

Final Round



Dress Code Dilemma: Upholding Equality in Expression

GENERAL FACTS:

Background:

For years, East Valley High School has upheld a steadfast dress code policy aimed at nurturing a conducive learning environment and fostering a sense of decorum among students. The policy was crafted with the intention of promoting self-professionalism, prioritizing safety, security, and cultivating a culture of responsibility among the student body. In response to concerns about bullying and gang violence, the school board introduced a student dress code to regulate attire. This proactive measure was implemented to minimize distractions in the school environment and promote a safer community for all students. It received measurable success early on, with less school violence occurring over the years.

However, recent criticisms have emerged from a group of students who assert that the policy discriminates against certain gender expressions and identities. They argue that the dress code unfairly singles out students who do not conform to conventional gender norms, thus limiting their ability to express themselves freely. The policy centers on regulating the length of skirts and shorts, limiting colors on clothing, as well as prohibiting clothing featuring language or images. While the overarching goal is to promote professionalism and modesty, students contend that these regulations are inconsistently enforced and disproportionately affect those who identify beyond the binary gender spectrum.

Students advocating for change argue that the existing policy fails to recognize and accommodate the spectrum of gender identities present within the student body, leading to feelings of exclusion and marginalization among certain groups. This disparity in enforcement has sparked debates about the policy's fairness and whether it truly accommodates the diverse identities within the student body. As a result, there is growing pressure on the school administration to reassess and potentially revise the dress code to better align with principles of inclusivity and equity.

The Issue:

In the bustling hallways of East Valley High School, Alex, a student with a passion for activism and self-expression, found themselves at the center of East Valley's student dress code policy. Amidst ongoing national debates surrounding freedom of expression and students' rights to dress

in accordance with their gender identity, the dress code policy at the school has emerged as a source of intense controversy.

Alex is a student who dreams of working in the fashion industry as a stylist. Seeing the fluidity and expression that fashion provides individuals, Alex is a proud advocate for gender inclusivity and has long felt stifled by the school's dress code, which they believe perpetuates harmful gender stereotypes. Determined to challenge the status quo, Alex, along with a group of like-minded students, decided to act. They organized a peaceful protest by donning clothing that went against the long-standing policy with boys wearing skirts and girls wearing shorts. The students also wore plain white tennis shoes rather than the black or blue ones the policy requires.

The school administration, led by Principal Taylor Thompson, followed procedure according to policy. They sent the students to the nurse's office to change and notified their parents. The next day, the same set of students broke the policy again and purposefully wore clothing that went against traditional notions of student dress code. Again, Principal Thompson followed policy and forced the students to change and made them stay after school for detention. All the students, including Alex, were warned if they did it again, they would be punished with a 3-day suspension for intentionally disrupting school learning environments.

On the following day, the students again dressed in clothing contrary to the policy. This time however, Alex also wore a black shirt that stated "YOU CAN TAKE MY CLOTHES BUT NOT MY VOICE" in white, bold font. The students were told they would be suspended for three days; however, Alex was informed they would be suspended for an additional 10 days. The principal notified Alex's parents that Alex's clothing disrupted the course of learning for other students. Principal Thompson received teacher reports from each one of Alex's classes that students were distracted and talking during the period about Alex's shirt and that is why Alex received a longer suspension. Additionally, Alex was told they would not be allowed to participate in the school's yearly fashion show. Alex spent the last three months working diligently after school and was prepared to showcase gender neutral fashion at the show.

As part of the school's policy, Alex's family were offered an opportunity for mediation with the school principal to collaboratively determine an appropriate disciplinary path. Alternatively, the matter could be referred to the school board for further deliberation, potentially resulting in more severe punishments. Alex's parents accepted the invitation to mediate.

Mediation Interests:

(Plaintiffs) Principal Taylor Thompson, along with the School Board attorney, are mainly focused on upholding the East Valley High School's longstanding dress code policy, which has been essential for maintaining a respectful and focused learning environment. The dress code policy asserts the promotion of self-professionalism, safety, and security among the students. Over the years, there has been a significant reduction of gang related violence in and around the school. Further, students have reported an increase in tolerance and a feeling of safety during school evaluations, in large part, due to the uniform dress code. The school's stance is rooted in the belief that the policy serves to minimize distractions in the school environment and instill a sense of responsibility among students. Though the school acknowledges Alex's actions to be

well-intentioned, the school's priority is to ensure order within the school premises. Principal Thompson is open to creative solutions to help resolve this issue and ensure this incident does not happen. By participating in this mediation, Principal Thompson aims to collaboratively address the concerns raised by Alex while upholding the integrity of East Valley High School's dress code policy and avoiding negative press and costly litigation for the school.

