

## Student Claim Based on Being Misled Decision

Complainant: ██████████

Institution: 3581 – Visual College of Art and Design (VCAD)

**1. Introduction**

The Complainant withdrew from the Interior Design online program [Program] on October 15, 2022, and filed a complaint [Complaint] against the Institution on December 12, 2022.

The Complainant exhausted the dispute resolution process [DRP] prior to this Complaint being filed.

The main issue complained about relates to the Institution’s representation prior to enrolment. As part of the DRP, the Institution offered a partial refund of \$12, 672.50, which the Complainant accepted.

The Complainant is now asking for the balance, which amounts to \$814.37 in tuition, and claims she was misled in the way the Institution handled her withdrawal, including the issuance of the Withdrawal Form and refund.

**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.	

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:	Interior Design
Start date:	October 3, 2022
End date:	April 6, 2024
Withdrawal date:	October 15, 2022
Total charged:	\$ 46,121.00
Tuition:	\$ 41,882.00
Student Application Fee (waived):	(\$ 150.00)
Administration Fee:	\$ 185.00
Course Materials Fee:	\$ 378.00
Textbooks Fee:	\$ 3,526.00
Amount paid by Complainant:	14,234
Amount refunded to Complainant	(\$12, 672.50)
Amount paid by Complainant	\$1,561.00
Amount of tuition paid by Complainant:	\$ 814.37

### 4. Issues

The following issues arise for consideration: Was the Complainant misled in relation to the Institution's representation prior to enrolment and the way in which the withdrawal was handled?

### 5. Chronology

<b>September 20, 2022</b>	Complainant accepted in Program
<b>October 3, 2022</b>	Program start date
<b>October 15, 2022</b>	Complainant withdraws from Program
<b>October 18, 2022</b>	Complainant asks Institution complete Withdrawal Form and issue full refund
<b>October 19, 21 2022</b>	Institution acknowledges withdrawal, confirms tuition refund owed (based on Institution's Tuition Refund Policy)
<b>October 24, 2022</b>	Complainant initiates DRP and submits Student Concern Report
<b>November 14, 2022</b>	Complainant submits 2 <sup>nd</sup> Student Concern Report
<b>November 18, 2022</b>	Institution issues decision [ <b>Decision 1</b> ] and offers partial refund
<b>November 22, 2022</b>	Complainant appeals Decision 1 - Institution has not issued partial refund or completed Withdrawal Form

<b>December 7, 2022</b>	Institution issues decision [ <b>Decision 2</b> ] and reiterates initial offer
<b>December 12, 2022</b>	Complaint filed
<b>December 2022</b>	Exchange between the parties re: tuition refund and Withdrawal Form
<b>December 16, 2022</b>	Complainant confirms acceptance of Institution's offer

## 6. Analysis

The Complainant was clearly dissatisfied with the Program and her experience dealing with the Institution, both before and after she withdrew from the Program.

The Complainant alleges that, prior to enrolment, she specified that she wanted to attend classes online (asynchronously) and on a part time basis (80% course load). She adds that the Institution, through its sales representative, agreed to these terms.

After the Program started, the Institution advised the Complainant was required to submit an accommodation request and seek approval for a reduced course load and asynchronous online delivery.

The Complainant says: "Over the course of the several occasions in which I expressed this need, not a single staff member at VCAD made me aware of the fact an accommodation request would be required for this reduction. Members of VCAD instead gave me the impression that following 4 courses per term was simply a standard offering by the college, much in the way it is at most universities across the country".

The Complainant withdrew on October 15, 2022, less than 15 days after the start of the Program and asked for a full refund.

Under the terms of the Institution's Tuition Refund Policy, the refund is based on the total cost of the Program and the Institution owed a refund of \$587.27 to the Complainant.

As part of the DRP, the Institution offered the Complainant a partial refund of \$12,672.50. In Decision 2, the Institution "takes ownership of that confusion from the sales rep's side and that is why we are offering you the utilized cost" and reiterates the refund offer made in Decision 1.

The Institution delayed issuing the refund and the appropriate Withdrawal Form (required by ██████████ Student Loans), and the Complainant followed up numerous times.

In her December 16, 2022, email to the Institution, the Complainant writes: "I agree to having VCAD return \$12,672.50- thereby withholding \$1,561.50 for tuition and e-resources costs- on the condition that the college provides the appropriate amended withdrawal form and follows through with the refund. Should these conditions not be met, it will be determined that we have not found an agreeable solution".

The Institution did eventually issue the partial refund and Withdrawal Form.

In its Response, the Institution acknowledges it delayed providing the appropriate Withdrawal Form.

In her Reply, the Complainant says: "Finally, [the Institution's] acknowledgement of the college's wrongdoings at the end was much appreciated. Getting the necessary withdrawal documentation from VCAD proved near impossible despite the deadlines and numerous requests from myself and government bodies.

Coming to an agreement on a drop calculation was also an incredibly long, tumultuous, and emotionally draining battle. The refund has already been long completed to the [REDACTED] but the sentiment is appreciated”.

## 7. Decision

The purpose of the DRP is to create a mechanism for students to bring issues to the attention of the institution, and for the parties to resolve their disputes directly.

After having gone through the DRP, the Institution offered a refund of \$12,672.50 which the Complainant accepted. This effectively resolved the matter as between the parties. Accordingly, I do not have to make a finding in relation to the Institution’s representations made prior to enrolment.

I find the Complainant was not misled in respect of the manner in which the Institution handled the withdrawal (following the DRP), including the issuance of the Withdrawal Form and refund. Accordingly, I deny the claim.

The adjudicative task for me, as trustee, is not to assess whether the Program met the Complainant’s expectations, which it clearly did not. Rather, my task is to determine whether the Complainant was misled in relation to a significant aspect of the Program. For a claim under s. 23(1)(b) of the Act to be successful, there must be concrete evidence that the institution promised something related to a significant aspect of the program that it objectively failed to deliver.

Following the DRP, the Institution did not issue the refund and Withdrawal Form to the Complainant in a timely way. While the delay significantly contributed to the Complainant’s frustration and dissatisfaction, I am not satisfied the Complainant was misled within the meaning of s. 23(1)(b) of the Act.

For these reasons, I deny the claim.

Decisions of the Trustee are final and conclusive and are not subject to appeal (Act, s.24(5))

September 18, 2023



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**Tony Loughran**  
Trustee, Student Tuition Protection Fund