

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on May 31, 2016,

AND IN THE MATTER OF the University of Toronto Code of Behaviour on Academic Matters, 1995,

AND IN THE MATTER OF the University of Toronto Act, 1971, S.O. 1971, C. 56 as amended S.O. 1978, c. 88

BETWEEN:

UNIVERSITY OF TORONTO (the “University”)

-and-

K ■ Y ■ (the “Student”)

REASONS FOR DECISION

Hearing Date: October 7, 2016

Panel Members:

Ms. Michelle S. Henry, Lawyer, Borden Ladner Gervais LLP, Chair

Professor Louis Florence, Faculty Panel Member

Mr. Chad Jankowski, Student Panel Member

Appearances:

Mr. Victor Kim, Legal Case Worker for the Student, Downtown Legal Services

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

In Attendance:

The Student

Ms. Andrea McGee, Registrar and Assistant Dean, Office of Student Services, John H. Daniels Faculty of Architecture, Landscape, and Design

Ms. Krista Osbourne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

1. A Hearing of the Trial Division of the University Tribunal convened on October 7, 2016 to consider charges of academic dishonesty brought by the University against the Student under the *Code of Behaviour on Academic Matters*, 1995 (the “Code”). The Student was informed of the charges by letter dated May 31, 2016, from Professor Sioban Nelson, Vice-Provost, Faculty & Academic Life.

THE CHARGES

2. At all material times, the Student was a registered student at the University of Toronto John H. Daniels Faculty of Architecture, Landscape, and Design. The University alleges that the Student engaged in the following offences:
 - 1) On or about December 4, 2015, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated November 27, 2015, which the Student submitted in support of his request for academic accommodation or relief in ENV341H1, contrary to Section B.I.1(a) of the Code.
 - 2) In the alternative, on or about December 4, 2015, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting a forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated November 27, 2015, in support of his request for academic accommodation or relief in ENV341H1, contrary to Section B.I.3(b) of the Code.
 - 3) On or about December 15, 2015, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated December 15, 2015, which the Student submitted in support of his request for academic accommodation or relief in ENV341H1, contrary to Section B.I.1(a) of the Code.
 - 4) In the alternative, on or about December 15, 2015, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind by submitting a forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated

December 15, 2015, in support of his request for academic accommodation or relief in ENV341H1, contrary to Section B.I.3(b) of the Code.

AGREED STATEMENT OF FACTS

3. The Hearing proceeded on the basis of an Agreed Statement of Facts, which was marked as Exhibit 2 at the Hearing. The Panel also received a Joint Book of Documents that is referred to in the Agreed Statement of Facts, which was marked as Exhibit 3 at the Hearing. A summary of the agreed facts follows.

ENV341H1

4. In the 2015 Fall Semester, the Student was enrolled in ENV341H1, Environment and Human Health (the "Course"). He was required to submit a term paper worth 30% of his final grade by November 26, 2015. The Student did not submit the term paper by the November 26, 2015 deadline.
5. On December 4, 2015, the Student submitted his term paper, together with a copy of a completed Verification of Student Illness or Injury form dated November 27, 2015 which was signed by a Dr. Leser at a College Street Clinic ("November 27 Form").
6. On December 9, 2015, the Professor sent the Student an email, asking for an original of the November 27 Form. The Student responded by email and indicated that he would get another original copy of the Form by the following day.
7. On December 14, 2015, when the Student had not provided the original of the November 27 Form to the Professor, the Professor contacted the College Street Clinic to verify the authenticity of the Form. She was advised by the receptionist at the clinic that there was no record of the Student ever having been at the clinic.
8. That day, on December 14, 2015, the Professor sent the Student an email asking him to meet with her the next day. On December 15, 2015, the Student met with the Professor and provided the Professor with an original of a Verification of Student Illness or Injury form dated December 15, 2015, which was purportedly for him and completed and signed by Dr. Kapoor of the College Street Clinic on behalf of Dr. Leser (the "December 15 Form").
9. Following the meeting, the Professor contacted the College Street Clinic again. The receptionist confirmed that the Student had not been at the clinic that day. However, the receptionist told the Professor that a female student had attended the clinic that morning, asking for an original of a note that had been issued in November. The receptionist advised that she processed the form that morning without the female student having

completed the student information section. Accordingly, when the form was completed by Dr. Kapoor and was provided to the female student, the “to be completed by the student” section at the top of the form was blank.

