



A MODEL CODE on Education and Dignity

CHAPTER 3: DIGNITY

3.7.d Model Policy on Dress Codes

Human Rights Goal

All students should have a right to express themselves fully in school through choosing clothing, hair styles, jewelry and accessories that appropriately represent and affirm their varied identities, without the threat of punishment, removal, criminalization or harassment. Schools should be safe and affirming spaces for all students.²⁵¹

Definitions

1. **Culture** – The customary beliefs, social forms, and material traits of a racial, religious, or social group; also the characteristic features of everyday existence (as diversions or a way of life shared by people in a place or time).²⁵²
2. **Gender Identity** – One's innermost concept of self as male, female, a blend of both or neither—how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.²⁵³ A Transgender Person is someone who identifies with a different gender from the gender they were assigned at birth. For example: your birth certificate says male, and you identify as a woman. Gender Nonconforming refers to people who do not follow other people's ideas or stereotypes about how they should look or act based on the female or male sex they were assigned at birth.²⁵⁴

Recommended Language

- A. **States, districts and schools should limit the number of cases where students are prohibited from wearing certain clothing, hairstyles, jewelry or other accessories to those where there is a clear and evidence-based rationale for banning the item.**²⁵⁵
 1. Schools should assess what the purpose of their dress code or uniform is and how it impacts the school environment and relationships between school staff and students.
 2. Schools should consider both parent and student empowerment in the decision-making around how students are dressed at school. Each prohibited item takes away the ability of individuals to choose how they or their child will present themselves on a daily basis.
 3. Schools should engage students, parents and community stakeholders in any decision-making processes or assessments of dress codes or uniform policies.
- B. **States, districts and schools should never prohibit clothing, hairstyles, jewelry or other accessories that deny or criminalize racial, ethnic or religious culture or expression, or would lead to the targeting of particular students. Codes must be assessed to remove any language or policies that imply that clothing, hairstyles, jewelry or other accessories that are associated with particular cultures are improper, unprofessional or distracting.**²⁵⁶ **Some examples of items or dress that should never be prohibited are:**
 1. Hair styles such as braids, locs, beads, afros, afro-puffs, particular hair colors, combs, extensions, weaves, or hair worn naturally.
 2. Head coverings including but not limited to those with religious or cultural significance, including hair wraps or scarves, du rags, hats or bandanas. If schools have particular concerns, rather than prohibiting those items,

codes may include a requirement that a hairstyle, hat or hoodie does not cover the student's face (except in cases of religious expression).

3. Clothing such as sagging or baggy pants, hoodies, white t-shirts or particular brands of shoes (see Section 3.3 Law Enforcement and Criminalization in School Environments, sub-section on Gang Profiling for model policies around items prohibited due to associations with gangs, crews or neighborhoods).

C. States, districts and schools should avoid dress code prohibitions that restrict students' dress based on their gender identity or perceived gender. They must ensure that dress codes do not discriminate against LGBTQ+ (Lesbian, Gay, Bisexual, Trans, Queer or Questioning) and TGNC (Trans and Gender Non-Conforming) students by enforcing strict gender roles that do not allow them to express their full identities.²⁵⁷ Some examples of things that should not be included in a dress code:

1. Prohibiting students from wearing jewelry, dresses, skirts, long hair or any particular hairstyles, nail polish or make-up because they are or are perceived to be male.
2. Prohibiting students from wearing shorts or skirts of a certain length, tank tops or bare shoulders/arms, sneakers, ties, or baggy pants because they are or are perceived to be female.
3. Requiring students to wear certain items of clothing based on their gender or perceived gender, such as:
 - a. Having a different uniform based on students' perceived gender (i.e. skirts for girls and pants for boys) and not allowing students themselves to choose which option they prefer.
 - b. Requiring male students to wear belts, or female students to wear bras.
4. Codes should not include vague terms that are open to interpretation by school staff such as "tight-fitting," or "appropriately sized."
5. Codes should not include language that sexualizes students including describing their clothing as "revealing," "distracting," or "inappropriate."

D. Discrimination based on body-type must be avoided. As stated above, dress codes should avoid vague language that leaves enforcement of the code up to the discretion of school staff. In particular, schools must ensure that students of larger size or curvier shape are not targeted for dress code violations while students of smaller size wear similar clothes without repercussions.

E. Dress Codes should not prohibit political expression through clothing, hairstyles, jewelry or other accessories. If schools have particular concerns about messages on clothing, they may choose to give the following restrictions:²⁵⁸

1. Clothing may not depict, advertise or advocate the use of alcohol, tobacco, marijuana or other controlled substances.
2. Clothing may not depict pornography, nudity or sexual acts, or feature profanity.
3. Clothing may not use or depict hate speech targeting groups based on race, ethnicity, gender, sexual orientation, gender identity, religious affiliation or any other protected groups.

