

Systemic Investigation Update

IN THE PUBLIC INTEREST:

Protecting Students through
Effective Oversight of Private
Career Training Institutions



INTRODUCTION

One of the key ways in which the Office of the Ombudsperson can effect change in the fair administration of government programs is by making recommendations. Our recommendations result from investigative findings of unfairness. In other words, when our investigation highlights a problem in fair administration, our recommendations aim to fix that problem. Our recommendations may involve individual remedies or systemic change, and often contain timelines by which we expect an authority to have made the change.

We monitor whether authorities are implementing the recommendations made in

our public reports. As part of this monitoring commitment, we issue periodic updates on specific reports and their recommendations.

We begin monitoring implementation once a report is released publicly. We collect information from the authority about the steps they have taken to implement the recommendations. We expect the authority to provide us with specific, relevant and verifiable information about its implementation steps – a general commitment to take action is not sufficient. We then assess this information to determine whether, in our view, the recommendations are fully implemented.

IN THE PUBLIC INTEREST REPORT AND RECOMMENDATIONS

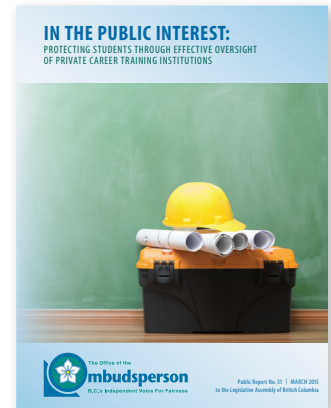
In the Public Interest: Protecting Students Through Effective Oversight of Private Career Training Institutions was released in March 2015. It was the result of an investigation into whether the Private Career Training Institutions Agency was providing adequate and effective oversight of private career training institutions in British Columbia. At the time of our report, there were 320 such institutions enrolling 48,015 students, about 20 percent of whom were international students. These institutions offer training for careers in diverse fields including health care assistant, licensed practical nurse, pipefitter and heavy equipment operator. Tuition can be thousands of dollars – at the time of our report, almost 24 percent of the programs registered with the Private Career Training Institutions Agency had tuition over \$11,000. Students at some schools are able to access the BC Student Loan program to assist them in paying the costs of their education.

Our investigation was centred on the expectation that students enrolling in programs at these schools should be able to expect and receive a quality education that adequately prepares them for their chosen career. We

looked at three key areas in our investigation:

- Student access to accurate and useful information about the regulation of private career training institutions
- Active oversight and where necessary, enforcement, by government to ensure that private career training institutions are complying with the regulatory requirements
- Student access to a fair complaints process that can respond to a range of concerns.

We found that there were several key areas where government could improve its oversight of private career training institutions. We made 36 recommendations to the Ministry of Advanced Education, which since July 2017 has been known as the Ministry of Advanced Education, Skills and Training.



KEY IMPLEMENTED RECOMMENDATIONS

A new *Private Training Act* and associated regulations came into force on September 1, 2016. As a result, the Private Career Training Institutions Agency was dissolved and oversight of private training institutions is now the responsibility of the Private Training Institutions Branch (PTIB) of the Ministry of Advanced Education, Skills and Training.

In the three years since the report was released, the Ministry of Advanced Education, Skills and Training has implemented 19 of the 36 recommendations made in our report. In some of these cases, the ministry has taken action which, while not entirely consistent with the precise wording of our recommendation, nonetheless achieves the outcome we sought in making the recommendation. In such cases, we have considered these recommendations to be “implemented by other means.”

The key implemented recommendations can be grouped into three areas: information for students, effective monitoring and enforcement tools, and complaints processes.

Information for Students

We made four recommendations aimed at improving the accuracy and accessibility of information that is available to students who are enrolled in, or are considering enrolling in, a private training institution. Of these recommendations, three have been implemented.

The Ministry of Advanced Education establish in regulation that private career training institutions are responsible for all representations made to current or prospective students by or on behalf of the institutions, including representations made outside Canada or in languages other than English (Recommendation 3).

Section 41(2) of the *Private Training Act* prohibits false, deceptive or misleading

representations or advertising by an institution. This will help to address our investigative findings that, for example, students had been promised “guaranteed employment” on graduation or had been provided information about programs that were not actually being delivered.

