

California's Graduation Dress Codes:

Violations of Indigenous Students' Rights to Self-Determination and Cultural Preservation

I believe that the right to wear regalia during graduation is part of the bigger picture for Indigenous people-- every single right we are able to protect is a means of protecting ourselves and preserving our culture after generations of assimilation and genocide that still continues today.

-Job
2024 High School Graduate
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California Indian Legal Services

Protecting and Advancing Native Rights Since 1967

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September 18, 2024

Dear Partners in Justice,

I am honored to present this report, developed by the American Civil Liberties Union (ACLU), with whom we have worked closely over the last two years in the fight to protect students' rights. The report highlights the ongoing disparities faced by Native American students in California's public school system and the critical importance of their right to cultural expression.

To underscore the ongoing challenges Native American students can face throughout California, just last Thursday, September 12th the ACLU and California Indian Legal Services (CILS) filed an administrative complaint with the California Department of Justice against the Clovis Unified School District (CUSD) on behalf of two different high school students, their families and a statewide nonprofit organization. The complaint is based on continuing violations of state and federal law that protect the rights of Native American students to wear tribal regalia at high school commencement ceremonies. The complainants seek a California Department of Justice investigation of the CUSD and equitable relief requiring CUSD compliance with the laws that protect Native American student rights.

California Indian tribes have endured a unique set of historical challenges, from unratified treaties and the California mission system to Indian boarding schools and violent dispossession from their lands. These injustices, perpetuated by government-sanctioned policies, have left a lasting impact on generations of Native Americans, including our youth today.

This report brings to light the ongoing struggles of Native American students, who continue to face discriminatory treatment and disparate outcomes in California's education system. As recent data reveals, Native American students face higher rates of suspension and expulsion than their peers, with Native boys being disproportionately affected. These troubling trends, along with lower graduation rates and higher absenteeism, reflect deep-rooted systemic inequities.

Yet, even in the face of these challenges, Native American students demonstrate remarkable resilience. As they reach their high school graduations, it is vital that they be allowed to celebrate their achievements while honoring their tribal heritage. The right to wear tribal regalia and culturally significant adornments at graduation is not only a matter of cultural identity and pride but is enshrined in the United States and California Constitutions. Despite this, our research shows that many local educational agencies (LEAs) across the State continue to impose arbitrary restrictions that violate students' rights.

This report outlines several key recommendations to address these ongoing disparities and ensure that Native American students are treated with respect and dignity. From legislative clarification to increased oversight of LEA policies, we call for immediate action to align school practices with the legal protections guaranteed to our students. Only through clear, inclusive, and standardized policies



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can we begin to reverse the historical legacy of exclusion that still impacts Native American students today.

Thank you for your attention to this important issue. Together with the ACLU, we look forward to continuing our work to ensure that the rights of Native American students are upheld and that they can fully celebrate their cultural identity during one of life's most significant milestones—graduation.

Sincerely,

Heather Hostler
Executive Director
California Indian Legal Services

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Introduction

Graduation ceremonies are joyous occasions. High school graduations, in particular, are regarded as rites of passage for students completing their secondary education. For some students, high school graduations are particularly important and momentous occasions because of the hardships they, or their families or communities, experience in the K-12 education system.

Now, imagine that a student's high school celebration is dampened because of school rules that limit a student's ability to celebrate their graduation in ways that are important to their family or community. Imagine your community gifts you a significant item to wear at your graduation, like an eagle feather or a lei, and your school administrators or the staff working at the graduation ceremony tell you that you can't celebrate in that way. It is heartbreaking. If you're having trouble imagining it, here is a [video¹](#) of a family advocating for their student's right to wear culturally significant adornments at her 2024 graduation ceremony in San Diego County and the school staff adamantly refusing to honor the student's right. Truly, it is heartbreaking and infuriating to watch.

California schools serve diverse student groups, including Indigenous students.² Throughout the world and, particularly, in what is now the United States, Indigenous peoples have suffered irreparable harms, including various forms of genocide. Indeed, cultural genocide persists today when governments, like school districts, ignore and violate Indigenous peoples' rights to practice their traditions,

¹ A video of a family advocating for their Native Hawaiian student's right to wear a lei at her 2024 graduation ceremony in San Diego County highlights the heartbreak and anguish accompanying the school district's violation of her rights. @Kainoa.b, TikTok (June 8, 2024), <https://www.tiktok.com/@kainoa.b/video/7378262312290880810?lang=en>.

² In this report, we refer to the term "Indigenous students" to mean students who are identified in school, or may self-identify, as Native American, American Indian, or Indigenous and whose ancestry is indigenous or native to California, across the United States, and from other parts of the world.

beliefs, and customs. This harm is long-standing and must end as these harms continue to persist in the current day. This sentiment remains true for many schools across California.

The U.S. and California Constitutions have long protected a students' ability to express themselves in school. With respect to graduation ceremonies, K-12 schools often have rules around how students can dress at graduation ceremonies. But students do not fully lose their ability to express themselves as they wish. Students' constitutional rights, as well as anti-discrimination laws, require that students be able to express themselves in ways that are culturally relevant and significant. This means that, at graduation or other times, students have the right to wear tribal regalia or cultural or religious adornments in K-12 schools in California. Schools must not infringe on this right. However, many do.

To prevent this harm from reoccurring and to protect students' rights, in 2023 and 2024, California Indian Legal Services, ACLU Foundation of Northern California, and the ACLU Foundation of Southern California partnered to create a toolkit³ and webinar⁴ on students' rights to wear tribal regalia at graduation for families and education equity advocates. We also continued to address intakes from Indigenous families, immigrant families, and families of color about potential violations by their schools with respect to graduation dress codes. After advocacy by families,

³ ACLU Foundation of Northern California, ACLU Foundation of Southern California & California Indian Legal Services, *Tribal Regalia Advocacy Toolkit: Students' Rights to Tribal Regalia and Cultural*

and Religious Items at California Graduations, (May 2024),

<https://drive.google.com/file/d/1DDQT88fNoDirrJ0uanXqbHCz2VstjG0/view>.

