

COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION
AGAINST DISCRIMINATION &
IYUN ADEDEJI,
Complainant

v.

DOCKET NO. 97-BED-4433

MASSACHUSETTS COLLEGE
OF LIBERAL ARTS,
Respondent

Appearances: Tony V. Blaize, Esq. for Complainant
James B. Cox, Esq. for Respondent

DECISION OF THE HEARING OFFICER

I. PROCEDURAL HISTORY

On November 5, 1997 Complainant, an African American female who is hearing impaired, filed a claim of discrimination against Respondent, North Adams State College.¹ Complainant alleged that Respondent discriminated against her on the basis of race, color and handicap by compelling her to withdraw from school within one month after her admission. The Commission issued a finding of probable cause in February, 2001. The Respondent subsequently filed a motion to dismiss Complainant's charges on the grounds that the Commission's jurisdiction in matters of education under G.L. c. 151C extends only to those seeking admission to a covered institution. Respondent argues that the acts that are the subject of Complainant's charge occurred after she

¹ In October of 1998 Respondent's name was changed to Massachusetts College of Liberal Arts and the case against Respondent proceeded under the new name.

matriculated as a student and are therefore unrelated to her admission to the college. The Investigating Commissioner dismissed the charge of handicap discrimination due to the absence of jurisdiction but denied the motion to dismiss the race and color claim on the grounds that the acts which were the subject of the complaint were “closely associated” with Respondent’s admissions policies. Respondent’s appeal to the Full Commission was rejected on the grounds that such an appeal was premature, but the issue was reserved for re-consideration by the hearing officer after a full airing of the facts at an evidentiary hearing. The matter was certified to public hearing and a hearing was conducted before the undersigned hearing officer on June 3, 4, and 5, 2002. The Respondent asserted throughout the proceedings and at the public hearing that the Commission lacks jurisdiction over the charge and that Respondent at all times acted lawfully in its dealings with Complainant. The parties offered testimony and evidence relevant to the jurisdictional issue and I agreed to make a ruling on this issue as part of my conclusions of law. Both parties submitted post-hearing briefs in which the jurisdictional issue was addressed. Based upon my review of the record of the proceedings and the arguments of the parties, I make the following findings of fact and conclusions of law.

II. FINDINGS OF FACT

1. Complainant, Iyun Adedeji, is an African American female who was 18 years old and living with her mother in Arlington, Massachusetts at the time she filed this complaint.
2. Complainant is hearing impaired and suffered from depression as a student in junior high and high school. Complainant testified that she first expressed suicidal ideation when she was in eighth grade. She was hospitalized and took medication for depression

while in high school and was taking medication for depression at the time of the public hearing. (Tr. Vol. I, p. 68, 69, 88-90) .

3. Complainant graduated from Arlington High School in May of 1997. She testified that she originally wanted to attend U/Mass Amherst , but never got around to applying there. She also desired to attend Fitchburg or Framingham State College and was anxious to leave home. She testified that she has had some difficulties with her mother over the years and that her mother has in the past been accused of abusing her. (Tr. Vol. I pp. 90-91).

4. Respondent, Massachusetts College of Liberal Arts, is located in North Adams, Massachusetts and is one of the nine Massachusetts state colleges, organized under the superintendence of the state Board of Higher Education. See G.L. c 15A, 5. Respondent is a four-year college with an undergraduate population of 1,400 students. It offers numerous Bachelor degrees and one Masters degree in education. (Tr. Vol. I, p.132).

5. Respondent is organized into several divisions. The Academic Affairs division is responsible for admitting applicants into the college and for the academic curriculum of the college. The Student Affairs division is responsible for student's needs outside the classroom. It handles student support services such as health services, counseling services, student housing, student activities, entertainment, volunteer services, student orientation and publication of the student handbook. Dr. Scott Kalicki, Dean of Students, heads the Student Affairs division. These services, including the counseling center, are available only to students who have been accepted to the college, paid their deposits and matriculated. (Tr. Vol. I, pp. 130-131, 134; Vol. III p. 6).

6. The Student Affairs division is also responsible for issues related to student misconduct, and for assuring that students conduct themselves in accordance with the rules and regulations of the college. Its philosophy and goal is to make the college environment one in which all students can succeed. The student handbook and the resident handbook inform the student population of the rules of conduct at Respondent. The Associate Dean of Students is responsible for the disciplinary system and oversees the Judicial Board, a body that determines whether infractions of the rules and regulations that govern the community have occurred. (Tr. Vol. I pp. 135-136).