■ **The Ministry of Advanced Education require all private career training institutions to publish their current internal policies and tuition fee information on their websites (Recommendation 4).**

Designated institutions must post tuition information on their websites and reviewing this information is part of PTIB’s desk audit procedures. Moreover, all institutions are required to provide copies of specific policies to students and PTIB has processes in place to check whether this has occurred.

■ **The Ministry of Advanced Education:**

- (a) **develop a document for each program offered by private career training institutions, which provides relevant information about that program and any credential that will be obtained by students who enrol in that program**
- (b) **translate each documents into those languages spoken by a significant number of international students**
- (c) **require private career training institutions to provide the document to students enrolling in a program in English and any other applicable language the document has been translated into**
- (d) **require private career training institutions to attach the document as part of the enrolment contract (Recommendation 5).**

On September 4, 2018 the PTIB updated its online directory of institutions to provide relevant information about each program offered by an institution, including method of delivery, credential granted on completion and applicable tuition and fees. Moreover, institutions are required to attach detailed program information to the enrolment contracts they sign with students. This includes a program outline, method of delivery, credential granted on completion, any materials, equipment or other supplies not provided by the institution, and tuition and fee information.

While the ministry does not plan to translate this information, we are satisfied that both the online directory and the information required to be provided with enrolment contracts will help ensure appropriate program information is provided to both prospective and enrolled students.

Effective Monitoring and Enforcement Tools

In our investigation, we found that students benefited from government's oversight of the activities of private training institutions. We made recommendations to address the gaps in oversight that we found and to improve the ability of the oversight body to take action where it identified problems with an institution's operations. Of the 18 recommendations related to monitoring and enforcement, nine have been implemented. Three of the key implemented recommendations in this area are:

■ The Ministry of Advanced Education establish in regulation:

(a) **the circumstances in which a proposed program must be reviewed by an external subject matter expert before the private career training institutions oversight body can give its approval**

(b) **that the private career training institutions oversight body develop and implement policy directives that set out program approval criteria for program or vocation areas, including any requirements established by other governing bodies (Recommendation 12).**

Students should be able to be confident that they are enrolling in programs that will meet quality standards and prepare them for employment success. In our report, we identified the independent review of a proposed program by an expert in the field as an important safeguard for students. We found that the previous legislative framework did not establish an adequate program approval process. This left students vulnerable to enrolling in programs that did not adequately prepare them for their chosen careers.

The *Private Training Regulation* sets out the circumstances in which a proposed program must be reviewed by an independent subject matter expert prior to approval. Moreover, the Regulation establishes specific criteria that the expert must consider in evaluating the proposed program. This is a significant improvement on the previous legislative and policy framework, in which there were no requirements for the use of subject matter experts.

While the current Act and Regulation do not require or authorize the development of policy directives for specific program areas, we are nonetheless satisfied that the new program approval process addresses the concerns that led to our recommendation.

■ **The Ministry of Advanced Education expand in legislation and regulation the enforcement options available to the private career training institutions oversight body by creating a system of administrative penalties that can**

be progressively applied to persons and institutions, including unregistered institutions, which do not comply with applicable legislative, regulatory and policy requirements (Recommendation 21).

Sections 32-35 of the *Private Training Act* authorize the PTIB to use various enforcement tools including administrative penalties. The administrative penalties are set out in regulation. PTIB told us that it plans to use these enforcement tools in a progressive manner. The ability for PTIB to levy administrative penalties against non-compliant institutions, as set out in the *Private Training Act* and associated regulation, implements this recommendation.

- **The Ministry of Advanced Education require the private career training institutions oversight body to:**
 - (a) **Publish all enforcement decisions on its website, including the reasons for the decision**
 - (b) **Clearly describe any impact each enforcement decision may have on students and publish this on its website**
 - (c) **Maintain enforcement decisions, reasons and descriptions of the decisions' impact on students on its website indefinitely (Recommendation 22).**

The *Private Training Act* and regulation allow the Registrar of PTIB to publish compliance decisions on the PTIB website. There is no time limit for information that the Registrar considers to be in the public interest.

