Dress-Coded: How current dress codes undermine cultural, gender, and socio-economic equity

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Executive Summary

The debate over school uniforms and dress codes have somewhat of a long history in the United States though in recent times, the issues caused by dress code policies and the way they are enforced have made national headlines in mainstream news. In addition, the introduction of social media platforms and other video-based media like YouTube have allowed regular citizens and students to weigh in on the issue and share their experiences regarding dress codes with their peers, families, and other individuals. It is no surprise then, that the topic of school dress codes, has made its way into both the media and public agenda. Just a quick internet browse on the topic yields hundreds of newspaper and magazine articles, videos, and other information regarding school dress codes. Against a backdrop of increased awareness regarding many human rights issues, including that of LGBTQIA communities and various social media movements like #MeToo and #Blacklivesmatter, it seems like an opportune time to discuss how the implementation and enforcement of traditional and rigid school dress codes can undermine cultural, gender, and socio-economic equity in the classroom.

The clothing an individual chooses to wear is an artifact, in that it identifies and communicates information about who a person is. Clothing is also a form of expression, as it allows individuals to communicate what they like, reflect their self-identity, and represent the various cultural groups they may be a part of. Any school policy which limits an individual student's right to self-expression should be examined, as it is potentially a violation of the right to free speech and freedom of expression. Currently, there are no

national school dress codes in the United States but most public schools have some sort of policy regarding appropriate dress.

A review of relevant policies and cases indicates that dress codes can potentially open the door to discrimination based on three factors, including, culture, gender, and socio-economic status. This policy brief offers a review of the historical developments which led to the implementation of school dress codes, an examination of three key issues (culture, gender, and socio-economic status) which are impacted by school dress codes, and recommendations for developing standard policies which are aligned with inclusive school environments and protect student rights to freedom and self-expression.

Issue Background

Several historical and social developments have taken place in the United States since the late 1960's which have helped shape and inform the discussion surrounding school dress code policies. The first, most groundbreaking event, which is mentioned in almost all conversations regarding the right to expression and freedom of speech in the classroom is the Tinker v. Des Moines case in 1969.

In 1969, Mary Beth Tinker, a 13-year-old junior high school student, along with four classmates, decided to wear black arm bands to school to protest war in Vietnam. When the group of students arrived at school, they were instructed to remove the armbands and were suspended as punishment. The students were told they could not return to school unless they agreed not to wear the armbands again. While the students agreed to this request, they instead wore all-black clothing for the remainder of the school year and officially filed a First Amendment lawsuit. The students were represented by the ACLU and on February 24, 1969, after a four year battle, the court ruled 7-2 that students at schools retain their rights to freedom of speech. Justice Abe Fortas famously stated that students did not "shed their constitutional rights at the schoolhouse gate" and that student speech can't be censored unless it "materially disrupts classwork or involves substantial disorder or invasion of the right of others" (Iannacci, 2017).

In 1996, the issue once again came into the spotlight during President Bill Clinton's State of the Union Address. Following the shooting death of Charles Marsh Jr. on December 17th outside Oxon Hill High school, American media began to focus on the issue of school security and safety.

Because it was reported that the student was killed over an expensive parka-style coat, the issue of school uniforms and dress codes was woven into the conversation about school safety. In his State of the Union Address, President Clinton endorsed the use of school uniforms by stating, "I challenge all of our schools to teach character education, to teach good values and good citizenship. And if it means that teenagers will stop killing each other over designer jackets, then our public schools should be able to require their students to wear school uniforms" (Hudson, 2017).

