



Bureau for Private Postsecondary Education
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CITATION: ORDER OF ABATEMENT

To: Jean Sherlock
 New York Film Academy
 3300 Riverside Drive
 Burbank, CA 91505

INSTITUTION CODE: 65686790
CITATION NUMBER: 1516025
CITATION ISSUANCE/SERVICE DATE: August 18, 2015
DUE DATE: September 17, 2015
FINE AMOUNT: \$ 0
ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Order of Abatement (Citation) in her official capacity as Enforcement Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Jean Sherlock, Owner/Operator of New York Film Academy (NYFA) located at 3300 Riverside Drive, Burbank, CA 91505 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	<p><u>Violation:</u> 5, CCR 71720(a)(8)– Faculty (a) An Educational Program Leading to a Degree. (8) <i>Each institution shall have a written Academic Freedom Policy which describes the latitude the institution allows faculty in the classroom so faculty will not inadvertently violate the principles of academic freedom. These policies shall be made available to any person upon request. The institution shall not take adverse action based on a staff member's exercise of academic freedom consistent with the institution's policy; and</i></p> <p><i>NYFA's Academic Freedom Policy states, in part:</i> <i>NYFA believes in the free pursuit of intellectual and artistic inquiry, as well as the exchange of ideas between instructors and students. Controversial subjects may be explored without fear of censure,</i></p>

retribution or reprisal, so long as the work occurs within the scope of the NYFA education and is consistent with its stated Academic Freedom Policy..." "Students, faculty and staff are free to express themselves and explore their artistic horizons as they see fit, provided that they remain in compliance with state and federal law, and so long as they can successfully demonstrate that the work discussed/performed/completed was created with artistic intent." "Instructors are free to discuss controversial subjects in class and screen controversial works without fear of reprisal, so long as the work serves the overall goal of NYFA curriculum and does not violate the NYFA Code of Conduct or any institutional or campus-wide policies.

NYFA failed to adhere to its academic freedom policy by prohibiting instructor K.R from teaching the HATM540 (Media and Society) class after students complained that K.R. was racist due to a discussion on various races during a class session. Students alleged that all of K.R.'s discussions were about race. NYFA's course outline states the student learning objectives: *"To clarify the distinction between 1)Objective portrayals of social categories in various media, 2) Limiting stereotypes of social categories in various media, and 3) Liberating breakdown of social categories in media – social categories being age, gender, class, ethnic groupings, beauty or "hipness," and other cultural distinctions."* *"Instructional Methods: This course is taught using a variety of instructional methods, including lecture, class discussions, small group work, project creation, and electronic discussion."*

An email from Faculty Director, L.F. stated K.R. should not have lectured on evolution after foreign students complained about his class. L.F. also directed K.R. to modify his teaching style to accommodate his class. NYFA removed K.R. from instructing the HATM540 class, therefore violating 5, CCR 71720(a)(8). K.R. was also prohibited from instructing the Art and Society class for safety concerns, after a loud exchange with students. K.R. was allowed to complete the instruction of a third class (Media and Society) until the end of the semester.

Order of Abatement:

Meet with faculty and administrative staff to assure staff/faculty understands and adhere to the Academic Freedom Policy. Submit to the Bureau an agenda specifying the training provided. Provide a statement as to how the institution plans to comply with its Academic Freedom Policy.

Assessment of Fine

The fine for this violation is \$[00.00]

TOTAL ADMINISTRATIVE FINE DUE: \$[00.00]

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5 CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **\$0** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5 CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the**

order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.

BACKGROUND

On December 8, 2014, the Bureau received a complaint from K.R., an instructor at New York Film Academy (NYFA), since June 2014. K.R. alleged that he was unjustly removed from instructing classes for exercising his academic freedom.

NYFA removed K.R. from instructing the HATM540 class after students complained that K.R.'s topics were always about race and accused K.R. of being racist. An email from NYFA's Faculty Director, advised K.R. that he should not have lectured on evolution, after foreign students refused to attend K.R.'s class.

K.R. was removed from a second class for safety reasons, after having a loud argument with another student. L.F. directed K.R. to modify his teaching style to accommodate his class. K.R. taught three classes at NYFA. He was allowed to complete the third class until end of the school year.

NYFA directed K.R. to modify his teaching style and then removed him from instructing in violation of 5, CCR 71720(a)(8).

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **September 17, 2015** you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on August 18, 2015. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **September 17, 2015**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:


Jody Wright, Discipline Citation Program
Bureau for Private Postsecondary Education

2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Jody Wright, Enforcement Analyst, at 916-431-6940 or Jody.Wright@dca.ca.gov.



Elainea Shotwell
Enforcement Manager

August 18, 2015
Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Declaration of Service by Certified and First Class Mail