

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 208 – Vancouver Career College

1. Introduction

The Complainant was enrolled in the Early Childhood Education Program [Program]. The Complainant filed a complaint against the Institution [Complaint] on October 30, 2024, after having withdrawn from the Program on or around October 30, 2023.

The Complainant alleges the Institution [REDACTED] and miscalculated the tuition refund owed when she withdrew from the Program.

The Institution denies that it misled the Complainant, as alleged or at all.

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

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.
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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:	Early Childhood Education
Start date:	July 10, 2023
End date:	May 17, 2024
Withdrawal date:	October 25 or 30, 2023
Total charged:	\$ 16,901
Tuition:	\$ 14,636
Application fee:	\$ 150
Assessment and Administration Fees:	\$ 325
E-Resource and Materials Fees:	\$ 1,790
Amount paid by Complainant:	\$ 10,520
Amount refunded to Complainant:	\$ 500
Amount of tuition paid to date by Complainant:	\$ 8,662

4. Issues

The following issues arise for consideration:

- (a) Was the Complainant misled in relation to [REDACTED] ?
- (b) Was the Complainant misled in relation to the refund calculation at the point of withdrawal?

5. Chronology

Early 2023	Complainant inquires about Program with intended start date of April 17, 2023.
March 22, 2023	Complainant acknowledges receipt of Student Handbook. During pre-admission interview, Complainant indicates that [REDACTED].
June 29, 2023	During second pre-admission interview, Complainant [REDACTED].
July 4, 2023	Complainant completes pre-entrance questionnaire and refers to her "[REDACTED]".
July 10, 2023	Program start date
October 18, 2023	Complainant emails Institution attributing her absence to a [REDACTED].
October 23, 2023	Complainant absent from class.
October 24, 2023	Institution issues attendance warning noting that any further absence will require Complainant to re-take the module. Complainant notifies Institution she is undergoing a [REDACTED] and attendance.

October 25, 2023	Institution allows exception to re-take requirement due to Complainant’s extenuating circumstances. Complainant’s last day of attendance. Complainant lists October 25, 2023 as date of withdrawal on Complaint form.
October 26, 27, 30, 31, 2023	Complainant absent from class.
October 31, 2023	Complainant requests to attend Program part-time. Institution denies request.
November 3, 2023	Complainant requests temporary withdrawal effective October 30, 2023 – September 2, 2024, citing [REDACTED].
June 28, 2024	Institution issues decision denying request for tuition refund [Decision 1].
October 10, 2024	Complainant appeals Decision 1.
October 15, 2024	Institution issues decision denying appeal
October 30, 2024	Complainant files Complaint

6. Analysis

(a) Accommodation

The Complainant alleges she was misled by the Institution with respect to the manner and extent to which her [REDACTED] by the Institution. She says she communicated her [REDACTED] prior to the start of the Program and notified the Institution during the Program when she was [REDACTED]. She says she received no support from the Institution and the lack of support resulted in her withdrawing from the Program. Specifically, the Complainant points to a pre-entrance student questionnaire she completed July 4, 2023. The Complainant responded to the question, “[REDACTED]” [REDACTED]

The Complainant also says she did not receive the Student Handbook until July 4, 2023, and was therefore unaware of the requirement for a [REDACTED] [REDACTED] before the start of the Program.

Following her withdrawal from the Program, the Complainant initiated the DRP and requested a full refund. As part of the DRP, the Complainant submitted as follows:

Overall I felt very misled. I was under the impression that the school would assist me during [REDACTED] as the website said the advisors can assist during [REDACTED]. I given them all the documents they needed yet was still asked to complete coursework etc.

In Response, the Institution says the Complainant had opportunity to address any accommodation needs as part of the application and enrollment process. During the initial application process in March 2023 and then again in June 2023, the Complainant confirmed in a pre-admission interview [REDACTED] [REDACTED] While the Institution acknowledges that the Complainant referred to [REDACTED] in the pre-entrance questionnaire, there was no formal request [REDACTED] [REDACTED] The Institution also says that the Complainant acknowledged receipt of the Student Handbook on March 22, 2023.

(b) Tuition refund

The Complainant says that the Institution misled her in relation to the calculation of hours and its determination that she had completed more than 30% of the Program at the time of her withdrawal and was not entitled to a refund.

The Institution initially based its refund calculation on a finding that the Complainant had completed 405 of 1190 hours of the Program (34%). The Complainant disputed this calculation and maintained that she had only *attended* 330 hours (28%). In its Response, the Institution conceded it had erred in the calculation of hours by including hours for a course that was scheduled after the Complainant's last day of attendance (October 25, 2023). It adjusted the number of hours to 370 hours which meant that 31% of the hours of instruction of the Program had been provided. Applying the Refund Policy, the Institution calculated that the Complainant owed \$5,974 under the contract.

7. Decision

For the following reasons, I find the Complainant was not misled regarding a significant aspect of the Program.

With respect to the [REDACTED] it is not my role, as Trustee, to assess whether the Institution met [REDACTED]. This is not a situation where the Institution promised [REDACTED]. Other than a passing reference to [REDACTED] in a pre-entrance questionnaire, [REDACTED] In fact, the Complainant confirmed during two pre-admission interviews (March and June 2023) that [REDACTED]. In mid-October 2023, the Complainant advised the Institution that she was having a [REDACTED] She was clearly expecting that support from the Institution would be forthcoming. However, her disappointment at the lack of support provided by the Institution does not amount to being misled by the Institution.

If the Complainant considers that the Institution engaged in discriminatory conduct, the appropriate venue to make those allegations is the Human Rights Tribunal.

Turning to the refund issue, I note that there is uncertainty about the applicable withdrawal date. The Complainant says that for the purposes of the refund calculation her date of withdrawal is her last date of attendance (October 25, 2023). This is also the date she included in the claim form. The problem is that the Complainant didn't file the Complaint until October 30, 2024, which is beyond the 1-year time limit to file a claim. Alternatively, the record indicates that the Complainant did not request to withdraw until November 3, 2023, effective October 30, 2023. On the refund calculation, the Institution lists the Date of Determination of withdrawal as October 30, 2023.

For the purposes of this decision, I have determined that the effective withdrawal was October 30, 2024 and the claim was filed in time.

With respect to the refund calculation, which the Complainant disputes, the withdrawal date (as between October 25 and October 30, 2023) makes no material difference. Applying either date, the Institution has provided over 30% of the hours of instruction of the Program and the Complainant is not entitled to a refund. There appears to be a fundamental misunderstanding of the Refund Policy and regulatory refund standards. The 30% threshold in *Private Training Regulation* 35(3), after which no refund is due, relates to the number of hours *provided by the Institution*, as opposed to the number of hours *attended by the Complainant*.

The claim is denied.

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.

February 12, 2025



Joanna White

Trustee, Student Tuition Protection Fund