

INDIANA UNIVERSITY  
SOUTH BEND

September 18, 2007



Mr. Robert Francis, Jr.  
1625 Southwood Dr.  
Mishawaka, IN 46544

Dear Mr. Francis:

OFFICE OF THE  
CHANCELLOR

I am writing to inform you that I am overturning the findings and sanctions that resulted from the charges filed against you during Spring Semester 2007 under the IU South Bend Code of Student Rights, Responsibilities and Ethics.

The complaint against you alleged that questions and comments made by you in an interview with two cast members of "The Vagina Monologues" violated the Code. Following an investigation of this complaint and a report emanating from that investigation, the Associate Vice Chancellor for Student services who filled the role of the Dean of Students, determined that you had violated two sections of the Code, the prohibitions against conduct that is "lewd, indecent or obscene" and against hazing/stalking and specific sanctions were imposed.

The Code provides two levels of appeal to a student who believes that a finding that a violation of the Code occurred is in error, that sanctions imposed related to a finding of a Code violation are improper, or both. Accordingly, you were notified of your right to appeal to a Hearing Commission, and you took that appeal.

A hearing was held, and the Hearing Commission determined that you had not engaged in stalking or hazing, but that you had engaged in conduct that was, in the Code's terminology, "lewd, indecent, or obscene" and adopted the sanctions that had been identified in the original finding. The Hearing Commission's decision also informed you that you had the right to appeal its decision to a Review Board.

Although you did not appeal to the Review Board, I am writing to inform you that I have accepted the letter written on your behalf by Tara Sweeney of FIRE as your appeal of the Hearing Commission's June 13, 2007 decision. This is an unusual step, but I find it to be appropriate under the circumstances.

This situation was ripe for misunderstanding between the participants from the outset. Simply putting on the production of "The Vagina Monologues" is still considered by many to be controversial in and of itself, given its frank focus on female sexuality and its explicit language. While female actors performing "The Vagina Monologues" should certainly be prepared for provocative questions in an interview about the show, it is clear to me that the complaints against you arose, not at the outset of the interviews, but at a nebulous point during the interviews at which the exchange between a reporter and an interview subject stopped being an interview and became—according to your written and spoken response to the charges—simply a conversation between two individuals.

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The Hearing Commission also regarded this to be a critical juncture, noting that at some point your interview "crossed the line" and was no longer an educational discussion of cultural issues associated with the particular monologue that Ms. Smits was performing. From an educational standpoint, I agree with the conclusions of Ms. Pfeiffer, Ms. White and the Hearing Commission that the digression into your intimate personal experiences warranted some kind of response from the University. This response could have appropriately taken the shape of a proactive discussion regarding the effectiveness of your reporting technique or a frank discussion with you as to the reaction that you might have anticipated (and quite possibly avoided) based on your choice of words and the receivers of those words.

However, I also agree with you that the University erred in trying to address these issues through a disciplinary process. The Code of Student Rights, Responsibilities and Conduct is designed to address behavior (i.e., conduct) and not speech. The charge filed against you should have been dismissed at the outset based on that distinction.

I have been informed that you have filed a complaint under the Code against the V Club based on the complaint that its members made about you, and that the prosecution of this complaint has been put on hold pending the outcome of this appeal. I have determined that their complaint should have been rejected, and now has been rejected, because it was seeking the imposition of sanctions based on your exercise of your right to free speech. Based on similar principles, I am dismissing your complaint against the V Club because you are seeking the imposition of sanctions based on their exercise of the right the IU South Bend students have to make complaints through University channels about alleged Code violations. The fact that the complaints were ultimately dismissed does not mean that they were wrongly filed in the first place.

To give effect to the reversal of the sanctions against you, the response paper that you turned in on August 21 will be removed from your file.

Sincerely,

Una Mae Reck  
Chancellor

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