

## **Teacher Professional Dress: The Courts Say Yes**

The courts have repeatedly ruled that it is appropriate for local school boards to set and enforce standards for teacher professional dress, even when those standards limit teachers' free expression. Teachers, while retaining the rights to free expression that private citizens have, also relinquish a measure of those rights when they agree to become government employees and during the hours they are responsible for students' education. Also, as teachers, they may be held to a higher standard than private citizens because they are in the unique position of having influence over minor children.

### ***James v. BOE of Addison (1972)***

- Charles James, a public school teacher in New York, wore a black armband to school as a means to protest the Vietnam War.
- As a practicing Quaker, James claimed to be expressing his religious views through peaceful demonstration. He claimed that was his 1st Amendment right and the school board cannot require removal of the band.
- Although the case referenced *Tinker v. Des Moines (1969)*, the court ruled the incident must be treated differently than if it involved a student, because: "when a teacher is only content if he persuades his students that his values and only his values ought to be their values, then it is not unreasonable to expect the state to protect impressionable children."

### ***Miller v. School Dist. No. 167, 7 Cir., 495 F.2d 658, 667 (1974)***

- An untenured teacher in Illinois, Miller claimed he was actually fired because of his refusal to trim his beard/sideburns, even though the school district provided other cause for terminating him.
- The courts ruled: "If a school board should correctly conclude that a teacher's style of dress or plumage, has an adverse impact on the educational process, and if that conclusion conflicts with the teacher's interest in selecting his own life style, we have no doubt that the interest of the teacher is subordinate to the public interest. We must assume, however, that sometimes such a school board determination will be incorrect. Even on that assumption, we are persuaded that the importance of allowing school boards sufficient latitude to discharge their responsibilities effectively—and inevitably, therefore, to make mistakes from time to time—outweighs the individual interest at stake."

### ***East Hartford Education Association v. BOE of East Hartford, 405 F.Supp. 94 (1975)***

- Richard Brimley, a public school teacher in Connecticut, was reprimanded for not wearing a tie while teaching; Brimley claimed that his refusal to wear a tie was "symbolic speech" and should be protected by the 1<sup>st</sup> Amendment.
- The court decided that a balance is needed of free speech and school board goals. Brimley's claims of free speech were vague and unclear, and he had not chosen to express his views in other ways. Also, school boards can rationally promote respect for authority and traditional values by implementing a dress code.

### ***Domico v. Rapides Parish School Board, 5th Circuit Court (1982)***

- In 1980, the Rapides School Board in Louisiana prohibited students and employees from wearing beards; a number of tenured bearded employees filed a suit in federal district court alleging violations of civil rights.
- The district court upheld school board decision asserting that there is no constitutionally protected right to wear beards.
- The Circuit court stated that there is a constitutional liberty interest in choosing how to wear one's hair. However: "in the high school environment, a hair style regulation is a reasonable means of furthering the school board's undeniable interest in teaching hygiene, installing discipline, asserting authority, and compelling uniformity...The plaintiffs cannot claim that the right to choose one's

hairstyle is a fundamental right whose deprivation will draw stricter scrutiny from the courts. Fundamental rights have generally been limited to basic matters such as procreation and family life.”

***Cooper v. Eugene School District No. 4J (1986)***

- A teacher in Oregon converted to the Sikh religion and began dressing in white robes/head coverings at work; the division warned her that this violated a state law that teachers could not wear religious attire at school.
- She refused to stop wearing the religious attire and the division terminated her contract and took the additional step of revoking her teaching license.
- The courts ruled that the division was within its rights to take these actions and that nothing prevented Ms. Cooper from reapplying for a teaching license at a future date if she was willing to comply with the state law: “Their concern is that the teacher's appearance in religious garb may leave a conscious or unconscious impression among young people and their parents that the school endorses the particular religious commitment of the person whom it has assigned the public role of teacher. This is what makes the otherwise privileged display of a teacher's religious commitment by her dress incompatible with the atmosphere of religious neutrality that ORS 342.650 aims to preserve, or so the school authorities may decide.”

***U.S. v. BOE for the School District of Philadelphia, 911 F 2d 882, 3rd Cir. (1990)***

- Reardon, a Philadelphia substitute teacher and devout Muslim, wore a headscarf and a long loose dress; three school principals on separate occasions informed her that, pursuant to state law Pennsylvania Garb Statute enacted in 1895, she could not teach in her religious clothing. Reardon refused to go home and change and was not allowed to teach.
- The district court entered judgment against the School Board; however, since the Commonwealth was not Reardon’s employer within the meaning of the Title VII and the Garb Statute was sporadically enforced, judgment was entered in favor of the Commonwealth. The United States appealed and the Board cross-appealed.
- The Circuit court reversed the district court's judgment against the School Board and affirmed the judgment in favor of the Commonwealth: the wearing of the religious attire by teachers while teaching could be a significant threat to the maintenance religious neutrality in the public school system. Families entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private benefits of the student and his or her family.

***McGlothin v. Jackson Municipal Separate School District (1992)***

- A teacher’s aide was asked repeatedly over the course of several years to stop wearing beret/African head coverings; eventually, she was fired for insubordination after continuing to wear head coverings.
- She sued the school division, claiming that the head coverings were part of her religious practice; the school division argued that McGlothin had never cited religious beliefs as part of her reason for wearing head coverings and that she had worn them intermittently.
- Courts ruled that the school division was within its rights to terminate McGlothin’s employment since McGlothin did not make the division aware of her religious beliefs during the years leading up to and during the termination process.

These rulings primarily deal with whether it is reasonable for school boards to establish guidelines for teacher appearance. By and large, the courts have said this is reasonable, since maintaining a professional workplace is part of running an orderly school. The professional appearance of teachers relates directly to the respect teachers are given by students, parents, and other community members. The government has a compelling interest to limit teachers’ personal expression during the hours teachers are performing their duties as public servants.