

## **School Law: New York State**

**Are there any restrictions on a school district's ability to impose a dress code on its faculty?**

Yes. *A school district may not unilaterally impose a dress code on its faculty. The imposition of a specific dress code for faculty is a mandatory subject of collective bargaining* (Catskill CSD, 18 PERB ¶ 4612 (1985); see also State of New York (Dep't of Taxation and Finance) 30 PERB ¶ 3028 (1997); 10:52–53).

However, a PERB administrative law judge held a school district may require its staff to wear photo identification cards without first negotiating the issue with the union, where the identification system relates to the employer's mission to promote safety and accountability (Middle Country CSD, 30 PERB ¶ 4556 (1997)).

In addition, the United States Court of Appeals for the Second Circuit, which has jurisdiction over New York State, has held that a dress code that requires a teacher to wear a necktie does not infringe on First Amendment rights to free expression or the right to privacy (East Hartford Educ. Ass'n v. Board of Educ., 562 F.2d 838 (2d Cir. 1977)).

However, in a noteworthy case arising outside the school context, a New York appellate court ordered reinstatement and back pay where a Native American corrections officer was dismissed for refusing to cut his hair, as required by regulation, because of his religious beliefs. According to the court, there was no legitimate state interest shown which outweighed the employee's right to the free exercise of his religion (Rourke v. NYS Dep't of Correctional Servs., 201 A.D.2d 179 (3d Dep't 1994); see connected cases at 224 A.D.2d 815 (3d Dep't 1996); and 245 A.D.2d 870 (3d Dep't 1997)).