



UNITED STATES DEPARTMENT OF EDUCATION
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APR 18 2003

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Mr. Tommy Stewart
Director
Concorde Career College
5100 Poplar Avenue
Suite 132
Memphis, Tennessee 38137

Dear Mr. Stewart:

Re: Complaint #04-02-2115
Resolution Letter

This letter is to notify you of the determination of the Office for Civil Rights (OCR), regarding the resolution of the above-referenced complaint. (b)(7)(C) (b)(7)(C) (complainant) alleges that the Concorde Career College (College), discriminated against him on the basis of sex. Specifically, the complainant alleged that:

1. The College allowed staff and students to make comments about him and a female student;
2. Female students in his class did not have to repay their Student Financial Assistance and he did;
3. When he requested to be placed on a leave of absence from his clinical classes, he was instead withdrawn;
4. The Academic Dean (Dean) refused to see him after he complained about the treatment he was receiving;
5. He was instructed not to wear a necklace with a cross because other students might not like it;
6. He was marked tardy four times during his clinical classes, when he was actually on time for class, and female students who were late for class were not marked tardy; and,
7. On the first day of clinical classes he was denied the opportunity, with no explanation, to complete a teacher/student evaluation.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. Sections 1681 *et seq.*, and its implementing

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regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution. As a recipient of Federal financial assistance from the Department, the College is subject to the provisions of Title IX.

The regulations implementing Title IX at 34 C.F.R. Section 106.31(a),(b) (1), (3), (4), and (7), state that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance. In providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service; deny any person any such aid, benefit, or service; subject any persons to separate or different rules of behavior, sanctions, or other treatment; or, otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

OCR did not investigate allegation #5 because it is a dress code issue that is not covered under Title IX. The College's dress code, however, can be found in the College catalog and it prohibits the wearing of dangling necklaces such as the complainant's. OCR also did not investigate allegation #7. Information provided by the College revealed that the complainant did not attend class on the first day and, therefore, was not present to receive and complete a teacher/student evaluation. He was present on the second day of class and was provided with the evaluation form upon his request.

OCR's investigation of the allegations included an analysis of records and documents pertinent to the issues of the complaint, interviews with instructors, a student who was in the complainant's classes and the complainant. As a result of our investigation, OCR made the following determinations of fact:

1. Comments

- § The complainant enrolled in the College on December 17, 2001, in the Patient Care Assistant Nursing Program (Program). The complainant was the only male student in his class.
- § The complainant stated that his two instructors, one of which was also the Dean, and the female students in his class began to make comments about him and another female student whom he alleged was stalking him.

- § The complainant stated that he was called "Chester the Molester" because he was 32 and the female student was 22. He was told that he must be a sexual freak and must be "licking on the girl." The complainant further stated that he repeatedly asked the teacher to have the students stop, but the comments continued.
- § When interviewed by OCR, instructor A stated she overheard students talking about the complainant having dated a female student who was in another class. She further stated that the complainant never asked her to have students' stop making comments about him and a female student.
- § Instructor B stated that she was not aware of any comments made about the complainant and a female student.
- § OCR interviewed a female student who was in the class with the complainant. She stated that students told her that the complainant expressed to them that he was being treated differently because he was a male. She further stated that she never heard students make comments about the complainant and a female student.
- § College officials stated that they were not aware of any comments made by students or an instructor about the complainant and a female student that the complainant might have found offensive. College officials further stated that the complainant did file a complaint about other matters regarding his treatment at the College; however, he did not include this allegation in his complaint. In addition to not mentioning this allegation in his written communications, they stated that he never mentioned that comments had been made about him in meetings he had with College officials during his tenure at the College.

2. Student Financial Assistance

- § The College offers a Community Partnership Grant (CPG) to Memphis companies and agencies that provide tuition assistance for employees and clients. The grant program will match local employers' or agencies' tuition contributions dollar for dollar in the form of tuition grants. The CPG applies only to tuition, books, and fees.
- § When the complainant enrolled in the College he applied for Student Financial Assistance (SFA). He received a Pell grant and a CPG from the College based on Vocational Rehabilitation Services (VRS) paying a portion of the complainant's tuition. The complainant also applied for a loan to assist him with living expenses.

