

ACADEMIE DUELLO
INVESTIGATION SUMMARY REPORT
WORKPLACE HARASSMENT INVESTIGATION

A. INTRODUCTION

I was retained by Academie Duello (“Duello” or the “School”) in March 2018 to conduct an independent investigation into allegations that an instructor at Duello had breached Duello’s policies relating to workplace harassment and/or engaged in misconduct while instructing students. In my investigation I considered five (5) specific allegations that were raised in both written and verbal complaints (the “Complaints”) as well as any further information provided to me by the witnesses that I spoke with.

The purpose of the Investigation was to:

1. determine whether the Complaints were well-founded in law on the balance of probabilities (i.e. whether they were supported by the facts and on the applicable law), including any necessary findings regarding credibility of any participant;
2. determine how, if at all, the alleged misconduct impacted the School;
3. determine, in all the circumstances, whether there was a breach of the School’s policies, expectations or applicable legislation; and
4. provide recommendations based on my findings.

Although not strictly necessary for investigating the specific allegations, I was asked to consider any workplace culture issues at the School that I became aware of during my investigation, and to make recommendations on best practices for the workplace regarding these issues.

In conducting the investigation, I reviewed several relevant documents including written complaints and witness statements, Duello’s bullying and harassment policy (the “Policy”) and Duello’s student waiver.

Over an extended period of time, I interviewed a mix of students and instructors, including the respondent instructor. I spent time at the School watching classes and understanding the structure and layout of lessons. All witnesses were told the scope of my investigation, were provided with a copy of my Terms of Reference to review, and were given the opportunity to contact me with any further information subsequent to our meeting.

All witnesses were told that the investigation was confidential and that they were not to discuss anything about the investigation with anyone else at Duello, in order to preserve the

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privacy of those involved and to maintain the integrity of the investigation. This is fundamental to due process in a fair investigation.

Mr. Boorman was interviewed as a potential witness to one specific incident but was not involved in providing instructions or guidance on the investigation because of his participation as a witness and his desire to remain neutral in the process.

B. FINDINGS OF FACT

I reached findings of fact based on my assessments of all of the witnesses' credibility and the reliability of their evidence when compared to the documents and other witness statements. I found all of the witnesses to be forthright and honest. I had no basis to question the credibility of any witnesses I spoke with.

Ultimately I found that the Complaints were unsubstantiated due to a lack of evidence and specifically, the lack of direct evidence in the face of the instructor's denial of the Complaints. None of the witnesses I spoke with had witnessed the instructor behaving as alleged and no further witnesses were identified to me that were willing to speak with me. Therefore on a balance of probabilities, I was not able to accept the Complaints.

With respect to one specific allegation relating to a physical interaction between the instructor and a student, I found that the altercation likely had occurred as described, but that the instructor had acted in accordance with proper instruction techniques, which were independently confirmed by other instructors. Therefore I did not accept that this interaction was inappropriate or in breach of the Policy.

Given my conclusions that the Complaints were unsubstantiated on a balance of probabilities, I found that there was no breach of any School policy or procedure or applicable legislation with respect to the Complaints. Despite this conclusion, there was no suggestion that the Complaints were made in bad faith or lacked *bona fides*.

C. RECOMMENDATIONS

Notwithstanding my conclusions on the Complaints, I did determine that there were some workplace culture issues at the School that required addressing. Several workplace culture issues came to my attention during the interviews and I recommended some steps that Duello could immediately take to address these issues. I have summarized these recommendations below.

Bullying and Harassment Training

Staff and Instructors

I recommended that Duello revise its workplace bullying and harassment policy to be more tailored to the School environment, and in particular that the complaint processes be streamlined and made more accessible. I recommended that Duello provide specific instructor training to review the revised Policy and the law around bullying and harassment

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generally. Also, I recommended that Duello provide any new staff member or non-staff instructor with the same training and a copy of the Policy.

Students

I recommended that all new students be provided with a copy of the Policy and that Duello offer abbreviated student training sessions on a semi-regular basis. The focus would be on reporting mechanisms and structure.

Signing of Log Books

Several female witnesses described how male students often refused to sign female student log books after a sparring match. According to one witness this was widely discussed amongst the female students. None of the male staff and instructors I spoke with had heard of this or witnessed this.

I recommended that Duello develop a simple policy with respect to the signing of log books which would include a brief statement of purpose as well as indicating disciplinary consequences for failure to adhere. It was my understanding that there would be no basis for refusing to sign a partner's log book.

All students and staff should be educated on the new policy and instructed to report any instances of breach.

Relationships Between Teachers and Students

I determined that there were personal relationships at Duello between teacher/student and student/student. Amongst the witnesses I spoke with, there was no consistent understanding of the rules regarding personal relationships and each had a different view on what the rules should be.

It was my conclusion that relationships between staff and students was a significant contributor to the culture issues being experienced by Duello at the time. It was also clear that Duello did not have sufficiently clear rules around relationships within the school and there was a corresponding lack of training or education on this.

I was alive to the tension between placing constraints on Duello's participants (many of whom use Duello as a social activity much like any gym or club), and thereby discouraging students from participating/joining, as against governing the school as a workplace with strict rules and boundaries between staff.

Ultimately I recommended that Duello revisited the concept of relationships at the school and give serious consideration to prohibiting instructors from teaching classes that include students with whom they are in a relationship. Further, if instructors and students are in relationships, they should be encouraged to behave professionally towards each other and to avoid overt displays of affection whilst at the school.

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I recommended that all students and staff be educated on any new policies introduced on this issue.

The Previous Investigation

In conducting my investigation, I reviewed the steps taken to investigate the Complaints by the former Supervisor under the Policy (who was no longer working at or involved in the School at the time of my investigation and who had no role in my investigation). I reviewed all of the documents and statements gathered by the former Supervisor. It was clear that prior to my being engaged no proper investigation had taken place but rather that the process was aimed at collecting sufficient information to justify the removal of the instructor from the School. At the time of my involvement, the instructor had yet to be given the opportunity to respond to any complaints against him but yet the former Supervisor had already recommended his removal as an instructor.

A fair investigation requires that the accused party be given full opportunity to respond to the complaints against them. This is regardless of the weight of evidence against or the volume of complaints. Similarly, the complaining party needs to be given full opportunity to detail their complaints. The process conducted prior to my involvement was not a fair process and had Duello acted on this process without providing due process to the respondent instructor, there may have been legal ramifications.

Furthermore, it was evident that despite the sensitive nature of the information related to the Complaints, confidentiality and privacy were not appropriately maintained which was evidenced in the extent and scope of communication about the Complaints prior to my involvement. Under the B.C. *Personal Information Protection Act*, which is binding on Duello, there are significant limits on the disclosure of personal information of students and staff without the consent of those individuals. Therefore I also cautioned Duello to be cognizant of its privacy obligations when managing complaints and investigations.



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