

## Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

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

### 1. Introduction

The Complainant completed the Interior Design online program [Program] on June 24, 2023, and filed a complaint against the Institution on November 6, 2023 [Complaint].

The Complainant exhausted the Institution’s dispute resolution process [DRP] prior to filing this Complaint.

The matters at issue are the delayed delivery of the laptop and textbooks, and the measures taken by the Institution to protect the Complainant’s privacy following a security privacy breach at the Institution.

The Complainant is seeking a refund of half the tuition paid.

**For the reasons outlined below I find the Institution misled the Complainant regarding a significant aspect of the Program and, accordingly, approve 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 DRP.

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 4, 2021 |
| Original End date:                             | April 1, 2023   |
| Revised End date:                              | June 24, 2023   |
| Graduation date:                               | June 24, 2023   |
| Total charged:                                 | \$45,639        |
| Tuition:                                       | \$41,146        |
| Student Application Fee:                       | \$150           |
| Course Materials Fee:                          | \$378           |
| Textbooks Fee:                                 | \$3,780         |
| Administration Fee:                            | \$185           |
| Amount paid to date by Complainant:            | \$45,639        |
| Amount of tuition paid to date by Complainant: | \$41,146        |

### 4. Issues

The following issues arise for consideration: Was the Complainant misled in respect of the delayed delivery of the laptop and textbooks, and the measures taken by the Institution to protect the Complainant's privacy following a security breach?

### 5. Chronology

|                          |  |
|--------------------------|--|
| <b>October 4, 2021</b>   | Program start date   |
| <b>January 20, 2022</b>  | Institution delivers laptop  |
| <b>June 14, 2023</b>     | Complainant completes Program  |
| <b>October 26, 2023</b>  | Complainant initiates DRP and submits Student Concern Outline Report |
| <b>November 6, 2023</b>  | Institution issues decision [ <b>Decision 1</b> ]                    |
| <b>November 6, 2023</b>  | Complainant submits Complaint  |
| <b>November 10, 2023</b> | Complainant submits complaint to Institution                         |
| <b>November 17, 2023</b> | Institution issues Decision [ <b>Decision 2</b> ]                    |
| <b>November 18, 2023</b> | Complainant rejects offer of partial refund                          |

### 6. Analysis

The Complainant raises the following issues in her Complaint:

#### **Provision of laptop**

The is the main issue complained about. As an incentive to enrol in the Program, the Institution promised the Complainant a laptop. The laptop was delivered on January 20, 2022, more than three months after the start of the Program.

While she was waiting for her laptop, the Complainant had to use her iPad, which she says was inadequate as it could not run software required for the Program, such as AutoCAD and Photoshop.

In its Response, the Institution says the delay was caused by a third party and was “beyond the control of the campus”. The Institution adds that the laptop was a promotional material for which the Complainant was not charged and, as specified in the Student Handbook, students are required to have their own equipment. The Institution confirms it is no longer offering laptops as a promotion and offers a \$2,000 Graduation Scholarship as a “gesture of goodwill for the inconvenience this has caused”.

The Complainant refused the Institution’s \$2,000 goodwill offer.

### **Provision of textbooks**

The Institution did not provide the *Building Construction Illustration Vol 6* eBook, and the book required for the Interior Detailing course was delivered over one month after the start of the three-month course. The Complainant submits that these books were essential learning tools and the delay contributed to her poor performance.

In its Response, the Institution acknowledges the delay in delivering the two textbooks and offers a refund. The Institution explains that the publisher updated *Building Construction Illustration 5<sup>th</sup> edition* and, as a result, delivery of the 6<sup>th</sup> edition was delayed to January 12, 2023.

The Complainant refused the Institution’s offer to reimburse the cost of the textbooks.

### **Breach of confidentiality**

The Complainant submits that the Institution did not take adequate measures to protect the confidentiality of her personal information, following a security breach. She says: “They had advised us students that some financial information was compromised, and we were continuously sent phishing emails, fake spam emails and others of the sort throughout the school year”.

The Institution acknowledges its systems were hacked and says it took every measure to ensure the security of accounts. The Institution adds that the Complainant should have contacted the IT department at that time to allow them to address the issues raised.

In its Response, the Institution makes the following offer:

We acknowledge the importance of student satisfaction and wish to address and understand any challenges you may have encountered during your program. As a gesture of goodwill, we offer a refund of \$10,272.00, including the coverage of two courses (Architectural Design and

Detail, Interior Detailing) specifically mentioned, the retake of the course, textbook and material fees, and the honoring of a \$2,000 graduation scholarship that was offered by campus to mitigate any undue stress and/or frustration you may have experienced.

## **7. Decision**

For the reasons outlined below, I find the Institution misled the Complainant in relation to the provision of textbooks and the representations made in respect of the provision of the laptop. Accordingly, I approve the claim.

The provision of a laptop is clearly part of the Institution's marketing and recruitment strategy and is meant to entice students into enrolling in a program.

A laptop is an essential learning tool, not a mere perk. The Complainant did not own a laptop and had to use her iPad, which was clearly not appropriate for the Program. It was reasonable for the Complainant to expect, based on the Institution's representations, that the laptop would be delivered close to the start date of the Program.

Taking into consideration the Institution's representations prior to enrolment, I do not accept the Institution's position that the delay in delivering the laptop was caused by a third party and that the Complainant should have had her own laptop.

Similarly, textbooks are essential learning tools that should be available as required and the Institution should provide alternatives when issues arise.

Finally, I find the issues raised in respect of the Institution's alleged breach of confidentiality do not amount to misleading as defined under the Act.

As Trustee, I authorize payment of \$20,573 from the Fund. The payment will be directed in the following order: 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 second, to the Complainant (Act, s.25).

The Institution is required to repay the total amount of \$20,573 to the Fund (Act, s.27).

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