

I. Overview

1. The Applicant is a student at the Respondent, the University of Guelph (the "**University**"). The Applicant alleges that the University discriminated against him when the University did not approve his requests for an exemption from the University's COVID-19 Vaccination Policy. The Applicant has provided no facts in support of his allegations of discrimination on the basis of creed, or any other prohibited ground under the *Human Rights Code* (the "**Code**").

2. The allegations in the Application are unfounded and without merit. The allegations do not describe conduct that is discriminatory. The University treated the Applicant reasonably and properly. The University did not violate the Code, discriminate against the Applicant in any way, or fail to provide appropriate accommodations. During its dealings with the Applicant, the University complied with all public health guidance and relevant legislation, including the Code.

II. The Parties

The University

3. The University is a post-secondary institution located in Guelph, Ontario. The University was established by the *University of Guelph Act, 1964*, and operates on a bicameral system of governance. The Board of Governors is responsible for the oversight of all operational aspects of the University. The Senate is responsible for oversight of all academic matters. Both governing bodies have by-laws and policies.

4. The University established the Human Rights and Equity Office (the "**HREO**") in 1996 to coordinate initiatives in the areas of discrimination and harassment and employment equity. In April, 2014, the HREO was renamed the Office of Diversity and Human Rights. The University's *Human Rights Policy* commits the University to providing an equitable working and learning environment to promote and support academic achievement and personal and professional growth. The University is committed to the creation of a discrimination-free and harassment-free campus. All members of the University community are obligated to interact on the basis of mutual

respect and the University will not tolerate any form of harassment or discrimination in any University-related activity.

Curtis Riddolls

5. The Applicant, Curtis Riddolls, is an undergraduate student in the Bachelor of Science program at the University. The Applicant is in his fourth year of study and is currently registered in the Winter 2023 session of study.

The COVID-19 Pandemic

6. In March 2020, in response to the COVID-19 pandemic, the University cancelled its in-person classes and transitioned all courses to remote online learning. The online learning model continued throughout the 2020-2021 academic year.

7. In August 2021, the Council of Ontario Medical Officers of Health recommended that all post-secondary institutions implement a mandatory vaccination policy.

8. On August 12, 2021, the University announced that the University would be mandating vaccinations for the University community including faculty, staff and students for the balance of the 2021-2022 academic year.

9. On August 13, 2021, the University announced that COVID-19 vaccination was required to access University facilities and that by September 7, 2021, faculty, staff and students were required to have their first dose of a COVID-19 vaccine and by October 15, 2021, faculty, staff and students were required to have their second dose of a COVID-19 vaccine. The University also announced that those who could not be vaccinated for medical reasons or on other grounds protected by the Code would be granted an exemption.

10. On August 23, 2021, the University announced that beginning on September 7, 2021, faculty, staff and students who intended to access the University's buildings and all University-managed facilities were required to register their proof of vaccination. The University also advised that exemptions for staff, students and faculty

would be granted based on medical and other grounds protected under the Code. Further, students wishing to request an exemption could access the Statement of Exemption Regarding COVID-19 Vaccination for Students form online.

11. On August 23, 2021, the Applicant submitted a request for an exemption on the basis of creed/religious belief. The Applicant's request for an exemption was approved.

12. On August 30, 2021, the Office of the Chief Medical Officer of Health issued instructions requiring post-secondary institutions to establish and implement a COVID-19 vaccination policy by no later than September 7, 2021 under subsection 2(2.1) of Schedule 1 and Schedule 4 of O. Reg. 364/20: Rules for Areas at Step 3 and at the Roadmap Exit Step under the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c.17.

13. The University's requirements regarding COVID-19 Vaccination and the University's Statement of Exemption forms were updated in accordance with the instructions issued by the Office of the Chief Medical Officer of Health. Effective September 7, 2021, the University's COVID-19 Vaccination Policy (the "**COVID-19 Vaccination Policy**") provided, among other things, the following:

- (a) Since September 7, 2021, the University has required that all Individuals who want to access University Locations be required to abide by the University's Mandatory Vaccination requirements.
- (b) Individuals will be required to provide current/updated Proof of Vaccination as directed by the University, prior to coming to University Locations.
- (c) Individuals with approved Exemptions may access University Locations if they follow all COVID-19 safety protocols as defined by the University.
- (d) Exemptions from the COVID-19 vaccination requirement may be requested on the basis of medical reasons or other grounds in accordance with the

Ontario Human Rights Code. The University will provide information on the exemption request process, as appropriate.

