



July 24, 2024

Re: Harlingen ISD’s Compliance with the Texas CROWN Act
Via email

Dear Superintendent Gonzalez,

We write with concerns that the provisions in your school district’s 2023-2024 dress and grooming code, including the following provision, appear to violate Texas’ Creating a Respectful and Open World for Natural Hair Act (the “Texas CROWN Act” or the “Act”):

Inappropriate hair styles include, but are not limited to . . . excessively bushy hair[.]

The Texas CROWN Act, which took effect on September 1, 2023, amends the Texas Education Code to prohibit racial discrimination based on students’ hair texture or protective hairstyles. Specifically, the law states:

Any student dress or grooming policy adopted by a school district, including a student dress or grooming policy for any extracurricular activity, may not discriminate against a hair texture or protective hairstyle commonly or historically associated with race.¹

It further defines “protective hairstyles” to include “braids, locks, and twists.”² Before the law’s effective date, the ACLU of Texas, the NAACP Legal Defense and Educational Fund (“LDF”), and other partners, sent you a letter with more information about culturally significant hairstyles³ and how this law would impact all Texas school districts’ dress and grooming policies.⁴

The Texas CROWN Act unequivocally prohibits discrimination based on hair textures, hair types, and protective hair styles associated with race.⁵ As such, school dress and grooming

¹ H.B. No. 567 ¶¶ 7–14; *see also* Tex. Ed. Code § 25.902.

² H.B. No. 567 ¶ 9.

³ Culturally significant hair often refers to hair textures, hair types, hair formations, and protective hairstyles commonly or historically associated with race, including, but not limited to Afros, locs (including uncut locs), cornrows, twists, braids (including braids adorned with beads and/or cowrie shells), Bantu knots, and fades. *Natural Hair Discrimination Frequently Asked Questions*, Legal Defense Fund, <https://www.naacpldf.org/natural-hair-discrimination>.

⁴ Legal Defense Fund, *Civil Rights Organizations Send Letter to Texas Superintendents Calling for Accordance with CROWN Act* (Aug. 8, 2023), <https://www.naacpldf.org/press-release/civil-rights-organizations-send-letter-to-texas-superintendents-calling-for-accordance-with-crown-act/>.

⁵ Hair styles, textures, and lengths differ around the world. For example, 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. 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. *See*

provisions that ban or restrict locs, braids, twists, curly hair, afro-textured hair, or other hair textures, types, formations, and protective styles commonly or historically associated with race, are prohibited. Additionally, even facially neutral grooming codes that do not include express language restricting racially or culturally significant hair can lead to discrimination against students of color. For example, using subjective standards—such as “distracting,” “extreme,” or “trendy” or requiring hair to look “natural,” “clean,” or “well-groomed”—risks “disproportionate[] appli[cation] to vulnerable student groups including . . . Black students.”⁶ These policies, which appear neutral on their face, may have a discriminatory impact on Black, Indigenous, or other students of color, in violation of the Act.

Further, school dress and grooming policies that discriminate based on race violate other provisions of federal and state law. Targeting students based on their hair texture or culturally significant hairstyles can constitute race discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 (“Title VI”), and Texas Civil Practice and Remedies Code Section 106.001.⁷ Such practices may also violate students’ rights to freely express their heritage and ethnicity, as protected by the First Amendment to the United States Constitution.⁸ Courts have also found that public school districts likely violate the Equal Protection Clause and Title IX of the Education Amendments of 1972 when they require students to conform to gender stereotypes or adhere to gender-based rules, such as boys-only hair length rules.⁹ These rules may also result in race-

Quani Burnett, *The Crown We Never Take Off: A History of Black Hair Through the Ages*, Byrdie (Apr. 8, 2022), <https://www.byrdie.com/black-hair-history-5071945>; Michaela Angela Davis and Del Sandeen, *Protective Styles Are the Armor Black Women Have Worn for Centuries*, Allure (Nov. 20, 2020), <https://www.allure.com/story/protective-styles-meaning-history-michaela-angela-davis>.

