



Manhattan College
Riverdale
New York, 10471

President's Office

October 20, 2010

Dear Colleagues:

I hope and trust that the semester's work is going well. It is hard to believe that it is already midterm time. Didn't we just yesterday welcome our students back to campus? As the new academic year continues to unfold, the Manhattan College community's outlook is bright. We have new people on board and new programs in the works. We have assembled an impressive group of leaders in our community to craft a new and bold strategic plan and to produce our Self Study for Middle States reaccreditation. It's an exciting time in our history.

I wanted to take a moment in the midst of all this good work briefly to address some questions that have arisen over the College's stance with respect to the recent activity on our campus of a labor union, the New York State United Teachers (NYSUT). On October 5th NYSUT went to the US National Labor Relations Board (NLRB) to obtain authority to unionize adjunct faculty at Manhattan College. NYSUT is the union that represents almost all public school teachers in New York State and some college employees, particularly those at CUNY and SUNY. We understand from faculty that the union spent considerable time on our campus over the past few months urging adjunct faculty to sign cards so that the union could represent them. Significantly, the College had not previously heard from adjunct faculty, many of whom have a long term relationship with Manhattan College, that they sought specific changes regarding their relationship with the College, although there is no doubt that they were welcome to voice their position. NYSUT, which is seeking to expand the number of employees it represents, has decided to insert itself into the Manhattan College community.

In responding to the union's action, the College has advised the NLRB that it intends to assert its right under United States law to question the jurisdiction of the NLRB. The question of faculty unionization at Manhattan College inevitably raises the issue of the College's distinctive identity as a Lasallian Catholic institution. United States law has from the very drafting of the Constitution respected the right of religious entities to conduct their activities without the entanglement of the government in ways that could impinge on the manner in which a religious entity pursues its mission. This has long been one of the most fundamental freedoms enjoyed, indeed heralded, by Americans.

(2)

In applying this constitutional provision, more than three decades ago, the Supreme Court barred the NLRB from unionizing a Catholic school in Chicago due to the clear lack of intent by the Congress to have the NLRB govern religious entities. That decision, commonly referred to as “Catholic Bishop,” remains the law of the land. It has been interpreted by federal courts of appeals over the years to extend the protection to colleges with a genuine religious identity.

These court decisions recognize explicitly that colleges with a religious affiliation remain institutions of higher education with respect for academic freedom, with an inclusive student body, faculty and staff and with a vigorous, independent faculty voice. The concern of the courts in these cases, the first of which was authored by Justice Steven Breyer before he joined the Supreme Court, was that the government, in the form of the NLRB, should not be questioning the details of a College’s realization of its religious identity or sincerity to determine whether the College was “religious enough” to satisfy the government. In fact, the courts uniformly observed that the very process of intrusive inquiry about the nature and practice of a College’s religious purpose was the activity forbidden by the US Constitution. In reliance on this interpretation of the law, the courts have in individual cases barred the NLRB from proceeding with unionization efforts at religiously affiliated colleges who have asserted their rights under the Supreme Court case. The most recent occurrence was in March 2009 when the District of Columbia Circuit Court ruled in favor of Carroll College, and barred a unionization attempt.

NYSUT is well aware of the original Supreme Court ruling, the Carroll College case and the reasoning behind them. Clearly these court decisions are not viewed as favorable by unions or the NLRB and the College respects their right to their opinions about the wisdom of the judges who ruled on these cases. However, in the same manner as we respect their right to their opinions and their beliefs on unionization, we expect the union to respect the College’s position that it has a responsibility to preserve the historic Catholic mission of the College consistent with the law.

Finally, it is important to assert that, in taking this stand with respect to this action on the part of NYSUT, the College administration is in no way asserting or implying that “Catholic” and “union” are necessarily at odds. The leadership of the College is fully aware of, and justly proud of, the rich tradition of Catholic Social thought and its principled stand on the rights of workers. What we are arguing is that, in these specific circumstances, NLRB involvement represents an unacceptable intrusion into our right to operate freely as a religiously affiliated educational institution.

Sincerely,



Brennan O'Donnell, Ph.D.
President