of learning time, reinforced gender stereotypes, negative impacts on mental health or sense of safety at school, etc.].

[Ways the policy has been harmful to the educators and staff—for example, diversion of time and resources from educational priorities, adversarial atmosphere between staff and students/loss of relational trust, restriction of ability to foster inclusive learning environment, etc.].

[Ways the policy has been harmful to the district and community—for example, high staff turnover/empty teaching positions, financial strain of potential legal challenge, negative impact on district's reputation, etc.]

Conclusion

I urge you to revise [School District's] dress and grooming code to ensure that it treats all students fairly and equally and does not contain any stereotypes based on sex, race, or religion.

How-To File a School Grievance or Complaint with the Government

Knowing your rights and how to advocate for yourself is essential. The [TX Trans Kids' Free to Be Me Students' Rights Toolkit](#) is full of helpful information and suggested resources. For example:

Filing a school grievance

Sometimes you might find that even though you have tried to reach out to the principal or other school administrators to explain your dress code concerns, they either haven't taken action or haven't responded in time. In this case, you should consider filing a formal complaint or "grievance."

Every school district in Texas has a process for filing a complaint that allows students and parents or guardians to express their grievances to the school district. This process has several benefits that go beyond sending an e-mail or trying to resolve things informally because filing a formal complaint requires the school district to listen to you and respond.

Research your school district's policies

The first step when considering whether to file a complaint is to look up your school district's policies. Every district's policies are available online through your school district website and the Texas Association of School Boards (TASB) policy database. Once you search for your school district, you can find the policy on the ins and outs of your district's complaint process (FNG).

It is important to read these policies carefully since some school districts have very short deadlines for filing a complaint. Most FNG (local) policies require that you file a grievance within 10 or 15 business days from when you first knew of the decision or action giving rise to the complaint. This means that if you discover that your school district is discriminating against you on a certain date, it is typically best to file a grievance within two or three weeks depending on the deadline for your district. But if the discrimination is ongoing and there are continuing "decisions or actions" giving rise to your complaint, such deadlines could be extended.

Types of complaints

Complaints are typically filed with the campus principal at Level One, but they can go directly to the superintendent at Level Two if the action or decision you are challenging was decided by the district. For example, if you're facing discrimination related to the school district's dress code policy that was established by the school board, you can likely go straight to Level Two. However, if you are challenging the enforcement of that dress code, which is often determined by the campus principal, then it's likely best to file at Level One.

Filing a complaint

Most school districts have a short complaint form that is often available on the school district's website or as an exhibit to the FNG policy that you can fill out and turn in to the campus principal. When making a complaint, it is important to include as much detail as possible, describe all of the facts that you have personal knowledge about, attach any documents, photographs, or other evidence that you want to be considered as part of the complaint, submit your complaint within the deadline, and ask specifically for what you want the school to do to respond to your complaint.

The main purpose of the complaint is to enable students and parents or guardians to share their stories and ask for the remedies that they are seeking. For example, you can ask that the district stop engaging in discrimination, take a particular action, change or revise the dress code, accommodate your needs better in school, or take affirmative steps to create a safer learning environment—and there are no limits on the type of relief that you can seek.

Once you file your grievance, the school district will schedule a grievance hearing, or conference. To learn more about that process, including how to appeal a result you disagree with, check out: <https://www.txtranskids.org/toolkit>.

Filing an OCR Complaint

While it is often helpful to try to resolve situations informally and directly with your school district, there are also federal civil rights agencies whose job it is to ensure equal access and opportunities for students in schools, and you do not have to file a grievance with your school before seeking help from the federal government to enforce your civil rights. Under the Biden administration, both the U.S. Department of Education and the U.S. Department of Justice have stated that they will vigorously enforce Title IX to protect LGBTQIA+ students from discrimination based on gender identity and/or sexual orientation in accordance with the U.S. Supreme Court's decision in *Bostock v. Clayton County*.

The Office of Civil Rights for the U.S. Department of Education (OCR) is tasked with enforcing federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance. OCR accepts complaints involving discrimination based on race, color, disability, or national origin. OCR also accepts complaints involving discrimination based on sex, gender identity, gender expression, and sexual orientation, including claims involving bullying, harassment, and retaliation.

OCR has its own guide on how to file complaints of discrimination that you should read before filing a complaint. One important thing to remember is that most OCR complaints must be filed within 180 days of the last act of discrimination. This means that if your complaint is based on a single incident, it must be filed within six months of when that incident took place. You are not required to file a grievance with your school district before going to OCR, but if you choose to utilize your district's grievance process, you must then file an OCR complaint within 60 days of the conclusion of the grievance process.

You should consult with an attorney if you have any questions about the timelines for filing a complaint for your particular situation.

There are several ways to file OCR complaints, either online, through mail, or via e-mail. OCR has the power to open an investigation into your complaint of discrimination, and the agency can take steps to protect you from retaliation during the complaint process. Depending on the results of an investigation, OCR might be able to negotiate with your school district to require them to abide by federal law and it can impose certain penalties against districts, including the loss of federal funding. While OCR has several strong tools at its disposal and is tasked with investigating cases of discrimination against LGBTQIA+ students, it does not act very quickly. Some complaints can take months or even years to resolve, and if you need more immediate assistance, you may want to reach out to an attorney or seek other resources that are described below.

