

*Via Electronic Mail*

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Dear Mr. Howard:

The NAACP Legal Defense and Educational Fund, Inc. (LDF)<sup>1</sup> writes to express our concern with Cedar Grove Christian Academy’s grooming policies, which target and penalize Black children for wearing their hair in culturally significant hairstyles.

Cedar Grove Christian Academy’s uniform code expressly prohibits “big Afros [and] dreadlocks,”<sup>2</sup> culturally-significant hair formations, for male students.<sup>3</sup> In addition, the uniform code contains provisions that may have an adverse impact on Black students and other students of color, including length restrictions for male students.<sup>4</sup> Taking adverse actions against Black students for wearing their hair in culturally significant hairstyles results in lost educational and extracurricular opportunities and violates state and federal law.

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<sup>1</sup> LDF is the nation’s oldest civil and human rights law organization. LDF was founded in 1940 by Thurgood Marshall, who later became the first Black Supreme Court Justice. Since its inception, we have worked to defend and advance racial equality and civil rights for Black Americans, including in education. We litigated the landmark case *Brown v. Board of Education*, which ended de jure segregation in public schools. Today, we continue to challenge discriminatory school policies and practices, including racially discriminatory grooming policies.

<sup>2</sup> The term “dread” in the word “dread locks” comes from the word “dreadful” used by English slave traders to refer to Africans’ hair, which researchers believe “locked” naturally on its own during the Middle Passage. See April Williams, *My Hair is Professional Too!: A Case Study and Overview of Laws Pertaining to Workplace Grooming Standards and Hairstyles Akin to African Culture*, 12 S. J. Pol’y & Just. 138, 16566 (2018); see also Cedar Grove Christian Academy, *Uniform Code* (Dec. 2023), <https://www.cgca.org/wp-content/uploads/2023/12/UNIFORM-CODE-1.pdf>.

<sup>3</sup> Culturally significant hair refers to hair textures, hair types, hair formations, and protective hair styles commonly or historically associated with race, including, but not limited to Afros, locs (including uncut locs), cornrows, twists, braids (including braids adorned with beads and/or cowrie shells), Bantu knots, and fades. See e.g., Phila. Code § 9–1102(v.1).

<sup>4</sup> The dress and grooming code for boys’ hair states, in part, that: “Hair should be off the ears, clean around the collar, and may not hang below the eyebrows when in a natural position. No tails, unnatural hair colors, big Afros, dreadlocks (small locks permitted), or punk styles. Cornrows are acceptable if kept short with no more than one-inch-long braids at the end of the cornrow.” See Cedar Grove Christian Academy, *Uniform Code*, *supra* note 2.

LDF urges Cedar Grove Christian Academy to reassess its uniform code to ensure that all grooming policies serve legitimate safety concerns and are applied in a manner that does not target students with culturally significant hairstyles.

### **History of Black Hair and Culturally Significant Hairstyles**

A student’s decision to wear their hair in a racially or culturally significant way is not simply a matter of personal preference or style. Dating back to the fifteenth century, “hair was not only a cosmetic concern [for Black people], but ‘its social, aesthetic, and spiritual significance has been intrinsic to their sense of self for thousands of years.’”<sup>5</sup> Afros, braids, twists, and locs serve as a source of cultural pride and tradition as well as cultural and religious expression.<sup>6</sup> The exceptional nature of Black hair goes beyond just cultural differences. In fact, the elasticity and tight coils of Black hair cause it to have unique needs. For many Black people, the unique curliness of their hair—specifically, the hair shaft’s “tightly coiled, kinked structure”—means that “combing and brushing can be a mildly painful procedure” and often time-consuming.<sup>7</sup> In addition, the physical attributes make it more susceptible to breakage. In order “[t]o save time and reduce discomfort, styles are selected that can be left in for several days,” sometimes even years.<sup>8</sup> For Black children, this means that their hair is often “intricately sectioned, braided, and twisted.”<sup>9</sup> Larger Afros or longer protective styles reflect unimpeded, healthy growth of naturally curly hair textures.<sup>10</sup>

