

## Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 3162 – CDI College of Business, Technology &amp; Health Care

### 1. Introduction

The Complainant was dismissed from the Dental Assistant program [Program] following accusations of academic dishonesty and cheating during an exam review. She filed a complaint against the Institution on February 6, 2024 [Complaint]. The student was dismissed from the Program on September 25, 2023.

The Complainant exhausted the Institution’s dispute resolution process prior to filing the Complaint. The Complainant alleges she was misled in relation to her dismissal from the Program. The Institution denies that it misled the Complainant as alleged, or at all. It relies on its “zero-tolerance” policy against cheating, plagiarism, and academic dishonesty [Policy] as justification for dismissing the Complainant.

**For the reasons outlined below I find the Institution did not mislead the Complainant regarding a significant aspect of the Program and, accordingly, deny the claim.**

### 2. Statutory Scheme

Section 23(1) of the *Private Training Act* [Act] provides that, a student may file a claim against the Student Tuition Protection Fund [Fund] on the ground that a certified institution misled the student regarding any significant aspect of an approved program of instruction in which that student was enrolled. Claims are filed with the Trustee, being the minister or the person to whom the minister has delegated the relevant powers or duties.

Claims must be filed no later than one year after the student completed or was dismissed or withdrew from the program and only after the student has exhausted the institution’s dispute resolution process.

Following receipt of the complaint, the process is as follows:

Claim the student was misled		
Who	What	When
Trustee	Gives a copy of the claim to the institution	As soon as practicable
Institution	May respond to the claim [Response]	Within 15 days of receiving a copy of the claim from the Trustee
Trustee	Gives the Response from the institution, if any, to the student	Within 15 days of receiving the Response from the institution
Student	May reply to the Response from the institution [Reply]	Within 15 days of receiving the Response from the Trustee
Trustee	Must give the Reply from the student, if any, to the institution	Within 15 days of receiving the Reply from the student

Trustee	Adjudicates the claim to determine whether any refund should be issued, and provides written reasons to the student, the institution and the registrar.
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If a claim is approved, the Trustee may authorize payment from the Fund of all or a portion of the tuition paid to the institution by or on behalf of the student. Section 25(4) of the *Fees and Student Tuition Protection Fund Regulation* requires that payments from the Fund be directed first to the government if all or a portion of the tuition was paid using funds from a provincial or federal student assistance program, and then to the claimant.

### 3. Program Information

Program:	Dental Assisting
Start date:	November 7, 2022
End date:	December 1, 2023
Dismissal date:	September 25, 2023
Total charged:	\$ 25,215
Tuition:	\$ 21,625
Application Fee:	\$ 150
Assessment and Administration Fees:	\$ 325
E-Resource and Material Fee:	\$ 3,115
Amount paid to date by Complainant:	\$ 24,977.91
Refund received to date by Complainant:	\$ 237.09
Amount of tuition paid to date by Complainant:	\$ 21,625

### 4. Issues

The following issue arises for consideration: Did the Institution mislead the Complainant in relation to the application of the Policy and her dismissal from the Program?

### 5. Chronology

<b>November 7, 2022</b>	Program start date
<b>September 22, 2023</b>	Classroom incident #1; Complainant accused of academic dishonesty.
<b>September 25, 2023</b>	Complainant dismissed from Program
<b>September 28, 2023</b>	Complainant meets with Institution
<b>October 2, 2023</b>	Complainant initiates DRP and appeals her dismissal
<b>October 19, 2023</b>	Institution denies appeal and confirms dismissal
<b>October 24, 2023</b>	Incident #2 – Complainant came to retrieve belongings; security and police were called
<b>February 6, 2024</b>	Complainant files Complaint

### 6. Analysis

This Complaint concerns the circumstances leading to the Complainant's dismissal from the Program. The parties have different versions of what transpired.

The Complainant alleges that she was falsely accused of cheating on September 22, 2023, and that this accusation resulted in her unjust dismissal from the Program. The Complainant contends that the accusation was baseless and not supported by evidence. She also notes that the incident occurred during an exam review, not during an exam, and that other students were using electronic devices (phones, laptops) without repercussion.

The Institution says that the Complainant was observed during an exam review holding her phone as if to take a photo of the exam. When questioned, the Complainant denied having taken any photos, but on examination of the phone, the instructors identified multiple exam photos and unauthorized videos of instructor presentations.

The Institution relies on the Policy set out in the Student Handbook for the Program and says that “[a]s per our plagiarism policy no pictures or recordings are allowed.” Moreover, the Institution maintains it has the right to immediately terminate any student found in breach of the Policy. The Institution did not provide a copy of the Student Handbook in its Response, but instead, reproduced an excerpt on cheating and plagiarism. The excerpt does not explicitly contemplate the use of phones during an exam review (cell phones are not permitted during “a test or exam situation”) or videoing instructor presentations.

In her Reply, the Complainant included a copy of the September 2022 Student Handbook, which she says was provided to her when she enrolled. She notes that the Policy in the 2022 Student Handbook differs from the excerpt included in the Institution’s Response. The Policy provides as follows: “Cheating and academic dishonesty will not be tolerated. Such behavior will be justification for failure of the test and possible dismissal from the College.” The Complainant says that the Institution has not been consistent in its justification for her dismissal and that the evidence is contradictory or non-existent.

## **7. Decision**

For the following reasons, I find that the Institution did not mislead the Complainant in relation to the application of the Policy and her dismissal from the Program.

It is not my role as trustee to review the facts underlying the dismissal or to determine whether the dismissal was justified or fair. The Institution has a policy on cheating and academic dishonesty which states that breach of the policy can result in dismissal. In this case, that is what occurred. While I appreciate that the Complainant disputes the Institution’s finding that she breached the Policy and alleges that the dismissal was unfair in the circumstances, I cannot find based on the records before me that the Complainant was misled within the meaning of s.23(1)(b) of the Act.

Notwithstanding my decision to deny the claim, I strongly encourage the Institution clarify its policy regarding what constitutes academic dishonesty or cheating, and specifically in respect to the use of electronic recording devices during exam reviews and instructor presentations.

The claim is denied.

This decision is final. The Trustee does not have authority to re-open or reconsider the decision and there is no appeal under the Act. Parties may wish to seek legal advice regarding a judicial review by the BC Supreme Court.

Date: June 20, 2024



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**Joanna White**  
Trustee, Student Tuition Protection Fund