7. The Respondent's Admissions Office is charged with marketing the college to prospective students, reviewing their application materials and deciding which students will be offered acceptance to the college. The Student Affairs division plays no role in the admissions functions and its first contact with a new student occurs only after the student is matriculated and attends orientation. The services of the division, such as the counseling and health services are available only to admitted and enrolled students. (Tr. Vol. I, pp.133-135).

8. Complainant applied for admission to Respondent on June 30, 1997. This was considered a late admission by Respondent, since many students apply earlier in the year. (Tr. Vol. I p. 70; Vol. II p. 107). The notation "LD" also appears on her application indicating that it was evaluated in accordance with the standard applicable to learning disabled applicants. (Joint Exhibit 5). While the college offers a summer course called the IEP (Individual Enrichment Program) described as "academic boot camp" to assist students with special academic needs and to familiarize them with the college

environment, Complainant applied too late to participate in this program . (Tr. Vol. II, pp. 106-107).

9. On July 31, 1997, Respondent notified Complainant that she had been accepted to the college and recommended that she pursue a twelve-credit course load. Complainant was also accepted for residence in the dormitory. By August 5, 1997, the Admission's office had received Complainant's deposit of \$150.00, and on August 25, 1997, Complainant signed her Residence hall occupancy Agreement. (Joint Exs. 5 & 8).

10. Respondent's invoice regarding Complainant's account generated on August 31, 1997, bears the notations "Accepted 7/30/97," and "Deposit Received 8/5/97." This invoice also shows that as of the end of August Complainant had paid \$2,047.50 and had received a grant equivalent to her tuition for the academic year 1997-98. (Joint Ex. 1).

11. Complainant enrolled for courses when she arrived on campus. According to the Bursar's Office, as of September 16, 1997, Complainant had enrolled in four courses for the first semester: First Year Seminar, Composition I, Introduction to Psychology, and Modern World Civilization. (Joint Ex. 1).

12. While visiting the college as an applicant for admission Complainant met with Claire Smith, a counselor from Respondent's Center for Academic Advancement, who assists students with disabilities. (Tr. Vol. III p. 10). After she arrived at school, Complainant met with Smith three or four times. (Tr. Vol. I p. 93-94). On September 3, 1997, Complainant shared with Smith her feeling that she should have gone to a school for the deaf. (Jt. Ex. 16). Smith took steps to accommodate Complainant's hearing disability in the classroom and to help her adjust to college life. She encouraged Complainant to seek tutors, to look into the counseling center and arranged for note takers in Complainant's

classes. (Jt. Exs. 14 & 17) Complainant returned to the center on September 18, 1997 and reported that she had signed up for tutors; however, it appears that she did not actually request tutors for three of her courses until September 22, 1997. (Tr. Vol. I, p. 101).

13. Respondent provides counseling services for students. The counseling center, which is part of the Student Affairs division, is staffed by licensed mental health counselors. Students either refer themselves or are referred to the counseling center by health services, faculty, other students, parents, or others in the campus community. Jacque Marling is employed as a counselor by Respondent. Marling has 18 years of experience and provides individual counseling, group counseling, suicide assessments, safety assessments, education and training to the campus community. As the counseling consultant for the freshmen building, she testified that freshmen typically have issues with difficulty adjusting, academic problems and relationship break-ups. (Tr. Vol. III p. 5-9).

14. Complainant first met Marling on September 3, 1997 during the first week of school. Marling testified that Complainant referred herself to the counseling center after talking with Claire Smith. Complainant initially sought Marling's help to transfer out of the college and they discussed Complainant's ambivalence about being in school but not wanting to go home. They discussed Complainant's family history, certain issues regarding prior sexual abuse, Complainant's prior hospitalizations, her difficulty with suicidal ideation, and her goal of not wanting to hurt herself. Complainant authorized Marling to speak with her counselor from home and Marling received records from Complainant's prior therapists. Marling testified that she learned about Complainant's

mental health history from these records and learned that while Complainant could contract for her own safety verbally, if at any point she couldn't contract for safety, it would be really important to make sure that she was safe. (Tr. Vol. III, pp. 9- 12).

