



July 19, 2018

DELIVERED VIA EMAIL AND CERTIFIED MAIL

Michael S. Purzycki, Mayor
City of Wilmington
Louis L. Redding City/County Building
800 N. French Street, 9th Floor
Wilmington, DE 19801
mspurzycki@wilmingtonde.gov

Kevin F. Kelley, Sr.
Director, City of Wilmington Parks and Recreation
500 Wilmington Avenue
Wilmington, DE 19801
kfkelly@wilmingtonde.gov

Re: Discriminatory Actions by Staff at Dr. Foster M. Brown Community Pool

Dear Mayor Purzycki and Director Kelley,

Muslim Advocates, a national civil rights and legal advocacy organization, submits this letter on behalf of Darul Amaanah Academy (“Darul Amaanah”), a Delaware-based Muslim youth group. Over the course of recent weeks, the young children who attend Darul Amaanah—the vast majority of whom are black—have been subjected to a pattern of discriminatory and bigoted actions by the staff at the Dr. Foster M. Brown Community Pool (“Foster Brown”). This conduct contravenes basic standards of decency and is in clear violation of well-established federal and state civil rights laws.

Like so many other young people, the children of Darul Amaanah enjoy swimming at their neighborhood’s public pool. Yet unlike the other children, the youth at Darul Amaanah—some of them only preschoolers—have been repeatedly denied equal treatment by the staff at Foster Brown. As detailed below, the staff has consistently used derogatory terms to refer to these children, creating a hostile environment and, on several occasions, preventing them from accessing the pool altogether—including by calling local law enforcement to have them removed. When pushed for an explanation, the staff has claimed that their actions stem from concerns about the children’s religiously-mandated clothing, some of which is cotton-based and

allegedly presents a “safety” issue under the pool’s alleged “no-cotton” clothing policy. In reality, the staff can point to no such written policy, and these purported explanations are merely pretext for the true motivation behind their conduct: discrimination against these children on the basis of their race, religion, and/or socio-economic status.

Despite Darul Amaanah’s repeated complaints and pleas for assistance—including complaints submitted directly to the City of Wilmington’s Parks and Recreation Department—the staff at Foster Brown have continued to subject the youth of Darul Amaanah to grossly discriminatory mistreatment. We call on you to end it immediately. All children deserve to enjoy public accommodations free from discrimination. The children of Darul Amaanah are no different.

I. Over the Last Several Weeks, the Staff at Foster Brown Has Engaged in a Series of Harassing and Discriminating Actions Against the Children of Darul Amaanah

For the past several years, Darul Amaanah has hosted a summer camp for children in the Wilmington area. The camp aims to connect the children with other young Muslims in their community, surround them with positive role models, and engage them in fun summer activities such as swimming. Throughout the duration of this program, Tahsiyn Ismaa’eel, the Camp Director, has regularly taken the children to Foster Brown and other public swimming pools throughout the Wilmington area. As with many of the City-owned swimming pools, Foster Brown is located in one of the least affluent neighborhoods of Wilmington and is the only public pool within Darul Amaanah’s vicinity.

In accordance with their religious beliefs, some of the children from Darul Amaanah wear clothing in the swimming pool to avoid exposing certain parts of their bodies in public. The children have been dressing so for years at different pools, including at Foster Brown, without any issue.

That all changed a few weeks ago, on June 25, 2018. What began as a routine day at the swimming pool turned into a traumatic event when Foster Brown’s staff ejected the children of Darul Amaanah—some of them only preschoolers—from the facility.¹ The pool manager, Glenda Pinkett, harassed the children from the moment they entered the facility. She verbally attacked their clothing and spoke about them in derogatory terms to other patrons. The children were humiliated and extremely distraught about how they had been treated, especially given that the staff permitted another summer youth group to enjoy the pool freely without incident. The next day, Ms. Ismaa’eel sent a written complaint to the City of Wilmington’s Parks and Recreation Department (attached as Exhibit A), where she documented the unfair treatment endured by her children.