⁴ ACLU Foundation of Northern California, ACLU Foundation of Southern California & California Indian Legal Services, *Students' Rights to Tribal Regalia at Commencement*, Zoom (2023),

https://us06web.zoom.us/rec/play/i5xYzDrcLyhu8IxeTW6Xeiyob7f5y7CKKdgOnPzAqAuzGRiXHZt3Fog8ZBMKmNwH57bHBV4WeFsZKsWG.8vEbG2lPKOauPDQE?canPlayFromShare=true&from=my_recording&continueMode=true&componentName=rec-play&originRequestUrl=https%3A%2F%2Fus06web.zoom.us%2Frec%2Fshare%2Fk8s_qahAwRaR8TA1KHDsUGEcUssmI7l67RvxhXgk0dStz1jGu-l3yJ4R48wxqP4l.XKpqA2tN8_RIx6tv.

advocates, or our organizations, most students were able to wear the tribal or culturally- or religiously- significant items they wished, sometimes by enduring offensive conversations and processes with school staff or counsel. In a rare instance, school staff welcomed the advocacy and committed to reforming their policies and practices. In many other instances, school administrators remained authoritative in their position that students were not entitled to deviate from the school-selected cap and gown. It became clear that despite federal and California law, including a specific law in California affirming students' right to wear tribal regalia and other religious or cultural items at graduations, some school administrators remained steadfast in their opposition to students exercising their rights.

In response to a trend of disrespect and legal violations by schools over multiple school years, our legal organizations investigated publicly available policies and information related to high school graduation dress codes across fifty (50) school districts and county offices of education ("local educational agencies") in California. We subsequently sent Public Records Act requests to twenty (20) local educational agencies. This policy report summarizes our investigation's findings. To contextualize our findings, this report begins with an explanation of how California and federal laws have historically treated Indigenous students, followed by a brief overview of the laws that govern students' rights in California to wear tribal regalia or other religious or culturally significant items at graduation ceremonies. The report concludes with our recommendations based on our policy research and legal advocacy over the years, especially during the 2023 and 2024 graduation seasons.

To my knowledge, this is the first report of its kind analyzing the policies that lead to violations of students' rights to wear tribal regalia or cultural or religious adornments at California commencement ceremonies. Based on a review of research that discusses tribal regalia at school graduations, we did not find a report that summarizes the problems students face in California schools to wear tribal, religious, or cultural items at graduation ceremonies.

Historical Treatment of Indigenous Students Under California and Federal Law

For Indigenous students, particularly from what is now the United States, high school graduations are momentous occasions that signify not only academic achievement but also proof of community resilience after centuries of U.S. government oppression.

In examining the historical context of California Indian tribes, it is crucial to acknowledge the state's long history of policies that directly targeted tribes for dispossession and cultural eradication. These legislative findings and declarations on this issue illustrate the profound and ongoing impact of such actions:

(c) California Indian tribes have suffered a unique set of circumstances, including, but not limited to, unratified treaties, termination, Indian indenture laws, the California mission system, boarding schools, and other violent and destructive policies and systems on a larger scale than anywhere else in the United States.

(d) These systems and government-sanctioned extinction policies and actions dispossessing California Indian tribes from their lands validated, permeated, and sustained a culture of historical mistreatment of California Indian tribes that existed brutally from around the 16th century through the early 20th century, with the aftermath of these policies and mistreatment still visible and tangible today.⁵

In the education context, we find a pattern of mistreatment. If you review California education law starting in the mid-1800s, you'll find a history of exclusion, oppression, and cultural genocide in the public education offered by the state of California or the federal government to Indigenous students.

⁵ Assemb. B. 275, 2019-2020 Leg., Reg. Sess. (Cal. 2019).

For example, in 1855, California created a funding formula for public schools that solely benefited white students⁶ and, later in 1860, the state refused to fund public schools that enrolled Indigenous and other students.⁷ The state later permitted California schools to be “separate but equal” based on race, meaning that Indigenous students could be segregated from attending schools with their white peers.⁸

In 1921, the California Legislature mandated that Native American students who were eligible to attend “Indian” schools were not eligible to attend California public schools, creating a legalized path to compel Indigenous students to attend separate

⁶ Joyce Kuo, *Excluded, Segregated and Forgotten: A Historical View of the Discrimination of Chinese Americans in Public Schools*, 5 Asian Am. L. J. 181, 190 n. 54 (1998) (explaining that, “Section 18 of the 1855 school law stated that the Marshals... shall... annually, take a specific census of all the white children within their respective precincts...and make full report...to the County Superintendent of Common Schools, and...to the Trustees in their respective school districts”) (*internal citations omitted*).

⁷ Kuo, *supra*, at 212 n.56 (explaining that, “[t]he California School Law of 1860 stated that: ‘Negroes, Mongolians and Indians shall not be admitted into the public schools; and whenever satisfactory evidence is furnished to the Superintendent of Public Instruction to show that said prohibited parties are attending such schools, he may withhold from the district in which such schools are situated, all share of the State School Funds...the trustees of any district may establish a separate school for the education of Negroes, Mongolians and Indians, and use the public school funds for the support of the same.’”)

⁸ *Ward v. Flood*, 48 Cal. 36, 37–38 (1874) (“The School Law of California, passed April 4, 1870, (Laws 1869-70, p. 838,) contains the following provisions:

Section 53. Every school, unless otherwise provided by special law, shall be open for the admission of all white children between five and twenty-one years of age residing in that school district, and the Board of Trustees or Board of Education shall have power to admit adults and children not residing in the district, whenever good reasons exist for such exceptions.

Sec. 56. The education of children of African descent, and Indian children, shall be provided for in separate schools. Upon the written application of at least ten such children to any Board of Trustees, or Board of Education, a separate school shall be established for the education of such children; and the education of a less number may be provided for by the Trustees, in separate schools, or in any other manner.”)

schools to receive a public education.⁹ A few years later, the constitutionality of California laws that segregated Native students into separate schools was successfully challenged, which began to chip away at segregationist policies and practices.¹⁰

Even though discrimination is now legally outlawed, this legacy of cultural genocide and discrimination against Native American students in the public school system continues to this day.