15. Complainant had five individual counseling sessions with Marling during September of 1997. According to Marling they discussed Complainant's unhappiness about being at Respondent, along with her ambivalence and confusion about not knowing where else she wanted to be, and the fact that was having difficulty coping with her flash-backs to earlier abuse, not attending her classes, and generally having a hard time. Marling testified that they discussed at length Complainant's being able to contract to keep herself safe and support systems she could call on in a crisis. In Marling's view Complainant had lost all her emotional and social support systems in the transition to college, including her therapist of three years and her friends back home. She was also not progressing academically because the flash-backs were preventing her from attending classes. (Tr. Vol. III pp. 14-16).

16. On Friday, October 3, 1997, Complainant's roommate and a friend of the roommate approached Michael Goodwin, an alcohol awareness counselor employed by the school, and voiced to him their concern that Complainant was going to harm herself because she had been talking frequently about suicide. (Tr. Vol. III p. 17). Goodwin reported this to his supervisor, Dr. Ellen Doyle, the Director of Counseling, and Marling. Dr. Doyle in turn contacted the Dean of Students, Dr. Kalicki. (Tr. Vol. I p. 141). Marling called Complainant and asked her to come to the counseling center. When Complainant arrived, Marling, Complainant and the two students met and discussed what Complainant had said to the students and their concern about her. Marling's assessment was that the

students were quite frightened and worried because Complainant had been quite graphic in the details of how she would commit suicide, and they had never experienced anything like this before. Marling felt it was important for the students to be assured that Complainant was safe and to hear Complainant verbalize that she would keep herself safe and would talk to adults instead of students if she again felt she was on the verge of harming herself. (Tr. Vol. III pp. 18-20.)

17. Once the other two students had left the room, Complainant told Marling that she could not keep herself safe and could not contract for her safety. She told Marling she thought she should be hospitalized. Marling then went about contacting the hospital and insurance company to make the arrangements for her to be hospitalized. During this process, which took approximately three hours, Complainant stayed with Marling. (Tr. Vol. III, pp. 20-21).

18. Once she was hospitalized, Complainant gave Marling permission to contact her mother. Marling called Complainant's mother that evening and left a message asking her mother to contact her. Marling spoke to Complainant's mother on Saturday, telling her that Complainant was hospitalized, that Complainant couldn't assure her own safety, and that she wanted to be able to come home. Marling testified that in discussions with Complainant, she had stated repeatedly that she did not want to be in school, but the focus of their counseling sessions had been on keeping Complainant safe. Once Complainant felt the need to be hospitalized, Marling supported her decision to leave school. In their discussions about this, Complainant indicated to Marling she was concerned about how her mother would feel about this decision. During Marling's first discussion with Complainant's mother, her mother agreed that Complainant could come

home. In a subsequent conversation the following Monday, Complainant's mother told Marling in a phone conversation that she thought it best if her daughter remained at school. (Tr. Vol. III pp. 21-24).

19. Complainant gave Marling permission to discuss her situation with Marling's supervisors. In a meeting Marling informed Dr. Kalicki and Dr. Doyle that Complainant had expressed on more than one occasion that she did not want to be in school, and that she had met with Complainant throughout September and observed her depression getting worse. As a result of this discussion, they decided that a good strategy would be to request that Complainant's mother come to the college to discuss the issue of Complainant withdrawing from school. (Tr. Vol. I, pp. 144-145). The Student Affairs Division attempted to schedule this meeting with Complainant's mother and after some difficulty it was scheduled for Wednesday, October 8, 1997.

20. In the meantime, it was determined that the Student Affairs Division needed to address the disruption to the student community caused by Complainant's acting out in an inappropriate manner. Student infractions of expected standards of behavior are addressed through a disciplinary process which is initiated by the filing of an incident report. An incident report generates an investigation to determine if a violation has occurred. Reports are reviewed by the Associate Dean of Students and if it is determined that a violation of the Student Handbook or Residence Hall Handbook has occurred the Student Affairs Division issues a statement to the student in question that initiates the next phase of the disciplinary process. The student may be afforded a hearing before a judicial board or an administrator. (Tr. Vol. I, pp 136-138).

21. In this instance Respondent considered the manner which Complainant had chosen to express her suicidal ideation and the fact that she had given the details of her plan to fellow students, assured them she would leave a note and asked them not to tell anyone else, was a sufficient enough violation of the student codes of conduct to merit a disciplinary proceeding. According to the Dean of Students, Complainant's actions placed a very serious and disruptive burden on two fellow students who should not have been made to feel responsible for the security, well-being and potentially the life of a roommate and fellow student. This sort of disruption was treated in the same manner as other similar infractions of the student code of conduct. (Tr. Vol. I p. 147-149).