In addition to OCR, the Educational Opportunities Section of the Department of Justice's Civil Rights Division (EOS) also accepts and investigates complaints relating to discrimination in schools. Unlike OCR, EOS does not respond to every complaint it receives and is more selective in the issues that it seeks to investigate. But EOS has expressed a willingness to assist LGBTQIA+ students who face discrimination in schools, and there is information on how to file a complaint on EOS's website.

1. LGBTQIA+ refers to people who are lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual, or other sexual orientations or gender identities beyond the heterosexual and cisgender majority. See *LGBTQIA+ 101*, Princeton Gender + Sexuality Resource Center, <https://www.gsrc.princeton.edu/lgbtqia-101>.
2. See *K–12 Education: Department of Education Should Provide Information on Equity and Safety in School Dress Codes*, U.S. Government Accountability Office (Oct. 25, 2022), <https://www.gao.gov/assets/gao-23-105348.pdf>.
3. *Ibid.*
4. *Peltier v. Charter Day Sch., Inc.*, 37 F.4th 104, 126 (4th Cir. 2022), cert. denied, 143 S. Ct. 2657 (2023); *Hayden ex rel. A.H. v. Greensburg Community School Corporation*, 743 F.3d 569, 582 (7th Cir. 2014); *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 519 (S.D. Tex. 2020); *Gray v. Needville Indep. Sch. Dist.*, 601 F. Supp. 3d 188, 189 (S.D. Tex. 2022), *appeal dismissed*, No. 22-20229, 2022 WL 3593770 (5th Cir. May 11, 2022).
5. *Hayden ex rel. A.H.*, 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).
6. See *Executive Order 14021: Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity*, Federal Register Vol 86 # 46 (Mar. 11, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-03-11/pdf/2021-05200.pdf>; U.S. Department of Education, *Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County*, Federal Register Vol 86 # 117 (Jun. 22, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-06-22/pdf/2021-13058.pdf>.
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9. *A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 611 F.3d 248, 272 (5th Cir. 2010).
10. CROWN Act, H.B. 567, 88th Leg., R.S. (2023), available at <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00567F.pdf#navpanes=0>; see also Tex. Ed. Code. § 25.902.
11. *Hayden ex rel. A.H.*, 743 F.3d at 583 (finding boys-only hair length rule for basketball team “impermissibly discriminates based on sex”); *Waln*, 54 F.4th at 1164 (finding that selective enforcement of rule prohibiting the decoration of graduation caps could constitute impermissible discrimination); *Sex Discrimination: Frequently Asked Questions*, U.S. Department of Education’s Office for Civil Rights (Aug. 19, 2021), <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/sex.html#sexdisc3>: “Title IX covers all the operations of a school that receives financial assistance including academics, extracurricular activities, athletics, and other programs.”
12. *Gray v. Needville Indep. Sch. Dist.*, 601 F. Supp. 3d 188, 189 (S.D. Tex. 2022), *appeal dismissed*, No. 22-20229, 2022 WL 3593770 (5th Cir. May 11, 2022).
13. See *K–12 Education: Department of Education Should Provide Information on Equity and Safety in School Dress Codes*, U.S. Government Accountability Office (Oct. 25, 2022), <https://www.gao.gov/assets/gao-23-105348.pdf>.
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98. *Barber v. Colorado Indep. Sch. Dist.*, 901 S.W.2d 447 (Tex. 1995); *Bastrop Indep. Sch. Dist. v. Toungate*, 958 S.W.2d 365 (Tex. 1997).
99. *A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 611 F.3d 248, 256 (5th Cir. 2010).
100. *Hayden ex rel. A.H. v. Greensburg Community School Corporation*, 743 F.3d 569, 583 (7th Cir. 2014).
101. *Ibid.* at 576–77.
102. *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 519 (S.D. Tex. 2020).
103. *Ibid.* at 525–28.
104. *Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731, 1741 (2020).
105. *Ibid.*
106. *Jespersen v. Harrah’s Operating Co.*, 444 F.3d 1104, 1109–10 (9th Cir. 2006).
107. *Ibid.* (“While those individual requirements differ according to gender, none on its face places a greater burden on one gender than the other. Grooming standards that appropriately differentiate between the genders are not facially discriminatory.”). See also Leslie Trahan, *Court Battles Prompt School Districts to Reexamine Dress Codes*, TASB (Mar. 2022) <https://www.tasb.org/members/enhance-district/dress-codes/>.
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112. *Gray v. Needville Indep. Sch. Dist.*, 601 F. Supp. 3d 188, 189 (S.D. Tex. 2022), *appeal dismissed*, No. 22-20229, 2022 WL 3593770 (5th Cir. May 11, 2022).
113. See *Woodley et al., v. Tatum Unified School District, et al.*, Case No. 2:21-CV-00364-RWS (E.D. Tex.).
114. CROWN Act, H.B. 567, 88th Leg., R.S. (2023), available at <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00567F.pdf#navpanes=0>; see also Tex. Ed. Code. § 25.902.
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