While these two cases laid the groundwork for the debate on school dress codes, hundreds more have been heard in court over the last few decades. Throughout this time, some legal standards have been developed on how to understand and handle the issue of school dress codes and the possible violation to the freedom of speech and expression. Most notably, the Tinker standard has been applied to determine if schools can regulate what students wear. The Tinker standard asks whether school officials can, "reasonably forecast whether the student expression will cause a substantial disruption or material interference with school activities" (Hudson, 2017). As one can imagine, there is some gray area in terms of how this standard is applied and how most school dress codes are written. For example, in 2003, a student was forced to stop wearing a National Rifle Association shirt which depicted the silhouettes of three men holding guns and the text "NRA Sports Shooting Camp." While the school policy prohibited any message on clothing, jewelry, or personal belongings that related to use of weapons, a U.S. Court of Appeals determined that the school's policy was "too broad" and was "not necessary to prevent disruptions at school" (Hudson, 2017). In their analysis of the case, the court explained that per the language of the school dress code, any clothing bearing the image of the state seal of Virginia, which depicts a woman holding a spear, or clothing bearing the athletic mascot of the University of Virginia, which contains two crossed sabers, would also be prohibited (Hudson, 2017).

Policy Issue: School Dress Codes and Cultural Equity

One issue that is related to the implementation of a school dress code is possible discrimination based on cultural factors. Culture, many times, is expressed through clothing, hair style, jewelry, and other artifacts. The United States and most state laws protect a student's right to wear religious attire, including a turban, yarmulke, or head scarf. However, clothing and hair styles which identify particular cultural groups are less protected and dress codes that unfairly target particular cultural groups or demographics

are discriminatory. For example, dress codes which prohibit "baggy pants" or identify braided hair extensions as a "distraction" clearly target African-American students. In 2017, two African American students in a New England charter school were given several infractions for violating the school's dress code. School officials determined that their braided hair extensions were a "distraction" to the education process and asked that the girls "remove" their braids. When the sisters refused and their parents came to meet with school officials, they were told their daughters' hair needed to be "fixed" (Lattimore, 2017). After refusing to change their hair, the two sisters were removed from their extracurricular activities, barred from attending prom, and finally threatened with suspension if they did not change their hair.

It is clear that this particular school's dress code policy unfairly targeted African-American female students, as many of their white peers also had hair extensions or had their hair dyed unnatural colors and they were not determined to be a "distraction." When the parents raised this point with the school, they were told those hair extensions and hair dye were "less obvious" alterations (Lattimore, 2017). The family filed an official complaint with the Anti-Defamation League and ACLU calling the school dress code discriminatory and after much pressure, the school "suspended enforcement of the dress code until the end of the year" (Lattimore, 2017). Added to the issue of discrimination is the fact that when students are "dress-coded," they typically lose educational instruction in the form of missing class or even suspension. This discriminatory act can be read as denying a student the rights to an education based on cultural factors and self-expression. Recently, director of the Center of Civil Rights Remedies, Daniel J. Losen, found that at the highest-suspending charter schools in the United States, the majority of the students were African-American and about half of suspensions in charter schools were for minor nonviolent offenses, including dress code infractions (Lattimore, 2017). This "racial policing" is not just evident in charter schools, but in public schools as well. A 2018 study by the National Women's Law Center found that black girls in District of Colombia schools are singled out by unfair dress codes, which, when enforced, can cause them to fall behind in school (Barrett, 2018).

Policy Issue: School Dress Codes and Gender Equity

Many current dress code policies undermine gender equity, in the fact that they unfairly target girls by placing a heightened importance on appearance and "covering up" the body. One of the most common features of traditional

dress codes is the "language that forbids clothing that shows too much skin, even a student's collarbone" (Gonzalez, 2019). While dress code rules do apply to both male and female students, research has shown they tend to overwhelmingly impact girls and that some dress code language even includes specific rules for girls (Gonzalez, 2019). By placing focus on what girls should and shouldn't wear in the classroom and deeming a girl's exposed body, including collarbones and shoulders, as a distraction to boys, it sends a clear message that the education of boys is prioritized and that girls are interfering with that education simply by their choice of clothing. One popular dress code rule unfairly targeting girls is the "finger-tip policy." According to many dress code policies, female students must wear skirts or shorts that go past their fingertips, when their arms are placed down by their sides. Many times, female students are at the mercy of the current styles of shorts and skirts available for purchase. While male students can easily find shorts that comply with this rule, female students tend to have a more difficult time finding bottoms that comply with this rule. Additionally, girls who are on the taller side will find it impossible to purchase bottoms that are in compliance.