22. At the meeting to be held with Complainant and her mother, representatives of Respondent intended to discuss Complainant's options. At that time her options were to withdraw from school, request a leave of absence or to remain in school and submit to the disciplinary process. Dean Kalicki made it very clear that the infraction in question would not have resulted in Complainant being expelled from school. (Tr. Vol. I, pp. 153).

23. In advance of the meeting to be held on Wednesday, October 8, 1997, Marling met with Complainant at the hospital, presented her with a letter from the Dean of Students and explained that her options, as stated above, would be addressed at the meeting. She stated that she was not terribly concerned about the disciplinary proceeding because Complainant had already decided that she wanted to leave school. According to Marling, en route to the meeting Complainant re-iterated that she was sure she wanted to leave school and she sought Marling's support and encouragement of her decision to leave school. She also expressed that she was worried about disappointing her mother and being able to assert herself with her mother. (Tr. Vol. III, pp. 25-26, 28).

24. Complainant was released from the hospital into the custody of Marling to attend the meeting at the College. Present at the meeting were Dean Kalicki, Associate Dean Degan, Marling, Complainant and her mother. In preparation for this meeting, Degan had begun to draft a behavioral contract wherein a student who is involved in a disciplinary matter commits to conforming his or her behavior to the College's expectations. (Tr. Vol. II, pp.56-62; Joint Ex. 25) By this agreement, Degan clearly anticipated that Complainant would remain enrolled as a student since the contract required Complainant to visit home for the succeeding four weekends in October, and to participate in weekly counseling sessions with Marling.

25. Dean Kalicki testified that the meeting was a difficult one and that Complainant acted embarrassed at the meeting, and apologized many times for her behavior. She also vacillated about whether or not she wanted to leave school and return home. At the meeting Marling explained to Complainant's mother that her daughter was having a great deal of difficulty coping with the stress of being at school and was so overwhelmed that she did not feel she could keep herself safe from harm. For this reason Marling supported Complainant's decision to withdraw from school and discussed a number of options including Complainant returning home to receive care from her long-term therapist and returning to school in January. Kalicki testified that he also discussed the option of Complainant returning to school the following semester or academic year. In discussing all of Complainant's options, Kalicki also described the disciplinary process to her. At some point toward the end of the meeting Complainant did state that she no longer wanted to be at school. (Tr. Vol. I, pp.153, 55-156). Marling testified that she viewed

Complainant's decision to leave school as a success because Complainant had made a decision about what was in her best interest. (Tr. Vol. III, p.29).

26. Dean Kalicki and Marling testified that Complainant's mother was resistant to her daughter leaving school, accused them of forcing her to leave school and raised concerns about losing the money she had paid for the semester. (Tr. Vol. I, p. 156. Vol. III, p. 30). There ensued some discussion about refunding Complainant's tuition and the school offered to use a date prior to Complainant entering the hospital as the date of her withdrawal from school, so as to allow her mother to claim the maximum amount of refund possible. Complainant's mother notified the school several days later that she was rejecting this option because of concerns about health insurance coverage for Complainant's hospital stay. (Tr. Vol. I, p. 159).

28. Complainant was released to the custody of her mother and arrangements were made for her to return to the school on the weekend to retrieve her belongings, because her mother was anxious to return home that day. Contrary to Complainant's mother's testimony, Complainant was not told she could not re-enter the dorm and her room keys were not taken away from her. School officials anticipated she would return to the dorm to collect her belongings.

29. At the hearing, Complainant denied ever telling Marling that she was unhappy at college and wanted to leave. I do not credit this testimony. She also did not recall saying at the October 8th meeting at the college that she wanted to leave school. She also told her mother when she returned home that things had been going well for her at school. (Tr. Vol. 110-111). While I believe Complainant to be an earnest young woman, I conclude

that she was under tremendous pressure to conform to her mother's expectations and was frightened of saying anything to the contrary.

30. On the day of the October meeting, Respondent sent a letter to Complainant confirming her immediate withdrawal. By this letter Respondent informed Complainant that if she wished to enroll in classes in the future she would need to meet with the Dean of Students to determine if she was prepared to participate fully in campus life. She was not required to apply again for admission. (Joint Ex. 21).