- (e) Students who are registered for in-person courses are required to comply with the Mandatory Vaccination Requirements.
- (f) Non-Compliant Individuals will not be eligible for in-person courses nor be able to attend any University Location. Non-compliant Individuals are eligible for courses offered remotely only.

14. On August 30, 2021, the University emailed students who had received an exemption in August 2021, including the Applicant, that in light of evolving public health guidelines, the requirements for exemptions had changed. Students, including the Applicant, were required to submit documentation in accordance with the COVID-19 Vaccination Policy. Where an exemption was requested on the basis of medical reasons, students were required to complete and submit an exemption form and medical documentation in support of the request. Where an exemption was requested on the basis of creed/religious belief, students were required to complete and submit an exemption form. The exemption form in this case provided guidance from the Ontario Human Rights Commission ("**OHRC**") regarding the definition of creed under the Code, characteristics that were relevant when considering if a belief system was a creed under the Code, and the OHRC's position that a singular belief or personal preference against vaccinations did not appear to be protected on the ground of creed under the Code.

15. Throughout the following months, the University continued to communicate with students on an on-going basis with updates regarding the COVID-19 pandemic and the University's policies and procedures.

16. On September 2, 2021, the University issued an open letter to the University community advising that Ontario's Ministry of Colleges and Universities had issued an updated framework for post-secondary institutions that included vaccination

policies and requirements for physical distancing and capacity limits. The letter also indicated that:

- (a) As of September 7, 2021, individuals were required to be fully vaccinated against COVID-19 to access the University's buildings and facilities; and
- (b) Those who had one dose of an approved two-dose vaccine and those with an approved exemption were permitted to the University's spaces, provided they took part in rapid testing and followed all safety protocols.

17. In the Fall of 2021, all students attending the University's campus were required to be fully vaccinated under the COVID-19 Vaccination Policy. Most courses were offered through hybrid and remote options.

18. On September 12, 2021, the Applicant submitted a request for an exemption from the COVID-19 Vaccination Policy on the basis of creed/religious belief. Attached to the Applicant's request was a letter from his pastor in support of his request dated September 11, 2021.

19. On September 13, 2021, the University emailed the Applicant that the University had received his request for an exemption from the University's COVID-19 Vaccination Policy on the basis of creed/religious belief. The University advised that after a careful review of the Applicant's request, the University had determined that he was not eligible for an exemption and that accordingly, his request was denied.

20. On October 7, 2021, the University emailed students who had failed to comply with the University's COVID-19 Vaccination Policy, including the Applicant. The email indicated that:

- (a) If the recipient student did not re-submit their vaccination status, the University would begin to take action to deregister the student from in-person courses the following week.

- (b) Students who did not comply by October 15, 2021 would be deregistered from in-person classes.

The Applicant did not re-submit his vaccination status.

21. On October 19, 2021, the University again emailed students who had failed to comply with the University's COVID-19 Vaccination Policy, including the Applicant. The email stated that the University's records indicated that as of October 15, 2021, the student recipient of the email was not compliant with the COVID-19 Vaccination Policy and would be removed from in-person Fall 2021 courses as a result. The email also stated that if the student uploaded proof of vaccination before October 25, 2021, the student would be automatically re-registered in all in-person courses.

22. The Applicant did not upload proof of COVID-19 vaccination. Accordingly, the Applicant was de-registered from the in-person course STAT 2050.

23. In or around October 20, 2021, students who had not uploaded proof of COVID-19 vaccination were re-registered into a course if the course requirements for the course could be completed remotely for the duration of the semester. Students were advised to monitor the online portals Courselink and WebAdvisor for changes to their registration status. Where a student was re-registered in a course, the course would appear in the Courselink and WebAdvisor portals along with the student's other courses. The course requirements for the course STAT 2050 could be completed remotely for the duration of the semester. Accordingly, the Applicant was re-registered in the STAT 2050.

