

## Research Brief

### Student Dress Codes and Uniforms

**Question(s):** What are the issues surrounding dress codes for secondary students?  
How can schools create appropriate dress code policies?

#### In A Nutshell

According to an Education Commission of the States *Policy Report*, research on the effects of dress code and school uniform policies is inconclusive and mixed. Some researchers find positive effects; others claim no effects or only perceived effects. While no state has legislatively mandated the wearing of school uniforms, 28 states and the District of Columbia have enacted laws addressing school attire. (ERIC Clearinghouse on Educational Management, Fall 2002). Recent challenges have focused on the chilling effect that dress codes have on free speech (e.g., the expression of religious or political ideas) or the burdens that new dress requirements, particularly uniforms, place on poor parents who cannot afford to bring their children into compliance. Also, some parents and legal authorities claim that when students either are sent home or placed in isolation because of dress code violations, it has a negative effect on their educational opportunity and ultimate performance.

Long after President Clinton called for the use of uniforms to help reduce school violence in 1996, the debate over the effectiveness and constitutionality of school dress codes, while muted in recent years, continues.

#### *Legal Issues*

While dress is broadly protected as a form of free speech under the first amendment of the Constitution, the courts have recognized the special role of schools in American life and the unique needs of the school environment. As a result, most states have laws that permit schools to regulate student dress as long as the purposes of doing so are clearly connected to student safety and the maintenance of an orderly school environment. Under this broad provision, obscene, overtly sexual or suggestive clothing, clothing that carries racist or bigoted slogans, or clothing that may provoke violence or disorder may generally be excluded from the school environment. Beyond that, there is still much controversy over the school's ability to regulate clothing that expresses religious, political, or other ideological beliefs.

Schools' efforts to manage student dress have generally been upheld by the courts, provided that the codes meet the provisions in #1 above. However, more recent court cases have focused on subtle manifestations of these broad principles, so the law on dress codes is evolving as American society changes. Recently, cases have focused upon several key issues:

- The ability of parents to pay for the clothing required to meet the dress codes. This is usually a problem when the code is first enforced and parents must purchase new clothes that meet the code. After a few years, many schools maintain used clothing shops that allow parents to buy uniforms or code-friendly clothes at reduced prices or obtain them for free.
- The expression of religious beliefs on T-shirts, jewelry or other clothing and accessories. Typically, these issues arise when school officials contend that the expression of religious beliefs may offend others of a different religion and may even lead to conflict or violence. In recent years, this set of issues has been complicated by the growing number of students from non-western cultures whose religious beliefs may dictate a style of dress that runs afoul of the school's dress codes.
- Required uniforms and opt-out provisions. Provided that the school makes provisions for parents who cannot afford to purchase uniforms, and with the caveat that logo-bearing uniforms (e.g., polo shirts with school emblems) may be shunned by certain religious groups, courts have generally upheld the schools' ability to require uniforms. Some courts have required that schools provide a mechanism that allows parents to opt out of the requirement based on religious beliefs or other constitutional protections, but even those without an opt-out provision have usually been upheld.

Dress codes that are ambiguous, inconsistent or “made up on the spot” are most likely to fail a court challenge – or even lose the support of a superintendent or school board. Even light-hearted attempts at humor can go awry, as in the case of one principal, a die-hard local college team fan, who forbade the wearing of an opposing team's colors or logo during the week before a big game. Evidently, he forgot that not many people have a sense of humor about their favorite team, so his decree was met with howls of protest from students, parents, and even the local news media. He escaped with his hide (and his job) intact, but not before being required to eat a large helping of crow on the local TV newscast.

### ***Educational Issues***

No large scale studies have demonstrated a conclusive link between school dress codes or school uniforms and student achievement. However, several small scale studies and anecdotal reports from principals, teachers and students indicate that the imposition of dress codes – including uniforms – is related to higher morale, reduced disciplinary referrals, improved school safety and a “learning-focused” school climate. Some principals and law-enforcement authorities have argued that uniforms also help to curb gang activity in the schools because the gang members are unable to display their “colors” as a means of recruiting new members or to provoke gang violence. Still others have said that such restrictions just drive the gang members and gang activity further underground where it is harder to monitor and control.

### ***Adopting a Policy***

The following guidelines for creating a school uniform policy (or any dress code) are taken from the excellent [\*Manual on School Uniforms\*](#) from the Education Commission of the States. The *Manual* also provides sample policies that have been particularly effective in school districts.

#### **1. Get parents involved from the beginning**

Parental support of a uniform policy is critical for success. Indeed, the strongest push for school uniforms in recent years has come from parent groups who want better discipline in their children's schools. Parent groups have actively lobbied schools to create uniform policies and have often led school task forces that have drawn up uniform guidelines. Many schools that have successfully created a uniform policy survey parents first to gauge support for school uniform requirements and then seek parental input in designing the uniform. Parent support is also essential in encouraging students to wear the uniform.

#### **2. Protect students' religious expression**

A school uniform policy must accommodate students whose religious beliefs are substantially burdened by a uniform requirement. As U.S. Secretary of Education Richard W. Riley stated in **Religious Expression in Public Schools**, a guide he sent to superintendents throughout the nation on August 10, 1995:

Students may display religious messages on items of clothing to the same extent that they are permitted to display other comparable messages. Religious messages may not be singled out for suppression, but rather are subject to the same rules as generally apply to comparable messages. When wearing particular attire, such as yarmulkes and head scarves, during the school day is part of students' religious practice, under the Religious Freedom Restoration Act schools generally may not prohibit the wearing of such items.