On September 4, 2018, the PTIB updated its online directory of institutions to include a searchable list of institutions against whom enforcement action has been taken. The list includes enforcement actions by PTIB's predecessor, the Private Career

Training Institutions Agency. The directory now also contains general information about the kinds of actions that may be taken against institutions including actions that may impact students.

While these actions implement our recommendation, we encourage PTIB to continue to provide more detailed information on its website where an enforcement action has a significant impact on students.

Complaints Processes

Timely, accessible and effective complaints processes offer both students and institutions the opportunity to resolve complaints about issues affecting the quality of students' education. Moreover, complaints to an oversight body may bring to light broader issues of non-compliance and can support students in resolving issues they have not been able to address with their institution. Of the 12 recommendations we made about complaints processes, six have been implemented, including:

- **The Ministry of Advanced Education require all private career training institutions to notify, and obtain approval from, the private career training institutions oversight body before making any changes to student complaint resolution policies (Recommendation 25).**

In our earlier investigation we found that there was a wide variation between institutions' complaint policies. We reviewed a number of policies and found that they did not contain basic provisions that we would expect in a fair and reasonable complaints policies, such as establishing timelines for response, requiring the institution to maintain written records or provide a student with a written response to their complaint.

Now, the content of institutions' dispute resolution policies is prescribed by regulation. This, combined with PTIB's annual desk audit which reviews compliance with those requirements, will help to ensure that dispute resolution policies at institutions are consistent and fair.

- **The Ministry of Advanced Education establish in legislation that the private career training institutions oversight body may direct private career training institution to take measures the oversight body has determined are appropriate to resolve student complaints made to the oversight body (Recommendation 29).**

The PTIB confirmed to us that it will contact an institution in response to a complaint from a student about an issue of non-compliance. For example, if PTIB learns an institution that has not issued a tuition refund to a student within the required time limits, it will contact the institution and seek a voluntary resolution. Under the new legislative framework it can, if the matter is not resolved, issue a compliance order to that institution. This ability to take appropriate measures to resolve student complaints about compliance fully implements this recommendation.

- **The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:**

- (a) must develop policy establishing what constitutes adequate and appropriate reasons**
- (b) must provide written reasons for its decisions on student complaints (Recommendation 36).**

A student who believes they have been misled by an institution can seek a tuition refund by making a claim to the Student Tuition Protection Fund. The trustee of the STPF makes a decision on the merits of the student's claim.

In our earlier investigation, we found that under the old legislation, students who made claims to the fund had received reasons that did not explain how a decision had been reached. For example, we reviewed one case where the decision maker did not explain why it had preferred the evidence of the institution over that of the student.

The new regulations require the trustee to provide written reasons for a decision to the claimant, institution and PTIB registrar.

FURTHER MONITORING

The Private Training Institutions Branch continues work on a number of outstanding recommendations. In this report we highlight the outstanding work that remains in two key areas that are directly relevant to students: information and complaints processes.

Information for Students

We made a number of recommendations to improve the information that PTIB provides publicly. Public information supports transparency in the delivery of public services. PTIB operates a Private Training Institution Directory on its website which provides information about private training institutions in BC. On September 4, 2018, PTIB updated this directory so that it provides information about programs offered by institutions and enforcement action taken by PTIB.

We look forward to PTIB doing more work to implement our recommendations about providing accessible, plain language information for students and clearer information about its inspection process. Two of the key recommendations we are monitoring in this area include:

- PTIB translating key material about the rights and protections available to students into languages commonly spoken by international students (Recommendations 2). This would include information about quality standards, complaints processes and tuition refunds.
- PTIB publishing information online about its inspections of private training institutions (Recommendation 18).

Complaints Processes

We also made some recommendations about the complaints process available to students who have not been able to resolve their

concerns with an institution. Two of the key recommendations we are monitoring in this area are:

- Informing students who make a complaint that they should not face any retaliation as a result of making their complaint (Recommendation 31). Students should be able to be confident that they can make a complaint without it negatively affecting their education.
- The application of the time limit for students to make a claim against the STPF (Recommendation 34). Under the old legislation, there was a six-month time limit that, given the way it was applied, arbitrarily restricted student access to the complaints process. The *Private Training Act* establishes a timeline of one year from completion, dismissal or withdrawal for a student to make a claim that they were misled. We are pleased that this timeline is longer than what existed under the previous framework and that it can be connected to an objective standard that is easy to determine. This provides certainty for both students and institutions.

