

SUSPENDING SELF-EXPRESSION

AN AUDIT OF STUDENT HANDBOOKS ACROSS NEW YORK STATE

INTRODUCTION

In early August, a federal appeals court [ruled](#) that Title IX, the federal law prohibiting sex discrimination in schools, prohibits school dress codes that discriminate on the basis of sex. For Girls for Gender Equity (GGE), this news brought renewed energy after more than a decade of organizing to end discriminatory dress codes and shine a light on the ways such rules mirror and reinforce sexism, racism, and classism in schools. The warped logic of dress codes insists that policing student presentation is a tool to prevent sexual harassment; consequently, schools neglect the work of building cultures of consent and committing to end gender-based violence.

Just before schools shut down for remote learning in 2020, GGE released “[Suspending Self Expression](#),” an audit of 100 dress codes from New York City public schools, finding many limitations on presentation, often including sanctions in conflict with New York City Department of Education [guidelines](#). Since that time, a number of stories have emerged describing the [control of student dress](#) during remote learning and [adaptations of school discipline](#) in the digital environment, changing the landscape of policing student dress as we knew it.

Across the state of New York, there are 731 school districts and 2,598,921 public school students within 62 counties. In preparing for the new school year, GGE gathered student handbooks from schools and districts across the 57 counties outside of New York City – totaling 125 handbooks.



According to these 125 dress codes, we find that students, particularly girls and gender-expansive youth of color, are returning to physical school buildings to be punished for how they show up. Following a synthesis of these codes, we identified three pervasive themes:

- I. [Strict policing of body type and presentation](#), like skirt and dress length, clothing fit, and make-up and accessories;
- II. [Pervasive subjective and stigmatizing language](#), inviting and encouraging school staff to scrutinize the bodies and appearance of students; and
- III. [Harsh threats of punishment and discipline](#), introducing opportunities to disproportionately deny students equal educational opportunity based on their dress and presentation.

THEME I – STRICT POLICING OF BODY TYPE & PRESENTATION

<i>Restriction</i>	<i># of Schools</i>
Jewelry	115
Skirt Length	104
Undergarments	76
Halter Tops	75
"Plunging" Necklines	74
Tube Tops	70
Exposed Midriffs	68
Nails	58
Spaghetti Straps	54
Make-up	53
Head coverings or scarves	52
Hairstyle	52

Of the most apparent biases across these 125 dress codes is the heightened adult scrutiny of dress and presentation stereotypically associated with femininity. Adult staff often use the justification that attire and, by extension, students' bodies, are "disruptive," in order to then disrupt the schooling of students through disciplinary practices. As one particularly startling example, we look to a Seneca County code:

Seneca County



No cleavage is to show when a person is eye level to you, looking directly at you. Students should be cognizant that when they are sitting down their cleavage may show to those who are standing up near them or walking by them – use good sense to sit differently. Nothing sheer or see-through may be worn without an undershirt (camisole). Lace shirts need an undershirt/camisole to cover cleavage and skin.

This hypersexualization of students' bodies serves to normalize everyday gender discrimination and cultures of sexual harassment, disproportionately impacting cis and trans girls of color and gender-expansive youth. In addition to stolen instructional time, students receive the message, explicitly or otherwise, that there is something wrong with their gender expression or bodies.

Finding: Restrictions on “Cleavage”

Albany County



Clinton County



Greene County



Jefferson County



Rockland County



The Board bans revealing attire, i.e. showing cleavage.

No plunging necklines that expose cleavage.

Extremely brief clothing, which in any way reveals cleavage of any kind, is not appropriate. A general note to determine if something is appropriate for school is to determine if it has an educational purpose.

Sexually revealing clothing (such as extremely brief garments, tube tops, net tops, halter tops) is inappropriate. No cleavage, no midriff skin may show.

Inappropriate garments include materials which reveal cleavage or do not completely cover the breasts and/or stomach, midriff, and/or any other part of the torso below the breasts.

