



Foundation for Individual Rights in Education

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May 14, 2008

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Chairman, University of Delaware Board of Trustees
13 South Rockland Falls Road
Rockland, Delaware 19732

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DIRECTOR OF LEGAL AND
PUBLIC ADVOCACY

URGENT

Alan Charles Kors
CO-FOUNDER AND
CHAIRMAN EMERITUS

Sent via U.S. Mail and Facsimile (302-831-6023)

Dear Mr. Cosgrove:

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As you can see from our list of Directors and Board of Advisors, FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, due process, the right of conscience, and academic freedom on America's college campuses. Our website, www.thefire.org, will give you a fuller sense of our identity and activities.

FIRE is gravely concerned about the threat to freedom of conscience posed by the University of Delaware's proposed residence life education program. In addition, we note that this educational program improperly proceeded through the Faculty Senate's Student Life committee rather than its Undergraduate Studies Committee and then its Coordinating Committee on Education.

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We request that the Board either reject the proposal or send it back to the Faculty Senate so that the educational program can be properly assessed in accordance with the University of Delaware Constitution and Faculty Senate Bylaws.

Likewise, it is the Board's duty to assess the proposal through the Board of Trustees Committee on Academic Affairs rather than the Board's Committee on Student Life and Athletics.

The following is FIRE's understanding of the program and the process it has followed to this point. Please inform us if you believe we are in error.

- (1) The proposed program is an educational plan.**
- (2) This educational plan maintains many of the objectionable goals and activities that were in last year's halted program.**
- (3) The same Residence Life staff who envisioned and directed last year's program have designed and will direct the proposed program.**

You might have been told that the person responsible for last year's program is no longer at the university. This is false. Director of Residence Life

Kathleen Kerr, Associate Director for Residence Life Jim Tweedy, Assistant Director for Residence Education Michele Kane, and Assistant Director for Staff Selection and Training Ivett Ziegelbauer all remain in their positions at the university. They are the persons most responsible for producing both last year's program and the proposal that is now before the Trustees.

(1) The proposed program is an “educational plan” and therefore should be reviewed as one. The proposal before the Board states that its seven “program goals” are “learning outcomes.” The proposal explicitly states that these educational outcomes “have been drafted through a serious exploration of the University of Delaware’s educational priorities.” In addition, four of the seven learning outcomes “were derived from the recently revised FYE [First-Year Experience] program goals and student learning outcomes.”

The proposal therefore must be considered through the Board of Trustees Committee on Academic Affairs. According to the Board of Trustees Bylaws, the Committee on Academic Affairs

shall have the responsibility to ensure: the academic program is consistent with the University’s mission and overall strategy; ... the University’s academic programs are appropriate for its students; and the University assesses the effectiveness of its academic programs.

In contrast, the Board’s Committee on Student Life and Athletics expressly does *not* oversee any educational services:

The Committee on Student Life and Athletics shall have responsibility for all matters relating to services for students (*other than educational services*) or relating to athletics.... [Emphasis added.]

Likewise, the proposal improperly was shepherded through the Faculty Senate without due review by either the Senate’s Undergraduate Studies Committee or its Coordinating Committee on Education. The University of Delaware Faculty Constitution provides that the Senate determines the duties that are delegated to its various committees. Accordingly, the Bylaws and Regulations of the University Faculty Senate make clear that the Coordinating Committee on Education

shall be a continuing center for overseeing the broad educational affairs of the University [and] providing a large context for the examination and preparation of educational proposals...

In contrast, the charge of the Student Life Committee is not to examine or approve educational programs but to “formulate rules and regulations” and review non-educational services that support student life.

Moreover, in the original wording of the resolution as of May 5, 2008, **the Faculty Senate resolution on the proposal called the program a set of “educational plans.” This wording was changed to “residential program” in an apparent attempt to hide the nature of the program.**

The Board of Trustees puts the University of Delaware’s reputation and accreditation in jeopardy if educational programming is not properly assessed by the Senate and Trustee committees with the fiduciary responsibility to do so.

(2) This “educational plan” maintains many of the objectionable goals and activities that were in last year’s halted program. Last year’s program violated students’ rights to freedom of conscience, freedom of speech, and right to privacy, and the current program appears ready to do the same:

- **Although the Office of Residence Life claimed to their superiors and the public that the program was optional, it instructed students that the program was mandatory.** The proposed program, again, is nominally optional, but the proposal so thoroughly integrates the educational activities with essential and traditional residential activities that there is no reasonable way for students to opt out, or even to know what they are opting out of. It is unreasonable to believe that students genuinely will be able to opt out of this program.
- **Some of the worst abuses of students’ privacy last year were accomplished through private one-on-one sessions** with Resident Assistants (RAs) who had been given “confrontation training.” One student who resisted the abuses answered that the question about her sexual awakening was “none of your damn business,” and the RA wrote her up in an Incident Report. The sessions and other activities violated students’ privacy and **compelled** them to speak on issues ranging from their sexuality to their religion to their politics. **The current proposal maintains RA one-on-one sessions**, having renamed them “RA conversations.”
- Last year’s Residence Life educational priority statement has been changed only cosmetically in the current proposal. Last year’s “Educational Priority” statement in the Residence Life “Mission” was:

Become an engaged and active citizen by understanding how your thoughts, values, beliefs, and actions affect the people with whom you live and recognize your responsibility to contribute to a sustainable society at a local, national, and global level.

