

October 2, 2018

Pam Stewart  
Florida Commissioner of Education  
Turlington Building, Suite 1514  
325 West Gaines Street  
Tallahassee, Florida 32399

Re: Hope Scholarship Program and Florida Tax Credit Scholarship

Dear Commissioner Stewart:

It has come to the attention of the NAACP Legal Defense & Educational Fund Inc. (“LDF”) that at least 24<sup>1</sup> private schools receiving funds from the Florida Department of Education’s Hope Scholarship Program possess dress code provisions (“Hair Policies” or, in the singular, “Hair Policy”) that are discriminatory on their face or may lead to discriminatory application against African-American students. Six schools: Blessed Trinity Catholic, Joshua Christian Academy, Saint Paul’s Catholic School, Living Word Christian School, St. Michael Academy, and Glades Day School have an express ban against “dreadlocks,” “hair extensions,” “Afro[s] over one inch in height,” or similar hairstyles.<sup>2</sup> Additionally, a six-year-old African-

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<sup>1</sup> Seventeen of the schools (First Christian Academy in High Springs, FL; Calvary Christian Academy in Fort Lauderdale, FL; Faith Fellowship School in Homestead, FL; Redland Christian Academy in Homestead, FL; Trinity Christian Academy in Hialeah, FL; New Beginnings Christian Academy in Jacksonville, FL; East Hill Christian School in Pensacola, FL; Harvest Academy in Plant City, FL; Rocky Bayou Christian School in Crestview and Niceville, FL; Okeechobee Christian Academy in Okeechobee, FL; Tri-L Christian Academy in Orlando, FL; IBCK Educational Center in Kissimmee, FL; Trinity Christian School of Palm Beach Gardens in Palm Beach Gardens, FL; Saint Lucie Christian in Fort Pierce, FL; First Christian Academy in DeFuniak Springs, FL; Future Scholars Christian Academy in Winter Haven, FL; Kingdom Preparatory School in Auburndale, FL; St. Mary Academy in Sarasota, FL) have prohibitions against things such as “unusual or distracting styles,” “extreme cuts and styles,” or mandate that hairstyles “must be conservative.” See Faith Fellowship School 2018-2019 Parent and Student Handbook, at 9, available at <http://faithfellowshipschool.org/wp-content/uploads/2018/08/2018-2019-Parent-Student-Handbook.pdf>; Trinity Christian Academy 2018-2019 Student Handbook available at <https://trinitychristianacademy.net/student-handbook>. This kind of language raises the risk of discriminatory application. See *When Black Hair Violates The Dress Code*, Kayla Lattimore, nprEd, July 17, 2017, available at <https://www.npr.org/sections/ed/2017/07/17/534448313/when-black-hair-violates-the-dress-code>.

<sup>2</sup> Blessed Trinity Catholic School in Jacksonville, FL: See Blessed Trinity Catholic School 2018-2019 Student/Parent Handbook, at 25, available at <https://1i1i9hxc8o329ztng1x1gi6q-wpengine.netdna-ssl.com/wp-content/uploads/2018/08/Student-Parent-Handbook-2018-2019.pdf> (“No hair wraps or distractive beads....or dreadlock style haircuts”); Joshua Christian Academy School of the Arts in Jacksonville, FL: See Joshua Christian Academy School of the Arts 2015-2016 Grade School Student Handbook, at 45, available at [http://www.jcacademy.org/JCA/documents\\_copy](http://www.jcacademy.org/JCA/documents_copy) (“loose plats and/or loose braids, as well as twists, and/or locs are not permissible....No ‘Afro’ over one inch in height is allowed.”); St. Paul Catholic School in Leesburg, FL: See St. Paul Catholic School 2017-2018 Parent/Student Handbook, at 29, available at <http://www.saintpaulschool.com/wp-content/uploads/2017/07/Handbook-2017-2018.pdf> (“Conservative hairstyle required, no hair extensions or false hairpieces”); Living Word Christian School in North Fort Myers, FL: See Living Word Christian School 2018-2019

American boy, Clinton Stanley Jr., was recently turned away from A Book's Christian Academy ("A Book's") in Apopka, FL because his hair violated its policy that "[t]here are to be no dreads" worn by male students.<sup>3</sup> We write on behalf of LDF to raise deep concerns about these unlawful and discriminatory Hair Policies and the harms they inflict upon African-American children.