Overwhelmingly, these dress codes forbid clothing that school staff considers too “revealing” or “immodest,” with specific bans on spaghetti straps and tube tops, visible “midriffs” or “cleavage,” and a variety of rules for the length of dresses, skirts, and shorts. Then there are examples of codes that specifically identified inappropriate gendered and binary distinctions, for example:

Otsego County



Boys must wear some form of footwear, pants or long shorts, and a shirt (must be buttoned at all times). Girls must wear some form of footwear, slacks, or a skirt, long shorts, and some type of blouse, or a dress.

Washington County



Boys must wear footwear, pants or shorts, a shirt (no tank tops or exposed underclothing). Girls must wear footwear, pants, shorts or skirts, of appropriate length, some type of shirt or dress (no bare midriffs, no spaghetti straps, no halter tops, no tube tops, no exposed underclothing, plunging necklines). The width of girls shoulder strap must be a minimum of 2” wide.

Even for dress codes that attempt to appear gender-neutral or avoid identifying binary gender, the clear restrictions on stereotypically feminine clothing means students gendered as girls are under intensified scrutiny by adults.

Restrictions on Tank Top Straps

Clinton County



Niagara County



Oswego County



St. Lawrence County



Warren County



Ensure that all tank top straps are two fingers wide.

All shoulder straps allowed should be a minimum width of one inch. This will be enforced by all staff.

Tank top straps should be at least one inch thick. No undergarments are to show at any time.

Tank tops must have straps that are at least 2 inches wide. Ensure that bras, bathing suits, halter tops, or tank tops are completely covered.

No brief garments such as tube tops, backless tops, halter tops, spaghetti straps or straps narrower than one inch.

Restrictions on Short & Skirt Length

Cayuga County



Franklin County



Montgomery County



Schoharie County



Warren County



When shorts are permitted, the student must ensure that the length is appropriate to cover all private body parts, including buttocks.

Shorts must be of length 6.5" or greater as measured from the top of the femur. Skirts must be of length 8.5" (the length of the student planner).

Skirts/shorts of an appropriate length as to not distract learning. Principal will determine appropriate length using various techniques including finger tip tests, etc.

Skirt length must extend at least past the fingertips when standing with hands at side. Should a student need to be removed, their grade may be impacted by lack of participation.

Dresses and skirts must extend beyond the length of student's knuckles (closed hand) with arms extended at your side with shoulders relaxed.

In 2019, the [Crown Act](#) was signed into law to amend the Dignity for All Students Act (DASA) to make clear that discrimination based on race includes hairstyles. **Under the Crown Act, schools are prohibited from enforcing purportedly “race-neutral” grooming policies restricting natural hairstyles.** There is work to be done in monitoring implementation, as written codes utilize broad, subjective language and discretion in enforcing “hairstyles” and “grooming.” Still, many codes utilize coded language like “show proper public etiquette.”

Finding: Restrictions on Hairstyle

Chenango County



Livingston County



Orange County



Putnam County



Otsego County



Exclude head dressings, including, but not limited to hats, hoods, bandanas (worn other than headband), wigs, etc.

Hair style/color, jewelry, make-up and nails, shall not distract or go against reasonable health and safety standards.

Refrain from wearing headwraps during the school day.

A student's appearance, including hairstyle, shall be safe, appropriate and not disrupt or interfere with the educational process.

The matter of hair length will be up to the student's choice; however, it should not be so long that it is dangerous.

Erie County



A student's dress, grooming and appearance must show proper public etiquette, as well as proper respect for self and others. The wearing of hats and head attire, including but not limited to caps, "hoodies," "do-rags", "headwraps," sweatbands, and bandanas, is prohibited indoors during the school day, except for a medical or religious purpose, or unless otherwise authorized by the school principal. Prohibited head attire also includes the wearing of hair picks and combs in the hair.

St. Lawrence County



The school acknowledges that a correlation exists between good grooming and personal attire and achievement. A similar relationship exists between student dress and acceptable standards of conduct. Recognizing these relationships, headwear or head coverings of any kind (male or female) are not allowed in school.