¹ Christina Jedra, *Muslim swimmers asked to leave Wilmington public pool; mayor apologizes*, Delaware News Journal (July 14, 2018), <https://www.delawareonline.com/story/news/local/2018/07/14/wilmington-public-pool-policy-muslim-swimmers-swimwear/778588002/>. See also Cleve R. Wootson Jr., *Muslim Girls kicked out of public pool after officials said hijabs would clog filtration system*, Washington Post (July 18, 2018), https://www.washingtonpost.com/news/acts-of-faith/wp/2018/07/18/muslim-girls-kicked-out-of-public-pool-after-officials-said-hijabs-would-clog-filtration-system/?utm_term=.8696efa39989.

Despite this complaint, the harassing conduct by the staff at Foster Brown has not only continued but escalated. Over the past several weeks the Foster Brown staff has called the local law enforcement on the children and—as recently as this past Friday, July 13—refused to let them swim after asserting that the pool was “at capacity.”² During this most recent incident, the children from Darul Amaanah waited outside the pool until enough patrons had exited so that they could enter. As soon as they did, the staff shut down the entire facility. Shortly after Ms. Ismaa’eel and her children left, the pool reopened. Ms. Ismaa’eel’s has submitted additional complaints to the City of Wilmington’s Parks and Recreation Department (attached as Exhibit B); those complaints, to date, have remained unresolved.

This gross mistreatment has had substantial impacts on all those affiliated with Darul Amaanah. The staff at Foster Brown has harassed Darul Amaanah to the point where Ms. Ismaa’eel, afraid for herself and her children, has sought police intervention. The children have expressed deep humiliation and pain at hearing the Foster Brown staff repeatedly make derogatory comments towards them and forcing them to leave while everyone else is welcome. The children’s parents are greatly troubled by this pattern of discrimination against their children. And the staff at Darul Amaanah—most of whom are from the local neighborhood themselves—are deeply distressed by this unjustified discrimination taking place in their own community.

II. The Actions of the Foster Brown Staff Violate Clearly Established Laws and Are Patently Unjust

The recent actions of the staff at Foster Brown are in direct violation of both federal and Delaware law. Title II of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000a-2000a-6, prohibits discrimination based on race, color, religion, or national origin in certain places of public accommodation, including “places of entertainment” such as swimming pools. *See United States v. Lansdowne Swim Club*, 713 F. Supp 785 (E.D. Pa. 1989), *aff’d*, 894 F.2d 83 (3rd Cir. 1990) (applying Title II to a community swimming pool). Similarly, Title IV of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c-2000c-9, prohibits discrimination based on race, color, or national origin by recipients of federal funds or other federal financial assistance. The Delaware Equal Accommodation Law, 6 Del. C. §§ 4501 *et seq.*, likewise prohibits discrimination against people because of their race, color, creed, or national origin in places of public accommodation, which include recreational areas such as publicly-operated swimming pools. These laws as well as other long-standing and well-established civil rights statutes make clear that actions like the ones recently undertaken by the Foster Brown staff have no place in American society.

None of the Foster Brown staff, including Ms. Pinkett, have provided any legitimate justification for their conduct. Nor could they. While Ms. Pinkett has asserted that her staff’s treatment of the Darul Amaanah youth was warranted because the children were “inappropriate[ly] attire[d]” since they were wearing cotton-based clothing,³ that purported

² See Jedra, *Muslim swimmers asked to leave*, *supra* note 1.

³ Christina Jedra, *After asking Muslim swimmers to leave pool, manager claims ‘no discrimination,’* Delaware News Journal (July 16, 2018), <https://www.delawareonline.com/story/news/local/2018/07/16/wilmington-pool-muslim-swimmers-discrimination-delaware/790050002/>.

explanation simply provides no basis for the discriminatory and bigoted treatment these children have been forced to endure. As an initial matter—and as Ms. Pinkett has already conceded—there is no applicable state law or even local policy that bans individuals from wearing cotton in public pools.⁴ Moreover, covering one’s body in a public pool for religiously-mandated reasons is not a safety violation, and it is certainly not “inappropriate attire” that warrants forcibly removing small children from the facility.

Instead, it is clear that the staff at Foster Brown is arbitrarily applying an unwritten “policy” against cotton-based clothing to discriminate. The staff is targeting patrons on the basis of their religion, not because of any safety need. The Darul Amaanah children should not be forced to choose between complying with their religious obligations and joining their friends in the pool.