#### **3. Protect students' other rights of expression**

A uniform policy may not prohibit students from wearing or displaying expressive items -- for example, a button that supports a political candidate - so long as such items do not independently contribute to disruption by substantially interfering with discipline or with the rights of others. Thus, for example, a uniform policy may prohibit students from wearing a button bearing a gang insignia. A uniform policy may also prohibit items that undermine the integrity of the uniform, notwithstanding their expressive nature, such as a sweatshirt that bears a political message but also covers or replaces the type of shirt required by the uniform policy.

#### **4. Determine whether to have a voluntary or mandatory school uniform policy**

Some schools have adopted wholly voluntary school uniform policies which permit students freely to choose whether and under what circumstances they will wear the

school uniform. Alternatively, some schools have determined that it is both warranted and more effective to adopt a mandatory uniform policy.

**5. When a mandatory school uniform policy is adopted, determine whether to have an "opt out" provision**

In most cases, school districts with mandatory policies allow students, normally with parental consent, to "opt out" of the school uniform requirements.

Some schools have determined, however, that a mandatory policy with no "opt out" provision is necessary to address a disruptive atmosphere. A Phoenix, Arizona school, for example, adopted a mandatory policy requiring students to wear school uniforms, or in the alternative attend another public school. That Phoenix school uniform policy was recently upheld by a state trial court in Arizona. Note that in the absence of a finding that disruption of the learning environment has reached a point that other lesser measures have been or would be ineffective, a mandatory school uniform policy without an "opt out" provision could be vulnerable to legal challenge.

**6. Do not require students to wear a message**

Schools should not impose a form of expression on students by requiring them to wear uniforms bearing a substantive message, such as a political message.

**7. Assist families that need financial help**

In many cases, school uniforms are less expensive than the clothing that students typically wear to school. Nonetheless, the cost of purchasing a uniform may be a burden on some families. School districts with uniform policies should make provisions for students whose families are unable to afford uniforms. Many have done so. Examples of the types of assistance include: (a) the school district provides uniforms to students who cannot afford to purchase them; (b) community and business leaders provide uniforms or contribute financial support for uniforms; (c) school parents work together to make uniforms available for economically disadvantaged students; and (d) used uniforms from graduates are made available to incoming students.

**8. Treat school uniforms as part of an overall safety program**

Uniforms by themselves cannot solve all of the problems of school discipline, but they can be one positive contributing factor to discipline and safety. Other initiatives that many schools have used in conjunction with uniforms to address specific problems in their community include aggressive truancy reduction initiatives, drug prevention efforts, student-athlete drug testing, community efforts to limit gangs, a zero tolerance policy for weapons, character education classes, and conflict resolution programs. Working with parents, teachers, students, and principals can make a uniform policy part of a strong overall safety program, one that is broadly supported in the community.

## Resources

***Important Note: These resources are not a substitute for professional legal advice. You should consult a qualified attorney for all legal questions pertaining to this topic.***

*Uniforms and Dress Codes: Selected Research and Readings.* Education Commission of the States.

<http://www.ecs.org/html/IssueSection.asp?issueid=145&s=Selected+Research+%26+Readings>

If you can visit only one website, this is it! It provides links to many helpful resources, including a full bibliography of research and policy writing on the topic.

“Cheyenne Tribe Files Suit Over School Dress Codes,” by Chet Brokaw. *USA Today*. September 18, 2009.

[http://www.usatoday.com/news/education/2009-09-18-tribe-dress-code\\_N.htm](http://www.usatoday.com/news/education/2009-09-18-tribe-dress-code_N.htm)

Very interesting story about the Cheyenne tribe’s lawsuit against a South Dakota school district, claiming that their dress code creates severe economic hardships for this impoverished community. Explores many of the issues inherent in economic arguments against dress codes.

*Student Expression: Clothing, Dress Codes and Uniforms* by David L. Hudson, Jr.

[http://www.firstamendmentcenter.org/speech/studentexpression/topic.aspx?topic=clothing\\_dress\\_codes\\_uniforms](http://www.firstamendmentcenter.org/speech/studentexpression/topic.aspx?topic=clothing_dress_codes_uniforms)

This excellent analysis by a first amendment scholar from the First Amendment Center explores many of the central issues and legal dimensions of school dress codes.

*Student Dress Codes: Constitutional Requirements and Policy Suggestions* by Max Madrid.

<http://www.modrall.com/0927071190907578.art>

This is a very readable and complete legal analysis of student dress codes from a New Mexico law firm. Its focus on constitutional issues makes it broadly applicable across the states.

*Student Dress Policies: The Success of Student Dress Codes and Uniforms* by Stephen Daniels.

<http://www.ncfpc.org/PolicyPapers/Findings%200105-Dress%20Policy.pdf>

This analysis of dress codes and uniform policies is from the North Carolina Family Policy Council, a nonpartisan, nonprofit, research and education organization whose goal is to serve as a voice for families and traditional family values in the public policy arena. (From their website.)

*Educators’ Dress Code Studies Show Numerous Positive Effects.* Sam Houston State University News.

[http://www.shsu.edu/~pin\\_www/T@S/2001/DressCode.html](http://www.shsu.edu/~pin_www/T@S/2001/DressCode.html)

This newsletter reports on the results of two dissertation studies on dress codes conducted at Sam Houston State University. They concluded that there were no effects on student achievement, but that school personnel reported other, desirable outcomes as a result of strict dress codes and uniform policies.

<http://www.educationpartnerships.org/>



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Submitted Date: November 2, 2009

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