NOTE TO STUDENTS/FAMILIES:

Some states, including Alaska, Arizona, California, Kansas, Mississippi, Montana, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, and Washington, have laws that explicitly protect the right to wear tribal regalia at graduation. If you live in one of those states, check out our other resources to determine whether you are eligible for protection under those state laws and whether you should use the self-advocacy template letter for your state.

While other states do not have laws that explicitly protect the right to wear tribal regalia, many (but not all) offer strong legal protections for religious exercise. For many Indigenous students, wearing tribal regalia at graduation is not only an important cultural practice, but it also has significant spiritual or religious meaning.

If wearing tribal regalia at graduation has important spiritual or religious meaning for you, state religious freedom laws may require public schools to provide a religious exemption from the graduation dress code.

This self-advocacy template letter can be sent to your school to request a religious accommodation to wear tribal regalia during commencement.

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

Instructions

Copy and paste the text of the applicable footnote (starting with *"See"*) for your state into the space for footnote 1 in the template letter below and fill in all other necessary and relevant information.

Alabama
See Ala. Religious Freedom Amend., Ala. Const., Art. I, § 3.01(V) ("Government shall not burden a person's freedom of religion even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person: (1) [i]s in furtherance of a compelling governmental interest; and (2) [i]s the least restrictive means of furthering that compelling governmental interest.").

Alaska
See Alaska Const. Art. I, § 4; *see also Larson v. Cooper*, 90 P.3d 125, 131 (Alaska 2004) ("[C]ourts must consider whether the [religious] conduct poses some substantial threat to public safety, peace or order, or whether there are competing governmental interests that are of the highest order and . . . (are) not otherwise served.") (internal quotation marks omitted); *Swanner v. Anchorage Equal Rights Comm'n,* 874 P.2d 274, 280–81 (Alaska 1994).

Arizona
See Ariz. Rev. Stat. Ann. § 41-1493.01(B)-(C) (1999) ("[G]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person is both . . . [i]n furtherance of a compelling governmental interest . . . [and] [t]he least restrictive means of furthering that compelling governmental interest.").

Arkansas
See Ark. Religious Freedom Restoration Act, Ark. Code Ann. § 16-123-404(a) (2023) ("A government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, unless it is demonstrated that application of the burden to the person in this particular instance is: (1) [e]ssential to further a compelling governmental interest; and (2) [t]he least restrictive means of furthering that compelling governmental interest.").

Connecticut
See Conn. Gen. Stat. § 52-571b (1993) ("The state or any political subdivision of the state shall not burden a person's exercise of religion . . . even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest, and (2) is the least restrictive means of furthering that compelling governmental interest.").

District of Columbia
See Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1 (1993) ("Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest."); *see also id.* § 2000bb-2(2) (stating that covered entities include the District of Columbia).

Florida
See Fla. Religious Freedom Restoration Act, Fla. Stat. § 761.03 (1998) ("The government shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person: (a) [i]s in furtherance of a compelling governmental interest; and (b) [i]s the least restrictive means of furthering that compelling governmental interest.").

Idaho
See Idaho Code § 73-402 (2000) ("[G]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person is both: (a) [e]ssential to further a compelling governmental interest; [and] (b) [t]he least restrictive means of furthering that compelling governmental interest.").

Illinois
See Ill. Religious Freedom Restoration Act, 775 Ill. Comp. Stat. 35/15 (1998) ("Government may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless it demonstrates that application of the burden to the person (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.").

Indiana
See Ind. Religious Freedom Restoration Act, Ind. Code § 34-13-9-8 (2015) ("[A] governmental entity may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability . . . [unless] the governmental entity demonstrates that application of the burden to the person: (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.").

Iowa
See Iowa Religious Freedom Restoration Act, Iowa Code § 675.4(1) (2024) ("State action shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless the government demonstrates that applying the burden to that person's exercise of religion is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.").

Kansas
See Kan. Preservation of Religious Freedom Act, Kan. Stat. Ann. § 60-5303 (2013) ("Government shall not substantially burden a person's civil right to exercise of religion even if the burden results from a rule of general applicability, unless such government demonstrates, by clear and convincing evidence, that application of the burden to the person: (1) [i]s in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.").