10. On the evening of December 15, 2015, the Student sent the Professor an email in which he wrote:

I am terribly sorry that I have to tell you that I photoshoped [sic] the doctor notes, which means I wrote my name at someone else doctornote [sic]. I have nothing else to explain but just feel terribly sorry. I couldn't speak up in front of you because I got very nervous. You asked me for an original medical notes instead of the copy one, I thought it might be too late to tell you the truth and I stepped into wrong direction further. I know that I have to deal with Academic integrity from now. But just one again very sorry and I regard sincerely.

Meeting with Dean's Designate and the Student's Admissions

11. On February 9, 2016, Professor Jeannie Kim, Assistant Dean of the Faculty, met with the Student to discuss the allegation of academic misconduct. At the meeting, the Student admitted that he had forged a friend's medical note (the November 27 Form), and when the Professor asked for the original, he asked his friend to attend at the College Street Clinic to obtain another original (the December 15 Form).
12. As part of the Agreed Statement of Facts, the Students admits that he did not see Dr. M. Leser on November 27, 2015, and he did not attend the College Street Clinic on December 15, 2015 to obtain the Forms.
13. The Student further admits that he knowingly forged, altered or falsified the November 27 Form and the December 15 Form; and he submitted the Forms to seek academic accommodation or relief, and on the understanding that the University of Toronto required legitimate medical documentation and evidence to be presented in order to obtain that academic accommodation or relief.

FINDINGS ON CHARGES

14. Following deliberations and based on the Agreed Statement of Facts and the Joint Book of Documents, the Panel concluded that charges 1 and 3 (as outlined in paragraph 2 above) had been proven with clear and convincing evidence on a balance of probabilities, and accepted the guilty pleas of the Student in respect of those charges. The Panel was advised that if the Tribunal convicts the Student on charges 1 and 3, outlined above in paragraph 2, the University would withdraw the alternative charges. The Panel therefore makes no findings with respect to charges 2 and 4.

PENALTY

15. The University and the Student submitted an Agreed Statement of Facts on Penalty and a Joint Submission on Penalty recommending the following penalty:
 - a. a final grade of zero in the course ENV341H1;
 - b. a suspension from the University of Toronto for three years and four months from January 1, 2017 to April 30, 2020; and
 - c. a notation of the sanction on his academic record and transcript from the day the Tribunal makes its order until graduation.
16. The parties also agree that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University of Toronto newspapers, with the name of the student withheld.
17. Counsel to the University provided submissions on the high threshold required for a Tribunal to deviate from the joint submission on penalty. As set out in the Discipline Appeals Board in *S.F.* and *The University of Toronto* (Case No. 690 – Appeal, dated October 20, 2014), only truly unreasonable or “unconscionable” joint submissions should be rejected (see paragraph 22). In the Panel’s view the joint submission in this case is reasonable.
18. The Panel also heard submissions regarding the appropriateness of the penalty, reviewed relevant past decisions of the Tribunal submitted by the University, and considered the factors set out in *University of Toronto* and *Mr. C.* (Case No. 1976/77-3; dated November 5, 1976). In particular, the Panel took into consideration the serious and deliberate nature of the offences and the detriment to the University. The Panel was also concerned that the Student’s conduct in forging medical notes implicated medical professionals, and undermined the integrity of those charged with providing those medical notes, as well as the University’s procedure for assessing and granting accommodations to its students.
19. The fact that this was also not the first offence for the Student was also considered. The Student had committed a prior offence eight (8) months before, which suggested that he had not learned from his prior mistake. Further, in the present case, he had submitted not one, but two false Verification of Student Illness or Injury forms.
20. That said, there were mitigating factors to consider. The Student admitted guilt very early on—even before he was confronted with the allegations of wrongdoing. He admitted that he had stepped in the wrong direction and fully cooperated with the University throughout the discipline process. This demonstrated that he had taken responsibility for his misconduct.

21. Having regard to the above, and based on the review of similar cases provided by Counsel to the University, the Panel agrees that the recommended sanctions are appropriate.

DECISION OF THE PANEL

22. At the conclusion of the hearing, the Panel made the following order:

- a. The Student is guilty of two counts of knowingly forging or in any other way altering or falsifying a document or evidence required by the University of Toronto, or uttering, circulating or making use of such forged, altered or falsified document, contrary to section B.I.1.(a) of the *Code*;
- b. the following sanctions shall be imposed on the Student:
 - i. a final grade of zero in the course ENV341H1;
 - ii. a suspension from the University of Toronto for three years and four months from January 1, 2017 to April 30, 2020; and
 - iii. a notation of the sanction on his academic record and transcript from the date of this order until graduation.
- c. this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

DATED at Toronto, December 13, 2016.



Michelle S. Henry, Co-Chair