

June 22, 2022

Dr. Alicia Thompson
Superintendent
USD 259 – Wichita Public Schools
Via email: athompson@usd259.net



Kansas

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Re: Students' right under K.S.A. § 60-5321 to wear traditional tribal regalia or objects of cultural significance at North High graduation ceremony

Dear Superintendent Thompson,

We write concerning complaints we have received from Native American students in USD 259 who were denied their right to wear sacred tribal regalia or objects of cultural significance at North High's graduation ceremony on May 11, 2022. We understand that at least two students, Carlos Hernandez and Emilian Carrion, were denied their right to wear hand beaded graduation caps and eagle feathers during their graduation ceremony at North High, in violation of their rights under Kansas law. Although we cannot remedy the harm that these students experienced on such an important milestone in their lives, we request that you take immediate steps to ensure that no graduate in the future is similarly denied their rights and subjected to similar mistreatment.

Background

Carlos Hernandez and Emilian Carrion are two of North High's 2022 graduates. Mr. Hernandez belongs to the Yankton Sioux Tribe, and Mr. Carrion belongs to the Sac and Fox Nation, Kickapoo Tribe, and Sioux Nations. Both graduates intended to wear Native American hand beaded graduation caps and eagle feathers which were important gifts from family elders. Mr. Hernandez was told by the Assistant Principal that if he wore his hand beaded cap across the stage then he would not receive his diploma. This led to Mr. Hernandez walking across the stage without a graduation cap. North High's administration also attempted to confiscate Mr. Carrion's hand-beaded cap. Mr. Hernandez and Mr. Carrion were humiliated and dishonored on the very day meant to celebrate their accomplishments as high school graduates.

Mr. Hernandez's mother Manuela Hernandez—herself a teacher within USD 259—shared how these events impacted her and her family in a letter she wrote, but did not previously send, to the human resources department of the district. Mrs. Hernandez's letter is included here so that you can understand the full weight of how this experience impacted her son and the entire Native community. As Mrs. Hernandez notes, "this injustice has brought pain, sadness, and anger to the Native American Community and to the community of Wichita as a whole." Carlos Hernandez is the grandson of a Native American boarding school survivor. Mrs. Hernandez stated in her letter that "when my son was



forbidden from wearing the hand beaded cap that was made in his honor and in honor of his Sioux grandmothers and grandfathers before him, generations in our community wept in mourning.” Hand beading is a sacred tradition, and countless hours were spent beading these graduation caps as a spiritual symbol of accomplishment. Mr. Hernandez, Mr. Carrion, and their families were devastated when they were denied the right to proudly wear this piece of their Native American cultures on their graduation day.

Legal Analysis

USD 259’s refusal to allow students to wear tribal regalia or objects of cultural significance at North High graduation ceremony violated clearly established law. K.S.A. § 60-5321 states:

(a) The legislature hereby declares that the purpose of this act is to help further the state’s recognition of the distinct and unique cultural heritage of the Native Americans and the state’s commitment to preserving the Native Americans’ cultural integrity.

(b) No state agency or municipality shall prohibit an individual from wearing traditional tribal regalia or objects of cultural significance at a public event.

(c) For purposes of this section:

(1) “Municipality” means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(2) “Public event” means an event held or sponsored by a state agency or municipality, including, but not limited to, an award ceremony, a graduation ceremony or a meeting of a governing body.

(3) “State agency” means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(d) On the effective date of this act, the secretary of state shall send a copy of this act to each tribal government located on the four Kansas reservations.

Kan. Stat. Ann. § 60-5321 (2018) (emphasis added).

Because Mr. Hernandez and Mr. Carrion’s hand beaded caps and eagle feathers are traditional tribal regalia or objects of cultural significance, under K.S.A. § 60-5321(b), Mr. Hernandez and Mr. Carrion should have been permitted to wear these items during graduation. USD 259’s actions clearly violated this statute: USD 259 is a “municipality” as defined in K.S.A. § 60-5321(c)(1), and the North High graduation ceremony was a

“public event” as defined in § 60-5321(c)(2). USD 259 employees unquestionably violated state law by denying Mr. Hernandez and Mr. Carrion their right to wear tribal regalia and objects of cultural significance under K.S.A. § 60-5321 during the North High School graduation.

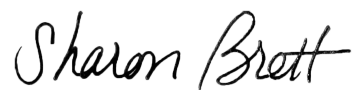
Requested Relief

Again, although we cannot go back in time to prevent the Hernandez and Carrion families from experiencing the hurt and anguish they felt during what should have been a celebratory, joyous occasion, USD 259 can and must prevent other families from experiencing this in the future. We therefore request that USD 259 rescind any guidance, policy, directive, or instruction—whether formal or informal—prohibiting Native American students from wearing their tribal regalia or objects of cultural significance at any public events, including, but not limited to, graduation ceremonies. Moreover, we request that you instate a policy explicitly allowing Native American students to wear their tribal regalia or objects of cultural significance at all public events including, but not limited to graduation ceremonies, in accordance with K.S.A. § 60-5321, and train all USD 259 employees on the policy prior to any major public events, including but not limited to next year’s graduation ceremony. We will reach out again next spring to remind USD 259 of the rights granted to your students under K.S.A. § 60-5321.

