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February 5, 2020

Greg Poole, Superintendent
Jami Navarre, Director of Community Relations
Barbers Hill Independent School District
BHISD Central Administration Building
P.O. Box 1108
Mont Belvieu, Texas 77580
gpoole@bhisd.net
jnavarre@bhisd.net

Re: Open public records request relating to the Barbers Hill Independent School District Dress and Grooming Code

Dear Superintendent Poole and Ms. Navarre:

The NAACP Legal Defense and Educational Fund, Inc. (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. Consistent with this mission, LDF has zealously advocated for fairness and equal rights for Black students, including by representing plaintiffs in landmark cases such as *Brown v. Board of Education*, which ended de jure segregation in public schools. Today, we continue to challenge racially discriminatory school policies and practices, including racially discriminatory dress and grooming codes, disciplinary policies, and codes of conduct.¹

LDF represents Mr. De'Andre Arnold and his family pertaining to the ongoing targeting of De'Andre Arnold for his natural hair. On their behalf, we request public records that may provide additional information on the District's construction and enforcement of the dress and grooming code.

LDF hereby requests copies of the following documents pursuant to the Texas Public Information Act (Tex. Gov't Code §§ 552.001, et seq):

1. A copy of the 2019-2020 Student Handbook, which includes references to the District's dress and grooming code;
2. All prior final versions of the District's dress and grooming codes, referencing the time frame of the relevant policy;

¹ See, e.g., Brief of NAACP Legal Def. & Educ. Fund, Inc. et al., as Amici Curiae, *EEOC v. Catastrophe Management Solutions*, 2016 WL 7173828 (11th Cir. Dec. 2, 2016); *Hearing on Perspectives on TSA's Policies to Prevent Unlawful Policing Before the H. Comm. On Homeland Security*, 116th Cong. (2019) (testimony of Janai S. Nelson, Assoc. Dir.-Counsel, NAACP LDF); *Letter to Regarding Discrimination Against Andrew Johnson* to Rachel, Apter, Dir., New Jersey Division of Civil Rights, (February 12, 2019); *Florida Department of Education Complaint on Behalf Clinton Stanley Jr. to Adam Miller, Exec. Dir., Office of Indep. Educ. and Parental Choice*, Fla. Dep't of Educ. (November 29, 2018).

3. All documents², including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to explanations offered for the changes in the dress and grooming code for the 2019-2020 school year;
4. All documents³, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to explanations offered for the dress and grooming code or changes to it during the district's annual review of its handbook or otherwise;
5. All documents, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to dress and grooming code exemptions, including all "Dress Code Exemption Form[s]" submitted to a District employee;
6. All communications, including emails, texts, notes, or correspondence concerning the dress and grooming code with any District employees, students, or parents in relation to De'Andre Arnold;
7. All communications, including emails, texts, notes, or correspondence concerning the dress and grooming code with any District employees, students, or parents;
8. All communications, including emails, texts, notes, or correspondence concerning the dress and grooming code exemptions with any District employees, students, or parents;
9. All documents sufficient to show for each school, duplicated counts (all events) and unduplicated counts (number of individual students) of enforcement actions of each successive dress and grooming code for the past ten (10) years, disaggregated by race and gender;
10. All documents sufficient to show for each school, duplicated counts (all events) and unduplicated counts (number of individual students) of student referrals or reprimands, by year, disaggregated by gender and race, for violation of the dress and grooming code, including but not limited to: (a) office referrals, (b) calls to parents or guardians, (c) extracurricular activity exclusion, and (d) documented reporting⁴;
11. All documents sufficient to show for each school, duplicated counts (all events) and unduplicated counts (number of individual students) of disciplinary referrals, by year, disaggregated by gender and race, for violation of the dress and grooming code, including but not limited to, referrals involving the following consequences: (a) out-of-school suspension, (b) in-school suspension, (c) detention, and (d) referrals to alternative school;

² The term "document" is to be interpreted in the broadest possible sense and shall include, without limitation, any written, printed, typed, spoken, computerized, or other graphic, phonic, or recorded matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts and copies bearing notations or marks not found on the original.

³ The term "document" is to be interpreted in the broadest possible sense and shall include, without limitation, any written, printed, typed, spoken, computerized, or other graphic, phonic, or recorded matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts and copies bearing notations or marks not found on the original.

⁴ A request for public information that requires a governmental body to program or manipulate existing data is not considered a request for the creation of new information. *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681–82 (Tex. App.—Eastland 2000, pet. denied); see Gov't Code § 552.231; Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2–3 (1986), 87 (1975).

12. Copies of each Uniform Compliance Form or related form and/or parental notice thereof sent to parents or guardians for each infraction involving violations of the dress and grooming code, including the race and gender of the student involved;
13. All documents sufficient to all student referrals, reprimands, and disciplinary referrals made against student De'Andre Arnold;
14. All documents, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to Barbers Hill Independent School District investigations of dress and grooming code violations, including the race and gender of the student involved;
15. All documents, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to Barbers Hill Independent School District investigations of dress and grooming code exemptions, including the race and gender of the student involved;
16. All documents, including but not limited to meeting minutes, notes, or correspondence from Barbers Hill Independent School District school board meetings since August 2019;
17. All documents, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to Barbers Hill Independent School District investigations of allegations of bias involving race; and
18. All documents, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to Barbers Hill Independent School District investigations of allegations of bias involving hair.

This request specifically excludes any identifying information related to a student that is made confidential under Texas or federal law, including name, date of birth, and student identification numbers. Please also provide any individual computer records or scanned documents in a searchable format such as Microsoft Word or searchable Adobe Acrobat pdf and any data and statistical information, if applicable, in a format that is searchable and analyzable, such as a .txt or .csv file or an excel spreadsheet.

In the interest of open government, please be mindful of your duty to make a good-faith effort to relate these requests to any information that you hold. We further request prompt production of the information requested.⁵ If you expect that fulfilling this request will take longer than ten business days, please inform LDF of when we can expect copies of these records. As in accordance with Texas Gov't Code § 552.302, if you do not notify us, then the records are presumed to be public and must be released. If you determine that any or all of the requested information is exempt and will not be disclosed, please provide a notification specifying each claimed exemption, explaining the factual basis of each exemption, and citing the specific legal authorities on which you rely.

Please waive the fees for this request, as it is made for public and non-commercial purposes. Tex. Gov't Code § 552.267. The NAACP Legal Defense and Educational Fund is a nonprofit organization, seeking structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society. We request this information for the benefit of the general public. If the fees for locating and reproducing the requested information exceed \$40, kindly provide us with an invoice detailing the costs prior to copying the documents.

⁵ *Olibas v. Gomez* (App. 8 Dist. 2007) 242 S.W.3d 527 (untimely compliance may be an indication of bad faith).
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC

In the event that you have any questions concerning the type or scope of materials we have requested, please contact Patricia Okonta by email or by telephone at (212) 965-2229.

Sincerely,

Janai S. Nelson, Associate Director-Counsel

Sherrilyn A. Ifill, President & Director-Counsel

Sam Spital
Natasha Merle
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