

Native American Rights Fund

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May 16, 2016

Sent via Email and U.S. Mail

Superintendent Kevin E. Burr
Sapulpa Public Schools
511 E. Lee Avenue
Sapulpa, OK 74066
kburr@sapulpaps.org

Re: Liseanne Yazzie's Right to Traditional Clothing at Graduation

Dear Mr. Burr:

The Native American Rights Fund ("NARF") has been contacted by Liseanne Yazzie, a senior at the Sapulpa Junior/Senior High School ("Chieftains") in Sapulpa, Oklahoma. As you know, Ms. Yazzie wishes to wear her traditional Navajo clothing during the graduation ceremony on May 20, 2016, but has been informed that this will not be allowed by the Chieftains. Ms. Yazzie is an enrolled member of the Navajo Nation, and has indicated that she wishes to wear her traditional regalia, including her moccasins, for among other things, religious and spiritual reasons. In particular she wishes to honor her Native American heritage, show her academic success in graduating high school, and be a positive role model for Native American students. There are important legal and policy reasons for the Chieftains to allow her to wear her traditional regalia at graduation.

First, the Chieftains should consider the important spiritual and religious aspects of traditional regalia for Native Americans and the legal protections afforded to religious practices. Traditional regalia is highly revered and considered sacred within Native American traditions, culture, and religion. In particular, for Navajo women traditional regalia is given for a Coming of Age ceremony called a Kinaalda'. This ceremony is rooted in the stories of one of the Navajo, or

Dine', Holy People named Changing Woman. This ceremony serves the purpose of introducing girls to the social roles that they will adopt as adults in Navajo society. Throughout the four-day ceremony, teachings are given including the sacred meanings of the traditional dress, moccasins, jewelry, hair bun and the sash belt. It is taught that when Dine' women wear the traditional dress, they are the embodiment of Changing Woman and the representation of the ideal Dine' woman. To own and wear a pair of Dine' moccasins shows that you have a deep respect for one's self, kinship, earth and all life. It is also a way for the Holy People to identify the wearer as one of their own and to bestow blessings upon that individual. *See* Attachment A. Ms. Yazzie did wear traditional regalia for her Kinaalda' and also has worn her regalia during Native American Church meetings.

Oklahoma's religious freedom statute prohibits a government entity from curtailing a religiously motivated practice. Okla. Stat. Ann. tit. 51, § 251 *et seq.* (West); *see also A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 701 F. Supp. 2d 863, 886 (S.D. Tex. 2009) *aff'd sub nom. A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 611 F.3d 248 (5th Cir. 2010) (applying Texas' religious freedom law to enjoin enforcement of a school rule interfering with Native American student's religious practice of wearing unshorn hair). In applying the federal analogue to Oklahoma's religious freedom statute, the U.S. Supreme Court has made it clear that statutory protection of religious practice is expansive and that government interference with religious conduct is subject to the highest level of judicial scrutiny and will only be upheld for the most compelling reasons. *Holt v. Hobbs*, 135 S. Ct. 853, 860 (2015); *Burwell v. Hobby Lobby*, 134 S.Ct. 2751, 2761 (2014). Moreover, such religious freedom statutes apply *to the person*, and broadly formulated, generalized fears about what could happen if others are given similar accommodations are insufficient. *See Holt*, 135 S. Ct. at 863; *Burwell v. Hobby Lobby*, 134 S.Ct. at 2779 (quoting *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 430-431(2006)). Oklahoma Attorney General E. Scott Pruitt recently noted that Oklahoma's religious freedom statute provides, at a minimum, even greater protections than the First Amendment, and at least the same protections as the federal Religious Freedom Restoration Act. *See* Attachment B, at 2. The Chieftains should be cognizant of this powerful precedent when considering Ms. Yazzie's request.

The Chieftains' Policies recognize the importance of religious freedom and provide for reasonable accommodations. *Sapulpa Public Schools Board Policies, Pupil Personnel*, Sec. 540.1.3 at 45. The Chieftains should allow Ms. Yazzie to wear her traditional moccasins to graduation, a reasonable and non-disruptive accommodation, just as other students may wear head coverings. *Sapulpa Public Schools Board Policies, Pupil Personnel*, Sec. 540.1.3 at 45.

