

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on December 18, 2017 and amended on January 24, 2018,

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

- and -

J ■ ■ A ■

REASONS FOR DECISION

Hearing Date: June 6, 2018

Members of the Panel:

Mr. Douglas Harrison, Barrister and Solicitor, Chair
Professor Louis Florence, Faculty Panel Member
Mr. Daniel Lazzam, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP, Barristers
Ms. Nisha Panchal, Student Conduct and Academic Integrity Officer, Office of the Vice-Principal and Dean, University of Toronto Scarborough
Ms. Sana Kavar, Manager, Transcript Centre, University of Toronto

In Attendance:

Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not in Attendance:

Ms. J ■ ■ A ■, the Student

1. This panel of the University Tribunal held a hearing on June 6, 2018 to consider the charges brought by the University of Toronto (the “**University**”) against Ms. J ■ ■ A ■ (the “**Student**”) under the *Code of Behaviour on Academic Matters, 1995* (the “**Code**”).

A. Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 1:45 p.m. on June 6, 2018. At that time, Discipline Counsel advised that neither the Student nor a representative of the Student had responded to the Notice of Hearing.

3. Discipline Counsel made submissions on proceeding with the hearing in the absence of the Student. She filed Affidavits sworn by Janice Patterson, a legal assistant employed by the law firm of Paliare Roland Rosenberg Rothstein LLP, and Krista Osbourne, Administrative Clerk and Hearing Secretary, Appeals, Discipline and Faculty Grievances, Office of the Governing Council, as well as Affidavits of Attempted Service sworn by Crystal Simpson and Ray Patykewich, a Law Clerk and an agent, respectively, for Donaldson Law Clerk Services Inc. These affidavits set out that the following attempts had been made to provide notice of the charges (as amended) and the hearing to the Student:

1. On February 6, 2017, the Office of the Dean and Vice-Principal (Academic) sent a letter to the Student (via the email address assigned to the Student by the University (a utoronto.ca account)) advising of an allegation of possible academic offences on transcripts the Student had submitted to outside parties. This letter requested that the Student arrange an appointment at her earliest convenience to discuss the matter with the Dean’s Designate. Further follow-up emails were sent by the University to the Student in September and October 2017, and unsuccessful attempts were made to contact the Student by phone at the number listed for her in the University of Toronto Repository of Student Information (“**ROSI**”). The Student did not respond to any of

these attempts to contact her. Accordingly, no meeting was held with the Dean's Designate.

2. On December 18, 2017, at 11:12 a.m., the Office of the Vice-Provost, Faculty and Academic Life, served the charges in this matter on the Student by email to the Student's utoronto email address and to a Hotmail email address that the Student had provided in ROSI.
3. Later that same day, at 3:26 p.m., the Office of Appeals, Discipline and Faculty Grievances, University of Toronto, served the Student with a letter regarding the charges filed against her, together with copies of the *Code of Behaviour on Academic Matters, 1995*, the *Rules of Practice and Procedure* of this Tribunal and a pamphlet for Downtown Legal Services, by email to her utoronto and Hotmail email accounts. The Office did not receive a "bounce back" message from either of the Student's two email addresses. The Office also sent these documents by courier to the Student at the mailing address in the Student's ROSI account. The courier package was successfully delivered to that address on December 19, 2017 and signed for by "Pam Saini".
4. Also on December 18, 2017, at 4:38 p.m., Discipline Counsel sent an email to the Student at her utoronto and Hotmail email accounts, to introduce herself and to advise that important correspondence would be sent to the Student's two email accounts. No "bounce back" was received from either email address.
5. On January 24, 2018, at 12:44 p.m., the Office of the Vice-Provost, Faculty and Academic Life, served the amended charges in this matter on the Student by email to the Student's utoronto and Hotmail email accounts.
6. Later in the afternoon on January 24, 2018, the Office of Appeals, Discipline and Faculty Grievances, University of Toronto, served the Student, by email to her utoronto and Hotmail email accounts, with (i) a

letter regarding the amended charges filed against her (along with a copy of the December 18, 2017, letter from the Office of Appeals and its enclosures), and (ii) a copy of the January 24, 2018 letter from the Office of Vice-Provost regarding the amended charges. The Office did not receive a “bounce back” message from either of the Student’s two email addresses. These documents were also sent by courier to the mailing address in the Student’s ROSI account. However, after two attempts, the courier was unable to deliver the package.

