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NATIVE AMERICAN RIGHTS FUND
Native American Rights Fund
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American Civil Liberties Union of
Oklahoma
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Oklahoma City, OK 73101-1626.
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May 8, 2015

Sent via Email and U.S. Mail

Superintendent Rick Peters
Caney Valley School District
620 Wyandotte Avenue
Ramona, OK 74061
rpeters@cvalley.k12.ok.us

Re: Hayden Griffith's Right to An Wear Eagle Feather at Graduation

Dear Mr. Peters:

The Native American Rights Fund (NARF) was contacted by Hayden Griffith, a senior at Caney Valley High School in Ramona, OK concerning wearing an eagle feather on her cap during the graduation ceremony on May 21, 2015. As you know, Ms. Griffith was informed by school officials that this will not be allowed. Ms. Griffith indicated to us that she wishes to wear the feather for religious and spiritual reasons in order to honor her Native American heritage. Oklahoma Indian Legal Services (OILS) and the American Civil Liberties Union of Oklahoma (ACLU-OK) join NARF in bringing to your attention important legal and policy reasons for the school district to allow her to do so.

First, the School District should consider the important religious aspects of eagle feathers for Native Americans and the legal protections afforded to religious practices. Both bald and golden eagles (and their feathers) are highly revered and considered sacred within Native American traditions, culture, and religion. They are honored with great care and shown the deepest respect. These feathers represent honesty, truth, majesty, strength, courage, wisdom, power, and freedom. Native Americans believe that as eagles roam the sky, they have a special connection with God. See Antonia M. De Meo, *Access to Eagles and Eagle Parts; Environmental Protection v. Native American Free Exercise of Religion*, 22 Hastings Const. L.Q. 771, 774-75 (1995) (noting that

“Native Americans hold eagle feathers sacred and equate them to the cross or the Bible in western religion.”).

The religious significance of eagle feathers to Native Americans is recognized and embedded in federal law and policy. In 1962, Congress enacted the Bald and Golden Eagle Protection Act, which extended from the Bald Eagle Protection Act of 1940 the prohibition on the take, transport, sale, barter, trade, import and export, and possession of bald eagles to golden eagles as well. The government realized that the passage of this act would severely impinge on the religious practices of many Native Americans, for whom the use of eagle parts is essential to many ceremonies. In order to allow Native Americans to continue to include both bald and golden eagle parts in their religious ceremonies, the government provided for exemptions. The law also permits the traditional gifting of eagle feathers for Native Americans. On April 29, 1994, President Clinton signed an Executive Memorandum entitled “Policy Concerning Distribution of Eagle Feathers for Native American Religious Purposes.” 59 Fed. Reg. 22953. That Executive Memorandum noted that “[e]agle feathers hold a sacred place in Native American culture and religious practices. Because of the feathers’ significance to Native American heritage and consistent with due respect for the government-to-government relationship between the Federal and Native American tribal governments, this Administration has undertaken policy and procedural changes to facilitate the collection and distribution of scarce eagle bodies and parts for this purpose.” *Id.* On October 12, 2012, the United States Department of Justice released an updated Policy on Tribal Member Use of Eagle Feathers, which states that “[f]rom time immemorial, many Native Americans have viewed eagle feathers and other bird parts as sacred elements of their religious and cultural traditions.” <http://www.justice.gov/opa/pr/2012/October/12-ag-1234.html>.

Oklahoma’s religious freedom statute prohibits a government entity from curtailing a religiously motivated practice. OKLA. STAT. ANN. tit. 51, § 251 *et seq.* (West 2015); *see also A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 701 F. Supp. 2d 863, 886 (S.D. Tex. 2009) *aff’d sub nom. A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 611 F.3d 248 (5th Cir. 2010) (applying Texas’ religious freedom law to enjoin enforcement of a school rule interfering with Native American student’s religious practice of wearing unshorn hair). In applying the federal analogue to Oklahoma’s religious freedom statute, the U.S. Supreme Court has made it clear that statutory protection of religious practice is expansive and that government interference with religious conduct is subject to the highest level of judicial scrutiny and will only be upheld for the most compelling reasons. *Holt v. Hobbs*, 135 S. Ct. 853, 860 (2015); *Burwell v. Hobby Lobby*, 573 U.S., at ___, 134 S.Ct. 2751, 2761 (2014). Moreover, such religious freedom statutes apply *to the person*, and broadly formulated, generalized fears about what could happen if others are given similar accommodations are insufficient. *See Holt*, 135 S. Ct. at 863; *Hobby Lobby*, 573 U.S., at ___, 134 S.Ct. at 2779 (quoting *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 430-431(2006)). The Caney Valley School District should be cognizant of this very recent, powerful Supreme Court precedent when considering Ms. Griffith’s request.

In considering this accommodation, it is crucially important to understand the ceremonial significance of Ms. Griffith’s eagle feather. Typically, an eagle feather is given only in times of great honor – for example, eagle feathers are given to mark great personal achievement. The gift of an eagle feather to a youth is an extraordinary honor and is usually given to recognize an important transition in his or her life. Many young people are given eagle feathers upon graduation from high school to signify achievement of this important educational journey and the honor the graduate brings to his or her family, community, and tribe. The eagle feather that Ms. Griffith wishes to wear during graduation was ceremonially gifted to her from a Delaware tribal elder to honor her

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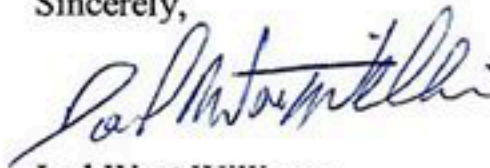
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achievement and acknowledges her entrance into adulthood and a new phase in life.

Finally, in deciding how to press forward in this matter, we ask the Caney Valley School District to remember that "in our society and in our culture high school graduation is one of life's most significant occasions." *Lee v. Weisman*, 505 U.S. 577, 595, 112 S.Ct. 2649, 2659, 120 L.Ed.2d 467 (1992). "Graduation is a time for family and those closest to the student to celebrate success and express mutual wishes of gratitude and respect, all to the end of impressing upon the young person that role that it is his or her right and duty to assume in the community and all of its diverse parts." *Id.* In light of the significance that the eagle feather has to Native American students, especially at graduation, we urge you to permit Ms. Griffith to express her religious and spiritual beliefs by wearing an eagle feather on her cap.

Thank you in advance for your consideration in this matter. Should you have any questions, please contact Joel West Williams, Staff Attorney, Native American Rights Fund at (202) 785-4166 or williams@narf.org.

Sincerely,



Joel West Williams
Matthew Campbell
Steven C. Moore
Staff Attorneys
Native American Rights Fund



Colline Keely
Executive Director
Oklahoma Indian Legal Services



Brady Henderson
Legal Director
American Civil Liberties Union of Oklahoma

cc: Tracy Toulou, Director, U.S. Department of Justice, Office of Tribal Justice
National Congress of American Indians