



Cayman Islands Human Rights Commission

promoting, protecting and preserving human rights

REF: HRC-RES-EDU-DRESS CODE

Ms Barbara Conolly
Councillor, Ministry for Education
Government Administration Building, Box 108
Grand Cayman KY1-9000
CAYMAN ISLANDS

30 August 2018

Via Email: barbara.conolly@gov.ky

Dear Councillor Conolly,

The Commission notes the recent news articles¹ on the revised Dress Code Policy for government schools (the “Revised Policy”). Whilst we did not have sight of the final version the Commission also notes that the Ministry of Education (the “Ministry”) previously solicited feedback on the 2014 version of the Policy (the “2014 Policy”) (see our correspondence of 29 March 2018, attached for ease of reference).

The Commission considered the Revised Policy at its meeting on 28 August 2018 and notes that, overall, compared to the 2014 Policy, the content of the Revised Policy is clearer and the processes have been strengthened.

However, three concerns with the Revised Policy remain and are outlined below:

1. Page 2: Hair grooming standards have now been differentiated and restricted based on gender. This amendment is contrary to the Commission’s recommendations in its correspondence of 29 March 2018.
2. Page 4: Under the “Second Offence” for consequences of non-compliance with the dress code, the Revised Policy states that confiscated jewellery “will be available for collection by a parent or legal guardian from the school office after a time as determined by the Principal.” The legal basis for withholding personal property in this context is unclear.

¹ <https://www.caymancompass.com/2018/08/20/government-issues-new-dress-code-for-schools/>

3. Page 6: In its review of the 2014 Policy the Commission recommended changes to the Anti-discrimination subsection in Appendix 2 on the basis that the concept of 'anti-discrimination', as outlined in the Constitution, had been misrepresented in the 2014 Policy explanation. These changes have not been adapted and so the concerns remain.

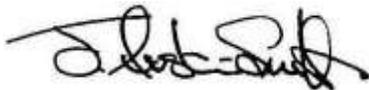
The Commission recommends that in order for the Revised policy to be considered compliant with the Constitution, and especially sections 19 (Lawful Administrative Action) and 20 (Education), the above concerns should be addressed and the Revised Policy should incorporate a reasonable degree of flexibility.

Related to these concerns the Commission understands that issues have already arisen with implementation of the Revised Policy. We received an enquiry this week from the guardian of a child at Clifton Hunter who had been told he was not to return to school until his hair had been cut to a constant, very short, level (a "number 2" trimmer at the barber). The guardian, whose own children also attend Clifton Hunter, sent the Commission a copy of a dress code guidance which had been sent to Clifton Hunter parents which appears to deviate from the Revised Policy issued by the Ministry (see attached). The Clifton Hunter policy included banning afros and extensions, and requiring boys' hair to be "cut short (number 2 at barbers)".

Where schools purport to issue guidance which deviates from the Revised Policy, especially where such guidance appears unreasonably to restrict personal appearance without apparent justification, possible violations of the Constitution could arise. Such guidance should not be issued or adopted without proper, reasoned, justification. To refuse a child access to education (as apparently happened at Clifton Hunter this week) based on such a policy, issued without any articulated justification, would appear be arbitrary and completely disproportionate; if so it would be in breach of the Constitution and unlawful.

If the Commission can be of any further assistance please do not hesitate to contact us.

Yours sincerely,



James Austin-Smith
Chairman

Encl.

cc: Chairman, Education Council