Ms. Yazzie has also stated that she wants to be a positive role model for Native students that are still in school. The positive image that Ms. Yazzie wants to portray should not be looked upon lightly given that the Chieftains mascot is a cartoonish depiction of an American Indian. It is now well understood that not only are American Indian mascots extremely offensive, but they also cause real, documented harm to the mental health of American Indian and Alaska Native students. According to the American Psychological Association, numerous studies have demonstrated that the use of American Indian mascots: (1) undermines the educational experiences of members of all communities; (2) establishes an unwelcome and hostile learning environment for American Indian students; (3) has a negative impact on the self-esteem of American Indian children; (4) undermines the ability of American Indian nations to portray accurate and respectful images of their culture; and (5) may represent a violation of the civil rights of American Indian people. American Psychological Association, *APA Resolution Recommending the Immediate Retirement of American Indian Mascots, Symbols, Images, and Personalities by Schools, Colleges, Universities, Athletic Teams, and Organizations* (2005) ("APA Resolution"). Research has confirmed that these mascots

establish an unwelcome and hostile learning environment for American Indian students. Victoria Phillips, Erik Stegman, *Missing the Point: The Real Impact of Native Mascots and Team Names on American Indian and Alaska Native Youth*, Center for American Progress, 7 (July 2014) (“*Missing the Point*”). The research also revealed that the presence of American Indian mascots directly resulted in lower self-esteem and mental health issues for American Indian adolescents and young adults. *Id.* Equally important, recent studies also show that these mascots undermine the educational experience of all students, particularly those who have little to no contact with American Indian people. *Id.*

Studies partly attribute feelings of inferiority to negative characterizations that are materialized in Native Americans school mascots. *Id.* Native youth are faced with these undesirable images, showing them the constrained ways in which others view them. *APA Resolution*. This further limits the ways in which Native youth may view themselves. *Id.* As American Indian youth continue to struggle to find their sense of identity, they are presented with caricature versions of themselves, and this in turn affects how Native youth view their place in society. *Id.*

These concerns arise as American Indian students often face ridicule and harassment in the classroom and at sporting events. *Missing the Point* at 4. Such hostile environments result in lower academic achievement and success rates across the board. *Id.* at 5. As a counter to the Chieftains’ mascot, Ms. Yazzie wants to provide a positive image for Native youth to show that graduating high school is a reality for them. She should be permitted to do so.

Traditional regalia obviously has religious and spiritual significance to Native Americans, but in the graduation setting it is also a sign of academic success. Many Native students wear their traditional regalia to recognize their academic success, great accomplishment of completing high school, and passage into adulthood. *See* Attachment C. Ms. Yazzie is no different in that she wants to be a positive role model for Native students that are still in school.

Graduation from high school is an especially significant occasion for Native American students, considering that the Native American high school graduation rate is the lowest of any racial or ethnic group. Similarly, the poverty rate for American Indians under age 18 was 36.5% in 2012, as compared to 22.2% for the overall population. Bureau of the Census, *Selected Population Profile in the United States: 2010-2012 American Community Survey 3-Year Estimates*, http://factfinder2.census.gov/bkmk/table/1.0/en/ACS/12_3YR/S0201/0100000US/popgroup~001|006. Further, American Indian youth are more likely to suffer from addiction and substance abuse issues than the general population. Colorado State University, College of Natural Sciences, *Comparing Rates of Substance Use Among AI Students to National Rates: 2009-2012*, available at http://triethniccenter.colostate.edu/ai_ep11.htm. These modern challenges, combined with a history of cultural oppression and trauma, result in feelings of hopelessness for many Native youth. Thus, graduation is a significant step in any Native students’ life, and the wearing of traditional regalia honors and celebrates that academic achievement.

Based on your discussion with Ms. Yazzie and her mother, it is our understanding that boots do not meet the dress code standards for graduation. According to the 2015-2016 Sapulpa School Policy Handbook, however, the graduation dress code does not mention boots. *Sapulpa Junior-Senior High School Student Policy Handbook, 2015-2016* at 19. Further, a review of the school board policies on the student dress code, which the graduation dress code specifically cites to, reveals no prohibition on boots, much less a ban on traditional moccasins. *See id.* at 48; *Sapulpa*

Public Schools Board Policies, Pupil Personnel, Sec. 540.1.3 at 42-45.

Past graduation policies allowed students to wear “[d]ress appropriate for church, (preferably) dark shoes, cap and gown.” *Sapulpa Junior-Senior High School Student Policy Handbook, 2013-2014* at 41. It should be noted that Ms. Yazzie has worn her traditional Navajo regalia, including her moccasins, to church and church related activities with the Native American Church.

In light of the significance that traditional regalia has to Native American students, especially at graduation, we urge you to permit Ms. Yazzie, as an enrolled member of the Navajo Nation, to express her religious and spiritual beliefs and show her academic success by wearing her traditional regalia in a manner that is permissible to her.

Thank you in advance for your consideration in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MC', with a long horizontal flourish extending to the right.

Matthew Campbell
Staff Attorney
Native American Rights Fund

cc: Sapulpa Public Schools Board of Education