

May 2, 2024

Nebraska Public Schools  
Attn: Superintendent

**Re: Protecting the Right to Wear Tribal Regalia at Graduation**

Dear Superintendent:

Graduation season is rapidly approaching, and as such we entreat you to protect the rights of your Indigenous students to wear their tribal regalia at graduation. The First Amendment to the U.S. Constitution and the Nebraska Constitution protect this right,<sup>1</sup> and two newly passed pieces of legislation will further protect this right in state law.<sup>2</sup>

Achievement ceremonies and rites of passage are especially meaningful for Indigenous people and have been carried on for centuries. Tribal regalia, such as eagle feathers and the beading of mortar boards, play an important adaptive role for Indigenous youth many non-Native people do not understand. These items are typically gifted to graduating students by their families or tribal elders to recognize the students' success and academic achievements. Graduation ceremonies are particularly significant events 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.<sup>3</sup> 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.<sup>4</sup>

---

<sup>1</sup> See *Waln v. Dysart Sch. Dist.*, 54 F.4th 1152, 1160-61 (9th Cir. 2022) (discussing free-speech and religious-freedom First Amendment implications of selective enforcement of graduation dress-code policies). See Neb. Const. Art 1 § 4 (1875).

<sup>2</sup> See Neb. Rev. Stat. § 79-2,159(f) and 2024 Neb. Laws 43

<sup>3</sup> 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>.

<sup>4</sup> 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.”).

The troubling 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.”<sup>5</sup>

Denying students the right to wear tribal regalia during graduation ceremonies further deprives them of their heritage and identity, perpetuating the destructive assimilation policies of the past and promoting harmful stereotypes and misunderstandings of Indigenous Peoples.<sup>6</sup> *It also violates federal and state law.*

We appreciate your work educating Nebraska’s students and your partnership in ensuring that students’ rights and cultures are respected. If either of us can be helpful in addressing any questions you have related to this topic or similar matters, please reach out.

Sincerely,

Joy Kathurima  
Legal and Policy Counsel  
ACLU of Nebraska

Marian Holstein  
Executive Director  
Nebraska Indian Education Association



---

<sup>5</sup> *Id.*

<sup>6</sup> See *Becoming Visible: A Landscape Analysis of State Efforts to Provide Native American Education for All*, Nat’l Congress of Am. Indians (Sep. 2019) 8-9 [https://www.ncai.org/policy-research-center/research-data/prc-publications/NCAI-Becoming\\_Visible\\_Report-Digital\\_FINAL\\_10\\_2019.pdf](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.”).