

Expressions of Identity: A 21st Century Snapshot of Dress Code Issues

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University of Texas School of Law

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Elizabeth L. Humphrey

Thompson & Horton LLP

3200 Southwest Freeway
Suite 2000
Houston, Texas 77027



Presentation Overview

- Freedom of Expression
 - Legal Standard
 - Key Cases
- Equal Protection
 - Legal Standard
 - Key Cases
- Lessons Learned



Fingernail policy remains, but Clyde CISD won't treat students 'in a discriminatory' way

Timothy Chipp Abilene Reporter-News

Published 9:55 p.m. CT Dec. 14, 2020 | Updated 1:16 p.m. CT Dec. 15, 2020

BLACK VOICES 06/25/2019 06:37 pm ET

Ohio School Apologizes After Attempting To Ban 'Afro-Puffs' And 'Twisted Braids'

Austin schools' dress codes 'sexist, racist,' group says

EDUCATION

The Sexism of School Dress Codes

These policies can perpetuate discrimination against female students, as well as LGBT students.

LI ZHOU OCTOBER 20, 2015

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Constitutional Basis for Protection

➤ *Freedom of Expression*

- First Amendment provides that "Congress shall make no law . . . abridging the **freedom of speech**[".]"

➤ *Equal Protection of the Laws*

- Fourteenth Amendment provides that "[n]o State shall make or enforce any law which . . . den[ies] to any person within its jurisdiction the **equal protection of the laws**."

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Free Speech

- *Canady v. Bossier Parish Sch. Bd.*, 240 F.3d 437 (5th Cir. 2001).
 - “[A]n individual’s choice of attire . . . may be endowed with sufficient levels of intentional expression to elicit First Amendment shelter.”
- Expressive Conduct
 - ❑ Intent to convey a particularized message; AND
 - ❑ High likelihood that message will be understood by those who viewed it
 - *Texas v. Johnson*, 491 U.S. 397 (1989).

Free Speech

- Forms of intentional expression
 - Pure speech – shirts or jackets with written messages supporting political or social issues
 - Clothing/hairstyle when worn as
 - Symbol of ethnic heritage, religious beliefs, social/political views
 - Signal of membership in social group, participation in activities, general attitudes

Also available as part of the eCourse

[2021 School Law eConference](#)

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