

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

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

1. Introduction

The Complainant was enrolled in the Game Development and Design Program [Program] and filed a complaint against the Institution [Complaint] on June 5, 2024, after having withdrawn from the Program on May 21, 2024.

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

The matter at issue relates to the number of instructional hours delivered by the Institution.

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:	Game Development and Design
Start date:	June 5, 2023
End date:	December 21, 2024
Withdrawal date:	May 21, 2024
Total charged:	\$ 40,526.20
Tuition:	\$ 41,833
Application Fee:	\$ 150
Administration Fee:	\$185
Course Materials Fees:	\$ 482
Textbooks Fee:	\$ 665
Tuition Reduction:	\$ 2,788.80
Amount paid to date by Complainant:	\$ 21,188.50
Amount of tuition paid to date by Complainant:	\$ 20,757.50

4. Issues

The following issues arise for consideration: Did the Institution mislead the Complainant in respect of the instructional hours delivered?

5. Chronology

June 5, 2023	Start date of the Program
May 15, 2024	Complainant initiates DRP and submits complaint to Institution
May 21, 2024	Complainant withdraws from Program
May 23, 2024	Institution issues decision [Decision]
May 24, 2024	Complainant not satisfied with Decision
June 5, 2024	Complainant files Complaint

6. Analysis

The Complainant alleges the Institution failed to deliver 20 hours of instructional hours per week, as represented.

The Program is delivered by distance education. The Institution confirms the “Class Structure” is as follows: Each course of the Program consists of two hours synchronous and two hours asynchronous instruction or

three hours synchronous and one hour asynchronous instruction. The Institution does not confirm which of the two options applies.

The Complainant's weekly class schedule lists five classes, each four hours long.

The Complainant acknowledges the Institution delivered two to three hours of synchronous instruction per day. The issue is the Institution's alleged failure to deliver the remaining hours of instruction.

The Complainant submits:

The lessons were supposed to be 2-3 hours long, with the remaining time being a work period with the instructor still present. However, the instructors would often leave as soon the lesson was over, meaning for most classes, we had only 2-3 hours with our instructor live.

The Complainant cites the following response from the Institution's Director which, he submits, was provided as part of the DRP. I note that it was not included in the parties' submissions.

Examples of facilitation and moderation for asynchronous portions of a course include instructor feedback on assignments, instructor moderation of discussion boards, instructor facilitation of group projects, and regular communication with students through our course forums and announcement boards.

The Complainant says instructors provided feedback during the live session (synchronous online delivery) but there were no discussion board, group projects, course forums or announcement boards. The Complainant adds that instructors routinely did not respond to emails and if they did "it was a very quick one and would be a few days in between messages".

In its Decision, the Institution submits "the 20 hours per week can include self-directed learning such as assignments, projects, or additional tasks related to the subject matter". The Institution also refers to the following statement [**Statement**] which was communicated to students:

I understand that "program hours" for the College's full-time program are based on the expectation of student's fulltime attendance for either 20 or 25 hours per week, dependent upon the program. Each week of classes generally includes not less than 20 "instructional hours" per week. "Instructional hours" are when students are in a class or other learning environments that are facilitated, moderated, and/or supervised by the instructor. In addition to "instructional hours", program hours may also include self-directed study, or open lab where students undertake program/course related projects, tasks, assignments, skills development, and/or research or study lab related to the programs but is not supervised or directed by an instructor/supervisor.

The Institution submits "asynchronous delivery is considered valid when supported by appropriate instructional content—such as lectures, videos, readings, and assignments—alongside instructor support". The Institution says it maintains progress tracking mechanisms to ensure student engagement with asynchronous materials. The Institution confirms that, according to its learning management system (LMS) records, the Complainant completed the "asynchronous instructional content".

The Institution acknowledges that two specific courses ended one hour early but submits course content was delivered, and this amounted to 0.138 % of instructional hours not delivered.

Finally, the Institution submits the Complainant did not raise issues as they occurred which prevented the Institution from addressing them in a timely way.

7. Decision

I find the Institution did not mislead the Complainant and, on this basis, deny the claim.

The Program consists of 20 instructional hours delivered weekly though synchronous and asynchronous delivery. The parties agree that two or three instructional hours were delivered by synchronous delivery delivered each day. The question for me to determine is whether the Institution delivered the remaining hours of instruction by asynchronous delivery, as contracted.

I have carefully reviewed the parties' submissions.

Online delivery by asynchronous instruction means a student engages with course materials at their own pace without the instructor present. This is different than homework or revision, which the student is expected to complete outside of instructional hours. The instructor must be available for questions, conduct evaluations and provide feedback, but is not required to be present or "live" while the student completes the asynchronous portion of the program.

The fact that an instructor was not present for the entire four hours listed in the Complainant's schedule does not mean the asynchronous hours were not delivered. Further, the evidence submitted in support of the claim is not sufficient for me to determine that no asynchronous instructional hours were delivered or even that a significant portion of the asynchronous instructional hours were not delivered. The Complainant did access the LMS and, based on the LMS records, completed the asynchronous instructional content of the Program.

I note the Institution's response is confusing. In particular, the distinction in the Statement between "program hours" and "instructional hours" is unhelpful as it does not specify where the asynchronous instructional hours fit in. It is also inconsistent with the regulatory scheme which requires institutions to specify the number of hours of instruction of the program, which may include both synchronous and asynchronous instruction. In other words, the program hours should match the instructional hours. I suggest the Institution clarify the way in which the Program is delivered, including specifying what the asynchronous online delivery entails.

For these reasons, I deny the 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.

29 September 2025



Joanna White

Trustee, Student Tuition Protection Fund