The actions by Ms. Pinkett and the other Foster Brown staff are not just illegal, they are also unjust and immoral. No person—and certainly no person employed by or otherwise affiliated with any municipality—should be depriving children the opportunity to enjoy taxpayer-supported public facilities simply because of what they look like or what they believe. For many of the Darul Amaanah children, Foster Brown is the only pool in their neighborhood and the only such facility that is reasonably accessible to them. Moreover, Foster Brown’s purported “no-cotton” policy also heavily impacts patrons who cannot afford traditional swimming gear and must wear cotton tops and shorts. Ms. Pinkett’s cursory statement: “Why not just buy the right garb? It’s a simple thing,”⁵ underscores how dismissive this so-called policy is towards the community’s needs.

III. The City of Wilmington Needs to Take Immediate Actions to Remedy This Unjust Situation

No child should be prevented from swimming because of discrimination on the basis of their race, religion, or socio-economic status. As such, we demand that Foster Brown’s unequal treatment of the Darul Amaanah children cease immediately. Specifically, we call on you to:

- **Conduct an immediate and thorough investigation into the discrimination at the Foster Brown pool.** As previously noted, Ms. Ismaa’eel has raised repeated complaints to the Foster Brown staff and to the City of Wilmington’s Parks and Recreation Department. Those complaints have gone unheeded. These concerns deserve a full and fair investigation, including a thorough inquiry of the staff members involved and any witnesses who may have first-hand information about what occurred. The City of Wilmington should discipline all staff members who are found to have engaged in discriminatory or other inappropriate conduct.
- **Enact written policies along with training protocols to ensure that all City employees do not engage in discriminatory conduct.** The mistreatment of the Darul Amaanah children is not limited to one particular staff person or even one incident. As such, to fully rectify this situation, the City of Wilmington needs to review its written

⁴ *Id.*

⁵ *Id.*

policies and training procedures to make sure that they include adequate protections to ensure these types of incidents do not continue at Foster Brown or any other publicly-managed facility.

- **Immediately remedy the harm to the community.** The gross mistreatment by the staff of Foster Brown is inexcusable, as is the City’s failure to meaningfully respond to Darul Amaanah’s repeated complaints. For example, most recently, Ms. Pinkett rejected making a public apology about her and her staff’s actions by reiterating that “[w]e didn’t do anything wrong.”⁶ Such dismissive statements underscore the hurtful actions taken by the staff and reflect their continuing failure to realize the harm of their actions. The City of Wilmington must not only issue apologies to the individuals affected, including the staff of Darul Amaanah, the children, and their parents, but also ensure that their concerns are fully addressed going forward.

IV. Conclusion

There is, unfortunately, a long and tragic history of discrimination against children of color in swimming facilities throughout this country.⁷ As one scholar has recently observed: “Swimming pools have long been contested spaces where Americans express social prejudices that otherwise remain publicly unspoken.”⁸ In light of this history, the recent actions of the Foster Brown staff are particularly disturbing and it is imperative that the City of Wilmington make clear that those actions are not tolerated, appropriate, or consistent with the values of that community.

Given the gravity of this situation and the ongoing harm, we request a response to this letter by no later than Friday, July 27. Any response should be directed to my attention (juvaria@muslimadvocates.org or (202) 897-1897). On behalf of the children and staff of Darul Amaanah, we thank you in advance for your serious consideration of the critical issues raised in this letter.

Sincerely,

/s/ Juvaria Khan

Juvaria Khan
Staff Attorney

⁶ *Id.*; see also *Manager: Asking Kids to Leave Pool Not Discrimination*, Associated Press (July 18, 2018), <https://apnews.com/27c1dcb6b7e146afa5448be85267993e> and Emily Shugerman, *US mayor apologizes after Muslim children kicked out of swimming pool over religious dress*, The Independent (July 18, 2018), <https://www.independent.co.uk/news/world/americas/muslim-swimmers-leave-pool-clothing-wilmington-delaware-mayor-apology-arabic-summer-camp-a8451446.html>.

⁷ Brit Bennett, *Who Gets to Go to the Pool?*, New York Times (June 10, 2015), <https://www.nytimes.com/2015/06/10/opinion/who-gets-to-go-to-the-pool.html>.