We are also pleased to see that there is discretion to extend timelines for responding to submissions in appropriate circumstances.

However, we remain concerned that the lack of discretion in the legislation together with the requirement that a student must first “exhaust” the institution’s dispute resolution process before making a complaint, could prevent some students from making an otherwise legitimate claim.

We will continue to seek information from PTIB about how this change to the time limit for making a claim is working in practice before making a final assessment.

We will continue to monitor and provide further updates on these and other ongoing recommendations.

Further details about our investigation and recommendations can be found on our

website at <http://www.bcombudsperson.ca/documents/public-interest-protecting-students-through-effective-oversight-private-career-training>.

RECOMMENDATION SUMMARY

R1	The Ministry of Advanced Education require in legislation that any governing or advisory body has balanced representation from institutions, students, other stakeholders and the public.	<i>Implemented by other means</i>
R2	<p>The Ministry of Advanced Education:</p> <ul style="list-style-type: none"> (a) develop a student bill of rights that reflects in plain language the protections provided to students at private career training institutions including the student complaints process, tuition refunds and quality assurance standards (b) translate the student bill of rights into those languages spoken by a significant number of international students attending private career training institutions (c) require the private career training institutions oversight body to publish the bill of rights and all translated versions on its website (d) require private career training institutions to provide to students, and attach as part of the enrolment contract, the student bill of rights in English and any other applicable language it has been translated into (e) require private career training institutions to keep a copy of the student bill of rights in a visible location on each campus 	<i>Ongoing</i>
R3	The Ministry of Advanced Education establish in regulation that private career training institutions are responsible for all representations made to current or prospective students by or on behalf of the institutions, including representations made outside Canada or in languages other than English.	<i>Fully implemented</i>
R4	The Ministry of Advanced Education require all private career training institutions to publish their current internal policies and tuition fee information on their websites.	<i>Implemented by other means</i>

R5	<p>The Ministry of Advanced Education:</p> <ul style="list-style-type: none"> (a) develop a document for each program offered by private career training institutions, which provides relevant information about that program and any credential that will be obtained by students who enrol in that program (b) translate each document into those languages spoken by a significant number of international students (c) require private career training institutions to provide the document to students enrolling in a program in English and any other applicable language the document has been translated into (d) require private career training institutions to attach the document as part of the enrolment contract <p><i>Implemented by other means</i></p>
R6	<p>The Ministry of Advanced Education require that the private career training institutions oversight body develop and implement a clear, written policy and procedures for identifying, tracking and monitoring unregistered institutions that the body believes may be providing or offering to provide private career training or instruction contrary to the relevant legislation.</p> <p><i>Ongoing</i></p>
R7	<p>The Ministry of Advanced Education establish in regulation that:</p> <ul style="list-style-type: none"> (a) when the private career training institutions oversight body determines that an unregistered institution needs to be registered, it immediately require that institution to begin the registration process (b) if an institution does not begin the registration process within 30 days of the oversight body determining that an unregistered institution needs to be registered: <ul style="list-style-type: none"> (i) the oversight body must immediately seek an injunction to stop the institution from operating (ii) the oversight body must publish a notice on its website identifying the institution and its unregistered status <p><i>Ongoing</i></p>
R8	<p>The Ministry of Advanced Education establish in regulation that the private career training institution oversight body, once it determines that an unregistered institution needs to be registered, immediately and directly notifies students that the institution is unregistered and that students should pay no further fees until it is registered.</p> <p><i>Ongoing</i></p>

