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January 7, 2019

***Via Email and Fax***

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**Re: Open public records request relating to the 2013 Memorandum of Understanding regarding bias incidents in high school sports**

Dear Mr. White and Mr. Goodell:

The NAACP Legal Defense & Educational Fund, Inc. (“LDF”) is the nation’s oldest civil and human rights law and racial justice organization. LDF was founded in 1940 by Thurgood Marshall, who later became the first Black Supreme Court Justice, and, since its inception has worked to defend and advance the voting rights of Black Americans and protect the integrity of our nation’s democracy. Consistent with its mission, LDF has tirelessly advocated for fairness and equal rights for Black students, including by representing plaintiffs in landmark cases such as *Brown v. Board of Education* before the United States Supreme Court in 1954. Recently, LDF has vigorously opposed the use of hair policies to serve as pretexts and justifications for racial discrimination in schools and in the workplace.<sup>1</sup> As such, we were deeply troubled to learn about the racist incident on December 19, 2018, in which Andrew Johnson of Buena Regional High School was forced to cut his hair in order to compete in a high school wrestling match.

On behalf of LDF, I hereby request copies of the following documents pursuant to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1, *et seq.*):

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<sup>1</sup> 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).

- (1) A copy of the 2013 Memorandum of Understanding (“MOU”) between the New Jersey State Interscholastic Athletic Association (“NJSIAA”) and the New Jersey Division of Civil Rights regarding unsportsmanlike bias incidents in high school sports, and which was the subject of the June 18, 2018 letter sent by the NJSIAA and the Division of Civil Rights to New Jersey administrators in response to recent incidents involving racial bias at high school sporting events.<sup>2</sup>
- (2) All documents,<sup>3</sup> including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to NJSIAA investigations of allegations of bias involving race since the execution of the above-described MOU in 2013.
- (3) All documents, including but not limited to draft and final memoranda, opinions, analyses, or correspondence relating to NJSIAA investigations of allegations of bias involving a student-athlete’s hair since the execution of the above-described MOU in 2013.

Kindly provide immediate access to the 2013 MOU described in Request #1, pursuant to N.J.S.A. 47:1A-5.e, and a response to Requests #2 and #3 within seven business days, pursuant to N.J.S.A. 47:1A-5.i. 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.

If the fees for locating and reproducing the requested information exceed \$25, kindly provide us with an invoice detailing the costs prior to copying the documents. 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. *See* N.J.S.A. 47:1A-5.g.

In the event that you have any questions concerning the type or scope of materials we have requested, please contact Aaron Sussman by email or by telephone at (212) 965-2249.

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<sup>2</sup> See Letter from Craig Sashihara, Dir., NJ Div. on Civil Rights, and Larry White, NJSIAA, to high school principals (June 18, 2018), <https://nj.gov/oag/newsreleases18/DCR-NJSIAA-letter.pdf>.

<sup>3</sup> 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.

Sincerely,



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Sherrilyn A. Ifill, President & Director-Counsel

Janai S. Nelson

Sam Spital

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Patricia Okonta

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