

Student Complaint Preliminary Decision

Complainant: [REDACTED]

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

1. Introduction

The Complainant submitted a claim against the Institution [**Complaint**] on April 4, 2024, after having completed the Interior Design program [**Program**].

One of the requirements to file a claim is to have exhausted the dispute resolution process [**DRP**] by the 1-year deadline to file a claim.

On June 5, 2024, I invited the parties to provide submissions on the applicable completion date of the Program for the purposes of determining whether the Complaint was filed within the 1-year time limitation.

Both parties provided submissions in respect of the applicable completion date [**Submissions**].

I have reviewed the Submissions, and this is my preliminary decision.

For the reasons outlined below, I have determined the DRP was not exhausted by the 1-year deadline. Consequently, I do not have authority to consider the merits of the Complaint.

2. Statutory Scheme

Section 23(1) of the *Private Training Act* [**PTA**] 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 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 (PTA, 23(3)(b) and (4)).

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. Analysis

The Institution submits the Complainant completed the Program on March 31, 2023, the date listed in the student enrolment contract and the date the credential was issued.

The Complainant submits they completed the Program on April 13, 2023, the date the Complainant completed their portfolio presentation, a requirement to complete the Program.

The Complainant submitted the Complaint to PTIB on April 4, 2024.

The Complainant initiated the DRP by submitting a complaint to the Institution on April 22, 2024.

4. Decision

For the reasons outlined below, I have determined the DRP was not exhausted by the 1-year deadline. Consequently, I do not have authority to consider the merits of the Complaint.

The purpose of the DRP is to provide the parties with an opportunity to address an issue before a claim is filed.

PTA 23(3)(b) and 23(4) must be read together. This means that a complainant must submit a claim and exhaust the DRP by the 1-year deadline before the claim may be accepted for filing. If I accept the Complainant's position that they completed the Program on April 13, 2023, they had to submit the Complaint and exhaust the DRP by April 13, 2024.

The Complainant submitted the Complaint to PTIB on April 4, 2024, within one year of the date they completed the Program.

The Complainant initiated the DRP on April 22, 2024. As stated above, the applicable deadline for filing the Complaint was April 13, 2024. Put simply, the Complainant waited too late to initiate the DRP and, as a result, is time-barred from filing the Complaint.

Accordingly, I find the Complainant did not meet one of the requirements to file the Complaint, which is to have exhausted the DRP by April 13, 2024.

To clarify, in making this decision, I make no determination on the merits of the claim. While I am sympathetic to the Complainant's situation, the provisions of the PTA are unambiguous, and I have no discretion to extend the 1-year time limit.

July 22, 2024



Joanna White
Trustee, Student Tuition Protection Fund