24. In his Application, the Applicant alleges that he "was no longer able to do a lab course that [he] wanted to do and needed to do to complete [his] degree requirements." The Applicant dropped the in-person lab course ANSC 3120 in the Fall of 2021, but re-registered in the course and completed the course in the Fall of 2022. The Applicant also dropped the in-person lab course ANSC 3040 in the Winter of 2022, but re-registered in the course and is currently enrolled in the course this semester.

25. If the Applicant successfully completes the courses he is currently registered in, he will be eligible for graduation in June of this year. The Applicant has completed 2.50 credits in each of his previous Fall and Winter semesters, reflecting the standard path to graduation in four years.

III. No Reasonable Prospect of Success

26. The Applicant has no reasonable prospect of establishing that he has experienced discrimination. The Tribunal has stated on many occasions that it does not have a general power to deal with allegations of unfairness. The mere fact that a person identified by a prohibited ground of discrimination experiences some kind of allegedly unfair treatment is generally not sufficient to support an inference of discrimination. The Applicant appears to allege that University's denial of his request for an exemption was unfair and left him feeling as though he "was not good enough for the University." The Tribunal does not have jurisdiction to deal with such allegations. In any event, the University's assessment of the Applicant's request for an exemption was fair, and considered all appropriate criteria, including guidance from the OHRC regarding creed/religious belief under the Code.

27. The Applicant is unable to show a prima facie case of discrimination. The Applicant has not shown any facts that establish a distinct or disadvantageous treatment or impact arising from the University's exemption process. The Applicant has not demonstrated any connection between the University's decision with respect to the Applicant's exemption requests and the Applicant's personal characteristics that are protected under the Code.

28. Further, in his Application, the Applicant has set out details regarding his creed and religious beliefs. The Applicant has not linked these beliefs to any events or actions on the part of the University which constitute discrimination. The Applicant has also set out allegations of the emotional impact of his alleged isolation and deprivation of "social interactions with [his] peers, friends, and support groups" in his Application. The Applicant has not explained how his alleged isolation and deprivation of social

interactions during the COVID-19 pandemic were linked to any discriminatory actions on the part of the University.

29. The Applicant does not allege any facts that could give rise to a finding of Code-based discrimination. The University submits that the Tribunal dismiss the Application in whole at this stage in the proceedings on the basis that there is no reasonable prospect that the Application will succeed.

IV. The remedies sought by the Applicant are inappropriate.

30. The Applicant demands monetary and non-monetary compensation as remedies for the alleged discriminatory behaviour. Regardless of whether the Applicant can establish a prima facie case of discrimination, the remedies sought by the Applicant are not appropriate.

31. The Applicant seeks an order directing the University to permit the Applicant to complete his degree requirements, attend in-person classes, and "have equal access to campus facilities." The Applicant can complete his degree requirements. If the Applicant successfully completes the courses he is currently registered in, he will be eligible for graduation this year. The Applicant is able to attend in-person classes and access campus facilities. The University has not discriminated against the Applicant. There is no need for the order requested and it is not appropriate.

32. The Applicant also seeks a declaration that the University's COVID-19 Vaccination Policy and processes "be amended to ensure bona fide human rights-based accommodation requests are granted and that students to whom such accommodation [are] granted equal access to University services and facilities." The University's COVID-19 Vaccination Policy and processes, including the process for requests and approvals of exemptions to the COVID-19 Vaccination Policy, were established and implemented in compliance with all public health and OHRC guidelines and relevant legislation, including the Code. The University denies that the University's COVID-19 Vaccination Policy and processes are discriminatory. The University has not discriminated against the Applicant. In any event, the University's COVID-19 Vaccination Policy was paused on May 1, 2022 and any such order is premature.

33. Finally, the Applicant demands \$5,000 for the alleged injury to his dignity caused by the University's alleged discriminatory actions. The University has not discriminated against the Applicant. The University treated the Applicant appropriately throughout and monetary compensation is not appropriate.

V. Conclusion

34. The Applicant has failed to demonstrate any link between the University's conduct and any protected ground under the Code. The Applicant has provided no facts in support of his allegations that he was discriminated against on the basis of his creed or any other prohibited ground under the Code. The events that the Applicant describes in the Application are not discriminatory. The University treated the Applicant fairly and appropriately throughout. The University is, and was, in compliance with the Code. The Applicant's allegations are without merit and have no reasonable prospect of success. Further, the allegations are outside the jurisdiction of the Tribunal. This Application should be dismissed.