There are hundreds of cases of girls being dress coded for violations that seem a bit peculiar. While a boy who wears sagging pants is typically told to pull up his pants with no further repercussions, there are lots of examples of girls being pulled out of class, sent home, suspended, and shamed for showing a collarbone, not wearing a bra, exposing a bra strap, wearing a skirt that falls a centimeter above their fingertips, or even wearing leggings. This issue is so prevalent that in 2014, New Jersey middle schoolers, who were fed up with being shamed for wearing comfortable clothes during warmer weather, began a social media campaign called #IAmMoreThanADistraction (Alvarez, 2016). The purpose of the hashtag campaign was to encourage schools, teachers, and administrators to reduce the objectification of the female body.

Policy Issue: School Dress Codes and Socio-Economic Equity

The final policy issue concerning school dress codes is the way they potentially discriminate against low-income students. As a modified school uniform, some schools may require students to wear specific styles of clothing or designated colors. Students from low-income families may not have the opportunity or ability to comply with these types of restrictions because they may not have the means to purchase new clothing that aligns with the school rules. Aside from restricting clothing to one or two color

choices or requiring students to wear collared shirts, some low-income students can be deemed out of compliance if their clothing is not considered to be neat or new. Again, this type of "policing" tends to target low-income families that may not be able to afford clothing that is in compliance with a school dress code.

Adopting these types of school dress code policies can potentially set up a divide between those students who can afford to be in compliance with the dress code and those who can't. This can potentially set the stage for further issues like bullying or teasing and calls more attention to the fact that some students can't afford the required dress to be deemed appropriate for school. How school administrators and other decision makers set standards for dress in schools is widely diverse and inconsistent, creating little consensus or resolution to issues that school dress policies set out to equalize. In most cases, dress code policies aim to establish a standard for all students to dress similar to avoid disruptions and distractions to the learning environment. As outlined, dress code policies can potentially open the door for discrimination based on factors of culture, gender, and socioeconomics.

Adopting newly revised dress codes is a challenge because most existing policies are outdated and based on old ways of thinking. First amendment rights involving freedom of expression remain at the forefront of implementation of dress code policies.

Analysis of Current Policies and Recommendations for New Dress Code Policy

Examining existing dress code policies across the United States reveals that the policies are somewhat similar. Many of the policies contain outdated ways of thinking, inequities, and inconsistencies with implementation targeting certain groups of students. In addition, teachers and administrators who are implementing the policies are impacted by their own personal biases, which play a role in the inequitable application of the policies themselves.

Developing and adopting new dress code policies in United States public schools should include a model code that is progressive and inclusive of all cultures, genders, and socio-economic groups. The model code should be fair and equitable, ensuring standards are body positive, and do not marginalize students based on race, class, gender, sexual orientation or other identity markers.

The State Board of Education, local Board of Education, senior central office administrators, school administrators, teachers, support staff, parents, and students should all play a role in developing new dress code policies. As potential discrimination based on identity markers is at the heart of this issue, the above groups should be made up of individuals that represent diverse races, classes, and genders. This would encourage the design of a comprehensive policy that is more equitable and that protects the First Amendment rights of all who will be held accountable to it. In addition to the creation of a new standard dress code policy, an advisory board should be formed to monitor and hold accountable all who will be responsible for the implementation of the policies.

The relationship between educational policy and educational leadership is critical, as educational leaders are responsible for driving change and implementing the many policies existing across educational institutions in the United States. Additionally, public and media agendas are often factors in driving educational change and policy formation. As explored in this policy brief, there is a connection between prevalent issues in society and the educational policies they bring to light. In addition, educational leadership is inextricably linked to both policy formation and the societal issues which form the framework for their creation or revision. As such, the elements of educational leadership, educational policy, and society work in tandem, with a kind of reciprocal relationship that highlights how each element impacts the other.

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