31. After returning home, Complainant worked at a job she had before college. She never returned to college at Respondent. In the Spring of 2000 she enrolled at Bunker Hill Community College. She registered for four courses while she was working full time. Complainant completed three of the four courses, but chose not to continue attending college. She testified that it was difficult to work full-time and go to college, so she stopped going to school. (Tr. Vol. I, p. 126-127). Complainant was hospitalized again in 1999 and 2000 for depression. (Tr. Vol. I, pp. 69-70). Complainant testified that although she is able to attend school now, she does not want to. (Tr. Vol. I, p. 28).

III. CONCLUSIONS OF LAW

A. Jurisdictional Issue

The threshold issue before me is whether the Commission can properly assert jurisdiction over this matter given the express limitations in the language of G.L. c. 151C regarding what constitutes an unfair educational practice.

The definition of an unfair educational practice appears in G.L. c. 151C Section 2, which states:

It shall be an unfair educational practice for an educational institution:--

- (a) to exclude or limit or otherwise discriminate against any United States citizen or citizens *seeking admission as students* to such institution because of race, religion, creed, color or national origin. (emphasis added)

The Commission's jurisdiction to address complaints of discrimination in educational institutions is similarly constrained by the plain language of G.L. c. 151C, section 3 which states in part:

- (a) Any person *seeking admission* as a student to any educational institution, or *enrolled as a student in a vocational training institution*, who claims to be aggrieved by an alleged unfair educational practice...may...make sign and file with the commission a verified complaint....
- (b) Where the Commission has reason to believe that an *applicant or applicants for admission* to any educational institution, or *enrolled student or students in a vocational training institution* have been discriminated against,...the commission may on its own motion make an investigation....(emphasis added).

Respondent in this case is a four year college that offers Bachelor and Masters degrees. It is not a vocational training institution. Hence the question is whether this is a claim involving *admission* to an educational institution.

The Commission has noted the limitations to its jurisdictional authority in matters pertaining to education over the years and in several recent decisions. *Oliver v. Holyoke Community College*, 23 MDLR 291 (2001); *Barrett v. City of Worcester School Department*, 23 MDLR 22 (2001); *Beagan v. Town of Falmouth*, 9 MDLR 1209 (1987).

In *Barrett*, the Commission acknowledged that the express language of G.L. 151C regarding admissions, prohibited it from asserting jurisdiction over the claim of a public high-school student that he had been discriminated against when the school denied him

equal access to the baseball team based on his religion. In affirming the hearing officer's decision to dismiss the claim, the Full Commission stated:

...the Commission's jurisdiction and protection afforded by this law are narrow in scope and the statute, on its face provides no redress for discrimination against students ***once they are admitted*** to an educational institution. (emphasis added)

Barrett, supra., citing *Beagan v. Town of Falmouth*, 9 MDLR 1209 (1987) ("M.G.L. c. 151C prohibits discrimination only in admission to secondary schools; it does not prohibit discrimination in the treatment of students who are actually enrolled in such schools.")

While the Commission noted regretfully in *Barrett* that G.L. c. 151C fails to "provide a comprehensive scheme for the redress of discrimination in areas other than admission," it expressly held that it "is constrained by the plain language of the statute" and "is not authorized to amend a statute that we deem to be inconsistent and lacking in essential protection for students." The Commission concluded that absent action by the Legislature to amend G.L. c. 151C to broaden its scope, it must construe the law as it is written. *Id.*

Respondent argues that the facts of this case do not warrant a result on the jurisdictional issue different from the Full Commission's holding in *Barrett*. Having heard a full airing of facts of this matter, I must concur. In this case, Complainant's allegations relate solely to allegations of discrimination occurring after she was accepted for admission and enrolled at the school. Complainant does not establish any fact demonstrating that she was *seeking admission* to Respondent at the time of the acts which she claims are discriminatory.

The undisputed facts establish that Complainant was not an applicant for admission in October of 1997. She had applied for admission in June of 1997 and been accepted to Respondent in July of 1997. She had paid over \$2000 toward her total tuition bill before the end of September, 1997. Complainant had been enrolled in her classes for over a month, had commenced occupancy in the dormitories available only to matriculated students and had attended orientation and classes. She was receiving services from the college that are available only to enrolled students, including the services of the counseling center. She was under the administrative authority of the Dean of Students and the Student Affairs Division in October of 1997. It was necessary for her to withdraw from the college, precisely because she was enrolled.