THEME II – PERVASIVE SUBJECTIVE & STIGMATIZING LANGUAGE

Word Choice	# of Schools
Interferes	123
Inappropriate	120
Disruptive	118
Cleanliness	76
Revealing	57
Distracting	34

Another theme to contend with is the use of language to shame, control, and belittle how students show up to school. There are codes that hold young people to incomprehensible standards, such as one Seneca County code that relies on the superficial assertion that “student dress reflects the quality of the school.” There are codes that speak down to young people, as is the case in one code from Albany County, “Students often dress as they see others dress on television or at the mall,” and “young adolescents often do not see how their appearance is perceived by their peers and by adults.” This framing sets up an antagonistic relationship between young people and the adults who monitor and control them. Further, it devalues the creativity and contributions of youth cultures over the course of history.

Word Choice: “Distracting”

Columbia County



Dutchess County



Livingston County



Niagara County



Otsego County



Extremely distracting types of clothing disrupt the educational process and will not be permitted. This may include hairstyles/colors that may distract the educational process.

We ask that very short shirts, skirts and shorts not be worn to school since they cause a distraction to the educational process. Make-up is not permitted.

Although students have the right to dress in a manner to represent their individuality, appropriate attire allows each student to focus on learning without becoming distracted.

Any form of dress which is considered distractive or disruptive in appearance will not be permitted. Your clothes reflect the quality of the school, of your conduct and of your schoolwork.

The way a student dresses may often be related to the way (s)he performs in class. Clothing that is a distraction, interferes with learning, or has the potential to interfere with learning is not allowed.

These codes consistently exclude any reasoning for offensive word choice. To do so, however, would require an acknowledgment of the harms of deferring to painful and oppressive societal standards. As one example from Ulster County, one code includes “Refrain from wearing any item of clothing which in the opinion of the Administration is dangerous, indecent, or distracting, which may be prohibited.” These codes make sweeping assumptions about the interpretation and meanings of words like “indecent,” ignoring that these words function to marginalize groups of people along lines of race, class, and gender.

Many codes also rely on generalizations about workplace norms without clarifying the role of such norms in maintaining economic disenfranchisement and ostracism. For example, one code from Tompkins County states the code “is intended to provide guidance to prepare students for their role in the workplace and society. Our goal is to emulate a professional environment.” Deference to subjective and outmoded concepts like “professionalism” functions in opposition to concepts of NYSED’s [culturally responsive-sustaining education framework](#).

Word Choice: “Clean”

Broome County



All students are expected to give proper attention to personal cleanliness.

Essex County



Students are expected to be clean and neat in personal appearance and clothing. It is expected that they will be modest and well-groomed in appearance.

Genesee County



The administration and faculty expect that all students will be dressed appropriately and in good taste, and can insist on clean and decent clothing.

St. Lawrence County



Attire should not be provocative, outlandish, or distracting to the school environment. Clothing and hair styles shall be neat and clean.

Tioga County



When an individual presents an attractive, clean and neat appearance, one demonstrates a wholesome, positive and confident attitude which is reflected in healthy behavior patterns.

Chautauqua County



A significant goal of our institution of learning is to prepare students to become a successful member of the workforce and society. As such, our dress code is provided to guide students and parents as to appropriate attire for school as well as help students learn a skill required for success in obtaining and maintaining employment.

In contrast, the teaching philosophy of critical pedagogy, for example, would supply students with the tools and opportunities to critique structures of power and oppression, encouraging students to question and challenge inequalities that exist in society, rather than comply without question.

Other codes utilized shaming language, like a code from Genesee County that stated: “skimpy clothing will not be permitted.” A code from Allegany County included that “skintight clothing” is not allowed as it is “suggestive in nature,” while a code from Warren County prohibited dress that was “deemed to be risqué.”

The labeling of dress in these ways, when considered alongside [research](#) that says educators are also more likely to blame Black girls who are victims of harassment, encourages a school climate of normalized sexual harassment and other forms of gender-based violence.