Founded in 1940 by Thurgood Marshall, who later became the first African-American justice of the Supreme Court of the United States, LDF is the nation's oldest civil rights law organization and is wholly dedicated to ensuring racial justice and equality. For nearly 80 years, we have relied on the Constitution and federal and state civil rights laws to end the most pernicious incursions on equality for African Americans, including in education where we litigated the landmark case *Brown v. Board of Education* in 1954, which ended *de jure* segregation in public schools. Today, we continue to challenge racially discriminatory school policies and practices, including racially discriminatory disciplinary policies and codes of conduct.

The six private schools' Hair Policies, as written in their 2018-2019 Handbooks, are racially discriminatory. The Hair Policies unlawfully target African-American students on their face based on their specific hair texture. They also expressly ban hairstyles or grooming practices that are more likely to be worn by or associated with African-American children. In addition, A Book's Christian Academy in Apopka, FL has a similar Hair Policy that *has* been applied in a racially discriminatory manner. On August 13, 2018, Clinton Stanley Jr. was denied entry on his first day of school at A Book's because his hair was in locs.<sup>4</sup>

### **The Policies as Written and Applied are Unlawful and Must Be Revoked**

The forms of racial discrimination most commonly seen in education have evolved. It is now rare to find a policy that explicitly excludes potential students based on skin color. However, subtle rules and restrictions based on racial stereotypes and proxies have the same force and effect.

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Parent Handbook, at 15, available at <http://www.lwcsnfm.org/school-documents/> ("No braids, weaves"); St. Michael Academy in Fernandina Beach, FL: See St. Michael Academy Uniform and Dress Code, at 4, available at <http://smacad.org/parent-resources/> ("braids, or dread-lock style haircuts are not permitted"); Glades Day School in Belle Glade, FL: See Glades Day School 2017-2018 Student Handbook, at 28, available at [https://www.gladesdayschool.com/editoruploads/files/FINALHdbk17\\_18\\_8\\_03\\_17.pdf](https://www.gladesdayschool.com/editoruploads/files/FINALHdbk17_18_8_03_17.pdf) ("no braids").

<sup>3</sup> A Book's Christian Academy Policy in Apopka, FL: See A Book's Christian Academy Parent/Student Handbook, at 14, available at [https://docs.wixstatic.com/ugd/72760f\\_3aa60d919e2840909f0b883f62cc2cf9.pdf](https://docs.wixstatic.com/ugd/72760f_3aa60d919e2840909f0b883f62cc2cf9.pdf).

<sup>4</sup> Throughout this letter, LDF uses the term "locs" rather than "dreadlocks" because the "dread" in "dreadlocks" comes from the term "dreadful" used by English slave traders to refer to Africans' hair, which had probably loc'd naturally on its own during the Middle Passage. See Brown White, *Releasing the Pursuit of Bouncin' and Behavin' Hair: Natural Hair as an Afrocentric Feminist Aesthetic for Beauty*, 1 Int'l J. Media & Cultural Pol. 295, 965 n.3 (2005).

The current A Book’s Hair Policy and five of the six<sup>5</sup> other private schools ban “dreads,”<sup>6</sup> “dread-lock style haircuts,”<sup>7</sup> “twists,”<sup>8</sup> “locs,”<sup>9</sup> and “braids.”<sup>10</sup> On their face, these policies are racially discriminatory because they target forms of hair that are predominant among, if not unique to, African Americans. These bans unnecessarily prohibit common hairstyles, grooming practices, and cultural expression of African Americans.<sup>11</sup> In addition to students with “locs,” African-American students who wear their hair in its natural form are substantially more likely than white students to “violate” the ban on an “‘Afro’ over 1 inch in height”<sup>12</sup> by virtue of how African-American hair grows in its natural state. Similarly, African-American students, especially African-American female students, are substantially more likely than white students to “violate” the ban on “hair extensions”<sup>13</sup> because they are more likely to wear braids with hair extensions as a form of hair maintenance and/or cultural expression. No sound pedagogical rationale justifies this disparate treatment of or disparate impact on African-American students.

Locs, afros, braided hair, or hair braided with extensions are a form of cultural identity and expression that no school receiving federal funding may prohibit, including private schools.<sup>14</sup> Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race,

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<sup>5</sup> One of the six schools does not ban locs but does ban “hair extensions or false hairpieces.” See St. Paul Catholic 2017-18 School Parent/Student Handbook.

<sup>6</sup> A Book’s Christian Academy Parent/Student Handbook at 14.

<sup>7</sup> Blessed Trinity Catholic School 2018-19 Student/Parent Handbook at 25; St. Michael Academy Uniform and Dress Code at 4.

<sup>8</sup> Joshua Christian Academy School of the Arts Grade School 2015-16 Student Handbook at 45.