Complainant would have me find that she was compelled to withdraw from the college against her will and that because this involuntary withdrawal occurred within the first month of her freshman year, it was so closely associated to her admission as to constitute an issue of admission. Indeed, the Investigating Commissioner, in refusing to dismiss the claims prior to a full adjudicatory hearing, allowed the case to proceed to hearing stating that the “facts are so closely tied to the College’s admissions policy” that the agency could exercise jurisdiction over the matter for purposes of holding a hearing. Notwithstanding, the evidence adduced at hearing did not support the assertion that the facts of this case, in any way, implicate Respondent’s admissions policies. They do not.

The disciplinary and student judicial policies that were implicated in this case have no relation whatsoever to Respondent’s policies regarding admission of new students or readmission of former students. The disciplinary and withdrawal policies apply only to students who are already enrolled at the college and whose conduct may be

a violation of disciplinary guidelines and expectations. Since G.L. c. 151C, by its clear and unambiguous terms, protects undergraduate students only in the admissions process, it cannot apply to the facts of this case. Given that this Commission is bound by the plain and unambiguous language of the statute, it cannot assert jurisdiction over Complainant's claims in this matter. Notwithstanding that I am bound to dismiss this claim for lack of jurisdiction, I nonetheless conclude that Complainant did not prove a claim of race discrimination and some comment on the merits of the underlying claim is warranted.

B. Complainant's charge of race and color discrimination

Complainant has alleged that she was treated differently on account of her race and color because Respondent determined she should be subject to disciplinary proceedings which resulted in her being coerced to withdraw from school. She believes that these actions were motivated by her race and that she was treated differently from similarly situated white students.

As a preliminary matter, Complainant has the initial burden of establishing a prima facie case of discrimination. *Wheelock College v. MCAD*, 371 Mass. 130 (1976). Assuming Complainant does so, the burden then shifts to Respondent to produce a lawful explanation for its actions supported by credible evidence. *Lewis v. Area II Homecare Fro Senior Citizens*, 397 Mass. 761 (1986). Finally, Complainant bears the ultimate burden of proving that Respondent acted with discriminatory intent, motive or state of mind. *Lipchitz v. Raytheon Co.*, 434 Mass. 493 (2001).

As to the allegation of her forced withdrawal from the college, there is no credible evidence to support the allegation that Respondent forced Complainant to leave school. It is clear from the testimony of Complainant's counselor, Jacque Marling, which I found to

be credible and convincing, that Complainant did not wish to be in school, felt she could not keep herself safe in the college setting and thus made the decision to withdraw from school voluntarily, believing this course of action was in her best interest. Thus, the decision to leave school was Complainant's to make and the fact that she decided to withdraw cannot be construed as an adverse action against her by Respondent. I do believe that Complainant was concerned that her mother would not support her decision to leave school and that any ambivalence on her part regarding this decision resulted from that concern and how to deal with her mother's disappointment. Complainant actually told Marling that she needed support in asserting herself with her mother and Marling gave her that support. It was clear to me that Complainant's mother was unhappy with her decision to withdraw from school. Complainant's mother contacted an attorney shortly thereafter to file this claim and at the hearing it was readily apparent that the litigation was proceeding at her insistence.

As to the claim that disciplinary proceedings against Complainant somehow constituted disparate treatment, Complainant was unable to identify any other student of another race who behaved as she did and was not subjected to the College's disciplinary process. There is no evidence to permit even the inference that she was in any way treated differently on account of her race. The college introduced evidence through both its Associate Dean of Students and counselor Marling regarding a number of Caucasian students and one Asian student with emotional problems implicating suicide attempts or suicidal ideation who had acted out and were required by the College to complete the disciplinary process, regardless of their race. There was no evidence that a student of

another race who engaged in comparable behavior and chose to remain at school was not subjected to the disciplinary process.

Finally, Complainant's suggestion that the college would not allow her to return as a student was simply not credible. In fact there was discussion about the options of Complainant returning the next semester or the following year. Complainant never contacted or sought to return to Respondent. Thus, I conclude that Complainant did not establish a claim of disparate treatment on account of her race or color.

IV. ORDER

For all of the reasons stated above this case is hereby dismissed .

Any party aggrieved by this decision may file an appeal to the Full Commission pursuant to 804 CMR 1.23 by filing a notice of appeal with the Clerk of the Commission within 10 days of receipt of the decision and a petition for review within 30 days of receipt of the decision.

So Ordered this 18th day of June, 2003.

Eugenia M. Guastaferr
Hearing Officer