Another code from Chemung County included that dress “not be construed as intimidating.” This word choice, combined with [scholarship](#) identifying the ways adults view Black girls as less innocent and more adult-like, leads to troubling consequences – especially when considering the use of punitive discipline to enforce dress codes.

Allegany County



Dress shall not cause an interference with schoolwork or which creates a classroom or school disruption. Students should dress in a modest manner.

Delaware County



Staff members and other students should not have to be embarrassed by the dress of others. Inappropriate dress has the effect of violating other people's right to be left alone as well as having a disruptive effect on instruction. Please dress in a way that will spare you and us the embarrassment of asking you to change, as this dress code will be enforced.

Finding: Discretion

Cattaraugus County



Cayuga County



Chautauqua County



Erie County



Schenectady County



Acceptable purse size will be left to the discretion of the building administrator.

The school reserves the right to request that a student modify his/her appearance when certain articles of clothing are deemed contrary to the mission of the school district.

We occasionally find it necessary to say what shall not be permitted. We expect our students to wear normal school clothes in a normal manner.

The discretion of the building administrator may be used to determine if a garment is inappropriate for school due to being too short, too tight, and/or too loose.

Interpretation of the dress code will be at the discretion of the building administration.

Overwhelmingly these codes carve out judgment and discretion for school staff.

One code from Madison County states, “School officials reserve the right to determine what acceptable and unacceptable attire is.” A code from Chemung County includes, “Students may not wear anything that contains wording or pictures that have political connotations, or in any other way, in the opinion of the administration of the school, reflect an inappropriate message or are in poor taste,” making it difficult for young people to understand expectations, nonetheless protect or defend themselves from disciplinary action if they are held out of compliance

These rules foster a school culture of adults surveilling or scrutinizing the bodies and appearance of young people under their presumed care. As [research](#) on school pushout has made clear, the use of broad discretion fosters disproportionate impact for Black girls and gender expansive youth of color.

THEME III – HARSH THREAT OF PUNISHMENT

<i>Rule or Sanction</i>	<i># of Schools</i>
Staff Authority to Decide	94
Requirement to Modify Dress	89
Requirement to Comply	79
Threat of Suspension	70
Subject to Further Discipline	67

According to the [Supportive School Discipline Initiative](#), a former project between the U.S. Department of Education and Department of Justice, Black students across the country have a 31 percent higher likelihood of a discretionary discipline action, compared to white and Latine/x students, and controlling for campus and student characteristics, students who were suspended for a discretionary violation were nearly three times as likely to be pushed into the juvenile justice system the following year. [Another study](#) found that Black students were far more likely to be suspended for first-time violations of discretionary rules, like violating the dress code, compared to white students engaging in the same behaviors.

The dress codes under review begin the disciplinary process by responding to non-compliance. As one example from Otsego County, a dress code states, “Student dress code is not a disciplinary issue until and unless a student refuses to dress in a more appropriate fashion.” Alarming, **districts and schools rapidly escalate disciplinary responses.**

One code from Ontario County lays out that on the third violation a student will be subject to “out-of-school suspension, PINS, and/or Superintendent’s Hearing.” PINS is a “person in need of supervision,” or a child under the age of 18 where a person or relevant agency, like a school, files a petition in Family Court. The petition and a court summons are given to the child directing them to appear in court. [Reassessing school-justice practices](#) has been underway for decades; **there should be no debate that time in court for dress code violations needlessly and carelessly opens the door to detrimental consequences for students’ educational trajectories.**

Finding: Threat of Suspension

Albany County



Any student who refuses to modify their appearance shall be subject to disciplinary consequences, including out-of-school suspension.

Greene County



Any student who refuses to modify their appearance shall be subject to discipline, up to and including assignment to an Alternative Learning Site for the day.

Sullivan County



Any student who refuses to comply shall be subject to discipline, up to and including Alternate Learning Center suspension for the day.

