

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 1369 (Ramos) – As Introduced February 21, 2025

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

SUBJECT: Pupil rights: school graduation ceremonies and related events: adornments

SUMMARY: Prohibits a local educational agency (LEA) from requiring a preapproval process for a student to exercise their right to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation or from requiring a student to wear a cap that is incompatible with the adornment. Specifically, **this bill:**

- 1) Prohibits an LEA from requiring a preapproval process for a student to exercise their right to wear traditional tribal regalia or recognized objects of religious or cultural significance, as determined by the student and their family, as an adornment at school graduation or related school events.
- 2) Prohibits an LEA from requiring a student to wear a cap at school graduation if the cap is incompatible with the adornment.

EXISTING LAW:

- 1) Authorizes a student to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies. Specifies that this does not limit an LEA's discretion and authority to prohibit an item that is likely to cause a substantial disruption of, or material interference with, the ceremony. (Education Code (EC) 35183.1)
- 2) Defines the following terms:
 - a) "Adornment" means something attached to or worn with, but not replacing, the cap and gown customarily worn at school graduation ceremonies.
 - b) "Cultural" means recognized practices and traditions of a certain group of people. (EC 35183.1)
- 3) 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).
- 4) 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).

FISCAL EFFECT: The Office of Legislative Counsel has keyed this bill as non-fiscal.

COMMENTS:

Need for the bill. According to the author, “In 2018, the state passed legislation that recognized a student’s right to wear traditional tribal regalia or recognized objects of religious or cultural significance at school graduation ceremonies. Despite the law and subsequent statutory reaffirmation of students’ rights, they and their families continue to face obstacles to exercising this legal prerogative. For our tribal communities, high school graduations are times of great celebration. Eagle feathers and other symbols of Native American significance are often presented by a proud community to the student as a way to recognize personal achievement. It is a means for the tribe not only to honor the student but also to share in and express pride in the graduate’s achievements. AB 1369 aims to add additional clarity in law to help reinforce all students’ rights to freedom of expression.”

California law authorizes wearing of certain graduation adornments. A 2018 law authorizes a pupil enrolled in a California public school to wear tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies. However, current law does not limit an LEA’s discretion and authority to prohibit items that are likely to cause a substantial disruption of, or material interference with, the ceremony.

A 2024 letter from the Superintendent of Public Instruction (SPI) to superintendents and principals notes:

As we commemorate the dedication and accomplishments of our students, I urge you to implement policies that embrace culturally inclusive ceremonies and preserve the rights of our Native students. Let us ensure that these policies reflect and pay homage to the rich diversity present among our students and their families.

I encourage you to take the time to review the portion of the California Education Code cited in this letter as well as local policies and explore opportunities for students to honor their heritage, which is crucial for creating an inclusive and supportive environment. As policies are reviewed, the California Department of Education (CDE) recommends engaging with tribal leaders and American Indian communities to gain a deeper understanding of their traditions and values. Meeting with these community members allows for meaningful dialogue where perspectives can be shared and considerations for cultural practices can be incorporated into graduation ceremony policies. By collaborating in this way, educational institutions can demonstrate respect for cultural diversity and create opportunities for students to celebrate their heritage proudly.

The CDE deeply appreciates your dedication to ensuring that all students feel valued in their educational journey. We are committed to upholding our students’ cultural traditions and ensuring that graduation ceremonies are inclusive and reflective of the rich diversity within our student population.

Native American Graduation Adornments Task Force (NAGAT). AB 945 (Ramos) Chapter 285, Statutes of 2021 requires the CDE to convene a task force to develop recommendations for best practices, protocols, and other policies that will address how to comprehensively implement all aspects of a student's authority to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.

According to the CDE website, the NAGAT was to hold at least four public meetings between September 2023 and May 2024 and to submit a report to the Legislature that includes its findings and policy recommendations to ensure full implementation of the law regarding graduation adornments.

The CDE website provides guidance on filing complaints with the CDE on the basis of discrimination based upon a protected class, or with the U.S. Department of Education's Office of Civil Rights under title VI on the basis of a policy that disproportionately and negatively affects students of a particular race, ethnicity, or national origin.

Research identifies violations of graduation dress code. A report by the American Civil Liberties Union Foundation (ACLU) and the California Indian Legal Services (Mendoza, 2024) identified violations of Indigenous students' rights regarding graduation dress codes in the high schools of the 50 LEAs studied. 56% of the LEAs require students to undergo a pre-approval process to wear tribal regalia or cultural or religious adornments at graduation. This pre-approval timeline ranges from 5 to 14 days before graduation.

The study also found significant inconsistencies between district policies and individual high school handbooks, with many handbooks either not aligning with district policies or providing no information about graduation dress codes. Schools that received federal Title VI funds designated for the education of Native American students were found to have a higher likelihood of explicitly permitting tribal regalia.

The study reports that districts with higher suspension rates for Native American students tended to have stricter graduation attire policies, suggesting that districts with more punitive approaches to discipline might also be less accommodating of cultural or religious expressions.

