

CLYMER MUSSER BROWN & CONRAD, P.C.

JAMES N. CLYMER
ROBERT F. MUSSER
LEONARD G. BROWN, III
DAVID R. DYE
JEFFREY A. CONRAD
DAVID W. MERSKY
STEPHANIE E. LOMBARDO

ATTORNEYS AT LAW
408 WEST CHESTNUT STREET
POST OFFICE BOX 1766
LANCASTER, PA 17608-1766
—
(717) 299-7101
FAX (717) 299-5115
www.cmbclaw.com
E-MAIL law@cmbclaw.com

203 COMMERCE DR, SUITE A
QUARRYVILLE, PA 17566
(717) 786-0500
FAX (717) 786-2111
—
210 NORTH STATE STREET
EPHRATA, PA 17522
—
DIRECT ALL CORRESPONDENCE
TO THE LANCASTER OFFICE

August 24, 2010

James D. Taylor, Jr., Esq.
Saul Ewing LLP
222 Delaware Ave., Ste. 1200
P.O. Box 1266
Wilmington, DE 19899

RE: Delaware State University Speech Codes

Dear Mr. Taylor:

I am writing to make you aware of the recent Third Circuit decision in *McCauley v. University of the Virgin Islands*, --- F.3d ---, No. 09-3735, 2010 U.S. App. LEXIS 17196 (3rd Cir. August 18, 2010), striking down unconstitutional speech policies maintained by the University of the Virgin Islands on First Amendment grounds. The Third Circuit found the University's regulations prohibiting "offensive" or "unauthorized" signs and conduct causing "emotional distress" unconstitutional. The Third Circuit also upheld the Federal District Court's invalidation of a policy that forbade causing "mental harm" or demeaning or disgracing any person.

Delaware State has two policies in significant need of adjustment—the Sexual Harassment Policy, and the Conduct Standards and Policies from the Student Handbook. *McCauley* now adds to the clear Third Circuit precedent that holds that Delaware State's speech code is unconstitutional. The policies must be brought into compliance with Third Circuit precedent prior to the beginning of the fall semester.

James D. Taylor, Jr., Esq.
August 24, 2010
Page 2 of 2

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'LGB', written in a cursive style.

Leonard G. Brown, III

cc: Alliance Defense Fund, Center for Academic Freedom
Jarrett McKinney
Randal L. Wenger, Esq., Independence Law Center