R9	<p>The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:</p> <ul style="list-style-type: none"> (a) conducts a site visit to each institution applying for registration before that institution's application is approved (b) uses an evaluation tool during pre-registration site visits that allows for an effective assessment of facilities, equipment and resources, and that assists in the evaluation of an institution's registration application (c) develops a reliable process to track pre-registration site visits and their results and identify any that have not occurred 	<i>Ongoing</i>
R10	<p>The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body conducts a site visit to all institutions within six months of registration for the purpose of completing a comprehensive review of operations.</p>	<i>Implemented by other means</i>
R11	<p>The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body is responsible for determining whether an institution has complied with basic education standards and, where applicable, the accreditation standards, even where an institution has been assessed by an outside agency.</p>	<i>Implemented by other means</i>
R12	<p>The Ministry of Advanced Education establish in regulation:</p> <ul style="list-style-type: none"> (a) the circumstances in which a proposed program must be reviewed by an external subject matter expert before the private career training institutions oversight body can give its approval (b) that the private career training institutions oversight body develop and implement policy directives that set out program approval criteria for program or vocation areas, including any requirements established by other governing bodies 	<i>Implemented by other means</i>
R13	<p>The Ministry of Advanced Education review, expand and establish in regulation the program changes requiring prior approval from the private career training institutions oversight body to establish clear, non-discretionary standards for institutions to report and obtain approval for all program changes that directly affect students.</p>	<i>Fully implemented</i>

R14	<p>The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:</p> <ul style="list-style-type: none"> (a) develop and maintain an accurate and up-to-date list of all programs regulated by a governing body and the institutions that offer those programs, and make that list publicly available (b) before approving a program, communicate directly with any relevant governing body for the purpose of confirming the governing body's approval of the program (c) review all programs requiring approval by a governing body annually to ensure institutions maintain governing body approvals and are providing students with accurate and up-to-date information on governing body requirements (d) suspend program approval and immediately and directly notify all students of this decision if an institution has not maintained program approval from a governing body 	<i>Ongoing</i>
R15	The Ministry of Advanced Education ensure that the private career training institutions oversight body demonstrates it has adequate staff to fulfill its oversight responsibilities.	<i>Ongoing</i>
R16	The Ministry of Advanced Education require the private career training institutions oversight body to track and report publicly on student employment outcomes post-graduation, student graduate satisfaction surveys, third-party professional or licensing examination results and industry or employer feedback from all private career training institutions.	<i>Ongoing</i>
R17	The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body conduct a comprehensive site visit to each private career training institution at least once a year.	<i>Implemented by other means</i>
R18	<p>The Ministry of Advanced Education require that the private career training institutions oversight body publish on its website:</p> <ul style="list-style-type: none"> (a) the dates and a summary of the results of each of its site visits to each institution for the past five years (b) the date of its next scheduled visit to each institution (c) the date of its next scheduled accreditation review for each accredited institution 	<i>Ongoing</i>

R19	<p>The Ministry of Advanced Education:</p> <p>(a) establish in legislation that the private career training institution oversight body has the right to contact students at a private career training institution at any time, including as part of the oversight body's site visit to an institution</p> <p>(b) require the private career training institutions oversight body to include a meeting with students as part of all site visits</p>	<i>Implemented by other means</i>
R20	<p>The Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process to directly notify students of upcoming site visits to an institution and encourage students to contact the oversight body during a site visit.</p>	<i>Ongoing</i>
R21	<p>The Ministry of Advanced Education expand in legislation and regulation the enforcement options available to the private career training institutions oversight body by creating a system of administrative penalties that can be progressively applied to persons and institutions, including unregistered institutions, which do not comply with applicable legislative, regulatory and policy requirements.</p>	<i>Fully implemented</i>
R22	<p>The Ministry of Advanced Education require the private career training institutions oversight body to:</p> <p>(a) publish all enforcement decisions on its website, including the reasons for the decision</p> <p>(b) clearly describe any impact each enforcement decision may have on students and publish this on its website</p> <p>(c) maintain enforcement decisions, reasons and descriptions of the decisions' impact on students on its website indefinitely</p>	<i>Fully implemented</i>
R23	<p>The Ministry of Advanced Education require the private career training institutions oversight body to immediately and directly notify all current students of any decision to suspend or cancel an institution's registration or accreditation and provide students with:</p> <p>(a) in the case of a decision to cancel registration, a written explanation of how students can seek a tuition refund and pursue any teach-out options</p> <p>(b) in the case of a decision to suspend registration or to suspend or cancel accreditation, a written explanation of how this decision will affect students</p>	<i>Fully implemented</i>

