MODEL POLICY #13

DRESS CODE

Why Adopt This Policy?

In response to concerns raised about dress codes in schools, this policy seeks to refocus attention on learning and minimize distractions. This dress code is crafted in a gender-neutral manner with no distinctions between boys' and girls' apparel. It is designed to foster a safe and positive learning environment conducive to positive student experiences. Enforced dress codes have been found to have a positive effect on everything from attendance and academic performance to reducing criminal activity.

Policy

The purpose of this dress code is to establish guidelines that promote an appropriate educational environment while allowing students to dress comfortably within defined boundaries conducive to learning. While acknowledging students' rights to personal expression and individuality, the district maintains the need to regulate conduct to ensure a safe, studious, and hygienic environment for all students, irrespective of sex, viewpoint, or religion.

1. General
    a. There can be no gap between a shirt and bottoms.
    b. All private body parts and undergarments must be covered.
    c. Apparel that is see-through or includes excessive rips or tears can be worn so long as there is an additional layer of clothing underneath.
    d. Apparel that has words or pictures on it is allowed so long as the words and pictures are not lewd, vulgar, indecent, or plainly offensive.
    e. Apparel that has words or pictures on it is allowed, so long as the words or pictures cannot be plausibly interpreted as promoting illegal drugs.
    f. If school authorities believe that there will be a substantial disruption of, or material interference with, school activities, then the school can prohibit that apparel.
    g. If school authorities believe that for safety reasons a student's apparel is inappropriate, the school can prohibit that apparel.
2. Shirts
    a. Must have capped sleeves. No tank tops, spaghetti straps, or strapless tops are allowed.
3. Bottoms
    a. Shorts must have at least a 4 inch inseam (from the bottom of the zipper or buttons to the hem).
    b. Skirts should not be more than 4 inches above the top of the kneecap when the student is standing upright with their arms at their sides.

4. Dresses
    a. If the dress has two parts, the parts must overlap.
    b. Dresses should not be more than 4 inches above the top of the kneecap when the student is standing upright with their arms at their sides.
5. Shoes
    a. Shoes must be worn at all times during school hours, unless removal is required for a class activity.
    b. Shoes must have a hard sole on the bottom for safety.
    c. No flip-flops.
6. Headwear
    a. Hats and hoods are not allowed to be worn during school hours.
    b. Headdresses may be worn for religious purposes.
7. Jewelry/Accessories
    a. Jewelry and other accessories are allowed to be worn during school so long as they are not a distraction to the student, other students, or would cause safety concerns.
    b. Sunglasses are not allowed to be worn over the eyes inside during school hours. This does not apply to sunglasses worn for medical reasons or transition lenses.
    c. Anything that covers the face is not allowed, unless worn for religious or medical reasons.
8. Athletic Uniforms Worn During School Hours
    a. Athletic uniforms may be worn during school hours, so long as they do not violate any aspect of this dress code. If the athletic uniform does violate the dress code listed above, the student will be asked to modify it to conform with the dress code (e.g. put on a jacket over the tank top, etc.).
9. Non-Instructional Hours
    a. This dress code applies when students are on school property outside of regular instructional hours, unless it is a customary athletic or activity uniform (e.g. a swimsuit for the swim team, a tank top for cross-country or track, stage costumes for theater, etc.).

Exceptions or Modifications to the Dress Code: Any exceptions or modifications to these rules shall be communicated by the building principal for special events such as prom, homecoming, spirit day, field trips, etc.

Violation of the Dress Code: If a school staff member believes that a student is not in compliance with the dress code, the staff member may first ask the student to modify or change to comply. If the student remains out of compliance, the staff member shall send that student to the central office. Once there, the principal or his/her designee will determine if the student is in violation of the dress code. If the student is in violation of the dress code, the student will again be asked to modify or change what the student is wearing. If the student does not have anything to modify or change what the student is wearing, the school will request the student's parents bring a change of clothing or send the student home. If a student has more than three (3) dress-code violations in a semester, the student may receive detention or suspension, depending on the circumstances and discretion of school staff.

For purposes of this policy, the term "parent" includes a legal guardian or other person who is legally responsible for the welfare of the child (such as a grandparent or stepparent with whom the child lives). Rights under this policy transfer from the parents to a student who is 18 years old or emancipated under state law.

Legal Analysis

School districts cannot legally restrict student freedom of speech in a manner that violates their First Amendment rights. For instance, in *Tinker v. Des Moines*, 393 U.S. 503 (1969), students planned to protest the Vietnam War by wearing black armbands to school. School officials created a plan to prohibit the armbands, leading to student suspensions and a subsequent lawsuit. The U.S. Supreme Court ruled in favor of the students and noted that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Public schools cannot prevent students from expressing ideas simply because their message may contradict the preferred message of the school. *Tinker v. Des Moines*, 393 U.S. 503.

Conversely, the First Amendment *does* allow public schools to prohibit messages promoting the use of illegal drugs at school-supervised events, as seen in *Morse v. Frederick*, 551 U.S. 393 (2007). When a student displayed a banner with a reference to smoking marijuana at a school-supervised event and got suspended, the U.S. Supreme Court upheld the school's action, stating that schools may "restrict student speech at a school event, when that speech is reasonably viewed as promoting illegal drug use." *Morse*, 551 U.S. at 403.

The Supreme Court has also distinguished between political student speech, which is protected, and vulgar or lewd speech, which may not be. *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986). In this case, a student delivered a sexually explicit speech at a school assembly, resulting in disciplinary action by the school. The U.S. Supreme Court upheld the school's decision, emphasizing that obscene speech that "substantially interferes with the educational process" can be subject to discipline. *Bethel*, 478 U.S. at 678—680.

The U.S. Supreme Court has also said dress codes cannot violate the Due Process Clause of the Fourteenth Amendment, and they cannot be overbroad or unconstitutionally vague. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828, (1995); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969); *New York v. Ferber*, 458 U.S. 747, (1982); *Connally v. Gen. Const. Co.*, 269 U.S. 385, (1926).

On the topic of whether schools can create and regulate different dress codes for boys and girls based on sex, the U.S. Supreme Court has not yet weighed in. The Fourth Circuit Court of Appeals, in *Peltier v. Charter Day School*, held that a private charter school violated Title IX and the Equal Protection Clause of the Fourteenth Amendment by mandating skirts only for female students. *Peltier v. Charter Day Sch.*, Inc., 37 F.4th 104 (4th Cir. 2022), cert. denied, 143 S. Ct. 2657, 216 L. Ed. 2d 1236 (2023).

Overall, while public education is primarily overseen by state and local authorities, courts may intervene in conflicts that significantly impact students' constitutional rights. *Epperson v. State of Ark.*, 393 U.S. 97, 104 (1968). School boards should therefore carefully consider students' free speech rights when implementing policies like dress codes.

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