Kentucky
See Ky. Religious Freedom Restoration Act, Ky. Rev. Stat. Ann. § 446.350 (2013) ("The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest.").

Louisiana
See La. Preservation of Religious Freedom Act, La. Stat. Ann. § 13:5233 (2010) ("Government shall not substantially burden a person's exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability, unless it demonstrates that application of the burden to the person is both: (1) [i]n furtherance of a compelling governmental interest . . . [and] (2) [t]he least restrictive means of furthering that compelling governmental interest.")

Maine
See Me. Const. Art. I, § 3; *see also Fortin v. The Roman Cath. Bishop of Portland*, 871 A.2d 1208, 1227-28 (Me. 2005) (holding that, where a regulation restrains the exercise of sincerely held religious beliefs, the government must show "the challenged regulation is motivated by a compelling public interest" and "that no less restrictive means can adequately achieve that compelling public interest").

Massachusetts
See M.G.L.A. Const. Art. 18, § 1 (as amended by M.G.L.A. Const. Amend. Art. 46); *see also Rasheed v. Comm'r of Corr.*, 446 Mass. 463, 467 (Mass. 2006) (explaining that government may not substantially burden an individual's exercise of sincerely held religious beliefs unless "(1) it has an interest sufficiently compelling to justify that burden, and (2) the granting of an exemption to persons in . . . [the individual's] position would unduly burden that interest").

Michigan
See M.C.L.A. Const. Art. 1, § 4; *see also McCready v. Hoffius*, 586 N.W.2d 723, 729 (Mich. 1998), *opinion vacated in part*, 593 N.W.2d 545 (Mich. 1999) (holding that government may not burden religious exercise unless "a compelling state interest justifies the burden imposed" and there is no "less obtrusive form of regulation available to the state").

Minnesota
See Minn. Const. Art. I, § 16; *see also Odenthal v. Minn. Conf. of Seventh-Day Adventists*, 649 N.W.2d 426, 442 (Minn. 2002) (holding that the government may not burden the exercise of sincerely held religious beliefs unless "the state's interest is overriding or compelling" and "the state action uses the least restrictive means").

Mississippi
See Miss. Religious Freedom Restoration Act, Miss. Code. Ann. § 11-61-1(5) (2014) ("Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability. . . [unless] it demonstrates that application of the burden to the person: (i) [i]s in furtherance of a compelling governmental interest; and (ii) [i]s the least restrictive means of furthering that compelling governmental interest.").

Missouri
See Mo. Religious Freedom Restoration Act, Mo. Rev. Stat. § 1.302 (2003) ("Governmental authority may not restrict a person's free exercise of religion, unless . . . [it] demonstrates that application of the restriction to the person is essential to further a compelling governmental interest, and is not unduly restrictive considering the relevant circumstances.").

Montana
See Mont. Religious Freedom Restoration Act, Mont. Code Ann. § 27-33-105 (2021) ("State action may not substantially burden a person's right to the exercise of religion, even if the burden results from a rule of general applicability, unless it is demonstrated that applying the burden to that person's exercise of religion: (a) is essential to further a compelling governmental interest; and (b) is the least restrictive means of furthering that compelling governmental interest.").

New Hampshire
See N.H. Const. Pt. 1, Art. 5; *see also State v. Mack*, 173 N.H. 793, 815 (N.H. 2020) (holding that, where the government imposes a substantial burden on the exercise of sincerely held religious beliefs, it must "show both that the government action is necessary to achieve a compelling government interest, and is narrowly tailored to meet that end").

New Mexico
See N.M. Religious Freedom Restoration Act, N.M. Stat. Ann. § 28-22-3 (2000) ("A government agency shall not restrict a person's free exercise of religion unless . . . the application of the restriction to the person is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.").

North Dakota
See N.D. Century Code § 14-02.4-08.1(1)(a) (2023) ("[A] state or local government entity may not: [s]ubstantially burden a person's exercise of religion unless applying the burden to that person's exercise of religion in a particular situation is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling government interest[.]").

Ohio
See Ohio Const. Art. I, § 7; *see also Humphrey v. Lane*, 728 N.E. 2d 1039, 1045 (Ohio 2000) (holding that state encroachments on religious exercise "must serve a compelling state interest and must be the least restrictive means of furthering that interest").

