

Office of the President
Bryn Mawr College
101 North Merion Avenue
Bryn Mawr, PA 19010-2899
610 526-5156
610 526-7450 Fax

B R Y N M A W R

17 July 2010

William Creeley
Director of Legal and Public Advocacy
Foundation for Individual Rights in Education
601 Walnut Street, Suite 510
Philadelphia, PA 19106

Dear Mr. Creeley,

I am responding to your letter regarding Bryn Mawr College's sexual harassment policy. Before I address your concerns, I would like to give you some context regarding the College's position on free speech.

As our prior president, Nancy Vickers, wrote to you on another matter, which both you and we believe was handled collegially and well:

From its founding as a Quaker College, Bryn Mawr has always espoused a strong commitment to free inquiry, freedom of conscience and free expression. During the Nazi rise to power in Europe and World War II, Bryn Mawr became home to many distinguished European scholars who were refugees from Nazi persecution. In the McCarthy era, Bryn Mawr was the first college to decline aid rather than force students applying for loans to sign a loyalty oath to the United States and an affidavit regarding membership in the Communist party. Later, at the height of student protest against the Vietnam War, Bryn Mawr was the only institution in Pennsylvania to decline aid rather than report student protesters as a condition of eligibility for government scholarship support.

Further, I feel that it is important to note that the College takes very seriously its legal and moral obligations to protect our students, faculty and staff against sexual harassment, and though, as you properly characterize, Bryn Mawr does strive to foster "intellectual rigor, robust debate, and a free and vibrant community," we also realize that words can, of course, be harassing. That being said, we acknowledge that the words that you have pointed to in our policy could be construed to be both vague and overbroad, and we have taken note of the United States Supreme Court language that you referenced from *Davis v. Monroe County Board of Education*, 526 U.S. 629, 633 (1999), requiring behavior that is severe and repeated before rising to a level that would be considered actual harassment. Although in practice the College has never sanctioned a member of our community for anything less than severe and repeated behavior, we agree that our policy must more closely reflect our actual practice. We believe that narrowing the scope as you suggest improves our policy, and for that we are appreciative.

In our endeavor to make our language as clear and as specific as possible, we have substituted the language you found vague and overbroad with the following:

Sexual harassment can include verbal behavior such as unwanted sexual comments, suggestions, jokes or pressure for sexual favors; nonverbal behavior such as suggestive looks or leering; and physical behavior such as pats, where such behaviors are severe, offensive, and occur repeatedly unless a single instance is so severe that it warrants immediate action.

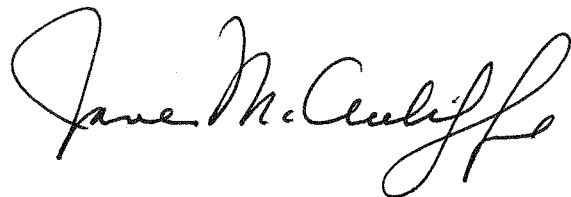
Some specific examples of behaviors that are inappropriate include:

- Continuous and repeated sexual slurs or sexual innuendoes;
- offensive and repeated risqué jokes or kidding about sex or gender-specific traits;
- repeated unsolicited propositions for dates and/or sexual relations.

This revision was modeled on language found in the University of Pennsylvania's policy, with their approval, to which you have given a "green light" rating.

I trust that our policy revision addresses your concerns, and once again, I would like to state our appreciation for your input in strengthening our policy. I am pleased that the College will have the opportunity to welcome FIRE to our campus for its July meeting.

Sincerely yours,

A handwritten signature in black ink that reads "Jane McAuliffe". The signature is written in a cursive style with a large, looping initial "J" and a long, sweeping tail.

Jane McAuliffe
President

cc:

Judy Balthazar, Dean of Studies, Bryn Mawr College

Karen Tidmarsh, Dean of the Undergraduate College, Bryn Mawr College

Samuel B. Magdovitz, College Counsel, Bryn Mawr College