7. On January 25, 2018, Discipline Counsel sent the Student a letter and disclosure brief relating to this matter, as well as another copy of the amended charges and a copy of the University’s *Policy on Official Correspondence with Students*, to the Student’s two email accounts and by courier to the mailing address in the Student’s ROSI account. Discipline Counsel did not receive a “bounce back” from either of the Student’s two email addresses. The courier package was successfully delivered and accepted by “A. Shane” on January 26, 2018. However, on March 26, 2018, the courier package was “returned to sender” to Discipline Counsel’s office via Canada Post.
8. Discipline Counsel sent additional emails to the Student’s utoronto and Hotmail email addresses on January 30, 2018, February 7, 2018, March 29, 2018 and April 11, 2018, regarding the scheduling of the hearing. Discipline Counsel did not receive any “bounce back” messages from either of the Student’s two email addresses.
9. On March 29, 2018, Discipline Counsel contacted Mike Wiseman, Acting Director, Information Security, Information Technology Services at the University, requesting information about the last time when someone accessed the Student’s utoronto account and if the account was being forwarded to another email address. That same day, Mr. Wiseman responded to Discipline Counsel to advise that the Student’s utoronto account was last accessed on July 16, 2017 and that the

account was currently set to be forwarded to the Student's Hotmail account.

10. On April 11, 2018, the Office of Appeals, Discipline and Faculty Grievances, University of Toronto served the Student with the Notice of Hearing, together with a copy of the aforementioned letters of December 18, 2017 and January 24, 2018, and enclosures (which included the charges), by email to the Student's utoronto and Hotmail accounts. No "bounce back" message was received from either of the Student's two email accounts. The Student was advised in this email that since previous attempts to courier materials to her address listed in ROSI had been unsuccessful, the Student would be receiving only electronic copies of documents. However, if the Student wanted hard copies of the materials, she was free to request same.
11. On May 24, 2018, Ms. Patterson, on behalf of Discipline Counsel, attempted to contact the Student by calling the telephone number in the Student's ROSI account. Ms. Patterson called the number twice and both calls went to voicemail and the greeting only identified the phone number. Ms. Patterson left a message identifying herself as Discipline Counsel's assistant and left her phone number. She said she was trying to reach the Student with respect to a University of Toronto matter on June 6, and asked that the Student call her back. She also asked that the Student check her University of Toronto and Hotmail email accounts. Ms. Patterson did not receive a response to her voicemail messages.
12. Also on May 24, 2018, Discipline Counsel sent an email to the Student's utoronto and Hotmail accounts, to remind the Student of the upcoming hearing on June 6. On May 25, 2018, Discipline Counsel sent another email to the Student at her utoronto and Hotmail accounts, serving the Student with an affidavit on which the University intended to rely at the hearing. Discipline Counsel did not receive a "bounce back" message

from either of the Student's two email accounts, and the Student did not respond to her emails.

13. On May 30, 2018, the Office of Appeals, Discipline and Faculty Grievances, University of Toronto sent an email to the Student to her utoronto and Hotmail email accounts to remind her of her upcoming hearing and to request that she advise if there were any attendees from her side. No bounce back message was received from either of the two addresses.
4. As of June 4, 2018, in the case of the Office of Appeals, Discipline and Faculty Grievances, and June 6, 2018, in the case of Discipline Counsel, the Student had not responded to any of the above-noted correspondence.
5. Pursuant to sections 6 and 7 of the Ontario *Statutory Powers Procedure Act* (the "**Act**") and Rule 17 of the Tribunal's *Rules of Practice and Procedure* (the "**Rules**"), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
6. The University requested that the Tribunal proceed with this hearing in the absence of the Student.
7. Pursuant to Rule 9 of the Rules, a Notice of Hearing may be served on a student by various means, including by sending a copy of the document by courier to the student's mailing address in ROSI or by emailing a copy of the document to the student's email address in ROSI.
8. The University's Policy on Official Correspondence with Students expressly states that students are responsible for maintaining a current and valid postal address and email account on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

9. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.

10. Based on the totality of the attempts made to provide notice to the Student, including at the address provided by the Student and via the Student's two email addresses, and given the package sent on December 18, 2017, was accepted and not returned, and there were no "bounce backs" from the email addresses, the Tribunal concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules.

11. The Tribunal therefore determined it would proceed to hear the case on its merits in the absence of the Student, and the hearing proceeded on the basis that the Student was deemed to deny the charges (as amended) made against her.

B. The Charge and Particulars

12. The Amended Charges and Particulars were detailed in a letter to the Student dated January 24, 2018 (which superseded the letter of December 18, 2017) and are set out below:

1. On or about May 17, 2015, you knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely, a document that purported to be your Transcript of Consolidated Academic Record, which you submitted to York University (the "Purported Transcript"), contrary to section B.I.3(a) of the Code.
2. In the alternative, by submitting the Purported Transcript to York University on or about May 17, 2015, you 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, contrary to section B.I.3(b) of the Code.