Oklahoma
See Okla. Religious Freedom Act, Okla. Stat. Ann. tit. 51, § 253 (rev. 2023) ("No governmental entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability . . . unless it demonstrates that application of the burden to the person is . . . [e]ssential to further a compelling governmental interest; and . . . [t]he least restrictive means of furthering that compelling governmental interest."); *see also* Letter from Okla. Dep't of Educ. to Superintendents (May 3, 2021) (enclosing 2019 Attorney General letter interpreting Oklahoma Religious Freedom Restoration Act to require schools to accommodate Indigenous students' tribal regalia).

Pennsylvania
See Pa. Religious Freedom Protection Act, 71 Pa. Stat. Ann. § 2404 (2002) ("An agency shall not substantially burden a person's free exercise of religion, including any burden which results from a rule of general applicability . . . [unless] if the agency proves, by a preponderance of the evidence, that the burden is . . . (1) [i]n furtherance of a compelling interest of the agency . . . [and] (2) [t]he least restrictive means of furthering the compelling interest.").

Puerto Rico
See Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1 (1993) ("Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability . . . [unless] it demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest."); *see also id.* § 2000bb-2(2) (stating that covered entities include the Commonwealth of Puerto Rico).

Rhode Island
See R.I. Religious Freedom Restoration Act, 42 R.I. Gen. Laws § 42-80.1-3 (1993) ("[A] governmental authority may not restrict a person's free exercise of religion . . . [unless it] proves that application of the restriction to the person is essential to further a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest.").

South Carolina
See S.C. Religious Freedom Act, S.C. Code Ann. § 1-32-40 (1999) ("The State may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless the State demonstrates that application of the burden to the person is: (1) in furtherance of a compelling state interest; and (2) the least restrictive means of furthering that compelling state interest.").

South Dakota
See S.D. Codified Laws § 1-1A-4 (2021) ("[N]o state agency, political subdivision, or any elected or appointed official or employee of this state or its political subdivisions may . . . [s]ubstantially burden a person's exercise of religion unless applying the burden to that person's exercise of religion in a particular situation is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling government interest[.]").

Tennessee
See Tenn. Code Ann. § 4-1-407(c) (2009) ("No government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability . . . unless it demonstrates that application of the burden to the person is: (1) [e]ssential to further a compelling governmental interest; and (2) [t]he least restrictive means of furthering that compelling governmental interest.").

Texas
See Tex. Religious Freedom Restoration Act, Tex. Civ. Prac. & Rem. Code Ann. § 110.003 (1999) ("[A] government agency may not substantially burden a person's free exercise of religion . . . [unless it] demonstrates that the application of the burden to the person: (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that interest.").

Utah
See S.B. 150, Exercise of Religion Amendments (enacting Utah Code Ann. § 63G-31-201(3), eff., May 1, 2024) ("A government entity or government action may substantially burden a person's free exercise of religion only if the government entity . . . demonstrates that the burden on the person's free exercise of religion is: (a) essential to furthering a compelling governmental interest; and (b) the least restrictive means of furthering the compelling governmental interest.").

Virginia
See Va. Code Ann. § 57-2.02(B) (rev. 2022) ("No government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that application of the burden to the person is (i) essential to further a compelling governmental interest and (ii) the least restrictive means of furthering that compelling governmental interest.").

Washington
See Wash. Const., Art. I, § 11; *see also City of Woodinville v. Northshore United Church of Christ,* 166 Wash. 2d 633, 642 (Wash. 2009) (holding that the government must show "it has a narrow means for achieving a compelling goal" where government action substantially burdens sincerely held religious beliefs).

West Virginia
See W. Va. Equal Prot. for Religion Act, W. Va. Code § 35-1A-1 (2023) ("[N]o state action may . . . [s]ubstantially burden a person's exercise of religion unless applying the burden to that person's exercise of religion in a particular situation is essential to further a compelling governmental interest; and is the least restrictive means of furthering that compelling governmental interest[.]").

Wisconsin
See Wisc. Const. Art. I, § 18; *see also Coulee Cath. Sch. v. Lab. & Indus. Rev. Comm'n, Dep't of Workforce Dev*., 768 N.W.2d 868, 886 (Wis. 2009) (noting that, where the government burdens sincerely held religious beliefs, the state must prove "that the law is based upon a compelling state interest . . . that cannot be served by a less restrictive alternative").