### **Harms Imposed When Dress and Grooming Policies Target Culturally Significant Hairstyles**

School dress and grooming policies that include language prohibiting Afros, locs, braids, twists, or other hair textures, types, and formations commonly or historically associated with race can disproportionately target and penalize Black youth. Such policies fail to recognize the cultural significance of certain hair styles or formations, particularly for Black, Indigenous, and other students of color. These policies are often premised on discriminatory stereotypes about the appropriateness or acceptability of racially or culturally significant hairstyles. Black people have long battled the prevalent stereotype that natural and protective styles and formations are unsanitary, unkempt, and unsuitable for the workplace.<sup>11</sup>

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<sup>5</sup> Tracey O. Patton, *Hey Girl, Am I More than My Hair?: African American Women and Their Struggles with Beauty, Body Image, and Hair*, 18:2 Nat’l Women’s Stud. Ass’n J. 24, 27 (Summer 2006) (noting that, dating back to the fifteenth century, “[t]he complicated and time-consuming task of hair grooming included washing, combing, oiling, braiding, twisting, and/or decorating the hair with any number of adornments including cloth, beads, and shells. The process could last several hours, sometimes several days”), <https://www.jstor.org/stable/4317206>.

<sup>6</sup> D. Wendy Greene, Title VII: What’s Hair (And Other Race-Based Characteristics) Got To Do With It?, 92 U. Col. L. Rev. 1265 (2021).

<sup>7</sup> Ingrid E. Roseborough & Amy J. McMichael, *Hair Care Practices in African-American Patients*, 28 Seminars in Cutaneous Med. & Surgery 103, 107 (2009), [https://cdn.mdedge.com/files/s3fs-public/issues/articles/Vol28\\_i2\\_Hair\\_Care\\_Practices.pdf](https://cdn.mdedge.com/files/s3fs-public/issues/articles/Vol28_i2_Hair_Care_Practices.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See Greene, *supra* note 6.

<sup>11</sup> A 2017 study found that white women, on average, believe that “[B]lack women’s textured hair,” is “less professional than smooth hair.” Alexis McGill Johnson, et al., *The “Good Hair” Study: Explicit And Implicit Attitudes Toward Black Women’s Hair* 6, Perception Inst. (Feb. 2017), <https://perception.org/wp-content/uploads/2017/01/TheGood-HairStudyFindingsReport.pdf>; see Dawn D. Bennett-Alexander & Linda F.

Such discriminatory policies further harm Black students already facing disproportionate discipline and academic impacts. Researchers at Princeton University found that Black students are more likely to be suspended for discretionary reasons, such as dress code or long hair violations, neither of which have been found to be predictive of student misconduct.<sup>12</sup> Exclusionary disciplinary measures often lead to missed instructional time, poorer academic performance, and increased dropout rates. Indeed, a 2021 education equity report found that “[a]cross the Philadelphia-Camden-Wilmington metro area, students of color are 3.7 times as likely as white students to miss days of school due to discipline [and] [t]he gap is even larger between Black and white students, with Black students 5.5 times as likely to miss school from suspensions.”<sup>13</sup>

Exclusion from extracurricular activities, like sports teams, due to culturally-intolerant dress and grooming policies also presents concerns because of the positive correlation between extracurricular activities and development. As explained below, research confirms that student participation in athletics increases the likelihood of positive educational outcomes, contributes to improved psychological and mental development, and creates an enhanced sense of belonging.