While we may not see it reflected in overtly racist laws, like the ones that existed in the 1800s and early 1900s, the public school system operates in insidious ways to harm Indigenous students, and we continue to see negative educational outcomes for Native children. In fact, a recent report, *From Boarding Schools to Suspension Boards: Suspensions and Expulsions of Native American Students in California Public Schools*, found that:

- The statewide suspension rate for Native American students (7.2%) is **higher** than the statewide suspension rate (3.5%), and even higher for Native boys (9.6%).¹¹

⁹ *Piper v. Big Pine Sch. Dist. of Inyo Cnty.*, 193 Cal. 664, 667 (1924) (providing the text of California Political Code Section 1662 (Stats. 1921, p. 1160), which, in part, read, “Third [subdivision]. The governing body of the school district shall have power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Chinese, Japanese or Mongolian parentage. When such separate schools are established, Indian children or children of Chinese, Japanese, or Mongolian parentage must not be admitted into any other school. ‘It is further provided, that in school districts in California where the United States government has established an Indian school, or in an area not to exceed three miles from the said Indian school, the Indian children of the district, or districts, eligible for attendance upon such Indian school, may not be admitted to the district school.’”).

¹⁰ *Id.* at 674.

¹¹ Sacramento Native American Higher Education Collaborative, et al., *From Boarding Schools to Suspension Boards: Suspensions and Expulsions of Native American Students in California Public Schools*, 1 (2019), <https://sfsuais.sfsu.edu/sites/default/files/documents/Suspension-Boards-Final.pdf>.

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- “Native American boys are expelled at a rate that is 4.2 times higher than the state average, representing the highest expulsion rate for any racial/ethnic or gender group. The rate has also been steadily rising over the past four years.”¹²

Publicly available data from the California Department of Education confirms that Native American students¹³ continue to suffer disparate educational outcomes. In 2023:

- 36.1% of Native American students were chronically absent from school.¹⁴
- Native American students were in the “low” performance category in English Language Arts.¹⁵
- While 43.9% of California’s students graduated college and career ready, only 26.5% of Native American students graduated prepared for college or careers.¹⁶
- Suspensions of Native American students increased over the past year, with 7.4% Native American students suspended at least one day, higher than the statewide average (3.5%).¹⁷

¹² *Id.*

¹³ The California Dashboard uses “American Indian” to describe Native American students. For purposes of this policy report, we are using “Native American” instead of “American Indian.”

¹⁴ Cal. Sch. Dashboard, *Academic Performance: 2023 Chronic Absenteeism Report*, Cal. Dep’t of Educ., <https://www.caschooldashboard.org/reports/ca/2023/academic-engagement#chronic-absenteeism> (last visited Sept. 16, 2024).

¹⁵ Cal. Sch. Dashboard, *Academic Performance: 2023 English Language Arts Report*, Cal. Dep’t of Educ., <https://www.caschooldashboard.org/reports/ca/2023/academic-performance#english-language-arts> (last visited on Sept. 16, 2024).

¹⁶ Cal. Sch. Dashboard, *Academic Performance: 2023 College/Career Report*, Cal Dep’t of Educ., <https://www.caschooldashboard.org/reports/ca/2023/academic-performance#college-career> (last visited Sept. 16, 2024).

¹⁷ Cal. Sch. Dashboard, *Academic Performance: 2023 Suspension Rate Report*, Cal. Dep’t of Educ., <https://www.caschooldashboard.org/reports/ca/2023/conditions-and-climate#suspension-rate> (last visited Sept. 16, 2024).

The historical legacy of exclusion in California’s public schools and genocide of Indigenous peoples by the U.S. government make Indigenous student achievement all the more special and celebratory. When Indigenous students reach their high school graduations, they should be able to do so while wearing the tribal, religious, or cultural items that are significant to them and their communities without local educational agencies interfering.

Constitutional and Statutory Laws Protect Students’ Rights to Wear Tribal Regalia and Cultural or Religious Adornments at Graduation Ceremonies

Given this legacy of government oppression, it is important to protect the rights of Indigenous peoples to self-determination, sovereignty, and cultural preservation in California’s public schools. With respect to students’ rights to wear tribal regalia or culturally or religiously significant adornments at graduation, these rights are enshrined in the U.S. and California Constitutions, as well as in the California Education Code.

Under both state and federal laws, California public school students have the right to express themselves in schools.¹⁸ There are a few permissible limitations; for example, schools may limit speech that is vulgar, lewd, or obscene or is plainly offensive,¹⁹ or speech that creates a “substantial disruption of or material interference with school activities.”²⁰ One would be hard pressed to identify how tribal, religious, or cultural items would constitute a vulgarity, obscenity, offense, or a “substantial disruption of or material interference” during a graduation ceremony.

¹⁸ See U.S. Const. amend. I; Cal. Const. art. I, § 2(a), 4; Cal. Educ. Code §§ 48907, 48950.

¹⁹ *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 685–86 (1986).

²⁰ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 514 (1969).

To curb persistent issues with schools violating students’ rights at graduations, California Assemblymember Todd Gloria worked with California Indian Legal Services and California tribes to pass Assembly Bill 1248 (2017-18 Session), which added section 35183.1 to the California Education Code. This bill declared students’ established rights under the U.S. and California Constitutions and California Education Code to wear tribal regalia or recognized objects of religious or cultural significance at graduation. Education Code section 35183.1 states that,

“[a] pupil may wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.”

For purposes of this law, the statute further defines the terms “adornment” to mean “something attached to, or worn with, but not replacing, the cap and gown customarily worn at school graduation ceremonies” and “cultural” to mean “recognized practices and traditions of a certain group of people.”²¹ Pursuant to this law, the only limitation to this right is that a local educational agency, defined as “a school district, county office of education, or charter school,” may only “prohibit an item that is likely to cause a substantial disruption of, or material interference with, the ceremony.”²²

Despite clear constitutional and statutory protections for students, we continue to see violations of students’ rights to wear tribal regalia or cultural or religious adornments at California commencement ceremonies.

²¹ Cal. Educ. Code § 35183.1.

²² *Id.*

Student and Family Stories Reveal Continued Harms at California High School Graduation Ceremonies

Despite protections for students' rights in the U.S. and California Constitutions and the California Education Code, in particular Education Code section 35183.1, schools repeatedly violate students' rights to wear tribal, religious, or cultural items at graduation. Policies that encapsulate this erroneous misconception need to be removed from our public education system, as they continue a legacy of historically oppressing students from Indigenous communities, communities of color, immigrant communities, and religious backgrounds.

For the past several years, except for the years in which schools did not host in-person graduation ceremonies,²³ non-profit legal aid organizations received intakes related to graduation ceremonies. In particular, California Indian Legal Services, ACLU of Northern California, and ACLU of Southern California received intakes from families reporting that their school will not allow their student to wear items at graduation that hold tribal, religious, or cultural significance for students or their families. Here are a few examples:

- In 2015, California Indian Legal Services supported a student advocate for the right to wear a beaded cap and an eagle feather at graduation.
- In 2015, California Indian Legal Services, ACLU of Northern California, and the Native American Rights Fund successfully fought alongside a student graduating from Clovis Unified School District, who tried to prevent the student from wearing an eagle feather in his graduation cap.