If you would like to discuss this matter further, please do not hesitate to contact Sharon Brett, ACLU of Kansas Legal Director, at sbrett@aclukansas.org.

Thank you for your prompt attention to this matter.

Kind Regards,



Sharon Brett
Legal Director
ACLU of Kansas



Ellie Beck
Zanial Fellow
ACLU of Kansas

cc: North High School Principal Stephanie Wasko



Human Resource Department,

My name is Manuela Hernandez, a proud member of the Yankton Sioux Tribe in South Dakota and a 4th grade teacher at Beech Elementary. As you may know, my son Carlos Hernandez (Yankton Sioux), along with Emilian Carrion (Sac and Fox, Kickapoo, and Sioux Nations), were denied their right to wear their Native American beaded cap and eagle feather at North High's Graduation Ceremony on Wednesday May 11, 2022. Administration tried to confiscate Emilian's tribal adorned cap without success. Carlos, on the other hand, was told by Assistant Principal Lance Ramirez, North High Administrator that if he wore it across the stage he would not receive his diploma. Mr. Ramirez threatened to withhold my son's rightfully earned credential. Carlos was the only graduate that walked across the stage without a graduation cap. Imagine the humiliation and embarrassment he felt as he walked across that platform in front of his entire graduating class and all in attendance. The feeling was beyond devastating. My son was singled out and discriminated against. He was humiliated, dishonored, threatened, and denied his constitutional right to wear his hand beaded mortar board. The lack of knowledge and education from our district's leaders is inexcusable.

House Bill 2498, passed in 2018, "prohibits state agencies and municipalities from prohibiting individuals from wearing tribal regalia or objects of cultural significance at public events...including, but not limited to, an award ceremony, a graduation ceremony, or a meeting of a governing body..." I sat in the cold hard seats of Charles Koch Arena with an overwhelming feeling of anguish and helplessness as depression abruptly set in. While the stadium was packed with smiles and cheers, a cloud of desolation loomed over my section. "You might as well have just thrown him to the ground and stomped on him, pressing your knee into his neck until he couldn't breathe," screams his Sioux grandmother as she learned of the atrocities. You stole my son's dignity and honor, in turn, you yanked and pulled and robbed him of his ability to honor his family, making him feel like nothing.

This injustice has brought pain, sadness, and anger to the Native American Community and to the community of Wichita as a whole. However, one cannot truly understand the pain, trauma, and grief that I, his mother, have felt. The emotional turmoil that has been placed on my mental health has been nearly unbearable. The positive, uplifting energy that I naturally radiate has been replaced with sadness and inadequacy. The vivacious light of my personality and character has been extinguished. This is not who I am. These feelings of desolation can only be attributed to the oppression of my people and a moment of rightful honor snatched from my son.

Unlike those of you who have joyously celebrated a loved one's graduation, I did not have a joyous moment of celebration. That occasion was ripped away from me like my mother's language, culture, and identity were ripped away from her in boarding school. When my son was forbidden from wearing the hand beaded cap that was made in his honor and in honor of his Sioux grandmothers and grandfathers before him, generations in our community wept in mourning. In a district with such diversity, it saddens me that cultural awareness is not at the forefront. My children attend a school that has no problem celebrating some parts of indigenous culture. The hallways and the school's exterior are embellished with Native American design as the building symbolizes and pays homage to the community established along the Arkansas River, yet the administration failed to recognize the school's indigenous students.

The creation of the beaded cap was no small task. It is not thrown together in an hour or two. It is not something that is ironed or hot glued on in a matter of minutes. Hours and hours of time were put into beading this spiritual symbol of accomplishment. Women worked tirelessly to sew each bead by hand, some having little children of their own to attend to, household chores and jobs to fulfill. Teaching of this time consuming, cultural preserving knowledge passed down from generation to generation was stolen from the women who generously, graciously, and painstakingly beaded his mortar board with love and positive energy. It is customary to be in a positive space mentally and emotionally when you do something for others. It is also believed that you transfer that energy into whatever it is that you are doing. Emilian's grandmother, April, in mourning from losing her son, had sorrowful days when she couldn't even pick up the needle and thread to bead my son's cap. Yet, she found the strength to teach and guide her granddaughters in the meticulous tradition only for their skill be tucked away in the shadows of a cold folding chair.

These young Native American men were robbed of their opportunity to bring honor to their families. An occasion meant to facilitate the healing of generations of cultural trauma and comfort the victims of cultural rape. The statistics of our Indigenous youth graduating high school is significantly lower than white students. According to the *National School Board Association: The Condition of Native American Students (2020)*, "Native American Students...were two times more likely to drop out than their white peers." Statistically speaking, our sons were not supposed to graduate let alone exist in a society that was created to extinguish their lineage.