⁶ United States Government Accountability Office, *K–12 Education: Department of Education Should Provide Information on Equity and Safety in School Dress Codes* (Oct. 25, 2022), <https://www.gao.gov/assets/gao-23-105348.pdf>. See also U.S. Dept. of Justice and U.S. Dept. of Educ., *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline* (2014) p. 7-8, 11, available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> (stating that unlawful discrimination occurs (1) “when a school has a discipline policy that is neutral on its face . . . but the school administers the policy in a discriminatory manner[,] even if the school punishes students of other races under the policy”; or (2) when a school “evenhandedly implement[s] facially neutral policies and practices that . . . have an unjustified effect of discriminating against students on the basis of race.” (citing *Hunter v. Underwood*, 471 U.S. 222, 227, 231-32 (1985))).

⁷ See, e.g., *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511, 528 (S.D. Tex. 2020) (student, who was punished with in-school suspension for failing to comply with school district’s hair-length policy by wearing his hair in locs, was likely to succeed on merits of his claim of race discrimination in violation of Equal Protection Clause of the U.S. Constitution).

⁸ See, e.g., *Arnold*, 479 F. Supp. 3d at 528 (“K.B.’s locs are sufficiently communicative to warrant First Amendment protection.”); *A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 701 F. Supp. 2d 863, 882 (S.D. Tex. 2009), *aff’d on other grounds*, 611 F.3d 248 (5th Cir. 2010) (“A.A.’s braids convey a particularized message of his Native American heritage and religion.”).

⁹ See *Peltier v. Charter Day Sch., Inc.*, No. 20-CV-1001, 2022 WL 2128579 (4th Cir. June 14, 2022), cert. denied June 26, 2023; *Hayden ex rel. A.H. v. Greensburg Cmty. Sch. Corp.*, 743 F.3d 569, 571 (7th Cir. 2014); *Arnold*, 479 F. Supp. 3d at 524; *Gray v. Needville Indep. Sch. Dist.*, No. 22-CV-01245, 2022 WL 1438765, at *1 (S.D. Tex. May 4, 2022); see also *A.C. et al. v. Magnolia Independent*

cultural- and religious-based discrimination—for example, boys-only hair length rules often have an adverse disparate impact on religiously or culturally significant hair types, hair formations, or hairstyles.

In addition to being unlawful, dress and grooming codes that violate the Texas CROWN Act harm your district’s students. Discriminatory dress and grooming codes may negatively impact school climate by causing students of color to feel ostracized and unwelcome at school and by restricting their cultural expression. A student’s decision to wear their hair in a racially or culturally significant way is not simply a matter of personal preference or style. For example, dating back to the fifteenth century, “hair was not only a cosmetic concern [for Black people], but ‘its social, aesthetic, and spiritual significance has been intrinsic to their sense of self for thousands of years.’”¹⁰ Likewise for many Indigenous American peoples, hair represents strength, power, and even the unique relationships a person has with themselves and their loved ones.¹¹ Many policies that prohibit hair textures, types, and formations are written based on Euro-centric standards of dress and beauty and have historically marginalized, discounted, and suppressed styles of dress, hair, and grooming associated with Black people and other people of color.¹² Policies like these are rooted in racist standards of professionalism and respectability, and they marginalize many students of color by failing to recognize the racial and cultural significance of their hairstyles.¹³

Furthermore, disciplinary consequences for dress code violations can be deeply disruptive to students’ learning. Students are often removed from the classroom for dress code violations and face draconian punishments like suspension or alternative school.¹⁴ Even less severe consequences, like sending a student to an administrator’s office to be warned or

School District, Case No. 21-cv-03466, Dkt. 20 (S.D. Tex. Oct. 26, 2021), available at https://www.aclutx.org/sites/default/files/field_documents/dkt.20-temporary-restraining-order.pdf.

¹⁰ Tracey Owens Patton, *Hey Girl, Am I More than My Hair?: African American Women and Their Struggles with Beauty, Body Image, and Hair*, 18:2 Nat’l Women’s Studies Ass’n Journal 24, 27 (2006), available at <https://www.jstor.org/stable/4317206>.

