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APR 29 2003

Mr. Gary Jones
President
Full Sail Real World Education
3300 University Boulevard
Winter Park, Florida 32292

Dear Mr. Jones:

Re: Complaint #04-02-2133

This letter is to notify you of the determination of the U. S. Department of Education (Department), Office for Civil Rights (OCR) regarding the above-referenced complaint filed against Full Sail Real World Education (College). (b)(7)(C) (complainant) alleged that an instructor in a Recording Arts Laboratory class sexually harassed her and that the College failed to take prompt and effective action after receiving notice that she was sexually harassed, thereby creating a hostile sexual environment.

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 regulation, 34 C.F.R. Part 106 which prohibit discrimination on the basis of sex in education programs and activities by recipients of Federal financial assistance from the Department. The College receives Federal financial assistance. It, therefore, is subject to the provisions of Title IX.

The regulation implementing Title IX at 34 C.F.R. Section 106.31(a) and (b)(4) and (7) provides 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 program or activity. Further, a recipient shall not, on the basis of sex, subject any person 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.

Under Title IX and its implementing regulation, a recipient is directly responsible for the discriminatory acts of its employees. A recipient violates Title IX and its implementing regulation when it knew or should have known that unwelcome sexual conduct was occurring and failed to take timely and effective corrective action.

Sexual harassment is defined as unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. A recipient may be liable for sexually harassing conduct by an employee which creates a "hostile environment, i.e., where the harassment is sufficiently severe, persistent or pervasive to limit student ability to participate in or benefit from the educational program, or to create hostile or abusive education environment.

In investigating complaints of sexual harassment, OCR considers whether: (1) the recipient has a disseminated policy prohibiting sex discrimination under Title IX and grievance procedures; (2) the recipient appropriately investigated or otherwise responded to allegations of sexual harassment; and (3) the recipient has taken immediate and effective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.

The complainant alleged that an instructor at the College harassed her and that the College, after receiving notice, failed to take action sufficient to prevent other acts of sexual harassment by the instructor and others, and that she was subjected to a hostile sexual environment. In reaching a determination on this complaint, OCR reviewed and analyzed records and documents pertinent to the allegation. We also interviewed the complainant, students, and College officials.

OCR found that the College has a student complaint grievance procedure and a policy prohibiting sexual and other types of harassment. The grievance policy includes the methods by which students are to file complaints and the procedure that is used by the College to investigate allegations. It also includes a timeframe, requiring the prompt and equitable resolution of complaints. The harassment policy states, in pertinent part, that improper and unwanted conduct of a sexual nature is prohibited. Both the grievance procedure and the prohibition regarding sexual harassment are contained in the Student Manual. The grievance procedure is also found in the College Catalog.

The complainant enrolled at the College in September 2001 in the Recording Arts Program. On February 8, 2002, during a Recording Arts Lab, she stated that an instructor made sexually derogatory comments to and about her and made inappropriate physical contact during the class. She asked the instructor to stop making such comments and verbally objected to him touching her. She stated that the advances made by the instructor were unwelcome.

On February 11, 2002, the complainant filed an internal grievance against the instructor. The College investigated the allegations and determined that the instructor had violated the College's sexual harassment policy, based on his admission of the charge. The instructor was counseled and reprimanded and a notice was placed in his file stating that "any further violations of this nature" would result in termination of his employment. He was also instructed on the College's "No Harassment Policy." All of this occurred on February 11, 2002, the same day the complainant filed the grievance.

The complainant alleged that the College's actions were ineffective and that, between February 11, 2002, when she filed the complaint, and September 2002, when she withdrew from the College, she was subjected to "snide remarks and dirty jokes." She stated that whenever she saw the instructor on campus, he would "glare" at her. She saw him talking to another faculty member and they were laughing and pointing at her. She overheard fragmented parts of conversations from students where she was called a "dominatrix chick" and "troublemaker." The complainant said that other students who had been in the class repeated the comments to other students and soon the entire campus was aware of the incident. She states that this atmosphere of hostility adversely affected her studies. She left the College in September 2002 without obtaining a degree.

OCR interviewed all five male students who were in the lab group with the complainant on February 8 to determine whether they witnessed any comments made about or actions taken toward the complainant on that date or at any subsequent time. With the exception of one student, they all denied hearing the instructor make any derogatory statements to the complainant and did not see the instructor touch her. One student stated that while he was aware of the incident because the complainant told him what happened, he never personally heard or saw the instructor make any inappropriate comments or gestures toward her at any time. Another student said that he heard the instructor make some comments that he considered to be inappropriate but, after she reported the incident, he did not see them interact again. The students denied hearing any students or instructors make any derogatory comments of a sexual nature about the complainant subsequent to the February 8 incident. One student said that the only person he heard talking about the incident was the complainant's ex-boyfriend. The students stated that she never expressed to them that she was having difficulty because of the February 8, 2002, incident, nor did she tell any of them about any comments she overheard after February 8, 2002.

The actions taken by the College when it learned of the February 8, 2002, incident were timely and appropriate. We found no evidence of prior incidents involving the instructor and none have been reported to the College since the incident. The College warned the instructor that any further violation would result in his termination from the College. Students interviewed by OCR could not corroborate the complainant's claim that, after the incident, she was subjected to comments or jokes of a sexual nature.

Although the complainant withdrew from the College without obtaining her degree, OCR could not determine that the withdrawal was the result of a hostile sexual environment. Although documentation shows that the complainant spoke and corresponded with College officials about the serious personal problems she was having, i.e. attendance, family health, housing, and financial probation, on approximately 16 occasions between February 8, 2002 and September 2002, she never mentioned that anyone at the College was making sexually inappropriate comments or gestures, causing a hostile sexual environment. The complainant informed OCR that, after February 11, 2002, she did not file subsequent complaints alleging continued sexual harassment nor did she file a complaint alleging she was being subjected to a hostile sexual environment. Because the complainant never reported any further problems regarding the sexual harassment and did

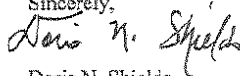
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not file another complaint, College officials stated that they were not aware that the complainant was having continued problems related to sexual harassment.

OCR determined that the complainant had notice of the College's internal grievance procedures and used the procedures when she filed her grievance alleging that an instructor had sexually harassed her in class. The College took immediate and appropriate steps to investigate the allegation and determined that the instructor's conduct was a violation of the College's sexual harassment policy. The College reprimanded the instructor, reviewed the College's "No Harassment Policy" with him, and warned him of dismissal if there were any further violations of the Policy. The instructor also received counseling. The College reported that after these actions were taken against the instructor, no further incidents regarding the instructor were reported. While the complainant alleged that the College's actions against the instructor were ineffective and that harassment continued, thereby creating a hostile sexual environment for her, OCR was unable to corroborate these allegations of continued harassment nor was there any evidence that the complainant informed College officials of these alleged acts of continuing harassment. OCR has determined that there is insufficient evidence to conclude that the College violated the Title IX regulations with respect to the complainant's allegations.

We are closing our files on this case as of the date of this letter. We appreciate the courtesy and cooperation that your staff extended to OCR staff. If you have any questions regarding this matter, please contact Ms. Marcella Thomas, Investigator, at (404) 562-6394.

Sincerely,



Doris N. Shields,
Team Leader