⁸ Jeff Wiltse, *America’s swimming pools have a long, sad, racist history*, Washington Post (June 10, 2015), https://www.washingtonpost.com/posteverything/wp/2015/06/10/americas-swimming-pools-have-a-long-sad-racist-history/?utm_term=.9446810ab46d.

Exhibit A

Darul-Amaanah Academy
408 E. 8th Street, Wilmington, DE 19801 Tel: 302-521-2064

June 26, 2018

Mr. Kevin Kelly
Director,
City of Wilmington Parks and Recreation

Dear Mr. Kelly,

I'm writing to express our concern over the unprofessional way our camp was treated by Ms. Glenda Pinkett at Brown pool Monday June 25th. Ms. Pinkett harassed my staff from the time we entered the pool until we finally left. In fact, the unprofessional way in which our group was talked about to other patrons at the pool made me so uncomfortable that, I decided to cut our outing short and leave all together.

We have been utilizing Brown pool for four years. We have never experienced staff that was as rude and unprofessional as Ms. Pinkett. No one should be made to feel unwelcomed at a City owned public facility.

I personally feel that our campers were discriminated against because the entire time that Ms. Pinkett harassed us, another camp was allowed to enjoy the pool area freely without being talked about or harassed.

We plan to return to Brown pool on Friday. We hope we do not have the same discriminatory experience.

Sincerely,

Tahsiyn A. Ismaa'eel
Principal

Email: [REDACTED]

Exhibit B

----- Forwarded message -----

From: Tahsiyn Ismaeel <[REDACTED]>
Date: Fri, Jul 6, 2018 at 1:11 PM
Subject: Follow-Up Complaint
To: "Kevin F. Kelley" <kfkelley@wilmingtonde.gov>

Dear Mr. Kelley,

In the email date June 26th, I sought protection from you and the City of Wilmington from Ms. Glenda Pinkett's harassment. I earnestly appealed to you in the closing of that email with my final request: **"We plan to return to Brown pool on Friday. We hope we do not have the same discriminatory experience."**

Yet we were subjected to two more instances of Ms. Pinkett's harassment. As you know, we sought your help on Friday, June 29th when she continued to target four of our preschool campers concerning a clothing policy that the public had not been informed of (no signs posted to state the policy), leaving our younger campers subjected to a dispute between adults. Once you intervened, accommodating the religious beliefs of our families and allowed our campers to swim on Friday, that apparently did not satisfy Ms. Pinkett because I personally came under fire by Ms. Pinkett. July 5th while our camp was at Brown Pool.

Ms. Pinkett appeared to be antagonistic as she walked very close to me between myself and campers several times early in our visit to the pool. Then as we began to leave the pool, Ms. Pinkett approached me to reiterate that the City would be enforcing the "No cotton" rule for swim wear in the pool. When I casually informed her that you were meeting with the parents that evening, she became irritated. She, once again, more forcefully, repeated that swimmers would no longer be allowed to get in the pool while wearing cotton. I once again, reiterated that this is a matter for the parents. She got louder. At this point I asked her, "Can't we just be professional about this?" She belligerently responded, "We can be professional, we can talk like grown women!" Feeling shocked and threatened, I said, "Please don't talk to me." At this point, Ms. Pinkett got in my face and more loudly stated, "I can talk to you if I want to."

It was at this point, feeling, more afraid, I quickly gathered my campers and left the pool grounds.

Still feeling uneasy about the harassment I had just suffered for a third time in less than two weeks, I complained to you in the meeting with the parents.

Mr. Kelley, I addressed Ms. Pinkett's harassment after the first incident June 26th. I sought your protection from her immediately. She continued her harassment on Friday, June 29th unchecked. Unfortunately, she was allowed to become even more aggressive in her harassment yesterday, July 5th. In the meeting, I informed you that I don't feel safe around Ms. Pinkett. After it appeared to me and the parents and staff attending the meeting that Ms. Pinkett will be allowed to continue to harass me personally and my campers as well, I immediately contacted Wilmington police for my own safety. I spoke with Officer Fosset of WPD yesterday evening, who advised me to contact Wilmington Police, if she approaches me again.

Once again, I am seeking your protection from Ms. Pinkett's harassment.

Sincerely,

Tahsiyn A. Ismaa'eel
Principal/Camp Director