²³ Due to the COVID-19 pandemic, most California schools did not host in-person graduation ceremonies in 2020 and 2021. *Some* schools began in-person graduation ceremonies in 2022 and, by 2023, it seems that most schools returned to in-person graduation ceremonies.

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- In 2023, a school’s graduation policy prohibited students from wearing leis at graduation, urging students to keep the ceremony “classy.” The ACLU of Southern California supported a Native Hawaiian family to successfully advocate for their right to wear the lei at graduation, challenging the offensive tone of the policy.
 - In 2023, California Indian Legal Services, ACLU of Northern California, and the ACLU of Southern California [successfully fought alongside a family](#) whose student was graduating from the Elk Grove Unified School District, after the school denied the student the right to wear his regalia at graduation, citing first that the family missed the deadline to request pre-approval to wear items in addition to the cap and gown at graduation, then attempting to limit the student’s regalia to only one item, and subsequently requiring the eagle feather to be no longer than the tassel. Notably, this was not Elk Grove USD’s first violation: they are identified in the legislative record for Assembly Bill 1248 (Gloria) as an offender of students’ rights. The record reads, “[i]n 2016, at Consumnes Oaks High School in Elk Grove, an African American student wore a kente cloth, a fabric worn during important occasions in African culture, at his graduation. He said that he wanted to feel closer to his ancestors. As a result, the student was escorted off the graduation stage by police officers before he received his diploma. This student’s decision to wear a cultural adornment unjustly precluded him from celebrating his academic accomplishment.”²⁴
 - In 2024, the ACLU of Northern California received an intake from a family at Clovis Unified School District (“Clovis USD”) whose son was denied the right

²⁴ *Pupils wearing of traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies: Hearing on Cal. Assemb. B. 1248 Before the S. Judiciary Comm., 2017-2018 Reg. Sess. (2019).*

to wear his regalia at his graduation ceremony. Despite telling the graduation aide that it was his right to wear regalia, school staff denied the student’s right to wear his regalia. Staff cited that the student had not filled out a “pre-approval form” as the primary reason he could not wear his regalia, regardless of the law. This situation is extremely troubling for many reasons, one of which is the fact that Clovis USD very publicly tried to deny another student’s right to wear her regalia only a week prior.²⁵ As a result of these violations, the students’ families have filed a complaint against Clovis USD with the California Attorney General’s Office.²⁶

Methodology: Review of Publicly Available Information

To understand whether and how school districts regulate regalia or adornments at graduation ceremonies in California, we conducted an extensive review of publicly available information from a selection of 50 local educational agencies (LEAs). This included school districts and county offices of education across California in both rural and urban areas.

We identified thirty-seven (37) LEAs with a history of issues related to regalia or adornments at commencement ceremonies or related concerns. Then, we selected an additional thirteen (13) LEAs guided by the findings of the report “[From Boarding Schools to Suspension Boards: Suspensions and Expulsions of Native American Students in California Public Schools](#)” to identify schools with a high level

²⁵ Brianna Willis, *Clovis Unified Student Denied Request to Wear Tribal Regalia at Graduation*, ABC30 Action News (May 30, 2024), <https://abc30.com/post/clovis-unified-student-denied-request-wear-tribal-regalia/14888894/>.

²⁶ Complaint Letter from ACLU Foundation of Northern California, ACLU Foundation of Southern California & California Indian Legal Services on behalf of Complainants Roman Rain Tree, Rieka Rain Tree, Ray Rocha & Indigenous Justice to Cal. Att’y Gen., (Sept. 12, 2024), https://www.aclunc.org/sites/default/files/2024.09.12_FINAL_ACLU_CILS_Complaint_to_AG_Bonta_Redacted.pdf.

of discrimination towards Native American children.²⁷ This final list comprised 36 urban and 14 rural LEAs. Appendix A provides the list of 50 LEAs we investigated.

We conducted our investigation in two distinct phases.

LEA-Wide Data Collection

We first located and reviewed the board policies and administrative regulations pertaining to graduation from each district, searching for specific references to graduation dress codes and the allowance of tribal regalia.

At the time of our search, only one LEA, Cotati-Rohnert Park Unified School District, had no board policy or administrative regulation regarding graduation. Thirty-eight LEAs did not have any Administrative Regulation governing graduation dress codes.

In cases where there was a contradiction between board policies and administrative regulations, we coded for the more inclusive policy. For example, if the board policy did not mention tribal regalia at all, and the administrative regulation mentioned that students had a right to wear regalia with a pre-approval process, the LEA was coded as publicizing the student's rights as well as having a pre-approval process.

High School-Level Data Collection

In the second phase of our investigation, we identified all high schools within each LEA by using the LEA websites. The number of high schools in each LEA ranged between 1 to 15. We searched for student/parent handbooks. We used specific search terms such as “graduation,” “gown,” and “adornments” to locate relevant sections within the handbooks. In cases where the handbooks were not searchable, we manually reviewed them for pertinent information.

²⁷ Sacramento Native American Higher Education Collaborative, *supra* note 11.

Criteria for Analysis

After collecting the board policies, administrative regulations, and student/parent Handbooks, we developed a list of relevant criteria to examine the contents of the policies. We decided to code for:

- LEAs without a graduation dress code policy;
- a policy that only allows eagle feathers;
- a policy that allows adornments but does not include a reference to tribal regalia;
- if the text of the policy specifically allows tribal regalia;
- if the policy only lists California Education Code section 35183.1 in the code reference section but otherwise does not elaborate on students' rights to wear tribal, religious, or cultural adornments at graduation in the text of the policy;
- if the policy requires a pre-approval process, where the student/family must request permission from school staff prior to wear tribal regalia, or cultural or religious adornments at commencement;
- if the policy improperly limits how students could wear their regalia;
- if the policy explicitly allows military uniforms but is not explicit about allowing tribal regalia; and,
- if the policy has a pre-approval process for tribal regalia but not military regalia.

We separately coded these categories for board policies and administrative regulations, and student/parent handbooks.