This statement remains on the Residence Life website. The language in the proposal was changed only slightly to read:

The Residence Life program encourages students to become engaged and active citizens on campus by understanding how their thoughts, values, beliefs, and actions affect the people with whom they live and by recognizing their citizenship responsibilities.

The original language guided the design of the entire proposal and was retained until the final revisions, while **the activities themselves were left almost completely unchanged.** The Office of Residence Life has made clear that “citizenship responsibilities” are the moral, social, political, and environmental responsibilities defined by a highly politicized “sustainability” agenda. Moreover, it is deeply troubling that the Office of Residence Life still seeks to pressure students to conform to the specific set of thoughts, values, beliefs, and actions approved by that office.

- These presumed responsibilities, thoughts, values, beliefs, and actions are tied explicitly to the “educational outcomes” through an unrelenting series of activities designed to inculcate a social and political agenda of “sustainability” that goes far beyond “environmental sustainability.” In fact, until the final version of the proposal, the word

“sustainability” was used to express a highly specific social and political agenda to which students were expected to conform, including issues ranging from politics to sexuality, sociology, moral philosophy, and even science. The final version of the proposal merely added the word “environmental” before the word “sustainability” **but did not change any of the activities.**

- Director of Residence Life Kathleen Kerr, who will direct and be responsible for administering the program, has stated in published documents that it is a “myth” that sustainability is mostly about the environment. **The director of the program does not believe in the program’s putative mission of teaching “environmental sustainability” apart from a social and political agenda; instead, her program shows every intention of going far beyond the mission of teaching “environmental sustainability.”**

There is no sign that the Office of Residence Life will refrain from inculcating its highly politicized agenda in violation of students’ rights to freedom of conscience, freedom of speech, and traditional notions of academic freedom.

(3) The same people who envisioned and directed last year’s program have designed and will direct the proposed program.

- These are the same people who pressed to make students aware the program was mandatory, while claiming to their superiors it was not. RAs were instructed to tell students that the programming was mandatory. RAs wrote, for instance, about floor meetings, “Not to scare anyone or anything, but these are MANDATORY!” Again, the 500 pages of documentation on last year’s program contain many strong assertions that every student “must” be reached with Residence Life’s agenda (see the documents at <http://www.thefire.org/index.php/article/8575.html>).
- These also are the same people who thought it was right to ask students, in surveys, whether they were willing to be close friends with or date people of various races, genders, sexual orientations, and ethnicities.
- They are the same people who thought it was necessary for “strong male RAs” to break the “resistance” of males with “traditional” views.
- They are the same people who called the educational curriculum a “treatment”—as if their students suffered from some moral sickness which only the Office of Residence Life could cure.
- They are the same people who thought it was valuable to coerce students to reveal their political beliefs and then shame students with “incorrect” views in front of their peers.
- They are the same people who thought it was important to ask students to reveal the origins of their sexual awakenings in private one-on-one sessions with RAs.
- They are the same people who thought it was good practice to encourage RAs to record the names and room numbers of students with whom they had the “best” and “worst” one-on-one sessions.

- They are the same people who thought they should coerce students to act out the worst possible stereotypes they could think of in a bizarre attempt to force students to show their own alleged bigotry.
- They are the same people who repeatedly rebuffed all serious concerns brought to their attention—from parents, students, faculty, and others—about their “curriculum.”

In these circumstances, it is simply startling that Kathleen Kerr still has a job, not to mention the fact that she is being permitted to direct and oversee the proposed program.

The legal problems posed by last year’s Residence Life education program are abundant and cut to the core of the most essential rights of a free people. **The proposed Residence Life education program remains a legal minefield.** Please know, however, that our objection to this program is far more than legalistic. **What made last year’s program so offensive was its brazen disregard for autonomy, dignity, and individual conscience, and the sheer contempt it displayed for all of the university’s incoming students. With similar but ambiguous programming, similar goals, and the same staff in place, the proposed program remains deeply problematic.**

At the heart of all concepts relating to freedom of the mind is the recognition of our own limitations—like us, those in power are neither omniscient nor omnipotent, and therefore have no right to dictate to others what their deepest personal beliefs must be. Concerns for free speech and freedom of conscience are rooted in the wisdom of humility and restraint. The Residence Life education program, which presumes to show students the specific ideological assumptions they need in order to be better people and better citizens, crosses the boundary from education into unconscionably arrogant, invasive, and immoral thought reform. Last November, we wrote President Harker that we could conceive of no way in which the program could be maintained consistent with the ideals of a free society. The current proposal has not allayed our concerns.

Again, we ask that the Board of Trustees either reject the proposal or send it back to the Faculty Senate for extensive revision. In any case, if the program is to be an educational program, it must go through the proper educational committees. If not, the purportedly educational components of the program must be removed in order to follow the university’s own policies and procedures.

Sincerely,



Adam Kissel
Director, Individual Rights Defense Program

cc:

Board of Trustees, University of Delaware
Patrick T. Harker, President, University of Delaware
John A. Brennan, Director of Public Relations, University of Delaware
Monica Marie Taylor, Vice President for University Development and Alumni Relations,
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Encl.