



November 16, 2011

Dear Texas School Administrator:

The ACLU of Texas is the state affiliate of the American Civil Liberties Union, a nonprofit, nonpartisan organization dedicated to the defense of constitutional rights and civil liberties. We write to draw your attention to federal and state legal protections for students' rights to freely exercise—and to be free from discrimination and harassment on the basis of—their religion. These protections apply equally to students of all faith traditions.

The First and Fourteenth Amendments to the U.S. Constitution and Texas' Religious Freedom Restoration Act protect students' rights to wear religious attire in school. When a student is substantially motivated by sincere religious belief to wear the articles of faith, a Texas school may not prevent him or her from doing so unless there is *no less restrictive alternative* to further the school's *compelling interest*.<sup>1</sup>

Courts in Texas have applied this standard to strongly protect student religious attire. For example, a federal court in Houston ruled against a school that punished Catholic students for wearing rosaries,<sup>2</sup> and two others have prohibited schools from requiring Native American boys to alter their hair to comply with a campus dress code.<sup>3</sup> Thus, any dress policies Texas schools adopt must respect and accommodate students' religious exercise.

A safe, civil school environment is also necessary for students to achieve academic success. Texas law requires schools to prohibit, and take steps to prevent, student harassment.<sup>4</sup> Schools that turn a blind eye to religious or racial harassment also risk legal liability under Title VI of the Civil Rights Act and the Equal Protection Clause.<sup>5</sup> Because schools are responsible for ensuring the safety of all students, we encourage you to actively monitor the treatment of students wearing religious attire by their classmates and teachers, and to take concrete steps to guarantee that they are not subjected to bullying, harassment, or intimidation.

We hope the above references will help you foster tolerance in your school. For more information about the ACLU of Texas, please visit our website at [www.aclutx.org](http://www.aclutx.org).

Sincerely,  
ACLU Foundation of Texas

<sup>1</sup> Texas Civ. Prac. & Rem. Code §§ 110.001, 110.003.

<sup>2</sup> *Chalifoux v. New Caney ISD*, 976 F. Supp. 659 (S.D. Tex. 1997).

<sup>3</sup> *A.A. v. Needville Indep. Sch. Dist.*, No. 08-cv-02934 (S.D. Tex. Jan. 20, 2009), *aff'd*, *Needville Indep. Sch. Dist. v. A.A.*, 611 F.3d 248 (5<sup>th</sup> Cir. 2010); *see also Alabama & Coushatta Tribes v. Trustees of Big Sandy Indep. Sch. Dist.*, 817 F. Supp. 1319 (E.D. Tex. 1993).

<sup>4</sup> Texas Educ. Code § 37.001(a)(7)-(8).

<sup>5</sup> *See* 42 U.S.C. 2000d *et seq.* (prohibiting discrimination by recipients of federal funds on the basis of race and national origin); *Nabozny v. Podlesny*, 92 F.3d 446 (7<sup>th</sup> Cir. 1996) (school's deliberate indifference to student harassment based on gender and sexual orientation violates Equal Protection Clause); U.S. Dept. of Educ., *Investigative Guidance on Racial Incidents and Harassment Against Students at Educational Institutions*, 59 FR 11448-01 (1994) (discussing schools' liability under Title VI for failure to address racial harassment).



Religious and community leaders speak out on practice, faith, and attire:

“The rosary is a devotion that has been part of our Catholic tradition for several centuries. The term denotes the prayer beads used to count the series of prayers that make up the rosary. Many religious orders incorporate the rosary into their habits. Of late, people have been wearing rosaries more often around their necks to implore God’s protection. People of faith should be able to wear rosaries as a sacramental which mediates the presence of God to them.”

-Rev. Amador Garza  
Basilica of Our Lady of San Juan del Valle  
San Juan, TX

“Wearing a head covering, also called a kippah or a yarmulke, is a sign of respect for God in the Jewish faith. Some people wear a kippah all the time, some only when they are praying. Usually Jewish men wear a kippah, but some Jewish women also wear one. For the past two hundred years, the Star of David has been accepted by all people as the symbol of the Jewish people.”

-Rabbi Amy Weiss  
The Initiative for Jewish Women  
Houston, TX

“‘Hijab’ refers to an article or articles of clothing that cover some or much of the face and body, signifying modesty, which is a requirement of the Muslim faith. Most commonly, a hijab is a head covering worn by Muslim women. Just as wearing a yarmulke is an exercise of faith to a Jew, wearing a turban is an exercise of faith to a Sikh, wearing the hijab is an exercise of faith to a Muslim woman.”

-Amina Rab  
President  
Council on American-Islamic Relations, Dallas-Fort Worth (CAIR-DFW)

“For Sikhs, the turban is a mandatory article of faith. It has deep religious significance and signifies a commitment to upholding the principles of the Sikh religion, including resisting all forms of oppression; upholding justice for all human beings; and defending the downtrodden.”

-Manpreet Singh  
Sikh Coalition  
Houston, TX