Examples of districts barring students from wearing adornments at graduation were cited, including the following:

- In 2023, a school's graduation policy prohibited students from wearing leis at graduation, urging students to keep the ceremony "classy". A Native Hawaiian family successfully advocated for their child's right to wear the lei at graduation;
- In 2023, a student who was graduating from the Elk Grove Unified School District was denied the right to wear his regalia at graduation, citing first that the family missed the deadline to request pre-approval to wear items in addition to the cap and gown at graduation, then attempting to limit the student's regalia to only one item, and subsequently requiring the eagle feather to be no longer than the tassel; and
- In 2024, the Clovis Unified School District denied a student's right to wear his regalia. School staff cited that the student had not filled out a pre-approval form as the primary reason he could not wear his regalia, regardless of the law.

Significance of eagle feathers and high school graduation. 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. American Indian and Alaska Native high school students from across the country are given eagle feathers to be worn at graduation ceremonies as a form of practice and expression of spiritual and religious beliefs. The feathers are also given for the students' leadership and academic achievement, as a sign of maturity, to signify the

achievement of this important educational journey, and to honor the graduate and his or her family, community, and tribal nation. American Indian and Alaska Native high school students seek to express and practice their religious and spiritual beliefs as well as celebrate their personal academic achievements, leadership, and transition into adulthood by wearing an eagle feather at their graduation ceremony.

Moreover, according to many Native American religious and spiritual traditions, eagle feathers are given only in times of great honor and often to mark significant personal achievements. For many Native students, receiving an eagle feather in recognition of high school graduation is as significant as earning the diploma. For the 2023-24 school year, the cohort graduation rate among American Indian students in California was 80.1%, versus the statewide graduation rate of 86.7% for all students.

California has nation's highest concentration of Native American/Alaska Native people.

According to most recent census data, California is home to more people of Native American/Alaska Native heritage than any other state in the country. There are currently 109 federally recognized Indian tribes in California and several non-federally recognized tribes petitioning for federal recognition through the Bureau of Indian Affairs.

According to the California Department of Education (CDE), in 2023-24 there were 25,424 pupils enrolled in California public schools identified as American Indian or Alaska Natives, representing .4% of the total enrollment statewide.

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 school safety. Federal judges in several states have upheld school uniform policies which have been challenged by students and parents.

Arguments in support. California Indian Legal Service (CILS) writes, "The right to wear tribal regalia and culturally significant adornments at graduation is not only a matter of cultural identity and pride but is enshrined in the United States and California Constitutions. However, CILS continues to receive complaints from our statewide tribal community that local school officials continue to object when Native students wish to wear items such as eagle feathers, Native American sashes, beaded or basket caps, or other items reflecting their culture and heritage, in violation of state law. CILS believes that AB 1369 can help address a host of challenges Native students confront as they seek to exercise the benefits existing law promotes and protects.

In specific, these challenges involve both interpretation and implementation issues. Typical of a statewide trend, some school districts exploit the discretionary language of AB 1248 to undermine its protections through their own crabbed interpretation of what is traditional and customary tribal regalia. Native students assert their sincerely held traditions and customs when they wear their regalia at their graduations. The law does not empower school officials to second-guess tribal customs and traditions. They are obliged to keep students safe and avoid unnecessary disruption of the graduation ceremony.

Also typical of a statewide trend among districts is the pre-approval requirement. Students must submit their regalia to the districts for pre-approval, in what could be described as certification

process. No regalia is permitted without a pre-approval certificate. The process is usually poorly advertised, and the requirements are often unclear. While the pre-approval process is an implementation flaw, it is the pre-approval process itself, even without its flaws, that prevents or chills Native students from even attempting to benefit from their AB 1248 protections. This chilling effect undermines the whole purpose of the law and needs correction if its benefits are to be realized.”

Related legislation. AB 945 (Ramos) Chapter 285, Statutes of 2021, requires the CDE to convene a task force to develop recommendations for best practices, protocols, and other policies that will address how to comprehensively implement all aspects of a student's authority to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.

AB 1248 (Gloria) Chapter 804, Statutes of 2018, authorizes a student to wear tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.

AB 233 (Gloria) of the 2017-18 Session contained substantially similar language to AB 1248 and was vetoed by the Governor, who stated:

Students in California have a well-established right to express their views through symbolic acts under the state Education Code and the Free Speech Clause of the First Amendment. See *Tinker v. Des Moines Independent Community School Dist.* Under these precedents, student expression is clearly protected.

To the extent that there is a dispute about what a student can wear at school graduation ceremonies, I believe those closest to the problem -- principals and democratically elected school boards -- are in the best position to make wise judgments.

AB 2051 (Nakanishi) of the 2003-04 Session 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 was held in the Assembly Education Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
California Indian Legal Services
Fresno Unified School District
Habematolel Pomo of Upper Lake
Indigenous Justice
Tule River Tribe

Opposition

None on file

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