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

<sup>10</sup> *Id.*; Living Word Christian School 2018-19 Parent Handbook at 15; St. Michael Academy Uniform and Dress Code at 4; Glade Day School 2017-18 Student Handbook at 28.

<sup>11</sup> See *No Dreadlocks Allowed*, A.B. Wilkinson, *The Atlantic*, Nov. 3, 2016, available at <https://www.theatlantic.com/business/archive/2016/11/no-dreadlocks-allowed/506270/>. (“[T]he cultural movements of the 1960s and 1970s also persuaded more African Americans to begin embracing hairstyles that didn’t require them to transform the texture of their natural hair, such as Afros, braids, and dreadlocks.”).

<sup>12</sup> Joshua Christian Academy Student Handbook at 45.

<sup>13</sup> Saint Paul Catholic School Parent/Student Handbook at 29; Living Word Christian School Parent Handbook at 15; St. Michael Academy Uniform and Dress Code at 4.

<sup>14</sup> See U.S. Dep’t of Education & U.S. Dep’t of Justice, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline*, Jan. 8, 2014, available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> (“Intentional discrimination also occurs when a school adopts a facially neutral policy with the intent to target students of a particular race for invidious reasons. This is so even if the school punishes students of other races under the policy. For example, if school officials believed that students of a particular race were likely to wear a particular style of clothing, and then, as a means of penalizing students of that race (as opposed to as a means of advancing a legitimate school objective), adopted a policy that made wearing that style of clothing a violation of the dress code, the policy would constitute unlawful intentional discrimination.”).

color, or national origin in programs and activities operated by recipients of federal funds.<sup>15</sup> In the area of education, Title VI's protection applies to all elementary and secondary schools, colleges and universities—public or private—that receive federal financial assistance. The private schools referred to in this letter, all receive federal funds through either your office's Hope Scholarship Program or the Florida Tax Credit Scholarship.<sup>16</sup> For the above reasons, these Hair Policies violate federal civil rights laws both on their face and as applied. Each of these legal violations constitutes an independent ground for immediate and permanent rescission of the discriminatory provisions of A Book's and the aforementioned schools' Hair Policies.

**Any New Policy Must Be Non-Discriminatory and Comport with All State and Federal Laws**

We ask that A Book's and the aforementioned private schools comply with state and federal law and permanently rescind the discriminatory text of their Hair Policies. To the extent that A Book's and the aforementioned private schools seek to create a new Hair Policy, the schools should consult a diverse cross-section of their community, including current and prospective African-American students and their parents, among them the Stanley-Rhodes family. Any new policy should be clear, practicable, uniformly enforced, and not target specific hair textures, hair maintenance techniques, or other grooming and styling prevalent among students of color without compelling justification. These schools should permit all appearances that do not pose a threat to the health or safety of their students. Finally, the Florida Department of Education should review any new Hair Policy to ensure it is lawful under Title VI and other applicable local, state, and federal laws.

A Book's and the aforementioned private schools should commit its staff to improving the school community's diversity and cultural competence through training and professional development. Such engagement by staff will help prevent the enactment and enforcement of racially discriminatory school policies.

All faculty and staff at the schools should receive training regarding diversity and cultural competence. Such training should aim to foster understanding, self-awareness, and practice skills that enable teachers and staff to educate students from diverse socioeconomic and racial backgrounds. Additionally, all faculty and staff should receive training specifically on the enforcement of any new Hair Policy to ensure that the Policy is enforced fairly, equitably, and non-discriminatorily.

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<sup>15</sup> Title VI of the Civil Rights Act of 1964. "No person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

<sup>16</sup> Clinton Stanley Jr. was attending A Book's Academy through the assistance of the Florida Tax Credit Scholarship. The other aforementioned private schools are recipients of Hope Scholarship funds.

In light of the above, we expect the Department of Education to review these schools' policies and request the schools to permanently rescind their current Hair Policies, as they discriminate against African-American students on multiple fronts. In addition, the department should take the additional steps detailed above to redress the harms caused by the Hair Policies or cease providing federal funding to the aforementioned schools.

It is our hope that we can resolve this matter swiftly and amicably so that no student is denied equal access to education or subjected to discipline, or other punishment based on racially discriminatory policies or practices. If the Florida Department of Education does not require A Book's or the aforementioned private schools to rescind their Hair policies or does not withdraw funding from the schools who do not comply, we request that your office provide in writing any legal or factual basis for concluding that the policies do not violate Florida and federal anti-discrimination laws.

We would welcome an opportunity to discuss this matter with you in person or by telephone and request the favor of a response within ten (10) days of receipt of this letter. We look forward to hearing from you.

Sincerely,



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