

## Student Claim Based on Being Misled Decision

Complainant: ██████████

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

### 1. Introduction

The Complainant withdrew from the 3D Modelling, Animation, Art, and Design online program [Program] on December 13, 2023 and filed a complaint against the Institution on February 17, 2024 [Complaint] asking for a full refund of tuition.

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

The matters at issue are: The information provided by the Institution’s admission representative; the instructional hours delivered; and the Institution’s representation that it holds the Education Quality Assurance (EQA) designation.

**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 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:	3D Modelling, Animation Art, and Design
Start date:	May 15, 2023
End date:	November 9, 2024
Withdrawal date:	December 13, 2023
Total charged:	\$43,702
Tuition:	\$42,158
Student Application Fee:	\$150
Course Materials Fee:	\$481
Textbooks Fee:	\$728
Administration Fee:	\$185
Amount paid to date by Complainant:	\$17,882
Amount of tuition paid to date by Complainant:	\$17,073

### 4. Issues

The following issues arise for consideration:

- (a) Was the Complainant misled in relation to the representations made by the Institution?
- (b) Was the Complainant misled in relation to the instructional hours provided?
- (c) Was the Complainant misled in relation to the Institution's representation that it holds the EQA designation?

### 5. Chronology

<b>May 5 and 6, 2023</b>	Text exchanges with admissions representative
<b>May 5, 2023</b>	Complainant signs enrolment contract
<b>May 15, 2023</b>	Program start date
<b>December 13, 2023</b>	Complainant withdraws from Program and initiates DRP
<b>December 22, 2023</b>	Institution issues decision [ <b>Decision 1</b> ] and offers partial refund of \$4,370.40
<b>December 24, 2023</b>	Complainant refuses offer for partial refund
<b>January 4, 2024</b>	Institution issues decision [ <b>Decision 2</b> ] and reiterates offer for partial refund
<b>January 8, 2024</b>	Complainant refuses offer for partial refund
<b>February 17, 2024</b>	Complainant files Complaint

## 6. Analysis

### a) Did the Institution mislead Complainant in respect of the representations made by the admission representative?

This is the Complainant's main issue. The Complainant alleges that the admissions representative provided false and misleading information related to the Institution's refund policy and the technical requirements for the Program. In support of her claim, the Complainant provided copies of text exchanges with the Institution's admissions representative.

#### *Refund Policy*

On May 6, 2023, one day after signing the enrolment contract, the Complainant texts the admissions representative asking whether she would be entitled to a refund if she were to withdraw the same day: "Hi, I was wondering if I were to withdraw from the program now, would I get a full refund? If not I'll stick with the program, I just haven't been feeling good about it, but if I cannot withdraw, I will stick with it!" The representative responds: "There's no refund. It's college, and you're going to do great. Stick with it, [Complainant]. Are you normally an anxious person?"

The Complainant follows up and asks about the seven-day refund provision. The representative evades the question and, instead, under the guise of being supportive, attempts to convince the Complainant not to withdraw.

The Complainant says that, following the text exchanges, the admissions representative called and reiterated that no refund could be issued after enrolment. The Complainant says she felt pressured to enrol and, relying on the refund information provided, no longer considered withdrawing.

If the Complainant had withdrawn from the Program within seven days of signing the enrolment contract, she would have been entitled to a full refund, other than application fees: *Private Training Regulation, 32 (1) (a)*.

In Decision 1, the Institution says: "After investigating from our end, we could not find any documentation regarding the student inquiring about the Refund Policy". The initial meeting with the admissions representative was held on April 6, 2023, which, the Institution submits, provided one month for the Complainant to gather information about the Program. The Institution adds that the Complainant signed the enrolment contract 20 minutes after it was sent to her and suggests she could have taken more time to go over the contract before signing.

In Decision 2, the Institution says: "Based on the chat record dated May 05, 2023, it seems that the student expressed anxiety about starting school, and the admissions representative was providing motivational support. The mention of "no refund" was specific to the context that the contract had not been initiated by May 05, as the student's official start date, according to records, is on May 15, 2023. There was no loan confirmation as the student was not a start with school on May 05, 2023".

