

11-17-03

STATE OF FLORIDA
DEPARTMENT OF EDUCATION
DIVISION OF UNIVERSITIES
FLORIDA INTERNATIONAL UNIVERSITY

FILED
2004 JUN 21 P 1:18
DIVISION OF
ADMINISTRATIVE
HEARINGS

SHIELA KIESS,
Petitioner,

AT

vs.

03-2287 JVL-CWS

Case No.: 03-01

FLORIDA INTERNATIONAL UNIVERSITY
Respondent.

FINAL ORDER

On May 28, 2003, Petitioner filed a request for a hearing under Section 120.57 of the Florida Statutes. On June 12, 2003, an Order Granting Request for Section 120.57 Hearing was issued in this case and a request was filed with the Division of Administrative Hearing (DOAH) to designate a hearing officer to serve as Presiding Officer in these proceedings. The Presiding Officer designated to hear the case, Mr. John G. Van Laningham, conducted a formal hearing by video-teleconference on September 29, 2003. At the hearing, Petitioner and Respondent presented testimony and exhibits in support of their respective positions. On October 31, 2003, the parties filed their respective recommended orders.

After consideration of the evidence presented at the hearing and the post-hearing submittals of the parties, the Presiding Officer made certain Findings of Fact and Conclusions of Law and included those findings and conclusions in the Recommended Order dated November 17, 2003, which was submitted to me, to Respondent and to Petitioner. A copy of said Recommended Order is attached hereto as Exhibit "A".

On December 1, 2003, Respondent filed Respondent's Exceptions to the Recommended Order filed on November 17, 2003. On December 10, 2003, Petitioner filed Petitioner's Response to Respondent's Exceptions to Administrative Law Judge's Recommended Order and Petitioner's request for Oral Argument and Suggestion of Alternative Body to Make Determination.

On February 16, 2004, after examining the Recommended Order, the University issued an Order Remanding Case to the Hearing Officer and Denying Request for Oral Argument and Suggestion of Alternative Body to Make Determination. The Order remanding the case sought clarification on two issues. On February 24, 2004, the Hearing Officer issued an Order to Show Cause affording the parties an opportunity to show cause why the Hearing Officer

should not decline the remand. Following Respondent's and Petitioner's responses to the order dated February 25, 2004 and March 15, 2004, respectively, the Hearing Officer declined to accept the remand in an Order Declining Remand issued on March 22, 2004.

The University has examined the Recommended Order and the Order Declining Remand. After due consideration, the University accepts and adopts the Findings of Fact and Conclusions of Law contained in the Recommended Order. The exceptions to the Recommended Order filed by Respondent are hereby rejected.

It is ORDERED that the Recommended Order be and hereby is adopted in full as this Agency's Final Order.

DONE AND ORDERED this 15 day of June, 2004.

NOTICE OF RIGHT TO JUDICIAL REVIEW

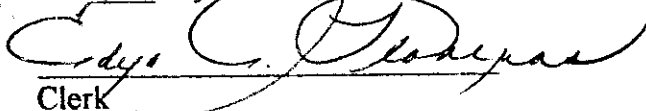
A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO §120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE CLERK OF FLORIDA INTERNATIONAL UNIVERSITY, AND SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, THIRD DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

FLORIDA INTERNATIONAL UNIVERSITY



by: Modesto A. Maidique
Its President
11200 S.W. 8th Street
Miami, FL 33199

FILED with the Clerk of
Florida International University
this 15 day of June, 2004.



Clerk

Copy furnished:

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