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In the same letter, you stated your agreement with the investigator's conclusion that Mr. Daniel's response violated university policies and "was not part of [his] university work responsibilities," and that the letter of reprimand would be placed in Mr. Daniel's permanent employee file.

Even in a workplace, it is ridiculous to conclude that a one-time e-mail constitutes unlawful discrimination and harassment. It is especially ridiculous to apply such a policy to a working student at an institution of higher education that has a special responsibility to ensure academic freedom. To base such a conclusion on a dictionary definition, no less, blatantly contradicts decades of Supreme Court decisions clarifying unlawful harassment and protecting freedom of expression. See *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 25 (1993), *Hustler Magazine, Inc. et al. v. Jerry Falwell*, 485 U.S. 46 (1988), *Meritor v. Vinson*, 477 U.S. 57, 68 (1986), *Cohen v. California*, 403 U.S. 15 (1971).

A policy prohibiting "derogatory or demeaning" speech is both unconstitutional and unwise. For example, employees jokingly insulting one another over e-mail or professors casually saying other professor's ideas are crazy or stupid would constitute actionable harassment under such restrictions. Indeed, Professor Scala would be guilty of "harassment" under the same policy for sending an e-mail that may have been "demeaning" or "offensive" to other faculty, employees, and students such as Mr. Daniel. If Mr. Daniel had been the one filing a complaint that Professor Scala's e-mail "threatened" his religious beliefs, would William Paterson have taken action against her for violating state law against religious discrimination?

The university may not and should not punish Professor Scala, Mr. Daniel, or any other university student, faculty, or staff who engages in constitutionally protected speech. In fact, over the past few years the misinterpretation of federal harassment law by colleges and universities bent on chilling protected speech had become so rampant that on July 28, 2003, Assistant Secretary Gerald A. Reynolds of the U.S. Department of Education's Office for Civil Rights (OCR) issued an open letter (attached) to all college and university presidents in the United States that clarified the relationship between harassment law, federal regulations, and the First Amendment. Office for Civil (SM-1) (SM a student's ability to participate in or benefit from an educational program." William Paterson's act