



Justice Centre for Constitutional Freedoms

September 23, 2021

Phil Warsaba
Vice-Provost and Associate Vice-President, Students
Mount Royal University
4825 Mt Royal Gate SW
Calgary, AB T3E 6K6

Via Email: pwarsaba@mtroyal.ca

Dear Mr. Warsaba:

Re: Requirement to disclose personal medical information

We are writing to you on behalf of [REDACTED] regarding your demand that he discloses his vaccination status (the "Requirement") by completing the online vaccination declaration form for Mount Royal University ("MRU").

[REDACTED] is exclusively an online MRU student and has no need to visit MRU's campus. Yet, you have demanded that he disclose his confidential personal medical information about his vaccination status or risk being deregistered from his online courses.

We request that you immediately cease your unreasonable Requirement for the private medical information of [REDACTED] and other exclusively online students.

Factual Background

[REDACTED] is a full time second year student at MRU, enrolled in the Bachelor of [REDACTED] program majoring in [REDACTED] funded by a federal and provincial student loan.

[REDACTED] is registered for four exclusively online classes and has no need to attend campus for any reason. He can register online for classes, pay his fees, attend classes and write tests and exams online.

In the week of September 15th, 2021, [REDACTED] received an email from MRU stating that he had to declare his vaccination status if he had to be on campus for any reason. A copy of this email is enclosed. For the reasons set out below, he did not complete the online vaccination declaration form.

Following that email, he received another email on September 20, 2021, stating that unless he completes the online vaccination declaration form by September 21, 2021, at 4pm, he *may* be deregistered from his courses. A copy of this email is enclosed.

On September 21, 2021, [REDACTED] received yet another email which stated that "as a student taking classes online, if you know you will not be on campus for the duration of the fall semester, you are able to opt out of rapid testing by completing this form." This seemed like an

agreeable option since he would not be on campus at all and he completed the opt-out form, thinking that this would settle the matter.

However, on September 22, 2021, [REDACTED] received another email stating that as a result of his refusal to complete the online vaccination declaration form, he continues to be prohibited from being on campus and effective immediately, a registration hold has been placed on his account. It further states that should he not complete the declaration form, he may be deregistered from his classes, noting that all students, whether studying in person or online, must declare their vaccination status.

Violation of [REDACTED] Privacy

Your unnecessary and unjustified Requirement that [REDACTED] disclose his vaccine status violates his right to privacy. Whether a person has received a particular medical treatment, including a vaccine, is inherently confidential personal information (see *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25). It is an unreasonable invasion of an individual's privacy to require that they disclose their confidential medical information in order to continue an activity entirely unrelated to their medical status.

Violation of Charter and Human Rights

MRU is a government funded university carrying out government programs, it subject to the provisions of the *Charter* and is constitutionally obligated to respect the constitutional rights of its students.¹

Through this Requirement, you are coercing and compelling your students—on threat of the loss of their academic and future careers—to disclose the inherently private and personal information regarding their vaccination status.

It is pertinent to note that your vaccination mandate is a clear violation of the rights of personal autonomy and bodily integrity recognized by the Supreme Court of Canada under section 7 of the *Charter of Rights and Freedoms*², which guarantees that everyone has the “right to life, liberty and security of the person.”

It is settled law that section 7 of *Charter* protects a sphere of personal autonomy involving “inherently private choices” that go to the “core of what it means to enjoy individual dignity and independence”.³ Where State compulsions or prohibitions affect such choices, section 7 is

¹ *UAlberta Pro-Life v. Governors of the University of Alberta*, [2020 ABCA 1](#)

² *R. v. Morgentaler*, [1988] 1 S.C.R. 30 at 56; *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519; *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307; *Carter v. Canada (Attorney General)*, [2015] 1 S.C.R. 31, para. 62.

³ *Godbout v. Longueuil (City)*, [1997] 3 S.C.R. 844 at paragraph 66; *Association of Justice Counsel v. Canada (Attorney General)*, [2017] 2 S.C.R. 456 at paragraph 49

engaged.⁴ It is pertinent to note that this aspect of liberty includes the right to refuse medical treatment⁵ and the right to make “medical choices”.⁶

Further, section 8 of the *Charter* protects students from unreasonable searches. The values underlying this protection of privacy are dignity, integrity and autonomy.⁷ Your Requirement that students participating exclusively in online classes disclose their vaccination status is entirely unreasonable and offend students’ individual dignity, integrity and autonomy.

Conclusion

If this Requirement remains in effect, and should you act on your threat of deregistering students who choose not to disclose their private health information, we will have no reasonable alternative but to consider legal action on behalf of [REDACTED].

Sincerely,

Anneke Pingo

for: Marty Moore, J.D.

Barrister & Solicitor

cc: [REDACTED]@mtroyal.ca
rapidteststu@mtroyal.ca

⁴ (*A.C. v. Manitoba (Director of Child and Family Services)*, [2009] 2 S.C.R. 181, at paragraphs 100-102; *Blencoe, supra* at paragraphs 49-54; *Siemens v. Manitoba (Attorney General)*, [2003] 1 S.C.R. 6 at paragraph 45)

⁵ *A.C., supra*, at paragraphs 100-102, 136

⁶ *R. v. Smith*, [2015] 2 S.C.R. 602 at para 18.

