

Date of Hearing: March 15, 2017

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 233 (Gloria) – As Amended March 8, 2017

[Note: This bill is doubled referred to the Assembly Judiciary Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Pupils: right to wear religious, ceremonial, or cultural adornments at school graduation ceremonies

SUMMARY: Specifies that students have the right to wear religious, ceremonial, or cultural adornments at school graduation ceremonies. Specifically, *this bill*:

- 1) States that a student shall have the right to wear religious, ceremonial, or cultural adornments at school graduation ceremonies.
- 2) Clarifies that nothing in the act expands or diminishes student rights under current law regarding dress code policies or freedom of speech provisions.

EXISTING LAW:

- 1) Authorizes the governing board of school districts to adopt a reasonable dress code policy that requires pupils to wear a schoolwide uniform or prohibits pupils from wearing “gang-related apparel” if deemed necessary for the health and safety of the school environment (EC 35183).
- 2) Specifies that a pupil has the right to wear a dress uniform, issued by a branch of the United States Armed Forces, during his or her high school graduation ceremony, if he or she has met the graduation requirements, and is an active member of the United States Armed Forces (EC 35183.3).
- 3) Prohibits a school district, charter school, or private secondary school from making or enforcing a rule subjecting a high school pupil to disciplinary sanctions solely on the basis of conduct that is speech or other communication that, when engaged in outside of the campus, is protected by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution (EC 48950).

FISCAL EFFECT: Non-fiscal.

COMMENTS:

Need for the bill: According to the author, “many school districts have adopted “no adornment” policies designed to maintain traditional decorum at graduation ceremonies, thereby precluding students from recognizing cultural traditions while celebrating their academic achievement. This bill is a small step toward exposing students to the type of diversity they will see later in life, while at the same time allowing their peers to express pride in their cultural ties.”

Supporters, including members of various tribal organizations, note that wearing an eagle feather, traditional sash, beading adornment or other cultural, religious and traditional regalia on

a graduation cap and gown instills pride and respect in Native American youth and recognizes the role their Native American heritage played in achieving high school graduation.

The sponsor notes that denying a Native American student the right to display his or her traditional, cultural, or religious regalia, not only impacts the student, but also the student's family and tribe. Often times the student is the first in the family and one of the select few from the tribe to graduate from high school. Family members, tribal community members, as well as tribal leaders take great pride in their students' accomplishments by honoring them with an eagle feather, traditional sash, or hand beading of their cap and gown. Denying the student the right to express this tribal honor and gratitude is disheartening and disappointing to the family and the tribal community as a whole.

National action on this issue. In 2015, the National Congress of American Indians adopted a resolution in support of allowing Native students to wear eagle feathers at high school graduation ceremonies. Native American students are given eagle feathers to be worn at graduation ceremonies for the students' leadership and academic achievement; as a sign of maturity; to signify the achievement of this important educational journey; to honor the graduate and his or her family, community and tribal nation.

Significance of high school graduation. The National Congress of American Indians contends that graduation from high school is an especially significant occasion for Native students, considering that the American Indian and Alaska Native high school graduation rate is 67 percent, the lowest of any racial or ethnic demographic in the U.S.

For the 2014/15 school year, the cohort graduation rate among American Indian or Alaska Native students in California was 73.1%. African-American students also had a lower overall cohort graduation rate of 70.8% versus the statewide graduation rate of 82.3% among all students.

Students prohibited from exhibiting cultural adornments. A Native American student sued the Clovis Unified School District in 2015 because the district refused to let him wear an eagle feather to his high school graduation. The student wanted to mark his achievement and honor his heritage by wearing the eagle feather, an item that his tribe considered sacred and symbolic of a significant accomplishment. Eventually, the student reached agreement with the district and was permitted to wear the eagle feather to his graduation ceremony.

Student dress as expression of views or beliefs. Courts have recognized that students clothing choices can communicate political or social stances as well as religious beliefs and that these actions may be protected under the First Amendment. Many school districts have implemented dress codes and/or school uniforms as a means of increasing discipline and schools safety. Federal judges in several states have upheld school uniform policies which have been challenged by students and parents. The Supreme Court has not decided a student dress code case.

Opponents cite local control. Opponents note that local school governing boards and administrators are in the best position to determine the appropriate dress code for graduation ceremonies in order to keep the focus of these ceremonies on academic and co-curricular honors and achievement.

Those opposed to the bill also cite the lack of specificity of the phrase “ceremonial or cultural adornments”, which would place local schools or governing boards in the position of making subjective decisions on items that students wish to wear during the graduation ceremony.

Opponents also note that the wearing of religious articles by students is established in law and that schools already permit students to wear eagle feathers, yarmulkes, turbans, veils, or other articles called for by the students’ religious practices. As such, they argue that AB 233 is not necessary to safeguard the religious rights of students and they have no objection to this practice.

Staff recommends that this bill be amended to include language that makes it clear that this provision does not limit a school district’s authority to prohibit the wearing of clearly offensive or disruptive items at school graduation ceremonies.

Prior legislation: AB 2051 (Nakanishi and Cogdill) of 2004 specified that a governing board of a school district that adopts a standard dress appearance policy include within the policy one of the following provisions: a parent or guardian may choose to exempt their son or daughter from the standard dress appearance policy; or if a school principal demonstrates that the exemption of a pupil from the standard dress appearance policy would result in safety concerns for pupils and staff at the school, the only way a parent or guardian may exempt their pupil from the standard dress appearance policy is by demonstrating an objection based on a religious or philosophical tenet. This bill failed passage in Assembly Education.

REGISTERED SUPPORT / OPPOSITION:

Support

California Indian Legal Services (Sponsor)
Chemehuevi Indian Tribe
Habematolel Pomo of Upper Lake
Inaja Cosmit Band of Mission Indians
Pala Band of Mission Indians
Resighini Rancheria
Resources for Indian Student Education, Inc.
Rincon Band of Luiseno Indians
Santa Rosa Band of Cahuilla Indians
Santa Ynez Band of Chumash Indians
Southern California Tribal Chairmen’s Association, Inc.
Tolowa Dee-ni’ Nation
Yocha Dehe Wintun Nation

Opposition

California School Boards Association

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