

First Amendment Request to Wear Tribal Regalia at Graduation

Eleven states (Alaska, Arizona, California, Kansas, Mississippi, Montana, North Dakota, Oregon, South Dakota, Utah, and Washington) have laws that explicitly protect the right to wear tribal regalia at graduation. Students who live in those states and are eligible for protection under those state laws should consider using our self-advocacy template letter for their state.

While other states do not have laws that explicitly protect the right to wear tribal regalia, many (but not all) offer heightened legal protections for religious exercise. For many Indigenous students, wearing tribal regalia at graduation is not only an important cultural practice, but it has significant spiritual or religious meaning. State religious freedom laws may require public schools to provide a religious exemption to the graduation dress code for these students. Please check our religious freedom template letter to see if your state has heightened protections for religious freedom.

Even if your state does not have a tribal regalia law or heightened protections for religious exercise, the First Amendment to the U.S. Constitution may require your school to allow you to wear tribal regalia if other students are permitted to adorn their graduation caps or gowns with other items, or if the school allows other exceptions to the graduation dress code.

Use the template letter below if your school will not allow you to wear tribal regalia but has permitted (or will permit) other students to wear other, visible and personally expressive adornments, clothing, jewelry, or messages during graduation.

This template letter is provided as a tool to assist Indigenous students and their families in self-advocating for the right to wear tribal regalia at graduation. It is not legal advice and does not create an attorney-client relationship with the ACLU, any ACLU affiliate, or any attorney.

[Date]

Superintendent [First and Last Name]
Principal [First and Last Name]
[School District Address]

Re: First Amendment right to wear tribal regalia at graduation

Dear Superintendent [Last Name] and Principal [Last Name]:

I am writing to request that my student, [Name], be permitted to wear [specify item(s) of tribal regalia] during this year’s graduation ceremony. Federal law protects this right, and I respectfully ask that the school district follow the law regarding this matter.

[Student’s Name] is [Tribal affiliation/Native American/Indigenous.] Our [Native American/Indigenous] heritage and traditions are an important part of our family’s history, religion, and identity. Tribal regalia, including eagle feathers, beadwork on graduation caps, and other items, plays an important role in graduation ceremonies for many Indigenous students. These items are typically gifted to graduating students by their families or tribal elders to recognize the student’s success and academic achievements, and to celebrate these achievements from a cultural and spiritual perspective.

Graduation ceremonies are especially meaningful for Indigenous students because they have long faced structural barriers and discrimination in the educational context and are less likely to graduate from high school than their peers.¹ Indeed, these students have suffered horrific persecution by the government and education system:

Beginning with the Indian Civilization Act of 1819 and running through the 1960s, the United States enacted laws and implemented policies establishing and supporting Indian boarding schools across the nation. During that time, the purpose of Indian boarding schools was to culturally assimilate Indigenous children by forcibly relocating them from their families and communities to distant residential facilities where their American Indian, Alaska Native, and Native Hawaiian identities, languages, and beliefs were to be forcibly suppressed. . . . [T]he legacy of Indian boarding schools remains, manifesting itself in Indigenous communities through intergenerational trauma, cycles of violence and abuse, disappearance, premature deaths, and other undocumented bodily and mental impacts.²

¹ See, e.g., Jinghong Cai, *The Condition of Native American Students*, Nat’l Sch. Bds. Ass’n. (Dec. 1, 2020), <https://www.nsba.org/ASBJ/2020/December/condition-native-american-students>.

² Memo from Sec. of the Interior Deb Haaland Regarding Fed. Indian Boarding Sch. Initiative (June 22, 2021) 1, 3 <https://www.doi.gov/sites/doi.gov/files/secint-memo-esb46-01914-federal-indian-boarding-school-truth-initiative-2021-06-22-final508-1.pdf> (“Over the course of the Program, thousands of Indigenous children were removed from their homes and placed in Federal boarding schools across the country. Many who survived the ordeal returned home changed in unimaginable ways, and their experiences still resonate across the generations.”).

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This template letter was last updated in April of 2023.

Commented [A2]: Consider sending this letter via mail and email. Address the letter to the school district superintendent, the school principal, or both, depending on the situation. For example, if the principal has already stated that the student cannot wear tribal regalia, the letter might be better addressed to the superintendent. In addition, check district policies to see if there is a particular procedure that you should follow.

