

NOTE TO STUDENTS/FAMILIES:

Montana law protects public-school students’ right to wear tribal regalia at graduation. The law does not explicitly require that students provide any notice of their plan do so or otherwise seek approval.

However, if school officials have suggested that students may not be allowed to wear tribal regalia, or if you are concerned that they will try to prevent a student from doing so on graduation day, this letter may assist you in addressing any concerns and ensuring, in advance, that there will not be any problems during graduation.

(To ensure that you see all instructional comments in the margin of this document, turn on “show comments” in Microsoft Word.)

[Date]

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

Re: Montana law protecting the right to wear tribal regalia at graduation

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

Montana law protects the right of students to wear tribal regalia at graduation. While the law does not require students to notify schools of their intent to do so,¹ because some school officials have indicated that they are not aware of these legal protections, I am writing to let you know that my student, [Name], plans to wear [specify item(s) of tribal regalia] during this year’s graduation ceremony. 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 and identity. Under Montana law, a “state agency or a local government may not prohibit an individual from wearing traditional tribal regalia or objects of cultural significance at a public event.”² An individual is defined as “a human being regardless of age.”³ Public school districts constitute a

¹ See, e.g., Letter to Polson High Sch. Principal, ACLU of Montana (June 3, 2019), https://www.aclumontana.org/sites/default/files/field_documents/phs_letter_sent_06.03.2019.pdf (explaining that public school’s requirement that Native American students receive “pre-approval” for wearing tribal regalia violates Mont. Code Ann. § 2-1-315).

² Mont. Code Ann. § 2-1-315(2) (2017). Montana’s Constitution also protects Native American culture and expression in the educational context. Article X, which governs education, “recognizes the distinct and unique cultural heritage of the American Indians” and affirms that the state is “committed in its educational goals to the preservation of their cultural integrity.”

³ *Id.* § 2-1-315(3)(a).

“local government.”⁴ And a “public event” includes a “graduation ceremony.”⁵ Thus, the school district must allow [Student’s Name] to wear [item(s) of tribal regalia].

Tribal regalia, such as eagle feathers and beadwork on graduation caps, 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. Graduation ceremonies are especially meaningful for these students because they have long faced structural barriers and discrimination in the educational context and, as a result, may be less likely to graduate from high school than their peers.⁶ Indeed, Indigenous 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.⁷

As U.S. Supreme Court Justice Neil Gorsuch recently explained, “[u]pon the children’s arrival, the boarding schools would often . . . cut their hair . . . and confiscate their traditional clothes.”⁸ The schools also “frequently prohibited children from speaking their native language or engaging in customary cultural or religious practice.”⁹

The appalling legacy of Indian boarding schools remains today, “manifesting itself in Indigenous communities through intergenerational trauma, cycles of violence and abuse, disappearance, premature deaths, and other undocumented bodily and mental impacts.”¹⁰ Denying students like [Student’s Name] the right to wear tribal regalia during graduation further deprives them of their heritage and identity, perpetuating the destructive assimilation policies of the past

⁴ Compare *Id.* § 2-1-315(3)(b) with Mont. Code Ann. § 2-2-102(4) (“‘Local government’ means a county, a consolidated government, an incorporated city or town, a school district, or a special district.”).

⁵ Mont. Code Ann. § 2-1-315(3)(c).

⁶ 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>.

⁷ Memo from Sec. of the Interior Deb Haaland Regarding Fed. Indian Boarding Sch. Initiative (June 22, 2021) 1, <https://www.doi.gov/sites/doi.gov/files/secint-memo-esb46-01914-federal-indian-boarding-school-truth-initiative-2021-06-22-final508-1.pdf>.

⁸ *Haaland v. Brackeen*, 599 U.S. 255, 300 (2023) (Gorsuch, J., concurring) (internal citations omitted).

⁹ *Id.*

¹⁰ Memo from Sec. of the Interior, *supra* n.7, at 1, 3 (“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.”).

and promoting harmful stereotypes and misunderstandings of Indigenous Peoples.¹¹ *It also violates Montana law.*

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 Montana law 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.

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]

[Parent/Guardian Name]

¹¹ 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://archive.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.”).