

R|M|G ATTORNEYS

ROGERS, MORRIS & GROVER, L.L.P.

CAPITAL ONE PLAZA
5718 WESTHEIMER, SUITE 1200
HOUSTON, TEXAS 77057
713-960-6000
FACSIMILE: 713-960-6025

FACSIMILE TRANSMITTAL SHEET

TO: Ms. Amanda C. Goad	FROM: Erik Nichols
COMPANY: Staff Attorney ACLU Lesbian Gay Bisexual & Transgender Project	DATE: 3/26/2013
FAX 281-357-3180 NUMBER: 212-549-2650	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SENDER'S CASE MATTER NUMBER: SPR02N-001
RE: Re.: George "Tony" Zamazal Request	SENDER'S INITIALS: ck

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY FYI

NOTES/COMMENTS:

This facsimile contains CONFIDENTIAL INFORMATION which may also be LEGALLY PRIVILEGED and which is intended only for the use of the addressee. If you are not the intended recipient of this facsimile, or agent responsible for delivering it to the recipient, you are hereby notified that any dissemination or copying of this facsimile may be strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to us at the above address via the postal service.

R|M|G ATTORNEYS

Rogers, Morris & Grover, L.L.P.

5718 WESTHEIMER ROAD, SUITE 1200
HOUSTON, TEXAS 77057
PHONE: (713) 960-6000 • FAX: (713) 960-6025
www.rmgllp.com

J. ERIC NICHOLS
Direct Dial: (713) 960-6031
enichols@rmgllp.com

March 26, 2013

Via Facsimile (212) 549-2650

Ms. Amanda C. Goad
Staff Attorney
ACLU Lesbian Gay Bisexual & Transgender Project
125 Broad Street, 18th Floor
New York, New York 10004-2400

Re: George "Tony" Zamazal Request

Dear Ms. Goad:

As the attorney for Spring ISD, I am responding to your letter to Principal Donna Ullrich dated March 18, 2013. Spring ISD is aware of George "Tony" Zamazal's request to wear feminine attire to Spring High School's senior prom as an expression of her gender identity. Spring ISD does not dispute that she should be allowed to wear her choice of feminine attire to the dance; however, she will be held to the same prom dress code enforced for all students, and specifically female students if this is her desired dress choice. This, as you know, is consistent with the decisions of the U.S. Court of Appeals for the Fifth Circuit¹ and is also in compliance with the District's local policy.

I do not dispute your assertions regarding a transgender student's right to wear clothing that expresses his or her gender identity. The case law you cite does implicate that a school district could potentially violate a student's First Amendment right of freedom of speech by denying the student the right to express himself or herself through clothing. Contrary to what has been reported to the media and to you, Tony Zamazal has not been denied the right to wear feminine attire to Spring High School's senior prom. However, Tony Zamazal has not informed Spring ISD of her specific choice of clothing at present, and Spring ISD will not presume her choice.

Additionally, although Tony can wear feminine clothes to the dance, Spring ISD still has the right to enforce the prom dress code regarding her choice of attire. As you

¹ See generally *Canady v. Bossier Parish Sch. Bd.*, 240 F.3d 437, 437 (5th Cir. 2001); *Littlefield v. Forney Indep. Sch. Dist.*, 268 F.3d 275, 275 (5th Cir. 2001); *Palmer v. Waxahachie Indep. Sch. Dist.*, 579 F.3d 502, 502 (5th Cir. 2009).

March 26, 2013

Page 2

know, a school district has the authority to implement a dress code or standard mode of dress, so long as the code is enforced equally among all students.² Tony has indicated to you that she intends to wear a wig, make-up, and pump-style shoes in addition to a dress to the dance. While in concept this might be appropriate, it must meet the criteria for all other female students in Spring ISD, and Tony will be held to the same standard that female students are held to in the school's dress code regarding these articles of clothing.

Spring High School's Student Handbook outlines the dress code adopted by the school, which will also be utilized at the senior prom. According to the dress code, "students' shorts, skirts, or dresses must be mid-thigh or longer. Students are not permitted to wear very tight, very loose, oversized, revealing, or very short clothing."³ In addition, "a student's hair must be neat, clean, and must not be distracting or interfere with the learning environment. Extreme hairstyles and hair color are not acceptable."⁴ Students have also been told that the hotel hosting the dance requires footwear at all times, so students wearing high heels may wish to bring an alternate pair of shoes if their heels become uncomfortable. Ultimately, the principal has the discretion to determine "what is acceptable and appropriate considering the age and activities of the students."⁵

In conclusion, although the district does not object to Tony wearing feminine attire to Spring High School's prom, she will be expected to follow the neutral, non-discriminatory guidelines above set forth in the school's dress code. The school will have a meeting with all seniors that will occur later in the spring to discuss the specific guidelines for prom.

Please feel free to contact me with any questions or if you need further information.

Very truly yours,

ROGERS, MORRIS & GROVER, L.L.P.


J. Erik Nichols

² *Palmer*, 579 F.3d at 510-511.

³ "Grooming & Attire," Spring High School 2012-13 Student Handbook, p. 29.

⁴ *Id.*

⁵ *Id.*