Wyoming County



Refusal to comply would be considered Insubordination/ defiance and the student will receive disciplinary action in accordance with the code of conduct for such an offense.

Yates County



Dress Code violations will be tracked and recorded on a discipline referral sheet and considered a violation of our Code of Conduct. Discipline for repeat offenders will align with other Code violations.

There are some codes that leave consequences up to interpretation, like a code from Schuyler County that includes, “Any dress that staff determines is disruptive to the educational process will not be tolerated.” This language harkens back to the era of “zero tolerance” discipline, a practice that has been [long condemned](#) as a [hindrance to adolescent development](#).

Finding: Discretion in Punishment

Delaware County



The dress code will be administered at the discretion of the staff. Individuals will be dealt with on a case-by-case basis.

Essex County



If a staff member informs a student they are not in compliance with the dress code, the student is expected to comply immediately.

Genesee County



If, in the judgment of an administrator or teacher, a student is dressed in a manner that is distracting to students or teachers, the student will be asked to change.

Hamilton County



The appropriateness of an individual's dress will depend to some degree on the circumstances and setting.

Hamilton County



Dress code violations warrant either a Level 1 or Level 2 response. Repeated offenses will be considered insubordination and will be referred as such.

When dress code enforcement escalates to “defying authority” and “disorderly conduct,” students attending schools with a police presence or [school resource officers](#) (SROs) are made [vulnerable](#) to police intervention. A Code from Wyoming County includes reference to law enforcement, restricting “any combination of clothing which law enforcement agencies currently consider gang-related (These may change).” Across the collected codes, 39 explicitly restrict “gang-related” attire – often determined by information sharing as part of school/police partnerships. One Albany County code went as far as to ban “R.I.P. commemorative shirts.” One Erie County code prohibited anything “gang-like.” These broad and subjective carveouts function to open up opportunities to criminalize young people. We know from [practices in NYC public schools](#), that these carveouts encourage educators to hyper-surveil youth of color.

One code implied a threat to school visitors of the potential for forcible removal:

Jefferson County



Visitors, who refuse a request by the building principal or designee to cover, remove or replace the offending item shall be subject to removal from district property or the district function, as the case may be.

Many codes more fundamentally serve to limit the creativity of young people, leveraging a variety of “health and safety” explanations for doing so. In Broome County, a code includes “High heels are considered a safety issue, no heel over 3” is acceptable.” Then, in Madison County, a code specifies that appropriate dress, “Not include jewelry or other such things worn on the body that could injure others.” Some codes go as far as to ban “bizarre’ dress, like a code Steuben County, while another code, from Clinton County, bans “tiger, alien, and cat-eye contact lens” or any eyewear “that obscures the natural appearance of the eye.” These restrictions are not further explained, serving as an “order maintenance” style of policing self-expression.

Finally, some codes allege legal authority. As an example, one code from Chautauqua county claims, “New York State Law mandates that schools monitor clothing to be certain that it does not threaten health or safety.” It would benefit the students of New York State for NYSED to clarify students’ rights in school.

RECOMMENDATIONS FOR NEW YORK

In December 2020, GGE and the National Women’s Law Center published “[100 School Districts: A Call to Action for School Districts Across the Country to Address Sexual Harassment Through Inclusive Policies and Practices](#),” ultimately recommending that dress codes be abolished:

“When schools remove students—usually girls— from the classroom over a dress code violation, they send dangerous messages to all students that what girls look like is more important than what they think, that girls are responsible for ensuring boys are not “distracted,” and that girls provoke sexual harassment.

“These harmful messages are exacerbated for girls of color—especially Black girls—who are more likely to be viewed as “promiscuous,” are more likely to be ignored or punished when they report sexual harassment and are more likely to be disciplined for a dress code violation.”