[Date]

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

Re: Religious accommodation request to wear tribal regalia at graduation

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

I am writing to request that my student, [Name], be granted a religious accommodation to wear [fill in specific item(s) of tribal regalia] during this year's graduation ceremony. State law protects this right, and I respectfully ask that the school district follow the law regarding this matter.

[Student's Name] is [Tribal affiliation/Indigenous/Native American]. This heritage is an important part of our family's history, culture, and religious practice. Tribal regalia, such as eagle feathers and beadwork on graduation caps, plays an important role in graduation ceremonies for many Indigenous students. These sacred 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 those achievements from both a spiritual and cultural perspective.

Many states, including [add your state], provide heightened legal protections for religious exercise.[1] Under these laws, public school officials may not deny a religious exemption from a dress code unless the denial meets "strict scrutiny"—the most rigorous legal standard. These laws protect students' religious freedom even where a dress code is religiously neutral and applies across the board to all students.

For [Student's Name] and our family, wearing a sacred [item(s) of tribal regalia] during the commencement ceremony has special spiritual significance. The [item(s) of tribal regalia] signifies [fill in]. [Student's Name]'s achievement cannot be properly recognized and celebrated, as a religious matter, unless they are granted a religious accommodation to wear [item(s) of tribal regalia].

Under strict scrutiny, school officials may not deny this requested religious accommodation unless they can demonstrate that doing so (1) furthers a compelling governmental interest, and (2) is the least restrictive means of achieving that interest.[2] Generalized school interests in discipline, authority, and

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[1] [**Copy and paste footnote from your state—above**]

[2] Most states' heightened legal protections for religious freedom, *see supra* n.1, apply where a government rule or action imposes a "substantial burden" on an individual's exercise of their sincerely held religious beliefs. In that regard, these state protections mirror federal laws, such as the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb *et seq.* and the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et seq*. Denying an individual access to, or the ability to wear, sacred articles of faith imposes a substantial burden on religious exercise. *See, e.g.*, *Priest v. Holbrook*, 741 F. App'x 510 (9th Cir. 2018) (holding that a Native American prisoner properly alleged a substantial burden on his religious exercise where he asserted that the confiscation of his sacred golden eagle feathers prevented him from carrying out Native American religious practices); *McAllen Grace Brethren Church v. Salazar*, 764 F.3d 465, 472 (5th Cir. 2014) (holding that "the eagle feather is sacred to the religious practices of many American Indians" and that "any scheme that limits the access . . . to possession of eagle feathers has a substantial effect on the exercise of . . . [those] religious beliefs"); *cf. A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist*., 611 F.3d 248, 265-66 (5th Cir. 2010) (finding that a school district rule requiring a Native American student to wear his long hair in a bun or braided and tucked inside his shirt substantially burdened the exercise of his sincere religious belief in wearing his hair visibly long).

uniformity—which have traditionally been asserted to justify school dress codes and grooming policies—are simply inadequate reasons for denying a religious accommodation under this legal standard.[3]

Graduation ceremonies are especially meaningful for Indigenous students because Indigenous students 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.[4] 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.[5]

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."[6] The schools also "frequently prohibited children from speaking their native language or engaging in customary cultural or religious practice."[7]

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."[8] Denying students like [Student's Name] the right to wear tribal regalia during graduation further deprives them of their heritage, faith, and identity,

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[3] *See, e.g.*, *Betenbaugh*, 611 F.3d at 271-72 (requiring Native American student to wear his hair in a bun or braided and tucked into his collar violated Texas's Religious Freedom Restoration Act).

[4] *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.

[5] 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.

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

[7] *Id.*

[8] Memo from Sec. of the Interior, *supra* n.5, 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.").

perpetuating the destructive assimilation policies of the past and promoting harmful stereotypes and misunderstandings of Indigenous Peoples.[9] ***It also violates our state's religious-freedom law***.[10]

This letter is my [first/second/third] request to the school district regarding this matter. [In response to my previous requests, district officials (fill in.)] Because the law is clear, and because Indigenous students deserve to have their religious and cultural 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]

[9] *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.").

[10] In addition, denying the requested religious accommodation may violate federal law. 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 conflict with these statutory protections. *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.