A 2008-2009 study of approximately 140,000 high school students found that student-athletes have higher graduation rates and perform better on state assessments, compared to non-athletes.<sup>14</sup> Other studies confirm that there is a positive correlation between high school extracurricular activities and academic performance.<sup>15</sup> Participating in sports also allows students to establish social networks with their peers,

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Harrison, *My Hair Is Not Like Yours: Workplace Hair Grooming Policies for African American Women As Racial Stereotyping in Violation of Title VII*, 22 *Cardozo J.L. & Gender* 437, 446 (2016); David S. Joachim, *Military to Ease Hairstyle Rules After Outcry from Black Recruits*, *N.Y. Times* (Aug. 14, 2014), <https://www.nytimes.com/2014/08/15/us/military-hairstyle-rules-dreadlocks-cornrows.html>; Maya Rodan, *U.S. Military Rolls Back Restrictions on Black Hairstyles*, *TIME* (Aug. 13, 2014), <http://time.com/3107647/military-black-hairstyles/>.

<sup>12</sup> See Travis Riddle & Stacey Sinclair, *Racial disparities in school-based disciplinary actions are associated with county-level rates of racial bias*, *Proc. Natl. Acad. Sci. USA* (2019), <https://www.pnas.org/doi/10.1073/pnas.1808307116>; see also Howard Henderson & Jennifer W. Bourgeois, *Penalizing Black hair in the name of academic success is undeniably racist, unfounded, and against the law*, *Brookings Inst.* (Feb. 23, 2021) (linking race-based hair discrimination to disproportionate enforcement of discretionary school discipline actions and citing to study that indicates that Black students are disciplined for discretionary school discipline actions at a rate four times higher than any other racial or ethnic group), <https://www.brookings.edu/articles/penalizing-black-hair-in-the-name-of-academic-success-is-undeniably-racist-unfounded-and-against-the-law/>.

<sup>13</sup> TaRhonda Thomas & Maia Rosenfeld, *Philadelphia area students of color miss more school due to discipline*, *ABC News* (October 29, 2021), <https://6abc.com/education-inequity-race-racial-disparities/11177985/>.

<sup>14</sup> Angela Lumpkin & Judy Favor, *Comparing the academic performance of high school athletes and non-athletes in Kansas in 2008-2009*, 4:1 *J. of Sport Admin. & Supervision* 41 (May 2012), <https://trace.tennessee.edu/cgi/viewcontent.cgi?article=1370&context=jasm>.

<sup>15</sup> Matthew J. Mitten & Timothy Davis, *Athlete Eligibility Requirements and Legal Protection of Sports Participation Opportunities*, 8 *Va. Sports & Ent. L.J.* 71, 112, 187 (2008), <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1551&context=facpub>; Susan A. Dumais, *Cohort and Gender Differences In Extracurricular Participation: The Relationship Between Activities, Math Achievement, and College* 29 *Socio. Spectrum* 72 (2009); Fox CK, et. al., *Physical Activity and Sports Team Participation: Associations with Academic Outcomes in Middle School and High School Students*, 80 *J. Sch. Health* 31 (2010).

create a community-based identity,<sup>16</sup> and build social skills.<sup>17</sup> A study from the National Longitudinal Study of Adolescent Health demonstrated that school extracurricular activities were positively associated with the development and maintenance of adolescents' friendships.<sup>18</sup> Conversely, discrimination against Black youth because of culturally significant hairstyles or formations imposes social and psychological harm.

### **Policies and Practices Must Comport with State and Federal Anti-Discrimination Laws**

Across the country, legislatures at the federal, state, and local level are working to address discrimination against people of color based on their hair through legislation known as the CROWN ("Creating a Respectful and Open World for Natural Hair") Act. The Philadelphia CROWN Act amended the Fair Practices Ordinance, Chapter 9–1100 of the Philadelphia Code, and prohibits discrimination based on characteristics commonly associated with race, including hairstyles.<sup>19</sup> This protection extends to "hair texture and styles of hair of *any length*, such as protective or cultural hairstyles, natural hairstyles, and other forms of hair presentation."<sup>20</sup> It further defines "protective or cultural hairstyles" that are subject to the law's prohibition on discrimination to include "braids, cornrows, locs, Bantu knots, Afros, and twists."<sup>21</sup>

The statute unequivocally prohibits discrimination based on hair texture, hair type, and hair formation. As such, school dress and grooming codes that include language prohibiting locs, braids, twists, Afros, or other hair textures, types, and formations commonly or historically associated with race are strictly prohibited. Grooming policies that appear neutral on their face, but have a discriminatory impact on Black, Indigenous, or other students of color may also violate the Act.