R24	<p>The Ministry of Advanced Education establish in regulation that all private career training institutions develop and implement a student complaint resolution policy and that the institution policy includes, at a minimum:</p> <ul style="list-style-type: none"> (a) reasonable time frames for responding to all complaints (b) that institutions provide students an opportunity to be heard before a decision is made (c) that institutions provide students with a written decision and reasons on the outcome of their complaint (d) that students be informed in writing of their options if they are not satisfied with the institution's complaint resolution process or response to their complaint (e) that students be provided written confirmation that they will not be subject to any retaliation as a result of their complaint (f) that institutions maintain detailed records of each complaint and how it was handled 	Implemented by other means
R25	<p>The Ministry of Advanced Education require all private career training institutions to notify, and obtain approval from, the private career training institutions oversight body before making any changes to student complaint resolution policies.</p>	Implemented by other means
R26	<p>The Ministry of Advanced Education require all private career training institutions to report annually to the private career training institutions oversight body on the number of student complaints received, the nature of the complaints and the outcome of the complaints.</p>	Implemented by other means
R27	<p>The Ministry of Advanced Education establish in legislation that students can make a complaint to the private career training institutions oversight body if they have been unable to resolve complaints with a private career training institution about:</p> <ul style="list-style-type: none"> (a) the quality of education or the way in which education is delivered (b) an institution's compliance with the oversight body's legislation, regulations and other requirements (c) an institution's application of its own internal policies and procedures 	Ongoing

R28	<p>The Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process for receiving, investigation and responding to student complaints about:</p> <ul style="list-style-type: none"> (a) the quality of education or the way in which education is delivered (b) an institution's compliance with the oversight body's legislation, regulations and other requirements (c) an institution's application of its own internal policies and procedures 	Ongoing
R29	<p>The Ministry of Advanced Education establish in legislation that the private career training institutions oversight body may direct private career training institution to take measures the oversight body has determined are appropriate to resolve student complaints made to the oversight body.</p>	Fully implemented
R30	<p>The Ministry of Advanced Education establish in legislation that students who attend unregistered institutions that are subsequently registered are eligible to apply for and receive a tuition refund on the same basis as students enrolled in registered institutions.</p>	Not implemented
R31	<p>The Ministry of Advanced Education require that the private career training institution oversight body:</p> <ul style="list-style-type: none"> (a) develops and uses a student complaint form that is concise and is written in plain language (b) takes reasonable steps to assist students who may face challenges in making a complaint, including linguistic and cultural differences (c) provides accurate information about the complaints process on both its website and in the complaints form, including information about the role of the Office of the Ombudsperson (d) informs students that they should not face any retaliation as a result of making a complaint 	Partially implemented (Parts a-c)
R32	<p>The Ministry of Advanced Education establish in regulation that all student complaints are heard and decided by an independent and impartial decision-maker.</p>	Fully implemented

R33	<p>The Ministry of Advanced Education establish in regulation:</p> <ul style="list-style-type: none"> (a) the situations in which a student or institution has a right to an oral hearing of a complaint to the private career training institution oversight body (b) that a student or institution may request an oral hearing in relation to any complaint being dealt with by the private career training institutions oversight body (c) that if a request for an oral hearing is denied, the private career training institutions oversight body provides written reasons 	<i>Not implemented</i>
R34	<p>The Ministry of Advanced Education establish in regulation:</p> <ul style="list-style-type: none"> (a) reasonable time limits for filing complaints with the private career training institutions oversight body and for submitting supporting documents (b) that the private career training institutions oversight body may, in appropriate circumstances, accept complaints or supporting documents filed after any applicable time limits (c) that students have the opportunity, where appropriate, to explain why their complaint should be accepted even though they submitted it outside the applicable time limits (d) that students and institutions have the opportunity, where appropriate, to explain why their supporting documents should be accepted even though they are submitted outside the applicable time limits 	<i>Partially implemented</i>
R35	<p>The Ministry of Advanced Education review those tuition refund requests dismissed by the Private Career Training Institutions Agency since the 2009/10 fiscal year because they were filed outside the six-month time limit. The Ministry of Advanced Education determine which of these students would be entitled to a tuition refund except for the six-month time limit and issue a refund to these students.</p>	<i>Not accepted</i>
R36	<p>The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:</p> <ul style="list-style-type: none"> (a) must develop policy establishing what constitutes adequate and appropriate reasons (b) must provide written reasons for its decisions on student complaints 	<i>Implemented by other means</i>

