

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 1564 – Pacific Institute of Culinary Arts

1. Introduction

The Complainant was enrolled in the Culinary and Baking & Pastry Arts Grand Diploma program [Program] and filed a complaint against the Institution [Complaint] on September 20, 2024, after having graduated on September 22, 2023.

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

The Program consists of four courses, each 420 hours: Culinary Arts Foundation; Culinary Arts Advanced; Baking & Pastry Arts Foundation; and Baking & Pastry Arts Advanced.

The Complainant submits the Institution made representations in respect of the experience and training of its instructors it failed to deliver. Specifically, the instructor of the Baking & Pastry Arts Advanced course [Replacement Instructor] lacked the necessary expertise and experience in baking and pastry to teach the course. The Complainant is seeking a refund of \$24,775.

For the reasons outlined below I find the Institution did not mislead the Complainant regarding a significant aspect of the Program and, accordingly, deny 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:	Culinary and Baking & Pastry Arts Grand Diploma
Start date:	September 26, 2022
End date:	September 22, 2023
Graduation date:	September 22, 2023
Total charged:	\$ 51,834
Tuition:	\$ 49,550
Application fee:	\$ 550
Textbook and course materials fees (equipment and uniform included):	\$ 1,734
Amount paid to date by Complainant:	\$ 51,834
Amount of tuition paid to date by Complainant:	\$ 49,550

4. Issues

The following issue arises for consideration: Was the Complainant misled in respect of the representations made by the Institution related to instructor qualifications?

5. Chronology

September 26, 2022	Program start
September 22, 2023	Complainant graduates
September 26, 2023	Complainant complains about Replacement Instructor
October 12, 2023	Institution responds
August 14, 2024	Complainant initiates DRP
September 12, 2024	Institution issues decision
September 20, 2024	Complainant files Complaint

6. Analysis

The main issue complained about relates to the Institution's representations regarding instructor qualifications. More specifically, the Complainant alleges the Replacement Instructor lacked expertise and

experience and, as a result, the Institution failed to provide the calibre of instruction she was led to expect when she enrolled in the Program.

The Institution advertises on its website “an Internationally Trained and Experienced Faculty”. The Complainant submits that when she enrolled in the Program the four pastry instructors teaching the Program had qualifications and experience that justified the high tuition fee. All instructors had over ten-years experience working as pastry chefs, and most had international experience.

The Complainant submits that between September 2022 and March 2023 (during the first half of the Program) four of eight instructors resigned, and three of these instructors were teaching pastry and baking. The Institution did not hire a new instructor and, instead, assigned an instructor of Culinary Arts (the Replacement Instructor) to teach Baking & Pastry Arts Advanced.

The Complainant alleges the Institution said it would hire a new instructor before the start of her Baking and Pastry Arts Advanced course and the Institution failed to do so.

The Complainant adds that topics listed in the Program Outline such as Catering Development; Entrepreneurship; Molecular Gastronomy; and Interviewing Skills were “overlooked or merely mentioned” and Food Costing and Portfolio and Resume Workshop were not covered.

Put simply, the Complainant submits the instruction provided by the Replacement Instructor was seriously deficient and she did not learn anything.

In response, the Institution denies it misled the Complainant in respect of the representations it made or the experience/expertise of the Replacement Instructor, or at all. The Institution says all instructors are qualified and competent, including the Replacement Instructor.

The Institution submits as follows:

- The instructor “who delivered more than half of the Pastry and Baking portion of the curriculum for [the Replacement Instructor] is without question considered one of the best pastry chefs in Canada”.
- The Complainant had access to support, including two chefs who covered the Replacement Instructor on vacation and sick leave.
- The Complainant exaggerates her exposure to the Replacement Instructor who taught over a period of approximately six of 48 weeks. “Those 48 do not include the many extracurricular activities and experiences supervised/facilitated by PICA chef”.
- The qualifications of the Replacement Instructor exceed the minimum instructor qualifications outlined in section 21 of the *Private Training Regulation* and “it is unfortunate that [Complainant] is favoring status over competence of her Chef Instructor”.

- The Program was delivered as described in the Program Outline and the Complainant did not attend the Resume Workshops offered.
- The Institution did not represent specific instructors would be teaching the Program.

The Institution submitted a copy of the Replacement Instructor's resume which shows their experience working as a pastry chef is not comparable to those of the instructors who were scheduled to teach the baking and pastry portion of the Program.

In her Reply, the Complainant says: "Due to the poor performance of the [Replacement Instructor], I have had to attend other pastry schools to acquire the knowledge PICA was supposed to provide. This additional training has become necessary to gain the proper training I originally paid PICA for".

7. Decision

I have carefully reviewed the parties' submissions and find the Complainant was not misled in respect of the representations made by the Institution related to instructor qualifications.

The Complainant made persuasive submissions, and this was not an easy decision for me to make.

There is no doubt the Complainant was dissatisfied with the instruction provided by the Replacement Instructor and the experience and qualifications of the Replacement Instructor did not meet the Complainant's expectations. While I find some of the Complainant's concerns legitimate, there is not a sufficient basis for me to find she was misled within the meaning of PTA 23(1)(b).

The Institution was managing a difficult and unforeseen circumstance of high staff turnover, and unfortunately, the Complainant's experience suffered as a result. However, at the end of the day, the Program was taught by qualified instructors. This is not a situation where the Institution promoted itself or the program based on the reputation or persona of a specific individual instructor and then failed to deliver on that promise. In this case, the Institution advertised the high quality of its instructional staff and then had to deal with the reality of a number of instructors leaving. Going forward, the Institution would do well to carefully manage the expectations of prospective students to avoid a repeat of this type of claim.

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.

January 6, 2025



Joanna White
Trustee, Student Tuition Protection Fund