Targeting students with culturally significant hairstyles or formations also constitutes discrimination based on race in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 ("Title VI"), the Pennsylvania Human Relations Act, 43 P.S. §§ 951-63 ("PHRA"), and the Pennsylvania Fair Educational Opportunities

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<sup>16</sup> See Mitten & Davis, *supra* note 14.

<sup>17</sup> Alan Smith & Kathleen Mellano, *Three Ways That Peers Matter in Youth Sport*, Young Minds (2022) (finding that children who participate in youth sports tend to develop stronger peer relationships), <https://kids.frontiersin.org/articles/10.3389/frym.2022.68581>; Thomas Rotolo, Monica Kirkpatrick Johnson, & James Richard McCall, *Examining the Effect of Adolescent Sport Participation on Civic Engagement and Orientation in Early Adulthood*, 49 Nonprofit and Voluntary Sec. Quart. 180, 191-93 (2019) (finding that children who participate in youth sports tend to have a higher likelihood of participating in civic activities), <https://doi.org/10.1177/0899764019853038>.

<sup>18</sup> David Schaefer, et. al., *The Contribution of Extracurricular Activities to Adolescent Friendships: New Insights through Social Network Analysis*, 47 J. Dev. Psych. 1141 (2011), <https://doi.org/10.1037%2Fa0024091>.

<sup>19</sup> Phila. Code § 9–1102(e); see *Bowdren v. Cristo Rey Phila. High Sch.*, No. 22-4716, 2023 U.S. Dist. LEXIS 81559, at \*7-9, footnote 2 (E.D. Pa. May 10, 2023) (denying the defendant's, a private, independent high school in Philadelphia, motion to dismiss various employment discrimination claims under the Philadelphia Fair Practices Ordinance, including a racial discrimination claim).

<sup>20</sup> Phila. Code § 9–1102(m.1).

<sup>21</sup> Phila. Code § 9–1102(v.1).

Act, 24 P.S. §§ 5001-5010 (“PFEOA”). Such practices may also violate students’ rights to freely express pride in their heritage and ethnicity as protected by the First Amendment to the United States Constitution.

Title VI of the Civil Rights Act of 1964 bars programs receiving federal funding from engaging in discrimination on the basis of race, color, or national origin.<sup>22</sup> It also prohibits discrimination based on characteristics and stereotypes associated with a protected class.<sup>23</sup> Thus, policies that target culturally significant hairstyles are discriminatory if they are intimately connected to a protected class and derived from invidious stereotypes. PHRA and the PFEOA similarly prohibit various forms of discrimination based on a person’s race, color, or national origin. Therefore, dress and grooming codes that target Black or other students of color may also be in violation of state law.

Policies that discriminate against culturally significant hairstyles also infringe on students’ rights to express themselves freely without repercussions from the government. Expression that is not verbal or written is protected under the First Amendment when it is intended to communicate a message that is received by others.<sup>24</sup> It is well established that a person is “capable of communicating” their heritage by “[v]isibly wearing [their] hair in a particular manner.”<sup>25</sup>

### **Student-Oriented Solutions**

Cedar Grove Christian Academy maintains a non-discrimination policy which states that it should not “discriminate against any child or staff member based on gender, race, color, or national origin.”<sup>26</sup> Moreover, Cedar Grove Christian Academy asserts “a genuine love for and interaction with diverse peoples is a biblical mandate.”<sup>27</sup> Indeed, Cedar Grove Christian Academy’s website includes resources for its community on understanding racial issues, including how to affirm Black boys.<sup>28</sup> Unfortunately, the language and application of Cedar Grove Christian Academy’s uniform code policy is not consistent

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<sup>22</sup> All educational programs or activities receiving public assistance are covered by Title VI. We are aware of at least one federal award received by Cedar Grove Christian Academy to support remote learning during the COVID-19 emergency.

