

Student Claim Based on Being Misled Summary

Complainant: [REDACTED]

Institution: 3126 – Capital College

1. Introduction

The Complainant was dismissed from the ECE – Montessori Combined program [Program] on March 9, 2023, and filed a complaint against the Institution on January 3, 2024 [Complaint].

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

The matter at issue relates to the Complainant’s dismissal from the Program.

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.	

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:	ECE – Montessori Combined
Start date:	March 21, 2022
End date:	May 30, 2023
Dismissal date:	March 9, 2023
Total charged:	\$ 19,982
Tuition:	\$ 18,080
Registration Fee (non-refundable):	\$ 200
MACTE/AMS Registration Fee (non-refundable)	\$ 700
Montessori Manuals Fee:	\$ 500
Handout Fee:	\$ 400
Graduation Fee:	\$ 90
Student Record Archiving Fee:	\$ 12
Amount paid by Complainant:	\$ 19,982
Amount refunded to Complainant	\$ 9,130
Amount of tuition paid to date by Complainant:	\$ 9,040

4. Issues

The following issue arises for consideration: Did the Institution mislead the Complainant in respect to her dismissal from the Program, and specifically the application of its Dismissal Policy?

5. Chronology

March 21, 2022	Program start date
October 14, 2022	Complainant dismissed from practicum [Practicum 1]
October 14, 2022	Email from Practicum 1 host to Institution (re: dismissal)
November 30, 2022	Complainant dismissed from second practicum [Practicum 2]
November 30, 2022	Email from Practicum 2 host to Institution (re: dismissal)
December 5, 2022	Meeting between Complainant and Institution
December 20, 2022	Institution confirms in writing offer to complete practicum the following year
December 20, 2022	Complainant refuses Institution's offer
January 22, 2023	Meeting between Practicum Host 2 and Institution to discuss dismissal
March 8, 2023	Complainant initiates DRP
March 9, 2023	Complainant dismissed from Program
June 25, 2023	Complainant follows up (re: DRP)

June 28, 2023
January 3, 2024

Institution asks "What is DRP"
Complainant files Complaint

6. Analysis

One of the requirements to graduate from the Program is the completion of a practicum.

The Complainant attended two practicums from which she was dismissed.

The Complainant was dismissed from the Program on March 9, 2023, for the following reasons: [REDACTED];

The Institution refunded half the tuition paid by the Complainant and the graduation fee.

The Institution submitted correspondence from the two practicum hosts [REDACTED]. The Institution did not share with the Complainant this correspondence or the reasons for the dismissals from the practicums.

Following the two successive dismissals, the Institution met with the Complainant and followed up with a letter confirming its offer to extend the end date of the Program, allowing the Complainant to complete her practicum the following year. I have copied below excerpts from the December 20, 2022, letter to the Complainant:

Then we discussed your experience at [Practicum 2 site], which is a family daycare. You started in mid October and spent about 1.5 months there. Your experiences there were not beneficial to your training, and the practicum site was not working out for you, and having you attend practicum there was not working out for the centre.

...

As stated in the Montessori Practicum Handbook, "All students must make sure that their practicum will start no later than mid-October." **This is the main reason for us not allowing you to continue to do your practicum this year.** Too much time has passed, and we feel you may not be successful at this practicum. We do not want to set up a student for failure, we want to ensure and expect success. We all feel that you will be more successful if you wait until next year. (Emphasis added)

So, to re-cap, the decision is for option #2, with you continuing in the ECE/Montessori program, but you will not get credit for the hours at [Practicum 2 site].

[Complainant], I hope you are satisfied with this decision. I would encourage you to focus on your courses. Consider volunteering at a centre, or even get a job at a centre (ECE or Montessori), practice your interpersonal skills, deepen your understanding of children and their

needs, and understand the ECE field in Canada and how it works. [REDACTED]
[REDACTED]
[REDACTED] Focus on improving in these areas and make yourself a better student.

The Complainant responded that “she did not expect this” and rejected the Institution’s offer as she was not available the following year.

The Complainant disputes that Practicum 1 was a practicum and says that she only attended for five days as an “observer”. The Complainant adds that she was dismissed from Practicum 2 without being provided a reasonable explanation, and disputes her grade in the Language Art Curriculum course and the Institution’s statement that she was [REDACTED]
[REDACTED] I need you to offer me the clear description in the college regulation of what can be called as [REDACTED], and a clear explanation of how I broke the college rule so you can expel me”.

In its Response, the Institution submits that the dismissal complied with the Institution’s Dismissal Policy.

The Student Practicum Handbook includes the following provisions related to dismissal:

Dismissal:

Dismissal from the Practicum Site is based upon:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Procedure:

1. The Student Teacher will be apprised of the situation by the Supervising Teacher. The College places the Student Teacher on probationary status. Explicit, behavioural objectives will be identified for the Student Teacher to work on.
2. One week later there will be a review of the situation with feedback from the Supervising Teacher and the College.
3. Either probationary status will be removed, or the Student Teacher is advised that the change in behaviour must continue in order to avoid immediate dismissal from the practicum site

The Institution’s Response includes communications from the practicum hosts discussing the reasons for two dismissals. This was the Complainant’s first opportunity to review these records. In her Reply, the Complainant disputes the assessment provided by the two practicum hosts; submits she was an observer

during Practicum 1 (does not count as a practicum); and says the Institution did not provide any feedback about the practicums. In respect of the [REDACTED] [REDACTED] does not agree with the grading criteria. The Complainant adds that the reasons for her dismissal were never put to her prior to the dismissal and the Institution did not provide adequate support.

The Complainant also alleges that the Institution did not offer the practicums and she had to find them herself. In response, the Institution says that the Complainant rejected practicum offers on the basis that they were not located in her neighbourhood.

7. Decision

The Complainant exhausted the DRP before filing the Complaint. She clearly laid out her concerns to the Institution and followed up. The Institution did not engage in the DRP.

I remind the Institution that it is a regulatory requirement to follow the DRP and issue a written decision within 30 days of a student submitting a complaint (*Private Training Regulation [PTR], 62*).

Turning to the merits of the Complaint, I find the Complainant was misled in respect of her dismissal from the Program and, on that basis, approve the claim.

The Complainant's dismissal from the Program appears to be justified. This is not the issue. The issue before me is whether the Institution's apparent failure to clearly communicate the reasons for dismissal from the Program and, specifically, dismissal from the practicums, amounts to misleading conduct.

The Institution did not communicate the reasons for the dismissals from the two practicums. In fact, the Complainant only learned of the reasons for the dismissals when the Institution provided copies of the hosts' correspondence in its Response, as part of the Complaint process. Before that, the Institution did not dispute the Complainant's assertion that she was merely an "observer" in Practicum 1 and only makes a reference to "not being a good fit" in respect to Practicum 2. In addition, the Institution offered the Complainant to complete her practicum the following year on the basis that she did not start her practicum by October. The reasons for the Complainant's dismissals were either not brought up or referred to in only very general terms.

The Complainant was not put on a probationary status, in accordance with the Institution's Dismissal Policy. It was incumbent on the Institution to provide input to the Complainant about the reasons for the dismissals and to follow its Dismissal Policy before dismissing the Complainant. I find the Institution's failure to take these steps prior to dismissing the Complainant was misleading.

For these reasons I approve the claim.

At the time of the dismissal, the Complainant had completed more than 30% of the Program and, based on the tuition refund policy outlined in the PTR, was not entitled to a refund. I find the refund issued by the Institution was reasonable in the circumstances and, accordingly, I am not ordering a refund.

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.

August 22, 2024



Joanna White

Trustee, Student Tuition Protection Fund