Research Findings Based on District and High School Data Collections

Our investigation revealed a troubling trend of non-compliance with federal and state constitutional law and with the California Education Code. Specifically, we found that many LEAs' policies, administrative regulations, and handbooks violate students' rights under California Education Code section 35183.1. As explained above, this law clarifies that school administrators may only limit a student's right to wear tribal regalia or items of cultural or religious significance at graduation if the adornments or regalia risk causing a substantial disruption of, or material interference with, the graduation ceremony.

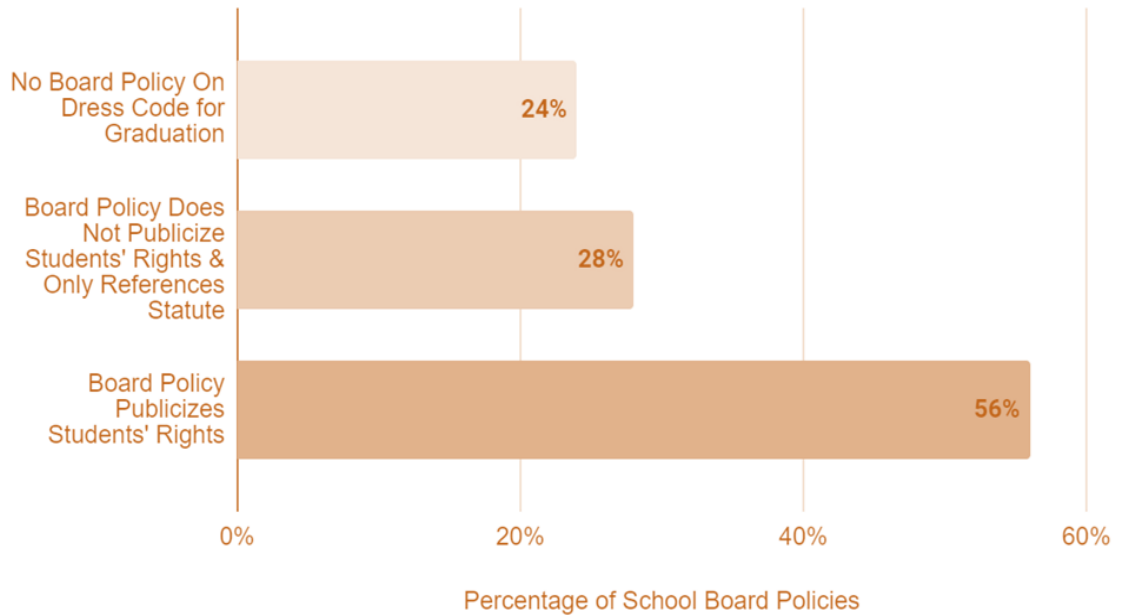
Our findings underscore a systemic issue where students' rights are frequently undermined or violated by local educational agencies. Despite clear constitutional and statutory protections for students, schools continue to enforce policies that restrict the tribal, cultural, or religious expression of students at commencement ceremonies. This perpetuates the historical oppression and discrimination faced by Indigenous communities in particular, as well as immigrant communities and other communities of color.

Here are the key findings from our investigation of LEA board policies, administrative regulations, and student/parent handbooks:

Inconsistent Graduation Dress Policies Across LEAs: Notably, 24% of LEAs do not have a policy governing graduation dress. While the majority of LEAs (56%) contain *some* information about students' rights to wear tribal regalia at graduation, 28% of LEAs do not publicize this right at all. Instead, these LEAs list Education Code section 35183.1 in the "legal references" section accompanied by a

disclaimer that the reference to the statute is “not intended to be part of the policy itself.”²⁸

School District Policies on Graduation Dress Code



Burdensome, Unclear, Confusing, or Impractical Pre-Approval Processes:

More than half of the LEAs (56%) require students to undergo a pre-approval process to wear tribal regalia or cultural or religious adornments at graduation, adding unnecessary barriers and often leading to students and families feeling too discouraged to seek approval to enjoy their rights.

²⁸ See, e.g., Dinuba Unified School District Policy 5127: Graduation Ceremonies and Activities, (July 16, 1998), <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030760&revid=jnJBSFaQKzWpsqYmG4eMug==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=9slshUHzTHxaaYmVf6zKpJz3Q==&PG=6&IRP=0&isPndg=false>.

Pre-approval processes further diminish students' rights to wear regalia at graduation by requiring that students request approval ahead of graduation, ranging from 5 to 14 days before graduation.

We also found that districts and schools provide confusing or no information on pre-approval processes for graduation adornments. In particular, where student/parent handbooks typically provide detailed information about the policies and requirements to students, only six LEAs provide any information in student/parent handbooks about the pre-approval process for regalia. Of those six LEAs, only two of the LEAs also mention a pre-approval process in their board policies and administrative regulations. The other four have no specific graduation dress code in their board policies, although three of the LEAs mention California Education Code section 35183.1 in the "Legal References" section of their board policy.

Only one school had a publicly available link to the form required to approve cap decorations on their school website.