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

¹² Michaela Angela Davis and Del Sandeen, *Protective Styles Are the Armor Black Women Have Worn for Centuries*, Allure (Nov. 20, 2020), <https://www.allure.com/story/protective-styles-meaning-history-michaela-angela-davis>.

¹³ Matthew S. Schwartz, *Texas School Board Keeps Grooming Code That Led To Suspension Of Black Students*, NPR (Jul. 22, 2020), <https://www.npr.org/2020/07/22/893970329/texas-schoolboard-keeps-grooming-code-that-led-to-suspension-of-black-students>; ACLU of Texas, *Dressed to Express: How Dress Codes Discriminate Against Texas Students and Must be Changed* (Feb. 2024), <https://www.aclutx.org/en/publications/dressed-express-how-dress-codes-discriminate-against-texas-students-and-must-be-changed>.

¹⁴ See, e.g., Allyson Waller, *Houston-area school district suspends gender-based provisions of its dress code after being sued over its long-hair policy*, The Texas Tribune (Nov. 4, 2021), <https://www.texastribune.org/2021/11/04/texas-school-district-long-hair/> (noting that, in Magnolia ISD, several students were “given in-school suspension because of their hair and eventually they were placed in an alternative discipline program outside of school, forcing some to unenroll from the district altogether”).

reprimanded “can add up to hours of lost instruction.”¹⁵ These forms of exclusionary discipline, which remove students from their classrooms, are associated with negative educational outcomes, increased dropout rates, and increased risks of incarceration through the school-to-prison pipeline.¹⁶

You are in a unique position to help eliminate the harms of discriminatory dress and grooming codes. We ask that you and any other district decision-makers re-examine and revise your dress and grooming code to remove all language that may violate the Texas CROWN Act, including the language we highlighted above, before the beginning of the 2024-2025 school year. By doing so, your district will conform to state law, avoid costly potential legal or administrative challenges, and, most importantly, become a more affirming and supportive environment for every student in your district. Please inform us as to whether you make the requested changes or if you have any questions or concerns.

Respectfully,

The American Civil Liberties Union
(ACLU) of Texas

The NAACP Legal Defense and Educational
Fund (LDF)

Equality Texas

Intercultural Development Research
Association (IDRA)

National Women’s Law Center (NWLC)

Native American Rights Fund (NARF)

Sikh Coalition

Students Engaged in Advancing Texas
(SEAT)

Texas Civil Rights Project (TCRP)

Texas Freedom Network (TFN)

Transgender Education Network of Texas
(TENT)

Young Leaders, Strong City (YLSC)

¹⁵ Alexandra Brodsky et al., *Dress Coded: Black girls, bodies, and bias in D.C. schools*, National Women’s Law Center (2018), https://nwlc.org/wp-content/uploads/2018/04/5.1web_Final_nwlc_DressCodeReport.pdf.

¹⁶ United States Government Accountability Office, *K–12 Education: Department of Education Should Provide Information on Equity and Safety in School Dress Codes* (Oct. 25, 2022), <https://www.gao.gov/products/gao-23-105348>.

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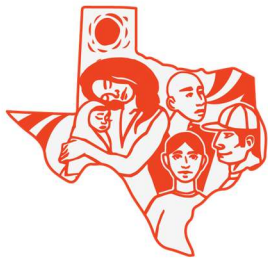
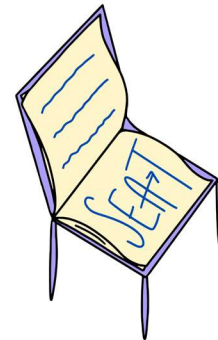
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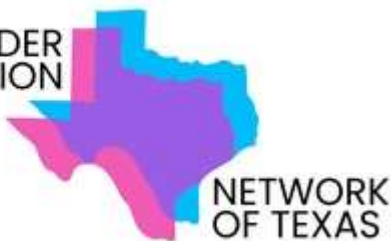
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