



Traci Griffith  
Director, Racial Justice Program  
One Center Plaza  
Suite 850  
Boston, MA 02108  
(617)482-3170 x407  
tgriffith@aclum.org

July 11, 2023

Superintendent Michael P. Thomas  
43 Crescent Street Brockton, MA 02301  
[michaelpthomas@bpsma.org](mailto:michaelpthomas@bpsma.org)

Dear Superintendent Thomas:

The ACLU of Massachusetts has recently been made aware of Brockton High School's proposed dress code policy for the 2023-2024 school year. For the reasons set forth below, including serious legal issues raised by the proposed policy, we respectfully request that the proposed dress code be reconsidered.

### **The Language of the Proposed Policy**

The proposed policy would require students to wear polo or buttoned shirts in specific colors, along with pants, skirts or shorts that must be knee length. They must have their shirts tucked in and are mandated to wear a belt. There is to be no oversized clothing allowed, in addition, no sweaters, jackets, or sweatshirts may be worn in school. They are also prohibited from wearing any form of beaded jewelry or personal adornments.

### **Legal and Equity Issues with the Proposed Policy**

- 1. The proposed dress code would impose serious financial burdens on low-income students – a disproportionate percentage of which are students of color – and raise serious issues of racial equity and fairness.**

In assessing such a drastic change within the high school community, it is important to note the demographic makeup and varying economic circumstances of students that will be directly affected by this proposed dress code.

The Massachusetts Dept of Elementary and Secondary Education has reported that 68.7% of Brockton High students come from low-income backgrounds, facing significant challenges in obtaining the resources and tools necessary for day-to-day living. Furthermore, 76% of the entire student body qualifies for Free and Reduced Lunch, to assist in mitigating the difficulties of having access to meals outside of their homes.

There is an obligation for the district and the school administrators in Brockton to mitigate issues that compound the difficulties in access to educational resources. Requiring a draconian uniform policy, without considering ability to access those uniforms, does the opposite. In addition, a high percentage of lower income students are students of color, given that 85% of the student body identify as BIPOC. This therefore raises fundamental questions as to whether the proposed policy is not only short-sighted in terms of ensuring access to lower income students, but also fails to provide equal opportunities and advantages on the basis of race as required by G.L. c. 76, § 5 and other laws.

According to research by The Southern Poverty Law Center proponents of school uniforms often claim they eliminate the pressure on low-income families to purchase name-brand clothing. The reality is while middle-class families may find uniforms cheaper than purchasing high-end clothing, low-income families experience it differently. Given today's economic climate, many families rely on resale shops, hand me-downs and charitable donations—all of which are cheaper than purchasing uniforms. Based on the aforementioned demographics for students at Brockton High, it is fair to say that a considerable number of families may face serious hardships in obtaining uniforms.

Unfortunately for some students, the strain of obtaining uniforms for the school year falls directly on them without any parental support. Louis, a rising sophomore at Brockton High School and a student of color, does not live with his parents and solely supports himself. The financial obligation of purchasing uniform clothing would fall squarely on his young shoulders, an expense he simply cannot afford. Steven, another sophomore at Brockton High and a student of color, has a 30-minute walk to and from school each day. He frequently wears jeans, t-shirts and sweatshirts for their affordability and easy accessibility at local stores and thrift shops. He expressed concern about being able to afford a new wardrobe, noting that if the policy were put into effect today, he would have absolutely nothing to wear to meet the new requirements.

If Brockton High School were to implement a dress code that requires additional struggle for low income and minority students in accessing an affordable and available uniform, the school district would exacerbate inequality in the school system, contrary to law and good policy.

Additionally, schools with zero tolerance uniform policies create another possible point of infraction which could lead to more suspensions and more black, brown and low-income students pushed out of the educational system. These types of strict uniform policies like the proposal could also increase absenteeism. When facing the choice of attending school and the repercussions of a uniform violation or staying home, parents and kids may choose the latter rather than face the consequences.

## **2. Key components of this dress code are arguably in violation of the Crown Act, passed in 2022 that prohibits the discrimination of individuals based on hairstyle and hair texture.**

The proposed dress code provides, “no head gear allowed (exemptions allowed for religious or health reasons).” The scope or general meaning of “head gear” is not defined in the policy and does not clarify whether hair adornments or protective wraps used in natural and textured hair care should be accepted. People of African ancestry, or with Black identities, commonly use silk or satin hair scarves (such as durags or long headwraps) to protect their natural hair and keep it untouched. Specifically, for people with longer hair such as braids or

dreadlocks, the use of headwraps is especially important in retaining length and keeping their hair out of their face.

Under the proposed dress code policy, Black students would be unfairly targeted for wearing these coverings as they do not fall within the narrow religious exemption. G.L. c. 71, § 1D, part of the so-called CROWN Act, explicitly provides that schools “shall not adopt or implement a policy or code... that impairs or prohibits a hairstyle that is historically associated with race.” As part of the CROWN Act the Legislature amended G.L. c. 4, § 7 to add a new definition: “... ‘Protective hairstyle’, shall include, but not be limited to, braids, locks, twists, Bantu knots, hair coverings and other formations” To deny a Black student their right to wear a protective head covering would infringe on their freedom to self-groom and would arguably require them to conform to an appearance that exposes their natural hair in a way they may not feel comfortable with.

### **3. The proposed dress code policy is inconsistent with free speech rights protected by the federal and state constitutions and state statute.**

The Supreme Court case *Tinker v. De Moines* in 1969 cemented constitutional rights to freedom of speech or expression within school bounds for all students in America, as long as said speech or expression did not cause any outward disruption or social disorder or invade the rights of others.

The Massachusetts Legislature has confirmed the right to student free speech in G.L. c. 71, § 82 and provided that student speech cannot be restrained unless it causes disruption or disorder. The statute clearly protects the rights of students to wear clothing that contains a message and does not cause disruption or disorder in the school environment. *Pyle v. School Committee of South Hadley*, 423 Mass. 283 (1996).

The proposed dress code policy at Brockton High School prohibits the use of “logos, insignias, pictures or messages” or any form of expressive clothing. Under settled law, it would unconstitutionally restrict students’ freedom of expression.

### **Conclusion**

For the reasons summarized above, we urge the Brockton school system not to adopt the proposed uniform policy for both legal reasons and reasons of basic equity and fairness. If you have any questions, please do not hesitate to contact me.

Sincerely,

Traci Griffith

Director, Racial Justice Program

ACLU of Massachusetts