

Date of Hearing: April 7, 2021

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 945 (Ramos) – As Amended March 25, 2021

[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: adornments at school graduation ceremonies

SUMMARY: Establishes the Task Force to Study and Develop Best Practices to Protect Pupil Rights to Wear Traditional Tribal Regalia or Recognized Objects of Religious or Cultural Significance as an Adornment at School Graduation Ceremonies (Task Force). Specifically, **this bill:**

- 1) Establishes the Task Force and requires it to do all of the following:
 - a) Gather public comments from people impacted by noncompliance with existing law permitting pupils to wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies, subject to the discretion of the local educational agency (LEA);
 - b) Develop recommendations for best practices, protocols, proposed legislation, and other policies that will address how to comprehensively implement all aspects of existing law relating to graduation adornments; and
 - c) Submit a report to the Legislature summarizing public comments and including the information identified in (b).
- 2) Requires that the 10 members of the Task Force be appointed by March 1, 2022, and include the following:
 - a) 9 members must be representatives of California Native American tribes appointed by the Governor's Tribal Advisor as follows:
 - i) 2 members each must be from the southern, central, northern, and eastern geographical areas of the state; and
 - ii) For each of the four geographical areas in (i), 1 representative must be from a non-federally recognized California Native American tribe on the list maintained by the Native American Heritage Commission.
 - b) 1 member must be appointed by the Superintendent of Public Instruction (SPI).
- 3) Requires the Task Force to hold its first meeting by April 1, 2022, and subsequent to the first meeting, requires the Task Force to hold at least four public meetings annually at geographically diverse sites across the state.

- 4) Requires that the public meetings of the Task Force be conducted in accordance with the Bagley-Keene Open Meeting Act, allow time for public comment, and permit members of the public to submit written comments.
- 5) Specifies that 6 members of the Task Force constitute a quorum at a meeting of the Task Force.
- 6) Specifies that members will not receive compensation or payment for the service on the Task Force, but may be reimbursed for actual and necessary expenses incurred.
- 7) Requires the Task Force to submit a report to the Legislature by April 1, 2023, including its findings and policy recommendations, to ensure full implementation of existing law relating to graduation adornments, in compliance with Government Code, as specified.
- 8) Expresses findings and declarations of the Legislature regarding the protected civil right of pupils to wear traditional tribal regalia or recognized items of religious or cultural significance at graduation ceremonies.
- 9) Repeals these provisions as of January 1, 2024.

EXISTING LAW:

- 1) Authorizes a pupil to wear tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies, but does not limit an LEA's discretion and authority to prohibit an items that is likely to cause a substantial disruption of, or material interference with, the ceremony (Education Code (EC) 35183.1).
- 2) 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).
- 3) 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 graduation requirements, and is an active member of the United States Armed Forces (EC 35183.3).
- 4) 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: Unknown

COMMENTS:

Need for the bill. According to the author, "For many years, Tribal Nations, community-based organizations and civil rights groups including the ACLU have received complaints from Native American students and families regarding school administrators who refused to let students wear Tribal regalia during graduation ceremonies. In 2015, the ACLU sued on behalf of Christian

Titman, a member of the Pit River Tribe and a student in the Clovis Unified School District, who was told by that district that he could not wear an eagle feather on his graduation cap. Christian Titman and Clovis Unified School District successfully settled the lawsuit, and Mr. Titman was allowed to wear the eagle feather at graduation. That same year, California Indian Legal Services successfully resolved a similar issue on behalf of a member of the Bishop Paiute Tribe in Bishop Union High School. Nonetheless, even after these public settlements, the ACLU, CILS, and others continued to hear complaints from students in other districts.

In 2018, the state legislature took action to prevent this from happening, passing AB 1248. That bill added section 35183.1 to the Education Code, stating in part, “A pupil may wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.” Despite this language, Native American students and their families continue to be told by school districts that the students cannot wear tribal regalia at commencement. In 2020, the ACLU received a complaint from a student who is a member of the Amah Mutsun Tribal Band who was told by the San Bernardino Unified School District that he could not wear an eagle feather on his graduation cap. Tribal Nations, including the Yurok Tribe, also consistently receive concerns from Native American students told by school administrators that students may not wear Tribal regalia or recognized objects of religious or cultural significance to their Tribes, such as sashes with basket designs, basket caps, and beaded medallions, during their graduation ceremonies.

AB 945 will create a Task Force to examine this ongoing problem and to find the best way to ensure that school districts do not deny students their right to wear tribal regalia or other objects of cultural or religious significance at graduation. By requiring that nine of the ten Task Force members be representatives of California Native American Tribes from across the state, and that the Task Force collect information from people who have been affected by the lack of compliance with existing law and other members of the public, the bill is intended to ensure that the voices of those harmed by this problem are centered in the process towards finding a solution.”

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.

According to the author, civil rights organizations continue to receive complaints from Native American pupils and their families about school districts that refuse to allow Native American pupils to wear traditional tribal regalia at school graduation ceremonies. The author’s office also reports that tribal nations, and the tribally affiliated organizations that work with them, also consistently receive concerns from pupils who are told by school administrators that they may not wear traditional tribal regalia or recognized objects of religious or cultural significance such as sashes with traditional designs, basket caps, beading, and feathers during their graduation ceremonies.

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 2019-20, there were 30,282 pupils enrolled in California public schools identified as American Indian or Alaska Natives.

Significance of eagle feathers and high school graduation. 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, 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 and celebrate their personal academic achievement, leadership, and transition into adulthood by wearing an eagle feather at their graduation ceremony. Moreover, according to many Native religious and spiritual traditions, eagle feathers are given only in times of great honor and often to mark significant personal achievement, and for many Native students, receiving an eagle feather in recognition of high school graduation is as significant as earning the diploma.

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.

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%, the lowest of any racial or ethnic demographic in the U.S. For the 2019-20 school year, the cohort graduation rate among American Indian or Alaska Native students in California was 75.8%, the lowest among all ethnic groups, while the statewide graduation rate for all students was 84.3%.

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.

Arguments in support. The Yurok Tribe writes, "AB 945 is an important step towards ensuring that students are able, consistent with their constitutional and statutory rights, to participate in graduation ceremonies wearing the adornments that their cultures use on such occasions. It is a time for celebration not only of the individual student and what they have accomplished, but one shared by all those who supported the student along their way. It is also the marking of an important transition, and students marking that transition should, consistent with their constitutional rights, be able to honor and celebrate their heritage by wearing the tribal regalia central to their cultural identity."

Related legislation. AB 516 (Dahle) of this Session adds participation in a cultural ceremony or event to the list of reasons that a pupil must be excused from school.

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, unless the LEA determines that doing so would likely cause a substantial disruption of, or material interference with, the ceremony.

AB 233 (Gloria) of the 2017-18 Session, would have specified that a pupil has the right to wear religious, ceremonial, or cultural adornments at school graduation ceremonies. This bill was vetoed by Governor Brown with the following message:

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.* (1969) 393 U.S. 503, 506. 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.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties

Empowering Pacific Islander Communities (EPIC)

John Burton Advocates for Youth

Yurok Tribe

Opposition

None on file

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