

Report card

An update from our education law experts for principals, boards and school leaders on key issues and recent legal events in your sector



School uniforms – a move to a rights-based approach?

School uniforms and the accompanying rules are a frequent subject of debate among schools and their communities in Aotearoa New Zealand.

Te Kāhui Tika Tangata (the Human Rights Commission) has this month released [guidelines](#) to help schools align their uniform and dress code policies and procedures with Te Tiriti o Waitangi and human rights principles.

The guidelines were developed after a series of hui with students and teachers from various schools across Aotearoa. While the guidelines are non-binding, it is expected that schools, at a minimum, consider them when developing or revising school uniform policies/rules.

There is no legislation that specifically addresses school uniforms and other aspects of students' physical appearance at school. However, the guidelines confirm that schools ought to consider Te Tiriti and human rights when making and implementing uniform policies and procedures.

The New Zealand courts have not yet expressly considered the application of rights-based law to school uniform policies. However, we expect the guidelines would be influential to any decision of the courts when considering such issues.

Te Tiriti o Waitangi

The guidelines focus on schools upholding and promoting Te Tiriti o Waitangi.

Accordingly, they recommend that schools consider Te Tiriti principles when developing, implementing and reviewing uniform policies, in particular:

- Māori tino rangatiratanga. Māori students have the right to self-determination over themselves and their taonga such as tā moko or pounamu. The guidelines say that taonga should be permitted to be worn visibly and either with, or instead of, traditional uniform items.
- Māori oritētanga (equality). The guidelines suggest that where Pākehā symbols of status in uniform are expected to be worn (such as a tie), Māori students should be permitted to wear Māori symbols of status instead (such as a hei-tiki).
- Ritenga (Māori freedom of religion). Hair length and styles for Māori men has traditionally been considered tapu (sacred). The guidelines say schools should consider accommodating these beliefs and values specifically in their uniform rules.

To ensure school uniform rules give effect to Te Tiriti, we recommend that schools:

- (a) review current school uniform rules to ensure they reflect local tikanga Māori and promote equitable outcomes for Māori students; and
- (b) engage with Māori students and their whānau, hapū and iwi as part of this review.

Human rights principles

The Commission has set out seven human rights-based principles that it recommends schools consider when developing school uniform policies:

1. Participation and consultation
2. Diversity
3. Non-discrimination
4. Inclusivity
5. Accessibility
6. Reasonableness
7. Proportionality

Recommendations

Applying these principles, we recommend that schools implement the following steps:

01 Engage with students and the wider school community about school uniforms:

Consultation with students, their whānau and the school community on your uniform policy will help ensure the policy and any related processes are inclusive, transparent and supported. This is likely to lead to improved compliance with the uniform policy and help build trust in the school's decisions and decision-making among students, parents and the wider community.

Schools may wish to consult with the community by holding hui on the uniform policy, or sending out a survey to the community for input and feedback.

02 Create school uniform policies that reflect and accommodate for diversity and inclusivity:

These policies should respect and provide for the needs of various impairments, races, cultures, religions, ages, genders, sexual orientations and experiences of disabilities.

Schools may wish to include specific provisions in their uniform policy to allow for items of cultural or religious significance to be worn with, or instead of, uniform items (ie. Hijab, tā moko, ie faitaga). Uniform designs should be able to accommodate various impairments and customs, and able to be worn by all students irrespective of impairment, health condition, ethnicity, sex or gender identity.

03 Ensure school uniforms and uniform policies are accessible:

School uniform policies should be easily accessible and set out clear and accessible processes for students and members of the school community to raise individual exceptions or concerns about the uniform where needed. This may involve ensuring copies are available in te reo Māori and other commonly used languages within the school community.

04 Ensure school uniform policies are reasonable and do not discriminate:

Schools should ensure that any restrictions on students' uniform options or appearances are reasonable, practical and necessary for health and safety or security reasons. We recommend schools give careful consideration to how any restrictions in their uniform policy might directly or indirectly discriminate against students, and whether there is any reasonable justification for them. If there is, schools will need to weigh those competing issues before making a decision.

05 Implement enforcement and disciplinary methods that are reasonable and proportional:

We recommend that schools ensure their procedures for enforcement and consequences for non-compliance with school uniform policies are proportional, consistent, and the least disruptive as possible on students' learning. The education of students should be first and foremost.

Schools may wish to consider adopting a restorative practice approach to resolving issues of non-compliance.

Who to contact for advice and more information



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