

THE  
ROGER  
BALDWIN  
FOUNDATION  
OF ACLU,  
INC.



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March 30, 2011

**VIA FACSIMILE AND FIRST CLASS MAIL**

Dr. Nettie Collins-Hart  
Superintendent of Education  
Proviso Township School District  
8601 Roosevelt Road  
Forest Park, Illinois 60130  
FAX (708) 338-5999

Principal Milton Patch  
Proviso East High School  
807 South 1<sup>st</sup> Avenue  
Maywood, Illinois 60153  
FAX (708) 344-5942

Dear Superintendent Collins-Hart and Principal Patch:

I write on behalf of my client Belinda Sanchez, a senior at Proviso East High School, about a policy prohibiting girls from wearing tuxedos to the prom. Principal Patch refused to allow Ms. Sanchez to wear a tuxedo to the school prom solely because she is female. Evidently, the District has a policy requiring girls to wear dresses to the prom, while only boys may wear tuxedos.

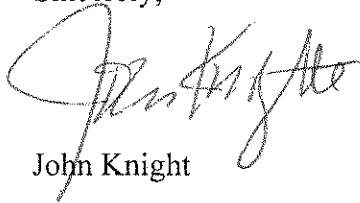
A requirement that all girls wear traditionally female attire to school dances, first of all, constitutes gender discrimination, prohibited by federal statutes. Federal courts have consistently ruled that acting against a person for not conforming to traditional gender norms amounts to illegal sex stereotyping, prohibited by civil rights laws. *See Price Waterhouse v. Hopkins*, 490 U.S. 228, 250 (1989) (denying promotion for female associate of accounting firm because she didn't walk, talk, and dress femininely was illegal sex stereotyping); *Montgomery v. Independent School District No. 709*, F. Supp.2d 1081 (D. Minn. 2000) (failing to protect gay student from harassment because he didn't meet male stereotypes triggered liability for school district); *Rosa v. Park West Bank*, 214 F.3d 213 (1<sup>st</sup> Cir. 2000) (denying a cross-dressing man a loan application until he went home to change constitutes sex discrimination).

A policy prohibiting girls from wearing tuxedos to the prom, moreover, violates important First Amendment rights. The freedom to select what to wear to one's prom is protected by the First Amendment's guarantee of free expression. *See Doe v. Yunits*, No. 001060A, 2000 WL 33162199 (Mass. Super. 2000) (preliminarily enjoining school officials from disciplining physiologically male transgender student for wearing girls' clothes or accessories), *aff'd Doe v. Brockton School Committee*, 2000 WL 33342399 (Mass. Appl. Ct. Nov. 30, 2000). Just last year, a Mississippi federal court held that a school district's refusal to allow a female student to wear a tuxedo to the prom violated her constitutional rights. The court explained that by wearing a tuxedo instead of a dress, the female student intended to communicate to the school community "her social and political views that women should not be constrained to wear clothing that has traditionally been deemed 'female' attire." *McMillen v. Itawamba County School District*, 702 F. Supp.2d 699 (N.D. Miss. 2010). The court held that "this expression and communication of her viewpoint is the type of speech that falls squarely within the purview of the First Amendment." *Id.* Ultimately, judgment was entered against the school district and the student was awarded over \$116,000 in damages and attorneys' fees.

I ask that the District provide immediate permission for Ms. Sanchez to wear a tuxedo to the prom. Further, I ask that the District make it clear that other students have to choice to comply with the dress code – by wearing a dress or by wearing other formal attire – based on each student's choice of how to identify and express his or herself. I also request that the District make clear to Principal Patch and all other educators in the District that it is unlawful to censor peaceful and appropriate expressions by students and to discriminate on the basis of gender. Finally, this incident indicates that the District should provide additional direction to educators and other staff that it is unlawful to discriminate on the basis of sexual orientation, gender identity, and support for gay and transgender rights.

Please respond to me by Monday, April 4<sup>th</sup>. I can be reached at (312) 201-9740, x 335.

Sincerely,

A handwritten signature in black ink, appearing to read "John Knight". The signature is stylized and cursive, with the first name "John" being more prominent and the last name "Knight" following in a similar script.

John Knight