(Defendants) Alex's family and counsel seek to mitigate the punishments against Alex because they believe the school's policy, on its face, no longer conforms with the gender expression values held today. Alex's family believe the policy unfairly restricts students' ability to express themselves freely and perpetuates harmful gender stereotypes. Alex's family hopes to get Alex's punishment reduced or waived and to bring change to the policy. Otherwise, they are prepared to sue the school. However, there is no certainty in litigation and though Alex's challenge has merit, they still deliberately broke school policy to prove their point. It may be a challenge to bring this suit forward. Additionally, Alex's parents believe their student should be allowed to participate in the school fashion show. Alex would be severely discouraged from pursuing fashion if they felt the school was not supporting them in this regard. Alex's family hopes that mediation can allow both parties to work towards a mutually beneficial resolution that upholds the rights and dignity of all students at East Valley High School.

East High Dress Code Policy:

At East High School, our dress code policy prioritizes safety and uniformity among students to foster a productive learning environment. Students are expected to adhere to the following guidelines:

High School Dress Code for Students

1. Clothing:

- Wear solid-colored collared shirts or blouses in white, light blue, or navy blue.
- Dress pants, shorts, or knee-length skirts in khaki or navy blue are allowed.
- Closed-toe shoes or loafers that must be black, brown, or dark blue.
- For girls: skirts and dresses must be of appropriate length, falling no more than 3 inches above the knee.
- For boys: shorts must have a minimum length of mid-thigh; Cut-off shorts, athletic shorts, or shorts with frayed edges are not allowed.

2. Rules:

- Clothes must fit properly and not be too tight or revealing.
- No jeans, gym shorts, or other athletic wear.
- No hats or head coverings indoors unless it is a religious affiliation.
- Students are encouraged to dress modestly and in a manner conducive to a respectful learning environment.

3. Punishments for Violations: Students violating this policy are subject to disciplinary actions that can include not being able to participate in school events.

- First offense: Warning and sent to change clothes. Parents are notified.
- Second offense: Detention after school. Parents are notified and must pick up the student's clothing.

- Third offense: Parents are notified and suspension.

This dress code ensures a neat and respectful appearance while maintaining a conducive learning environment.

Title IX of the Department of Education’s Office of Civil Rights:

“No person in the United States shall, on the basis of sex, be excluded from participation, in be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

This federal law prohibits discrimination based on sex in educational institutions receiving federal funding. This applies not just to sports but also to dress codes. For example, a policy requiring different hair lengths for men and women could violate Title IX. This is an example of a policy that discriminates based on sex.

Related Case Law:

Tinker v. Demoinés → 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969)

The court upheld the free speech rights of students to wear black armbands to protest the Vietnam War, explaining that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

Background:

In December 1965, John Tinker, Mary Beth Tinker, and Christopher Eckhardt, all students, wore black armbands to their Des Moines school in protest of the Vietnam War. The school district suspended them, leading to a legal challenge on the grounds of First Amendment rights. The issue was whether the First Amendment protected students' free-speech rights in public schools. The Supreme Court ruled in favor of the students, stating that students do not lose their First Amendment rights at school. School officials must demonstrate that a restriction on speech is necessary to prevent substantial disruption to the school environment. In this case, the wearing of armbands as a form of silent protest did not cause any disruption, and the school's action in singling out these students for punishment was unconstitutional. The decision affirmed that students have the right to express their views unless there is a specific reason for school officials to regulate their speech.

Charter Day School, Inc. v. Peltier (2023) (Title IX)

This federal case was appealed to the Supreme court but denied.

In *Peltier v. Charter Day School*, girls and their parents challenged the requirement for girls to wear skirts at Charter Day School, alleging it constituted sex discrimination under the Equal Protection Clause of the U.S. Constitution and Title IX. They argued that the skirts requirement limited their mobility, perpetuated gender stereotypes, and conveyed a message of inferiority. On the other hand, Charter Day School said it sought to "emphasize traditional values" and enforces a dress code that requires girls to wear skirts, jumpers, or skorts. Female students wearing skirts, the school's founder said, preserved the idea that a woman is a "fragile vessel that men are supposed to take care of and honor." The U.S. District Court for the Eastern District of North Carolina ruled in the girls and their parents' favor, blocking the school from enforcing the skirts requirement.

The Fourth Circuit Court of Appeals upheld the decision, affirming that Charter Day School violated girls' constitutional rights by imposing the skirts requirement. The court also recognized that Title IX applies to dress codes, mandating equal treatment regardless of gender. Charter Day School's appeal to the U.S. Supreme Court was denied in 2023, affirming the lower court's ruling and signaling a victory for gender equality in school dress codes.

N.B. Parties may make reasonable inferences from the facts and circumstances described herein but are not to create factual circumstances that materially affect the outcome.