

Student Claim Based on Being Misled Decision

Complainant: ██████████

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

1. Introduction

The Complainant withdrew from the Interior Design program [**Program**] on February 10, 2023 and filed a complaint against the Institution on July 27, 2023 [**Complaint**]. The Program is delivered by distance education.

The Complainant exhausted the Institution’s dispute resolution process [**DRP**] prior to filing this Complaint. The matters at issue relate principally to the Institution’s recruitment practices and representations prior to enrolment.

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* [**Fees 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:	Interior Design
Student Enrollment Contract:	
Start date:	July 4, 2022
End date:	December 23, 2023
Student Contract Amendment:	
Revised start date:	June 20, 2022
Revised end date:	December 23, 2023
Withdrawal date:	February 10, 2023
Total charged:	\$46,121
Tuition:	\$41,882
Student Application fee:	\$150
Course Materials fee:	\$378
Textbooks fee:	\$3,526
Administration fee:	\$185
Amount paid:	\$24,320
Amount refunded	\$1,092.53
Amount of tuition paid to date by Complainant:	\$20,941

4. Issues

The following issue arises for consideration: Was the Complainant misled in respect of the Institution's recruitment practices and representations prior to enrolment?

5. Chronology

June 6, 2022	Complainant signs Student Enrolment Contract and Laptop Disclaimer
June 13, 2022	Contract Addendum
June 20, 2022	Start date of the Program
February 10, 2023	Complainant withdraws from Program
March 28, 2023	Complainant initiates DRP, submits complaint to Institution
April 6, 2023	Institution issues decision [Decision 1]
April 15, 2023	Complainant responds
April 21, 2023	Institution issues decision [Decision 2]
July 27, 2023	Complainant files Complaint

6. Analysis

The Complainant raises the following concerns in her Complaint:

Pressure tactics during admission process

The Complainant submits the Institution's admission representatives used pressure tactics and did not provide accurate information about the Program. The Complainant says:

It was phone call after phone call, one right after the other. It was directed at me that I needed to sign quickly so the team can move on and press towards the next stages of enrollment. Sweet words used to tell me that they had to hurry or else I would miss the deadlines, thus making it feel as if I were forced to follow their guidance without a moment to breathe, or to read over everything I was signing. It was rushed and quick to the point.

The Complainant adds she only agreed to amend the start date of the Program, which was not convenient, after having received numerous calls from the Institution "all bent on starting me early".

The Institution responded that "they couldn't find any evidence that the student was rushed or forced to sign the contract". It further submits:

Although it is understandable that the pace of the enrollment process might have been faster than the student expected, all of the students, as adults, have the full right and obligation to make their own decisions at any point. Statement of Student Rights and the college policies are indicated in the Enrollment Agreement as well as Student Handbook which was provided to the student prior to enrollment.

Provision of a laptop

The Institution's admission representative offered a laptop as an incentive for the Complainant to enrol in the Program.

The Complainant submits:

What I was not told was that it would take 3 months to come to my address due to the school needing to confirm my loan. That was not mentioned, and I was led to believe that I was getting the laptop right away so I could attend class right away. I had no laptop of my own to do the schoolwork so I agreed to attend the school for this reason, knowing I would have the laptop to be able to attend your school. The lack of communication on your end is not my fault that I was frustrated with how the laptop took 3 months. I had no laptop of my own and the incentive of the promotional offer encouraged me to apply. Because of the misled information in regards of the laptop not being provided right away, I had to spend \$850 out of my own pocket on a laptop to attend the first day of class.

The Complainant adds that the admission representative had confirmed AutoCAD would already be installed on the laptop. The AutoCAD installed on the laptop was outdated and the Complainant had issues installing the most updated version.

The Institution responded that the Complainant signed the Laptop Disclaimer in which she acknowledged that she may not receive the laptop by the start date of the Program and must pay either a \$2,000 deposit or have received approval of funding.

Textbooks

The Complainant submits the admission representative confirmed the Complainant could request hardcopies of the textbooks. However, after having enrolled in the Program, the Complainant learned that hardcopies were not available.

The enrolment contract provides that the total cost of textbooks is \$3,526. The Complainant says she was invoiced for textbooks that were not provided, and the textbooks provided are outdated and overpriced. She asked for a breakdown of the costs of textbooks.

In response, the Institution confirmed that textbooks are not available in hardcopies and acknowledges it does not have a breakdown of the costs of the books.

Request for progression percentage and Institution's lack of communication

The Complainant says she repeatedly asked the Institution to provide her "progression percentage", which the Institution never provided. The Complainant adds that the Institution is disorganized and does not communicate effectively with students.

In its Response, the Institution confirms: "The explanation of this information may not have been very clear from the college representative (Student Services Coordinator), but the available progress tracking was provided to the student upon the request and the transcript which was provided after the student's withdrawal request shows the completion of courses and grades".

The Institution adds: "Based on the above information, we cannot confirm all of the promises that the Admission Director of Admissions promised as stated in the claim. However, we acknowledge that there is a possibility of misinformation/lack of communication with regards to textbook and laptop". [Emphasis added]

Finally, the Complainant submits [REDACTED] and provided a copy of a doctor's note as part of her submission. The Institution responded that the Complainant never asked for accommodation. The doctor's note refers to the Complainant being off work for medical reasons from April 30, 2022 to May 30, 2022.

7. Decision

For the reasons outlined below, I find the Institution misled the Complainant in relation to the representations made in respect of the provision of the laptop. Accordingly, I approve the claim.

The claims process is set out in the Act, which is consumer protection legislation that recognizes the inherent power imbalance between a student and an institution. As Trustee, I am the statutory decision maker entrusted with adjudicating claims within this framework, and as such, take note of the purposes of the Act, and specifically, the central concern of student protection.

The provision of a laptop is clearly part of the Institution's marketing and recruitment strategy and is meant to entice students into enrolling in a program.

A laptop is an essential learning tool, not a mere perk. The Complainant did not own a laptop and the Institution's offer was an essential factor in her decision to enrol in the Program. While the Complainant did sign the Laptop Disclaimer, it was reasonable for her to expect, based on the Institution's representations, that the laptop would be delivered free of charge close to the start date of the Program.

Taking into consideration the imbalance between the parties and the Institution's representations before enrolment, I do not accept the Institution's position that the Laptop Disclaimer discharges the Institution from its obligation to provide the laptop, free of charge, in a timely way. The Institution itself acknowledges there is a "possibility of misinformation/lack of communication" with regards to provision of the laptop.

Finally, having found in favour of the Complainant on the issue of the laptop, I do not have to make findings in respect of the Complainant's other allegations of being misled.

I note that representations made in respect of the laptop have been raised in other claims against the Institution and I expect the Institution will amend its recruitment practices. A copy of my decision will be provided to the registrar.

As Trustee, in accordance with section 25 of the Act, I authorize payment of \$20,941 from the Fund. The payment from the Fund 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.

The Institution is required to repay the total amount of \$20,941 to the Fund (Act, s.27).

Decisions of the Trustee are final and conclusive and are not subject to appeal (Act, s.24(5)).

November 24, 2023

A handwritten signature in black ink, appearing to read "Anthony Loughran", with a long horizontal stroke extending to the right.

Tony Loughran
Trustee, Student Tuition Protection Fund