




FIRE is a nonprofit educational foundation devoted to free speech, individual liberty, religious freedom, the rights of conscience, legal equality, due process, and academic freedom on our nation's campuses.

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November 19, 2002

Kim B. Clark, Dean
 Harvard Business School
 Morgan Hall 125 Soldiers Field
 Boston, MA 02163

Dear Dean Clark,

As you can see from our Directors and Board of Advisors, the Foundation for Individual Rights in Education unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, freedom of religion, academic freedom, due process, legal equality, and, in this case, freedom of speech and expression on America's college campuses.

We are profoundly alarmed by what we have learned from students, news sources, public statements, and other documents about events at Harvard Business School. In the fall of this year, HBS Career Services experienced a number of problems. Some of these problems occurred at the height of a stressful interview period understandably known as "hell week" and concerned the computerized interview scheduling system. The system's malfunctions caused many students to receive inaccurate schedules.

On October 28, 2002, the *Harbus*, an independent student publication at HBS, published a satirical cartoon, "Pre Hell Week Horror Story," to voice the frustration of students. The cartoon depicts a computer screen called "Career Dink"—a parody of the HBS "Career Link" web page—with a number of error messages. One message says, "Announcement, students should be aware of the following unnecessarily complicated manual procedure." Another says, "Career services absolves itself of any and all responsibility for the functionality of Career Dink despite the fact we selected the vendors." One small window, partially obscured, contains two words, "incompetent morons."

On November 4, 2002, Nick Will, the editor of the *Harbus*, was summoned to a 7:00 AM meeting with Steve Nelson, the director of the HBS MBA Program. At this meeting, Nelson informed Will that he had consulted with HBS Senior Associate Dean Walter C. Kester and with you. As confirmed by statements from Dean Kester in *The Boston Globe*, Will was told that his decision to run the cartoon was a potential violation of Harvard's "community standards" speech code, because the cartoon could be



Read *Memo to Free Speech Advocates University of*

Wisconsin-Madison by Harvey A. Silverglate.

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construed as criticism of Career Services personnel. Since a violation of Harvard's community standards can result in punishments that go all the way to expulsion, this was a chillingly clear threat.

According to Will's widely distributed resignation letter, he was told that this admonition constituted a "verbal warning"—the first step of the HBS disciplinary process—and that he would be held responsible for any future objectionable content in the *Harbus*. Will was instructed that the *Harbus* should give more "positive" coverage to HBS and should steer clear of "questionable content" in the future. Citing these unreasonable and illiberal demands of the HBS administration, Nick Will resigned from the *Harbus* two days later.

As dean of a school at a major university in a free society, you could have renounced your agent's censorious actions. Instead, you sent an e-mail, on November 8, 2002, to "The *Harbus* and Harvard Business School," addressing "freedom of expression," "community standards," and "the relationship between the *Harbus* and Harvard Business School." You wrote: "Regardless of the role(s) we play on campus, each of us first and foremost is a member of the Harvard Business School community, and as such, we are expected to treat each other respectfully. Referring to members of our community as 'incompetent morons' does not fall within the realm of respectful discourse."

Even considered in the light most favorable to HBS, the facts of this case are outrageous. The editor of an independent newspaper at HBS was called into a special meeting by the director of his program and told that a satirical cartoon, tame by any standards, could constitute a disciplinary violation. Investigating a cartoon is terrible enough. Officially warning a student editor and publicly calling this a violation of HBS policy are simply beyond the pale.

You have turned Harvard's "community standards" into the Harvard Sedition Act, declaring that only the gentlest criticism of individuals at HBS will be tolerated. While you claim to encourage "debate, discussion, and dialogue," the parameters you establish for allowable speech are as narrow as those of the most oppressive censors. A rule that outlaws speech that offends administrative power is not compatible with—and teaches contempt for—the most basic components of freedom. If you have such a rule, FIRE expects that you will immediately notify all students, prospective students, and faculty members at Harvard Business School of the changes in policy and the end of

freedom of speech at your institution. To advertise the critical and intellectual freedom of Harvard University and then to deliver repression of freedom is a "bait-and-switch" that HBS should know to be unethical, if not a material breach of contract.

It is generally taken for granted by deans of major universities that they, their staff, and their programs will be criticized, lampooned, and satirized. Deans usually handle this natural part of their job with grace and understanding. Threatening a student for publishing an editorial cartoon unbecomes a great liberal arts institution. Is the administration of HBS too weak to live with freedom? Are HBS students unworthy of the protections that any community college would have to offer under the Bill of Rights?

These actions do profound damage to the atmosphere of free discourse at HBS. The Supreme Court of the United States recognizes that anything less than a clear commitment to free speech will lead to citizens who refrain from candor and critical speech to avoid risking punishment. Often, this "chilling effect" is subtle, but in the November 12 issue of the Harvard Crimson ("Editor Resigns Over Cartoon") a student summed up the obvious:

"I know that Nick is very scared, and I know that the *Harbus* staff is very scared," said Will's close friend, who is a second-year student at HBS. "Nick didn't resign because he felt like it, but because he thought he might get kicked out of school. He's had some people tell him that these guys play hardball and you're not necessarily safe."

As the dean of HBS, at Harvard University, in an America whose way of life, whose flow of information and knowledge, and whose progress depend on liberty, this account should trouble you to the marrow. HBS has failed in its commitment to free speech. Doubtless, after this incident, student publications will work under the assumption that they will be held responsible for anything unflattering they may say about any aspect of HBS or its administration. If the cartoon represents the outer parameters of acceptable speech at HBS, then no criticism is safe. What kinds of citizens are you sending into the republic?

While undoing the damage already done will be difficult, we urge you to state several things plainly now:

- 1) that HBS will not interfere with student publications;

2) that it will not summon students editors for administrative meetings when it is displeased with the content of their publications;

3) that it will not abuse Harvard's "community standards" to silence what would be protected speech in the larger society, but, rather, that it will embrace the robust discourse that befits a great institution.

Only an apology and a clearly articulated "hands off" policy will begin to restore an atmosphere of freedom to HBS.

Please reflect on these matters, and please do what you surely know to be the right thing. This is a time when our nation's universities must be beacons of liberty and honest criticism, not the enemies of these previous things. Please know, also, that if HBS does not take corrective measures, we will seek, with all of the resources at our disposal, to take this issue to the broadest possible court of public opinion, with the fullest public exposure of the state of freedom and dissent at HBS. We look forward to your reply.

Sincerely,

Alan Charles Kors
President and Co-Director

Harvey A. Silverglate
Vice-President and Co-Director

cc. The President and Fellows of Harvard College
The Board of Overseers of Harvard College

Because Your Liberty is a Precious Thing