As the son of two high school dropouts, Carlos' chances of completing high school was slim to none as mentioned above. However, as a married couple we dedicated our lives escaping poverty and dashing unhealthy societal norms. A reality not within grasp of the hands for many of our people. The National Caucus of Native American State Legislators publication of *Striving to Achieve: Helping Native American Students Succeed*, found that "Only seven of every 100 American Indian/Alaska Native kindergartners will eventually earn a bachelor's degree, compared with 34 of every 100 white kindergartners." According to this finding, I am one of the seven. I graduated with a Bachelors of Applied Arts in Education from Wichita State University in 2018. While completing my degree, I had five children of my own plus two of my brother's daughters to care for. I attended evening classes while working as a Paraeducator at Harry Street Elementary in Wichita Public Schools during the day. My journey was most certainly not an easy one. Nonetheless, I was determined to make the necessary changes and sacrifices to provide all my children with the environment needed to sustain a love of reading, education, culture, and productivity. I will not let you take that away from my son.

However, The significance of graduating high school was depleted by the actions taken by trusted school officials and is detrimental to our Indigenous youth. A 2018 CDC report states that "American Indian/Alaskan Natives have the highest rates of suicide of any ethnic group in the United States...the rates within this population have been increasing since 2003." Sadly, my family is no stranger to death by suicide. In 2014, my older brother was found hanging by a rope in a hot garage on the reservation in South Dakota. Similarly, my youngest brother desperately took his own life five years later, using a ratchet strap and a wooden beam. The tether was frantically severed by his friend who gently laid my brother's comatose body on the ground and attempted the life saving measure of CPR. A year later, my 16 year old niece, a single mother and once a North High student, was discovered by her brother hanging from her bedroom

ceiling. The latter two resided in Wichita. In all, 10 heartbroken children, and two grieving mothers were left behind. Painfully and regrettably, this is not the only encounter of suicide my family has experienced. Carlos' existence is solely a result of my survival of a suicide attempt at the age of 17. I was rushed to St. Joseph Medical Center in East Wichita where doctors pumped my stomach with charcoal after consuming every pill I could get my hands on in the medicine cabinet at my home in north Wichita. The anguish I feel for my parents now can only be described as regret while apologies made in the form of raising healthy children in a stable household express my gratitude for life. My son was supposed to walk across that stage wearing his graduation cap and eagle feather with pride and honor, feeling accomplished for he has witnessed the perils of addiction and the despair of mental illness. This victorious moment of achievement was ripped away from a generation of weeping mothers and grief stricken fathers. A moment you have stolen from us. Not even the price of pictures, as your Executive Director of Secondary Schools, Branden Johnson, tried to comfort me with, will repair the emotional, mental, and cultural trauma executed by this district. The price of professional pictures will not replace the fact that this honorable evening was seized from two Native American high school graduates and their families. The psychological toll this infringement has taken on us is beyond repair.

It saddens my heart that as an educator in USD 259, I dedicate countless hours accommodating the needs of other people's children with gusto, only for my son to be knocked down, trampled, and disregarded. This violation has caused such heartache that I have not been able to return wholeheartedly to the job that I so passionately love. I have been belittled and degraded. You have taken from me the very thing that I love to do, and that is to teach my students. Yet, I go to work everyday remaining dedicated to the children and families that I so proudly and lovingly serve. My heart may be broken, but my spirit remains intact. The prayers sung in my mother's native language are what sustain me. The prayers sung by my grandparents centuries ago, is why I am still here, still standing, still fighting!

I request that all staff be trained in Native American Tribal Customs and Traditions. I request that our district acknowledge, celebrate, and teach historical days of remembrance such as, but not limited to the Trail of Tears, Battle of Little Bighorn, Indigenous People's Day, and Wounded Knee. Finally, I ask that **all** culturally diverse students who attend Wichita Public Schools be able to wear any culturally appropriate items of significance that their elders choose to adorn them with, this may include but is not limited to tribal/cultural stoles, beads, ribbon appliques or fringe on graduation caps and/or gowns. In such a diverse district, our students and families that have overcome unspoken obstacles such as deportation, poverty, death of a parent, fostercare, penitentiary system, suicide, or any other Adverse Childhood Experience, should be able to celebrate the accomplishment and honor of completing high school by representing their culture.

“Warriors are not what you think of as warriors. The warrior is not someone who fights, because no one has the right to take another life. The warrior for us is someone who sacrifices himself for the good of others. His task is to take care of the elderly, the defenseless, those who cannot provide for themselves, and above all, the children, the future of humanity” - Sitting Bull

Sincerely,

Manuela Hernandez
Yankton Sioux/Mexican American
4th Grade Teacher at Beech Elementary
Two Time Good Apple Recipient
Mother of 6

Resources

[CDC Report](#)

[Kansas House Bill 2498](#)

[National School Board Association: The Condition of Native American Students](#)

[National Caucus of State Legislators, Striving to Succeed: Helping Native Americans Succeed](#)