ξ This loan, unlike the Pell grant and CPG, had to be repaid. In reviewing the financial aid records for all of the students in the complainant's class, OCR found that the College has attempted to collect on the loans of all of the students regardless of gender. The complainant provided OCR with the name of one female student who he alleges did not have to repay her loan. Upon review of the files, OCR found that the College has pursued repayment and the student has paid back some of the loan that she secured.

3. Withdrawal from the Program

- ξ The College's catalog sets out the attendance policy which states, in pertinent part, that to maintain satisfactory attendance a student may not miss in excess of 20% of the scheduled class days of a grading period. If a student has missed in excess of the 20% during the grading period, then he or she will be placed on attendance probation beginning with the next grading period. The student may not miss in excess of the 20% scheduled class days while on attendance probation. If at the end of the probationary grading period the student has violated the terms of probation, the student will be immediately withdrawn from the College.
- ξ The College's catalog also states that students may request a leave of absence (LOA) for medical reasons, financial difficulties, military duty, personal difficulties, and jury duty. Students must adhere to certain requirements when requesting a LOA. One of the requirements is that students cannot be granted a LOA to avoid being dismissed because of lack of satisfactory academic progress or failure to fulfill the requirements of the attendance policy.
- ξ With regard to the allegation that the complainant was withdrawn from the program instead of being placed on a LOA, OCR found that on May 6, 2002, the complainant was notified by the academic dean that he had violated the terms of the College's attendance policy, as stated in the College catalog, by exceeding the allowable absences for the grading period that was completed on May 2, 2002, by being absent 11 days.
- ξ He was placed on attendance probation for the next grading period, May 6th through June 7th, 2002. He was informed that he could not exceed 20% of the allowable hours of attendance or he would be withdrawn from the College. The total number of days that the complainant could miss during the grading period was 5 days. The complainant signed the notification on May 7, 2002, acknowledging that he understood his probation status.
- ξ On May 28, 2002, the complainant requested a LOA from the Program because he was having transportation problems. On the date that the complainant requested the LOA he had missed 8 days. The complainant's

request was denied because he was on attendance probation and had violated the terms of the probation.

- ξ On June 11, 2002, he was officially withdrawn from the Program. On that same date the complainant filed his application for readmission to the College. On June 17, 2002, the complainant was readmitted to the College and he completed his course of instruction by graduating on July 26, 2002.
- ξ OCR reviewed information regarding female students who were placed on attendance probation and subsequently withdrawn from the College. Our review revealed that during the period December 17, 2000 – July 26, 2002, thirteen (13) female students were placed on attendance probation and were subsequently withdrawn from the College.

4. Dean's Refusal to Discuss Treatment Received by the Complainant

- ξ In OCR's interview with the Dean, OCR was informed that at no time did she ever refuse to see the complainant regarding any issues that he had. The Dean stated that she met with the complainant on several occasions to listen and try to resolve issues regarding the wearing of a necklace in class and the students' attendance roster.
- ξ In addition, in a statement dated November 20, 2002, the Dean stated that during a visit to the student's classroom, he requested to meet with her regarding concerns that he had. The Dean stated that she met with him that day and also scheduled that the complainant meet with the Executive Campus Director (Director).
- ξ In a letter dated November 19, 2002, the Director stated that he met with the complainant after receiving a letter from him about the repayment of a student loan that was taken out for living expenses. The Director stated in the letter that after explaining the College's policy to the complainant, he did not hear anything else from him.

6. Incorrectly Marked Tardy

- ξ With regard to the allegation that the complainant was marked tardy four times during the Program, when he was actually on time for class and female students who were late for class were not marked tardy; OCR reviewed the class roster and found that, as alleged, the complainant was marked tardy four times during Program.