

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 27 – Vancouver Film School

1. Introduction

The Complainant was enrolled in the Makeup Design for Film & Television Program [Program] and filed a complaint against the Institution [Complaint] on July 8, 2024, after having been dismissed from the Program on or around March 8, 2024.

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* [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 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:	Makeup Design for Film & Television
Start date:	August 28, 2023
End date:	August 16, 2024
Dismissal date:	March 8, 2024
Total charged:	\$ 47,150
Tuition Fee:	\$ 44,000
Program Kit Fee:	\$ 3,000
Application Fee (non-refundable):	\$ 150
Paid to date:	\$ 47,150
Tuition paid to date:	\$ 44,000
Amount refunded by Institution:	\$ 23,500
Tuition refunded by Institution:	\$ 22,000

4. Issues

The following issue arises for consideration: Were the Institution's communications and process leading to the Complainant's dismissal unclear and/or unfair to the point of being misleading?

5. Chronology

August 18, 2023	Program start date
October 17, 2023	In person meeting [Meeting 1]
November 17, 2023	In person meeting [Meeting 2]
December 6, 2023	Letter from Institution
Unknown	In person meeting [Meeting 3]
January 31, 2024	Institution's email notifying Complainant is removed from film shoots in Term 3
March 8, 2024	In person meeting. Complainant dismissed from Program [Meeting 4]
March 8, 2024	Complainant enquires about how to appeal an important matter. Institution provides contact information
March 11, 2024	In person meeting [Meeting 5] followed by Institution email confirming dismissal and offer to refund \$23,500
March 12, 2024	Institution email confirming Complainant's concerns shared at the Meeting 5 will be relayed to staff members
June 19, 2024	Complainant enquires about being re-instated in Program, asks for "new review with the DRP"
June 24, 2024	Institution confirms dismissal

6. Analysis

The Complainant summarizes her Complaint as follows:

I was misled by excuses built upon projected fallacies and a broken promise to accommodate, under the illusion each meeting was a cordial check on my welfare. I expected an 'inclusive' learning environment where no prerequisites were needed, having met the grade requirements to continue the program (as outlined in the contract/handbook); instead, I was assumed to be behind my peers in favour of their prior experience compared against mine. I only received 5 months of basic makeup training instead of the full year. Without a cosmetology license or degree (which would take another (1) year to acquire), job opportunities are scarce. The 50% refund hardly compensates for the wasted time, effort, and finances. Starting over at a new school isn't feasible with limited funds—it would take years to cover the remaining tuition needed to, plus living and moving expenses. I believe I deserve a 100% tuition refund.

Prior to dismissing the Complainant during an in-person meeting, the Institution held three in-person meetings where the Complainant's performance was discussed.

The Institution's written communications to the Complainant prior to the dismissal are as follows:

1. December 6, 2023 letter

The December 6, 2023 letter was issued following Meeting 2.

The letter includes the following preamble:

Following the recent meeting with VFS educational administrative staff and faculty members, and after sincere consideration for your progress, it has been highlighted that there are opportunities for improvement in your engagement, comprehension, and application of course content. Our primary objective remains ensuring your success in the program, and we firmly believe that with dedicated effort and commitment, you can overcome these challenges.

The Institution then lists four "Issues Identified" and "Seven Action Items for Improvement".

The Institution concludes with the following statement:

We look forward to witnessing your progress and success in the program. Should we receive a report indicating a lack of improvement, further steps will be taken.

2. January 31, 2024 email

The Institution "follows up from earlier conversation" and notifies the Complainant she is removed from film shoots for Term 3 "due to our lack of confidence in your abilities to safely apply makeup right now". The email continues:

Going forward in the program, if you have been unable to demonstrate to instructor satisfaction that you can perform application techniques correctly - without supervision and without causing pain/harm to your model - you will not be permitted to do the assignment or exam that is connected to those application techniques and will receive a grade of zero on them. This is

because in order for grades and diplomas to be properly earned, all students in this program must apply makeups on their own with no assistance or special monitoring.

The Complainant was dismissed on March 8, 2024 during an in-person meeting.

The Institution confirmed the dismissal in its March 11, 2024 email to the Complainant. The Institution does not provide any reason for the dismissal, offers a refund of \$23,500, and suggests other institutions the Complainant could transfer to.

In its Response, the Institution denies it misled the Complainant in respect of the dismissal or at all. The Institution submits: “The Letter and the Email demonstrate the tone of the Second and Third meeting and provide clear evidence that [Complainant] should have been aware that her continued enrollment in the Program was in jeopardy if improvements did not occur and/or if the issues persisted.”

The Institution says instructors started having concerns with the Complainant’s conduct and performance approximately two weeks after the start of the Program and confirms these concerns were discussed in Meeting 1 and Meeting 2. The Institution adds that the Complainant’s failure to use equipment in a safe manner was also raised in Meeting 2.

The Institution says it received complaints from other students about the Complainant’s in-class conduct.

The Institution submits that concerns related to the safe use of equipment were becoming more serious “given that [Complainant’s] skills were not progressing as expected in the Program and the coursework going forward was only getting more and more hazardous”.

During Meeting 3, the Institution encouraged the Complainant to take a leave of absence, which the Complainant rejected.

7. Decision

Both parties acknowledge they went through the DRP and, based on the evidence submitted, I find the Complainant raised the issues complained about to the Institution. This is a sufficient basis for me to determine the DRP has been exhausted.

I remind the Institution that it is a regulatory requirement to issue a written decision which includes the reasons for its determination within 30 days of a student submitting a complaint (*Private Training Regulation [PTR], 62(1)(f)*).

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 may have been justified. This is not the issue. The issue before me is whether the Institution's communications and process leading to the dismissal were unclear and/or unfair to the point of being misleading.

The Institution is regulated under the PTA. The PTA is consumer protection legislation that recognizes the power imbalance between a student and an institution and establishes compliance standards institutions must comply with. This includes standards related to the student dismissal policy (PTR 47). PTR 47 provides that the student dismissal policy must be fair and reasonable, set out what constitutes reasonable grounds to dismiss a student, and include the process by which a student may be dismissed.

The Institution did communicate its concerns with the Complainant's performance. However, I am not persuaded the prospect of dismissal was clearly brought to the Complainant's attention during the in-person meetings. In other words, the Institution failed to convey to the Complainant the seriousness of the performance issues and the potential consequences should she not improve. In any event, even if dismissal was raised, it was incumbent on the Institution to follow a fair process which, at minimum, requires clearly setting out in writing the grounds which may constitute dismissal and linking the noted concerns to the possibility of dismissal. Further, the Institution's email confirming the dismissal should have included the reasons for the dismissal. I find the Institution's failure to take these steps was misleading.

For these reasons I approve the claim.

I authorize payment of \$22,000 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 (PTA 25).

The Institution is required to repay the total amount of \$22,000 to the Fund (PTA 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 PTA. Parties may wish to seek legal advice regarding a judicial review by the BC Supreme Court.

Date: October 30, 2024



Joanna White

Trustee, Student Tuition Protection Fund