

April 23, 2021

VIA ELECTRONIC MAIL

Effingham Community
Schools Board of Education
2803 South Banker St.
Effingham, IL 62401

Dear Superintendent Doan and Members of the Effingham Community Schools Unit #40 Board of Education:

We write to express our strong concern that Effingham High School's policy banning headwear was enforced against a student of color for headwear that is important both culturally and for hygienic purposes. We understand that the school required Mr. Colin Marschewski to remove his durag and then suspended him because he was upset after being targeted on account of race. Enforcing section 9.20 of Effingham High School's Student Handbook, *Personal Habits and Dress Code*, against students of color who wear durags is discriminatory. The policy should be changed.

A durag is a piece of cloth, worn primarily by Black men and people of color, that protects, moisturizes, and maintains hairstyles and holds cultural meaning. A policy that bans durags as prohibited "headwear" and fails to recognize its cultural import raises serious concerns under anti-discrimination laws and creates an inequitable learning environment for students like Colin—especially when white students apparently wear various kinds of headgear without consequence. The ACLU of Illinois therefore urges Unit #40 School Board to reconsider this policy and allow students to wear durags.

I. Effingham High School's Headwear Ban has Harmed Colin Because of His Race

Colin—one of the few students of color at Effingham High School—was targeted for using headwear that is linked to his race. The durag is of cultural significance for people of color who use it to manage their natural hair. During the last Unit #40 School Board meeting, Superintendent Mark Doan said about the headwear ban, "We don't have anything that's acceptable, except cultural and religious things." Importantly, there is no explicit exception for "cultural and religious" headwear in the written policy itself.

Effingham High School staff shamed and embarrassed Colin in front of his white peers for wearing a durag. When he became upset about removing the headwear that kept his hair from drying out, cracking, and falling out, the school suspended him without warning—potentially affecting his ability to attend college or receive scholarships. When he complied with school orders and took the durag off, his hair did, in fact, dry out and crack. The school administration

also questioned the validity of a letter from Colin's doctor that attempted to educate the school about the durag's hygienic value for people of color, and chose to continue to ban all headwear.

Further, a quick review of publicly available photos of Effingham High School students gathered at school or school-sponsored events shows that white students use headwear apparently without school response. White student anecdotes about wearing baseball caps and bandanas in school without issue support this conclusion. Even if the school's policy were applied to all types of headwear equally, though, asking someone to remove a baseball hat does not have the same racial implications as asking a student of color to remove a durag protecting their hair.

In order to protect students of color, dress codes must recognize that prohibiting certain headwear or hairstyles is a proxy for racial discrimination.¹ Effingham High School's policies and practices may run afoul of the civil rights laws that prohibit discrimination against students based on race, including the Illinois Human Rights Act and Title VI of the 1964 Civil Rights Act among others.

II. A Policy Banning Durags Creates an Inequitable Learning Environment that Devalues Students of Color

By prohibiting students of color from wearing durags, Effingham High School fails to live up to its own mission "to create, educate and inspire life-long learners, effective communicators, confident leaders, and responsible citizens."² It also fails to "insure equal educational opportunities" to all students "regardless of race," as the school's Student Handbook promises.³ The policy banning durags deploys harmful stereotypes about what a valued student should physically look like and sends the message to children of color that only students who adhere to a narrow, Eurocentric aesthetic are acceptable.

The ban targeting Colin as a student of color has left him feeling isolated and fearful. It has stymied his ability to attend in-person school and dismantled his learning. The policy as applied to durags and Colin has also distracted other students from their learning process. When Colin tried to voice his concerns over the disparate treatment, he was excessively punished with suspension. The ban targeting Colin as a student of color has affected his ability to effectively communicate and feel heard. Finally, hair styling is, and has always been, a major part of looking

¹ According to New York City's Human Rights Commission, "Bans or restrictions on natural hair or hairstyles associated with Black people are often rooted in white standards of appearance and perpetuate racist stereotypes that Black hairstyles are unprofessional. Such policies exacerbate anti-Black bias in employment, at school, while playing sports, and in other areas of daily living." *Legal Enforcement Guidance on Race Discrimination on the Basis of Hair*, NYC Human Rights Commission (February 2019), <https://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf>.

² Effingham High School Student Handbook, *Effingham High School Mission Statement*, p. 6, available at https://ehs.unit40.org/UserFiles/Servers/Server_2269580/File/Board%20Office/Board%20Documents/Student%20Handbooks/ehs_student_handbook.pdf.

³ *Id.*, *Equal Opportunity Statement*

and feeling confident for people of color. The policy prohibiting durags has harmed Colin's ability to embody his culture and feel confident in his natural hair.

The majority of teachers, administrators, and students in Unit #40 school district are white. According to the National Center for Education Statistics, in the 2019-2020 school year, Effingham High School had 754 students – six were Black and 21 were multiracial.⁴ Acknowledging and remedying biased policies and procedures is vital in a school district like Unit #40 to ensure it provides equitable education and its mission can be fulfilled by and for all students. By failing to acknowledge different racial and cultural needs, Effingham High School will continue to harm its students of color.

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We call upon Unit #40 School Board to amend their school policies to be inclusive of all students and prioritize student learning over student appearance. To remedy the harm its policies have already caused, and to prevent future discrimination, we urge Effingham High School to allow students to use durags as cultural and purposeful pieces of headwear, retract the current disciplinary infractions imposed on Colin and any other students of color because of headwear policy violations, remove all mention of relevant disciplinary action in Colin's student records, and issue an apology to all students of color, including Colin. We further urge Effingham School District Unit #40 to review and analyze how its other policies and actions might be affecting its students of color and implement implicit bias education and training to progress its policies for the entire student body.

Please do not hesitate to contact me if you have any questions or would like to discuss this matter. You can contact me at (312) 307-2765 or at Aklafeta@aclu-il.org. We look forward to seeing how Effingham School District Unit #40 rises to the occasion and creates meaningful change for its students.

Sincerely,



Ameri R. Klafeta

⁴ National Center for Education Statistics, Effingham High School, available at, https://nces.ed.gov/ccd/schoolsearch/school_detail.asp?Search=1&State=17&County=Effingham&ID=171356001648.