In its Response, the Institution says it received an initial payment from BC Student Loans on May 15, 2023, which means that at the time the Complainant enquired about the Institution's refund policy, no payment had been made. The Institution adds that the refund policy is included in the enrolment contract signed by the Complainant "and it is ultimately the responsibility of the student to review and understand these policies before signing".

*Laptop requirements and access to applications*

Prior to enrolment, the Complainant enquired about the suitability of her laptop and the admissions representative confirmed it was more than adequate for the Program: "Director says your device is exceptional" and "is considered gaming quality".

The Complainant says that, after enrolment, she had to purchase a new laptop for \$1,935.36, as hers was not suitable to download the software required for the Program.

While the Institution uses Amazon Web Services (AWS) so students can access software, the Complainant submits that AWS was not reliable and, in some instances, not available. In support of her claim, the Complainant submitted videos of classes where instructors acknowledge issues with AWS and offer alternatives.

In response, the Institution says the Complainant was aware of the technical requirements, which are listed in the Student Handbook and "the Campus Director has reiterated these details in their response...". The Institution adds that IT issues may have been caused by the Complainant's poor internet connection.

The Institution offered to reimburse \$1,935.36 for the laptop purchased by the Complainant.

**b) Was the Complainant misled in relation to the instructional hours provided?**

The Complainant submitted a detailed account of the instructional hours provided showing she received significantly less than specified on the Program Outline.

The Institution acknowledges it routinely did not provide the instructional hours that were represented to the Complainant and offers a refund of \$4,370.40 in respect of two courses (2D Animation Foundations and Maya 1) on the basis that the hours provided for these courses were significantly less than those listed in the Program Outline.

The Institution also acknowledges it owes a refund of \$659 for textbooks that were not delivered to the Complainant.

**c) Was the Complainant misled in relation to the Institution's EQA designation?**

The Complainant submits the Institution misrepresented it holds an EQA designation. In response, the Institution says it adheres to EQA standards and "operates under Vancouver Career College Burnaby Inc".

The Complainant also refers to the Institution's rating with the Better Business Bureau and the enforcement actions listed on the website of PTIB.

## 7. Decision

For the following reasons, I find the Institution misled the Complainant in respect of significant aspects of the Program and approve the claim. Specifically, I find the Institution misled the Complainant in relation to the representations made by its admissions representative in respect of the refund policy and the number of instructional hours provided.

The text exchanges between the Institution and the Complainant clearly show the Institution unduly pressured the Complainant to enrol in the Program and provided false information about the refund policy.

Throughout the DRP and the complaint process, the Institution has provided inconsistent and contradictory submissions in respect of its interactions with the Complainant regarding the refund policy. The Institution initially denies making any representation about the refund policy, then says the Complainant should have reviewed the enrolment contract more carefully, and finally takes the position that the information it provided was accurate because at the time, although the Complainant had signed the contract, the Institution had not received payment from Student Loans. I find the Institution's submissions on this issue wholly incoherent and rely on the evidence provided by the Complainant in the form of the text exchanges as irrefutable proof that the Institution provided inaccurate and false information, and in this way misled the Complainant.

On the issue of instructional hours and based on the Institution's own submissions, I find the Institution provided instructional hours that were significantly less than represented to the Complainant.

On the issue of EQA designation, the evidence submitted does not allow me to make a determination that the Complainant was misled in relation to the Institution's EQA designation. I make no finding on this issue.

Finally, I note that Decision 2 includes the following statement: "Please note, as per your signed enrollment agreement, the student's right to legal or civil action is limited to a confidential binding arbitration by a single third-party arbitrator appointed by agreement in accordance with the Arbitration Act of British Columbia. Further, the cost of the arbitration shall be shared equally between the College and the student." Decision 2 does not refer to the Complainant's right to file a claim with the trustee and the time within which the claim must be filed (PTR 62 (1)(f)(iii)).

The claim is approved, and the Complainant is entitled to a refund of **\$17,073**.

I authorize payment of \$17,073 from the Fund. The payment from the Fund 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 \$17,073 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