For all of these reasons, we repeat the recommendation here that [school districts across the State of New York eliminate dress codes, or, at the very least, craft and implement a youth-driven, universal, inclusive, and gender-neutral dress code that does not perpetuate gender, race, or class discrimination.](#)

According to New York State Education Law §2801, the board of education or the trustees of every school district within the state shall adopt and amend, “as appropriate,” a code of conduct, only after at least one public hearing “that provides for the participation of school personnel, parents, students, and any other interested parties.” Such code of conduct shall include “provisions” regarding “dress” deemed “appropriate and acceptable” and “unacceptable and inappropriate” on school property.

The [Solutions Not Suspensions Act](#), for example, currently under consideration in the legislature and delved into at the conclusion of this report, seeks to strengthen public notice, participation in, and transparency of such proposals.

School districts have been required to have a dress code as part of the code of conduct since 2000, when Governor George Pataki signed the “Safe Schools Against Violence in Education” legislation. In one example of media coverage of implementation, the [New York Times](#) wrote in 2002:

“But the rules leave it up to each school district to set a code in keeping with community standards. In Westchester, the interpretation has run the gamut, from schools that ban no specific items but only ask students to dress “appropriately” to those that detail how large an arm opening can be and how far a pair of pants can sag.”

More recently, under the New York State's Dignity for All Students Act (DASA) reporting requirement, harassment, bullying, and/or discrimination that could constitute a violation of DASA [may include](#) a report regarding the application of a dress code, specific grooming, hair type or style or appearance standards that are based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex. However, the New York State Comptroller's [2019 follow-up audit](#), “Implementation of the Dignity for All Students Act,” found certain schools may not accurately report some DASA incidents or may not report them at all, and incident records often were not adequate to clearly demonstrate whether or not the incidents were reportable.

Given the pervasiveness of gendered restrictions in dress and the reliance on stigmatizing language, we call on the New York State Education Department (NYSED) to proactively support districts in transforming school climates to better understand and practice cultures of consent and sustain environments free from sexual harassment.

New York can more robustly fund NYSED's Safe and Supportive Schools Grants Program, and expand the capacity of NYSED to provide guidance to and monitor school district compliance with the Dignity for All Students Act (DASA) and new provisions of the Crown Act. This would also increase the capacity of the Center for School Safety and Supportive Schools Technical Assistance Centers to provide on-site technical assistance and resources for schools to assess their current school climate and provide schools with the support necessary to develop and implement plans for improving school culture and climate.

Further, we call on the New York State Legislature to advance the following:

Pass the Solutions Not Suspensions Act

[S.7198/A.5197](#) would amend Education Law §2801 requiring that Codes of Conduct include provisions that prohibit classroom removals and suspensions to respond to violations of school dress codes and suspensions for initial or repeated acts of “willful disobedience” – the catchall category the above dress codes leverage to punish students for dress code noncompliance. The Solutions Not Suspensions Act further encourages a statewide shift to restorative and trauma-informed practices – philosophies that center holistic interpretations of safety.

Pass Comprehensive Sexuality Education

Comprehensive, culturally relevant, affirming, and inclusive K-12 sexual health education, that teaches students about consent, has been found to be the most effective tool for preventing school-based sexual violence. New York State does not currently require comprehensive sexual health education (CSE) in public schools. As a result, many schools do not provide any sexuality education, and when they do, it is often inaccurate, incomplete, or stigmatizing. CSE reduces disparities and improves the overall health and well-being of young people and communities, with [A.6616/S.2584](#) supporting access to this essential learning.

Improve School Gender Policies

All students must be able to access an educational environment that is safe, welcoming, and free of stigma and discrimination. [A.840/S.369](#) requires boards of education and the trustee/s of every school district to establish policies and procedures regarding the school experiences of transgender and gender non-conforming students.

To conclude, despite sustained and growing attention to dress code discrimination, schools continue to enforce dress codes that are gendered and racialized. Given our findings, there is much work to do in shifting school cultures across New York State to respect and value the autonomy and creativity of students, end gender discrimination, and end punitive discipline. There is, of course, great potential for public schools to operate as places of dignity and support, rather than reinforcing or compounding societal inequities.