⁷ *R. v. Plant*, [1993] 3 S.C.R. 281 at page 292.

Important MRU Announcement - Cannot come to campus unless declared!

Rapid Testing - Students <rapidteststu@mtroyal.ca>

to me, [REDACTED]



Sent on behalf of Phil Warsaba, Vice-Provost and Associate Vice-President, Students

Dear [REDACTED],

In accordance with the Restrictions Exemption Program (REP) recently announced by the Government of Alberta and the information delivered by President Rahilly to members of the campus community last night, all students are required to provide *proof of vaccination or submit a negative result from a privately-paid COVID-19 PCR or rapid test* completed within the previous 72 hours to be allowed on campus. As of Monday, Sept. 20, the MRU declaration and rapid testing process will be the basis of the exemption program.

You are receiving this email because you have not completed the mandatory [online vaccination declaration form](#). As a student of Mount Royal University, you **MUST** submit your online COVID-19 vaccination declaration. Effective immediately, **you are prohibited from being on campus**.

If you are required to be on campus for any reason, you must declare your status. Individuals who complete the declaration and indicate they are unvaccinated are required to abide by rapid testing protocols. Instructions for accessing the campus will be sent to you once you complete your vaccination declaration. As a result of your failure to complete your declaration by the deadline, you will be required to source your rapid test if you are unvaccinated and upload the results prior to coming to campus.

As detailed in previous communications, MRU is implementing a Restrictions Exemption Program that will include proof of vaccination status. This program will be enforced and your presence on campus will only be permitted if you declare your vaccination status and comply with the terms of the program.

Declare your vaccination status now!

1. Log into [MyMRU](#).
2. Click on the "COVID-19 Vaccination Declaration" banner.
3. Select your vaccination status from the drop-down menu.

MOUNT ROYAL UNIVERSITY
4825 Mount Royal Gate SW Calgary, AB T3E 6K6
[mru.ca](#)

REQUIRED TO DECLARE YOUR VACCINATION STATUS - Do not come to campus Inbox x

Rapid Testing - Students <rapidteststu@mtroyal.ca>

Mon, Sep 20, 4:17 PM (2 days ago)

to me, [REDACTED] ▾



Sent on behalf of Phil Warsaba, Vice-Provost and Associate Vice-President, Students

Dear [REDACTED],

As of Sept. 20, 2021, you have not declared your vaccination status. In accordance with current Public Health Orders issued by the Province of Alberta, **you are prohibited from attending campus in person**. If you are on campus, you must leave immediately. Your in-person presence on campus will be considered a serious violation of current health protocols and may result in formal discipline, including suspension.

Our records indicate that you have only registered in online classes for the Fall term, however you have not completed the mandatory [online vaccination declaration form](#). While you may not be planning to come to campus, you are required to declare your vaccination status by Sept. 21 at 4p.m. If you do not declare your status by this time, **you may be deregistered from your courses**.

If you declare as fully or partially vaccinated, you will be permitted to return to campus and will be directed on how to provide proof of your vaccination status in the coming days. If you declare as unvaccinated, you will be sent information on how to participate in the Rapid Testing Program.

Declare your vaccination status now!

1. Log into [MyMRU](#).
2. Click on the "COVID-19 Vaccination Declaration" banner.
3. Select either 'fully vaccinated' or 'partially vaccinated' from the drop-down menu.

MOUNT ROYAL UNIVERSITY
4825 Mount Royal Gate SW Calgary, AB T3E 6K6
[mru.ca](#)

Rapid Testing - Students <rapidteststu@mtroyal.ca>

to me,



Dear ,

You are receiving this email because you are only registered in online courses and either haven't declared your vaccine status or were selected for rapid testing. If your vaccination status has changed, please go to [MyMRU](#) and update your vaccine declaration.

As a student taking classes online, if you know that you will **not be on campus for the duration of the fall semester**, you are able to opt out of rapid testing by [completing this form](#).

If you don't opt-out, you will continue to receive emails and be required to complete rapid testing twice weekly.

If you unexpectedly need to come to campus in person, you are **required to complete** the [rapid testing form](#) with a negative test result within 72 hours prior to your arrival.

Tue, Sep 21, 4:52 PM (1 day ago)



Important MRU Announcement - A hold has been placed on your account Inbox x

Rapid Testing - Students <rapidteststu@mtroyal.ca>

3:32 PM (3 hours ago)

to me, [REDACTED]



Sent on behalf of Phil Warsaba, Vice-Provost and Associate Vice-President, Students

Dear [REDACTED],

You are receiving this email because you still have not completed the mandatory [online vaccination declaration form](#). In order for Mount Royal University to comply with Public Health Orders issued by the Province of Alberta, you MUST submit your online COVID-19 vaccination declaration.

As a result:

- you continue to be prohibited from being on campus, and
- effective immediately, a registration hold has been placed on your account.

If you do not complete the mandatory declaration form, you may be deregistered from your classes.

Please note that all students, whether studying in person or online, must declare their vaccination status.