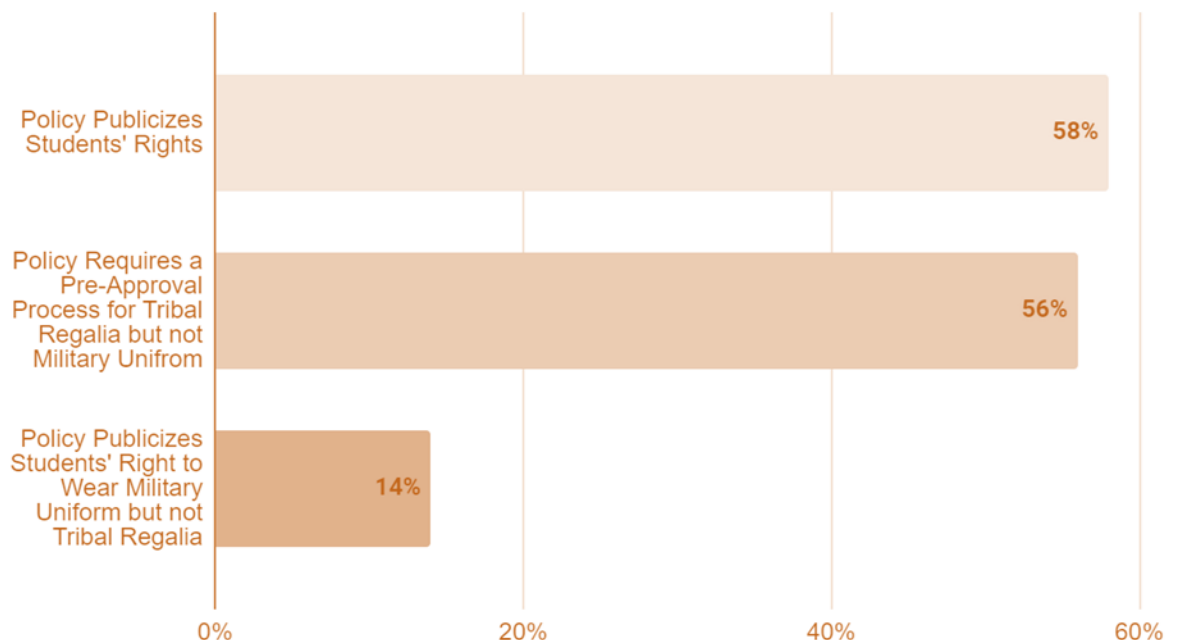
The rest of the student handbooks that reference a pre-approval process provide little to no context on the required paperwork for approval, the timeline for approval, or the guidelines for approval or rejection of the adornments. One LEA includes the "disruption of, or interference with the graduation ceremony" legal standard as well as the timeline for pre-approval. One school mentions that the Deputy Principal will notify students of approval and the timeline for pre-approval. One LEA provides information about the process for pre-approval, including the process if their adornment is rejected.

The pre-approval policies are often impractical and culturally insensitive. Even worse, the implementation of the policies is, at times, culturally *offensive*. In one instance, the school requires students to present leis or items of cultural/religious significance at the graduation rehearsal. Depending on when the rehearsal takes place, this may not be practical. For example, leis are fresh flowers and may not be

presented days before the ceremony. Also, some items of religious/cultural significance are gifted by a community member or family member shortly before the graduation ceremony, making it impractical for students to present their items ahead of the ceremony.

LEAs privilege military dress²⁹ over tribal regalia and cultural or religious adornments: Twenty-eight (28) LEAs allow students to wear tribal regalia subject to a pre-approval process; yet, nearly all of these LEAs allow students to wear military uniform with *no* pre-approval process. Seven (7) LEAs provide that students may wear military uniform but do not indicate that students may wear tribal regalia at graduation.

Comparing Approach to Military Uniform and Tribal Regalia

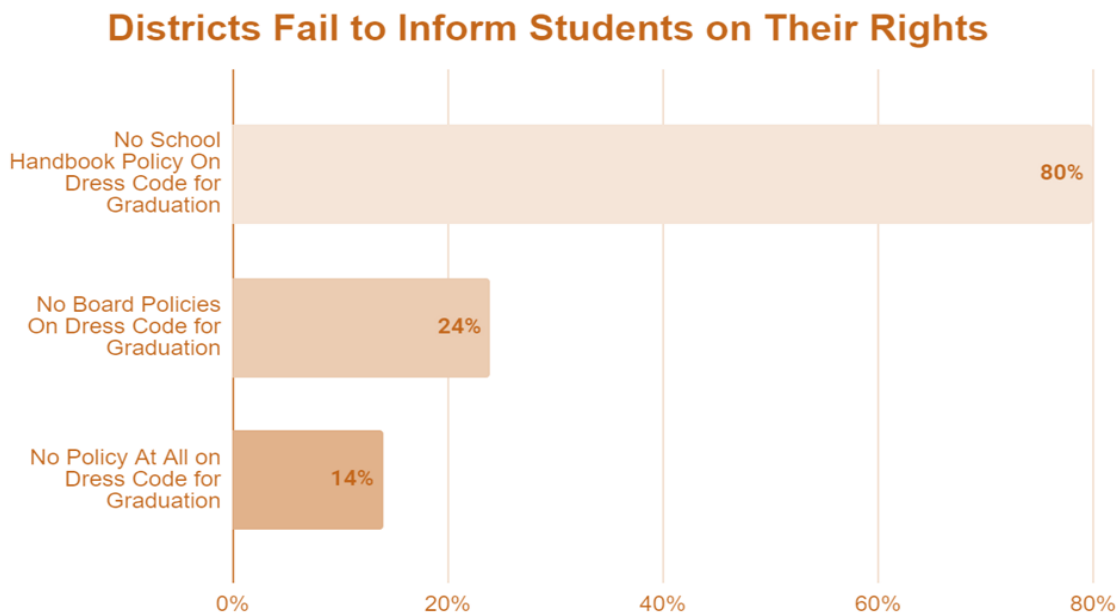


²⁹ For reference, California Education Code section 35183.3 provides that students, at their election, may wear military dress to graduation if they have completed basic training and are otherwise eligible to participate in the graduation ceremony.

Improper Limitations on Tribal Regalia or Religious and Cultural Adornments:

One LEA limits adornments to only an eagle feather and requires students to request pre-approval for other items.³⁰ Two other LEAs had other impermissible limitations on regalia and adornments in their policies but one LEA has since changed their policy and the other is in process of changing their policy; still, these former or changing policies indicated that students could only wear one item of regalia or adornment, or allowed students to wear adornments *under* their cap and gown.

Contradictory and Confusing Guidelines: There were significant inconsistencies between district policies and individual high school handbooks, with many handbooks either not aligning with district policies or providing no information about graduation dress codes.



³⁰ Bishop Unified School District Board Policy 5127: Graduation Ceremonies and Activities, (Jan. 1, 2023), <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030543&revid=hsplusboWlggWvwCFWacRL4tQ==&ptid=amIgtZiB9plushNjl6WXhfiOQ==&secid=9slshUHzTHxaaYmVf6zKpJz3Q==&PG=6&IRP=0&isPndg=false>.

We found instances in which the student/parent handbooks of schools within the same LEA contradict each other, as well as the LEA policy. Thirty-three percent (33%) of LEAs with *handbooks* improperly limit how students can wear tribal regalia compared to 8% of LEAs with *graduation dress code policies* that improperly limit how students can wear regalia. Three LEAs with both a board policy and a handbook policy on graduation dress provided inconsistent guidance between the two policies. One LEA, Capistrano Unified School District, has 8 high schools, of which 6 provide school-site specific graduation policies. These policies differ substantially:

- Three schools do not allow any alterations of caps and gowns;
- Three schools allow “items of cultural/religious significance” with pre-approval;
- Three schools make no reference to allowing any cultural, tribal, or religious adornments;
- One school specifically allows leis;
- One school specifically forbids leis; and
- Four schools allow academic cords, stoles, and models.