Commented [A3]: The student is not required to be a member of a Tribe/Nation/Band, to assert First Amendment rights, but if the student is a member of a Tribe/Nation/Band or otherwise associated with a particular Tribe/Nation/Band, you can note that here.

Commented [A4]: Add in this reference to religion if wearing tribal regalia has a spiritual/religious significance for the student and family.

Denying students like [Student's Name] the right to wear tribal regalia during graduation further deprives us of our heritage, faith, and identity, perpetuating the destructive assimilation policies of the past and promoting harmful stereotypes and misunderstandings of Indigenous Peoples.³ It also likely violates federal law. It is our understanding that school officials have permitted other students to wear other, visible and personally expressive adornments, clothing, jewelry, or messages during graduation. For example, [fill in.] Thus, school officials must allow [Student's Name] to do the same. The First Amendment to the U.S. Constitution prohibits public schools from selectively or unevenly enforcing a graduation dress code to exclude tribal regalia.⁴

Commented [A5]: Add in this reference to faith if appropriate.

Commented [A6]: Fill in examples of other cultural, religious, or expressive items that you are aware of that students have been permitted to wear or will be permitted to wear.

In addition, Title VI of the Civil Rights Act of 1964 prohibits federally funded schools from discriminating based on race, ethnicity, or national origin. Even if schools do not intend to discriminate, if their policies disproportionately and negatively affect students of a particular race, ethnicity, or national origin, the policies will likely be considered discriminatory. School policies that prevent Indigenous students from wearing tribal regalia may violate this law.⁵

This letter is my [first/second/third] communication with the school district regarding this matter. [In response to my previous communications, district officials have (fill in).] Because the First Amendment is clear and because Indigenous students deserve to have their culture and heritage recognized in a manner that is meaningful to them and their families, I hope that there will be no need to pursue this matter further.

Commented [A7]: If you have had previous communications with school officials about this, use this green highlighted text, and add in any relevant details regarding whom you contacted, when, how, and what they said.

Please contact me as soon as possible at [cell phone / email address] to confirm that [Student's Name] will be allowed to wear [item(s) of tribal regalia] at the upcoming graduation ceremony.

Sincerely,

[Signature of Parent/Guardian]

Commented [A8]: You may alter this template letter to come directly from the student.

[Parent/Guardian Name]

Commented [A9]: Before sending this self-advocacy letter, check the following:

1. Did you delete the introductory page to this document?
2. Did you delete all comments in the margins?
3. Did you delete the alternate text (in green highlights) if it does not apply to you?
4. Did you fill in all the necessary information in the highlighted brackets AND delete the brackets and highlights?
5. Did you review school district policies to determine whether this letter includes all the information required, is addressed to the appropriate person, is submitted within the required timelines, and meets all other requirements of school district policy?

³ See *Becoming Visible: A Landscape Analysis of State Efforts to Provide Native American Education for All*, Nat'l Congress of Am. Indians (Sept. 2019) 8-9 https://www.ncai.org/policy-research-center/research-data/prc-publications/NCAI-Becoming_Visible_Report-Digital_FINAL_10_2019.pdf ("A startling 72 percent of Americans rarely encounter or receive information about Native Americans... Invisibility, myths, and stereotypes about Native peoples perpetuated through K-12 education are reinforced across society, resulting in an enduring and damaging narrative regarding tribal nations and their citizens. The impact is profound. Native Americans live in a culture where they are often misunderstood, stereotyped, and experience racism on a daily basis. The lack of accurate knowledge about Native Americans contributes to these experiences and hinders the ability of all Americans to experience and celebrate the unique cultural identities, histories, and contributions of Native peoples.").

⁴ See *generally Waln v. Dysart Sch. Dist.*, 54 F.4th 1152, 1160 (9th Cir. 2022) (discussing free-speech and religious-freedom First Amendment implications of selective enforcement).

⁵ See *Indigenous Students Should Be Allowed to Wear Tribal Regalia at Graduation*, ACLU (Apr. 7, 2022), <https://www.aclu.org/news/religious-liberty/indigenous-students-should-be-allowed-to-wear-tribal-regalia-at-graduation>.