F. Enforcement of Dress Codes must be approached with sensitivity with the ultimate goal of supporting the student in reaching their full potential, not shaming or criminalizing them.²⁵⁹

1. Avoid Loss of Learning Time²⁶⁰ (see Section 3.2 Guidelines for Suspensions, Expulsions and Removals and Section 3.3 Law Enforcement and Criminalization in School Environments)²⁶¹
 - a. Students must never be suspended, expelled, arrested or referred to law enforcement for uniform or dress code violations.
 - b. Students should not be pulled out of class for dress code or uniform violations.
 - c. Students should not be sent home to get a change of clothes unless they can leave and return without missing class time.

2. School Entrances and Enforcing Dress Code

- a. No law enforcement of any kind should be commenting on students' attire or appearance, or enforcing the school dress code (see Section 3.2 on Law Enforcement and Criminalization in School Environments).
 - b. If school staff see at the school entrance or anywhere else in the building that a student is not meeting the requirements of the dress code:
 - i. An effort should be made to have a school staff person that has a positive relationship with the student address the issue.
 - ii. If there is enough time to discuss the issues before class begins, then they can approach the student sensitively and take them to a private area to discuss the dress code.
 - iii. If they will be late to class, they should allow them to proceed to class and wait to have the conversation during a lunch or free period, or after school.
 - iv. School staff should determine if there are other factors for why a student may not be meeting the dress code, and try to help them address those barriers. For example, not knowing or understanding the dress code rules, lack of access to the required clothes, or no clean clothes (See 3. Below).
 - c. Under no circumstances should a school staff person:
 - i. Touch a student, or their clothing, or attempt to remove anything from a student's body;
 - ii. Apply or require the student to apply items like tape or Band-Aids to their skin;
 - iii. Require a student to wear an item of clothing provided by the school, such as a school loans shirt;
 - iv. Gesture or point in a shaming way to a student's clothing or their body; or
 - v. Use offensive words to characterize the students dress including "ghetto" or "trashy."
3. Schools should address the financial burden of dress codes or uniforms by having options available for students who do not have the money to buy the required clothes, or connecting them to resources that will help them, including those that will give them access to the ability to launder their clothes. If the school requires the purchase of a specific uniform it must be available free of charge to families that cannot afford it.
 4. Especially where students may face threats of violence or abuse at home, school staff should use discretion and maintain student privacy in disclosing the specific dress code or uniform violation to their parent or guardian (for example if the student is gender non-conforming at school but not at home due to threat of abuse).

G. Dress codes should never contain prohibitions that apply to parents, guardians, community members or anyone else who may be coming into the school to pick up a child or participate in school activities.²⁶²

²⁵¹ Girls for Gender Equity, Schools Girls Deserve (2018) Available at:

http://www.ggenyc.org/wpcontent/uploads/2017/11/GGE_school_girls_deserveDRAFT6FINALWEB.pdf.

²⁵² Racial Justice NOW!, West Dayton Youth Task Force and DSC, Culturally Relevant Curriculum and Culturally Responsive Schools Toolkit (2017). Available at: <http://dignityinschools.org/crctk>.

²⁵³ Definition from Human Rights Campaign. Available at: www.hrc.org.

²⁵⁴ Supra note 3.

²⁵⁵ OR National Organization for Women, Model Dress Code (2015) available at: <https://noworegon.org/issues/model-student-dress-code/>.

²⁵⁶ National Women's Law Center, Let Her Learn (2016) Available at: https://nwlc-ciw49tixqw5lbab.stackpathdns.com/wp-content/uploads/2018/04/5.1web_Final_nwlc_DressCodeReport.pdf.

²⁵⁷ Know Your Rights- LGBTQ Student Rights. ACLU. Available at: <https://www.aclu.org/know-your-rights/students-rights/#lgbtq-student-rights>

²⁵⁸ Language adopted from Portland Public Schools Dress Code. Available at: <https://www.pps.net/Page/5888>.

²⁵⁹ Supra note 9.

²⁶⁰ Philadelphia Student Code of Conduct Prohibits loss of instruction time for dress code violations. Available at:

<https://www.philasd.org/edmonds/wp-content/uploads/sites/288/2018/08/SDP-Code-of-Student-Conduct-20182019-AY.pdf>

²⁶¹ Id.

²⁶² New Dress Code for Parents Being Called Racist. Essence Magazine (2019). Available at: <https://www.essence.com/news/new-dress-code-policy-for-houston-parents-being-called-racist/>.