This confusion may be due in part to the lack of district-level guidance, although the board policy mentions Education Code section 35183.1 in the “Legal References” section. Nonetheless, there is no guidance for school site staff or families in the actual text of the board policy. For more information on these school policies, *see* Appendix C.

Urban vs. Rural Disparities: Our analysis showed that urban districts were slightly more likely to have policies in place that referenced tribal regalia, but these policies were often more restrictive. Rural districts, while less likely to have any policy at all, showed a greater openness to allowing tribal regalia where policies are in place.

Title VI Funded Schools: Schools that received Title VI funds, designated for the education of Native American students, had a higher likelihood of explicitly permitting tribal regalia. However, enforcement and awareness of these policies varied significantly, indicating a gap between policy and practice.

Suspension Rates and Policy Strictness: Districts with higher suspension rates for Native American students tended to have stricter graduation attire policies. This correlation suggests that districts with more punitive approaches to discipline might also be less accommodating of cultural or religious expressions.

Deeper Investigations Into Select Local Educational Agencies Corroborate Disturbing Trends

Legal intakes our three legal organizations received and our analysis of local educational agency (LEA) policies indicate that school districts engage in illegal conduct during graduation season. To investigate further, we submitted a Public Records Act request to twenty (20) local educational agencies for records about district policies, communications to families, pre-approval requests, responses to those requests, creation and dissemination of pre-approval policies, and communications regarding the 2023-2024 graduation dress code policy. (*See Appendix B for a list of these LEAs.*)

Our analysis found that, of the 20 LEAs:

- Half (50%) of LEAs did *not* communicate with families regarding graduation policies and practices on regalia or cultural or religious adornments at graduation.
- Only 30% of LEAs shared the dress code policy with students more than two weeks before graduation.
- Most LEAs (65%) included a pre-approval policy for tribal regalia and other cultural or religious adornments in their graduation dress code policies.

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- Only 35% of LEAs *recorded* at least one pre-approval request from students to alter the graduation dress code between August 2018 and fall of 2023.
 - One school district reported contradictory responses to similar requests.

Policy Recommendations

California’s public schools have an obligation to follow constitutional and statutory laws including (1) students’ rights under the First Amendment to the U.S. Constitution, (2) anti-discrimination laws based on actual or perceived race, ethnicity, national origin, or religion. In reviewing LEA policies, conducting public education on this issue, and reviewing legal intakes, we find such violations to be rampant throughout the state.

Our research indicates that current practices and policies across California school districts do not consistently respect students’ rights to wear tribal regalia or cultural and religious adornments. Our review of LEA policies and student handbooks indicates a pressing need for standardized, clear, and inclusive guidelines that respect and uphold students’ rights to wear tribal regalia and culturally significant adornments without arbitrary restrictions. The prevalence of pre-approval requirements and the lack of transparency in policies suggest that many schools are not fully aligned with the spirit or letter of the law.

To remedy these violations and ensure that all students can celebrate their achievements without compromising their cultural or religious expressions, we propose a series of policy recommendations. These recommendations aim to standardize and clarify the rights of students, promote awareness, and ensure fair implementation of the law across all local educational agencies. By adopting these policies, schools can foster a more inclusive and respectful learning environment, reflecting the diversity and richness of their student bodies.

Here are our key policy recommendations:

1. Legislative Clarification

Students' rights to wear tribal regalia or cultural or religious adornments at graduation is enshrined in their First Amendment rights; yet, schools continue to violate students' rights. As a result of these issues persisting in California, the California Legislature added Education Code section 35183.1 to make clear that students "may wear traditional tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies" except where the item "is likely to cause a substantial disruption of, or material interference with, the ceremony."³¹ Still, California LEAs continue to violate students' rights. To avoid future violations of students' rights, the Legislature should pass legislation amending Education Code section 35183.1 to be clearer and more affirmative of students' rights. For example, the amended law can read:

"California schools must allow students to wear traditional tribal regalia or cultural or religious adornments of significance at graduation ceremonies or related school events. California schools may not require such students to wear a cap if it is incompatible with the regalia or significant object and may not require pre-approval processes to restrain this right."

2. CDE Should Monitor LEA Policies and Hold LEAs Accountable for Violations

The California Department of Education (CDE) should establish mechanisms to monitor compliance with California and federal Constitutional law and Education Code section 35183.1 and hold schools accountable for violations.

³¹ Cal. Educ. § 35183.1.

To aid LEAs to comply with the law, CDE should develop and oversee implementation of a model policy that explicitly affirms students' rights to wear tribal regalia and culturally significant items at graduation without the need for pre-approval by the school. Standardization ensures consistency and fairness in policy application across the state.

3. LEAs Should Adopt Policies That Affirm Students' Rights

Absent a model CDE policy as recommended in the above recommendation, LEAs should revise and adopt policies that affirm students' rights. Legally compliant policies will make clear that:

- Students are not required to seek pre-approval to wear tribal regalia or cultural and religious adornments. This policy reduces unnecessary bureaucratic hurdles and respects students' autonomy over their cultural or religious expressions.
- Students have the unequivocal right to *visibly* wear tribal, religious, or cultural adornments on top of the traditional cap and gown. This ensures that students can express their cultural identity without being subjected to arbitrary limitations, such as requiring hiding such items under the cap and gown.

4. Policy Alignment Between LEA and School-Site Documents

School districts should ensure that school-specific student/parent handbooks are consistent with district policies and clearly outline students' rights regarding graduation attire. Furthermore, school site documents governing graduation ceremonies should align with district policy and the law.

5. Public Notification of LEA Policies

Schools must actively publicize students' rights to wear tribal regalia and adornments at graduation and increase awareness among students, families, and

school staff through regular communications. This includes clear communication about constitutionally permissible limitations to expression, such as prohibitions on obscene or harassing conduct. This information should be readily accessible to students and families in the Student/Parent Handbook and on the LEA's website. Furthermore, students and families should be notified of these policies throughout the school year and, at minimum, at least one month prior to the graduation ceremony.