<sup>23</sup> See *Price Waterhouse v. Hopkins*, 490 U.S. 228, 250-56 (1989) (plurality opinion) (explaining that “discrimination” within Title VII—another provision of the Civil Rights Act of 1964—encompasses discrimination on the basis of stereotypes, including “mutable” traits of a female employee’s demeanor, dress, and hairstyle); see also *Feng v. Univ. of Del.*, 785 F. App’x 53, 55 (3d Cir. 2019) (recognizing that cases under Title VII are governed by the same framework as those under other federal civil rights laws such as Title VI); *Rosencrans v. Quixote Enters.*, 755 F. App’x 139, 142 (3d Cir. 2018) (recognizing that gender stereotyping evidence may give rise to an inference of gender discrimination).

<sup>24</sup> *Tenafly Eruv Ass’n v. Borough of Tenafly*, 309 F.3d 144, 158 (3d Cir. 2002) (recognizing that under the First Amendment, “[s]peech” is not construed literally, or even limited to the use of words. Constitutional protection is afforded not only to speaking and writing, but also to some nonverbal acts of communication, viz., ‘expressive conduct’ (or ‘symbolic speech’)).

<sup>25</sup> *Gonzales v. Mathis Indep. Sch. Dist.*, No. 2:18-CV-43, 2018 U.S. Dist. LEXIS 216577, at \*20 (S.D. Tex. Dec. 27, 2018); see also *A.A. v. Needville Indep. Sch. Dist.*, 701 F. Supp. 2d 863, 883 (S.D. Tex. 2009).

<sup>26</sup> Cedar Grove Christian Academy Non-Discrimination Policy, <https://www.cgca.org/about-cgca/non-discrimination-policy/>.

<sup>27</sup> *Id.*

<sup>28</sup> See Cedar Grove Christian Academy, *Understanding and Coping with Racial Differences* (Dec. 2020), [https://www.cgca.org/wp-content/uploads/2020/12/Understanding\\_and\\_Coping\\_with\\_Racial\\_Differences\\_1.pdf](https://www.cgca.org/wp-content/uploads/2020/12/Understanding_and_Coping_with_Racial_Differences_1.pdf).

with this mandate. Language which prohibits culturally-significant hairstyles and formations and targets Black and other children of color must be eliminated.

Students should not be barred from participating in academic opportunities or extracurricular activities because of hairstyles or hair formations that pay homage to their racial and cultural heritage, regardless of whether those prohibitions are explicit or implicit. For example, length restrictions may apply to all students, but have an adverse disparate impact on Black and Indigenous students, who are more likely to refrain from cutting their hair consistent with their cultural heritage and/or in homage to their ancestors.<sup>29</sup> Cedar Grove Christian Academy should maintain a policy that permits *all* students to wear culturally-significant hairstyles and formations and gather their hair, if necessary to serve legitimate safety concerns.<sup>30</sup>

Adequately responding to inequality and unfair treatment in schools is vital to protect the civil rights of students and to ensure school safety and inclusivity for all. LDF requests the opportunity to speak with the principal, chairman, and board members of Cedar Grove Christian Academy about how to rectify policies that harm Black students. If you wish to discuss any of the aforementioned issues, please contact Patricia Okonta at [pokonta@naacpldf.org](mailto:pokonta@naacpldf.org). Together, we can work to ensure all students, regardless of race or ethnicity, have equal access to educational and extracurricular opportunities. We look forward to your response.

Respectfully,

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<sup>29</sup> See e.g., *Arnold*, 479 F. Supp. 3d at 524-26 (noting that locs are often worn in homage to one's Black heritage).

<sup>30</sup> Wearing one's hair in a bun or gathered, however, may not be possible for some Black children because of their hair length, hair texture, or medical reasons. Students should also have an opportunity to receive an exemption from dress and grooming codes if it poses a personal or health concern.