6. Staff Training

LEAs must provide comprehensive training for all staff, volunteers, or contractors involved in graduation ceremonies to prevent unlawful interference with students' rights. Training should emphasize that staff or volunteers must not impede a student's right to participate in graduation ceremonies due to their choice to wear tribal regalia or cultural and religious adornments.

Conclusion

This report underscores the critical need for consistent and respectful recognition of students' rights to wear tribal regalia and culturally or religiously significant adornments at graduation ceremonies. Our investigation reveals a concerning pattern of policies and practices that fail to align with the legal protections established under both state and federal laws. These inconsistencies not only violate students' rights but also perpetuate a legacy of cultural oppression and exclusion.

Our analysis of broad trends across multiple LEAs highlights the urgent need for standardized policies that unequivocally affirm students' rights. The findings show that many districts either do not publicize these rights adequately or impose inappropriate limitations on them. This lack of uniformity and understanding undermines the spirit of inclusivity and respect that graduation ceremonies should embody.

The recommendations presented in this report aim to remedy these issues by providing clear, actionable steps that educational institutions can adopt. These include recognizing students' rights without the need for pre-approval, publicizing these rights and any constitutionally permissible limitations, and ensuring comprehensive training for staff to prevent unlawful interference. Furthermore, the recommendations emphasize the importance of monitoring and accountability to uphold these policies effectively.

If adopted, these adoptions will ensure that students' ability to express themselves and their cultures is respected and will help preserve their traditional practices.

Appendix A

We selected the following 50 local educational agencies for a sample of district policies regarding tribal regalia at graduation:

District Name	County
Alameda Unified School District	Alameda
Chico Unified School District	Butte
Oroville Union High School District	Butte
Calaveras Unified School District	Calaveras
El Dorado Union High School District	El Dorado
Lake Tahoe Unified School District	El Dorado
Clovis Unified School District	Fresno
Fresno Unified School District	Fresno
Sierra Unified School District	Fresno
San Pasqual Valley Unified School District	Imperial
Bishop Unified School District	Inyo
Lemoore Union High School District	Kings
Kelseyville Unified School District	Lake
Konocti Unified School District	Lake
Lake County Office of Education	Lake
Lassen Union High School District	Lassen
Chawanakee Unified School District	Madera
Chowchilla Union High School District	Madera
Yosemite Unified School District	Madera
Modoc Joint Unified School District	Modoc
Eastern Sierra Unified School District	Mono
Carmel Unified School District	Monterey
Capistrano Unified School District	Orange
Orange Unified School District	Orange
Palm Springs Unified School District	Riverside

District Name	County
Elk Grove Unified	Sacramento
San Juan Unified School District	Sacramento
San Bernardino City Unified School District	San Bernardino
San Diego Unified School District	San Diego
Escondido Union High School District	San Diego
Manteca Unified School District	San Joaquin
Atascadero Unified School District	San Luis Obispo
Anderson Union High School District	Shasta
Scott Valley Unified School District	Siskiyou
Siskiyou Union High School District	Siskiyou
Travis Unified School District	Solano
Santa Rosa High School District	Sonoma
Cotati-Rohnert Park Unified School District	Sonoma
Trinity Alps Unified School District	Trinity
Alpaugh Unified School District	Tulare
Cutler-Orosi Unified School District	Tulare
Dinuba Unified School District	Tulare
Exeter Unified School District	Tulare
Farmersville Unified School District	Tulare
Lindsay Unified School District	Tulare
Porterville Unified School District	Tulare
Tulare Joint Union High School District	Tulare
Visalia Unified School District	Tulare
Woodlake Unified School District	Tulare
Marysville Joint Unified School District	Yuba

Appendix B

We submitted Public Records Act (PRA) requests to the following local educational agencies to obtain documents related to their graduation dress policies:

Local Educational Agency	County
Alameda Unified School District	Alameda
Anderson Union High School District	Shasta
Bishop Unified School District	Inyo
Calaveras Unified School District	Calaveras
Capistrano Unified School District	Orange
Carmel Unified School District	Monterey
Chawanakee Unified School District	Madera
Chico Unified School District	Butte
Clovis Unified School District	Fresno
Eastern Sierra Unified School District	Mono
Elk Grove Unified	Sacramento
Folsom-Cordova Unified School District	Sacramento
Fresno Unified School District	Fresno
Konocti Unified School District	Lake
Manteca Unified School District	San Joaquin
Modoc Joint Unified School District	Modoc
San Pasqual Valley Unified School District	Imperial
Santa Rosa High School District	Sonoma
Scott Valley Unified School District	Siskiyou
Visalia Unified School District	Tulare

Appendix C

Below are examples of inconsistent policies across schools in the same school district, using Capistrano Unified School District as a case study:

Case Study: Capistrano Unified School District	
School Names	Graduation Dress Code Policy
Aliso High School	If [leis and other items of cultural/religious significance] are presented and approved at graduation rehearsal, traditional tribal regalia or recognized objects of cultural or religious significance can be worn at graduation. Any student who has not gotten pre-approval will not be allowed to wear additional items.
Capistrano Valley High School	NHS, Drama, Key Club, Capo Media, ASB & AVID stoles, and ATMS, CSF, VAPA, and Link Crew cords are the only items that may be worn during the ceremony. No other group regalia may be worn, unless culturally appropriate.
Dana Hills High School	All students are expected to wear their blue or white issued robe, cap, and school issued medals and regalia. Cap and gowns may not be altered in any way, including decorations on the caps.
San Clemente High School	Cell phones, cameras, flowers/leis, purses, water bottles and any other items are not permitted on the field during the graduation ceremony. Cap and gowns may NOT be altered in anyway, including decorations on the caps.

<p>San Juan Hills High School</p>	<p>Only school provided/approved regalia may be worn during the ceremony. This regalia is distributed during senior awards and consists of cords, stoles, and medals that are directly related to and approved by the SJHHS. Leis can be given to graduations after the ceremony and look great in pictures! Students request to wear culturally relevant regalia during the ceremony must get prior approval from ABS.</p>
<p>Tesoro High School</p>	<p>Cell phones, cameras, flowers/leis, purses, water bottles and any other items are not permitted on the field during the graduation ceremony. Cap and gowns may NOT be altered in anyway, including decorations on the caps... Leis can be worn during graduation. Only school provided/approved regalia may be worn during the ceremony. This regalia is distributed during senior awards and consists of cords, stoles, and medals that are directly related to and approved by TESORO HIGH SCHOOL.</p>