Particulars

1. You were a registered student at the University of Toronto Scarborough from Fall 2012 to Winter 2014.
 - 1.1 In approximately February 2015, you applied for admission to York University.
2. On or about May 17, 2015, you submitted the Purported Transcript, together with a copy of the descriptions for the courses that you had purportedly taken at the University of Toronto, to York University as part of your application, for the purposes of obtaining transfer credits at York University.
3. The Purported Transcript was an academic record. It was forged, altered or falsified. It falsely represented your academic record at the University of Toronto, including:
 - (a) Your sessional grade point averages;
 - (b) Your annual grade point averages;
 - (c) Your cumulative grade point averages;
 - (d) The courses in which you had enrolled;
 - (e) The grades that you had obtained;
 - (f) The credits that you had obtained; and
 - (g) The terms in which you had been enrolled.
4. By submitting the Purported Transcript to York University, you uttered, circulated or made use of a forged, altered or falsified academic record.
5. You submitted the Purported Transcript to York University in support of your application for admission and to obtain an academic advantage. You did so knowing that it contained false information, and that it had been forged, altered or falsified.

C. The Evidence

13. The University called the evidence of Ms. Sana Kwar, Manager of the University of Toronto Transcript Centre in the Faculty of Arts and Science, and submitted the Affidavit of Michelle Cousins, an International Admissions Assessor at York University (“York”).

14. On February 5, 2015, York received an application for admission from the Student.

15. On May 18, 2015, the Student submitted to York’s MyFile portal (an online portal through which prospective students can upload documents in support of their applications, among other functions), a document that purported to be a copy of her official transcript from the University of Toronto (as defined above, the “**Purported Transcript**”) along with a document containing descriptions of the courses listed in the Purported Transcript. These documents were submitted in an attempt to obtain transfer credits from York for courses the Student purportedly completed at the University of Toronto.

16. The Student was accepted for admission to York commencing in September 2015, conditional upon York receiving an original transcript from the University of Toronto.

17. One of Ms. Cousins’ duties as International Admissions Assessor at York is to ensure that international students who apply for admission to York comply with the necessary admissions requirements. In late 2016, Ms. Cousins was reviewing the Student’s file and determined that the Student had not provided the original transcript from the University of Toronto.

18. On December 12, 2016, Ms. Cousins sent an email to Ms. Kwar to verify the authenticity of several transcripts that York had received from students or prospective students, including the Student. Ms. Cousins had been in contact with Ms. Kwar previously for transcript verification requests.

19. Upon receipt of Ms. Cousins’ email, Ms. Kwar, who has been the Manager of the Transcript Centre since 1997, checked the date of issuance shown on the Purported Transcript against the records in ROSI and found that no transcript had been issued for the

Student on May 17, 2015, the date shown on the Purported Transcript. Upon further review of the Purported Transcript, Ms. Kavar saw that it contained the signature of Karel Swift as University Registrar. Ms. Kavar knew that Mr. Swift has not been the Registrar since 2012. Additionally, Ms. Kavar noted that a watermark that would be generally visible on a copy of a University of Toronto student transcript was not visible on the Purported Transcript.

20. Accordingly, on December 13, 2016, Ms. Kavar emailed Ms. Cousins to advise Ms. Cousins that the Purported Transcript had not been issued by the University of Toronto, suggesting that the document York had on file for the Student was not valid nor a true representation of the Student's University of Toronto transcript. Ms. Kavar also noted in her email that the Registrar's signature was of the previous registrar who had earlier retired from the University.

21. The Purported Transcript represented that the Student had completed 11 credits with a cumulative GPA of 2.18 from Fall 2012 through Winter 2015. At the hearing, the University presented a copy of the Student's actual transcript and Academic History, which indicated that she had received only 2.5 credits with a cumulative GPA of 1.67 during her time at the University from Fall 2012 through Winter 2014.

D. Decision of the Tribunal

22. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student.

23. The Student was charged with an offence under Section B.I.3(a) of the Code, which states:

It shall be an offence for a ... student ... knowingly:

(a) to forge or in any other way alter or falsify any academic record, or to utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form;

24. The Student was charged in the alternative with an offence under section B.1.3(b) of the Code, which states:

It shall be an offence for a ... student ,, knowingly:

(b) to engage in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind.

25. It is accepted that a transcript is an academic record, as defined in section 2(c) of Appendix "A" of the Code.

26. The Tribunal determined that the evidence clearly established that the Purported Transcript provided by the Student to York was false.

27. Having concluded that the Purported Transcript was a forgery, and given that it was circulated and/or made use of by the Student, as evidenced by the fact that the Student provided it to York in an attempt to gain admission and to obtain transfer credits, the Tribunal found on a balance of probabilities that the Student circulated and made use of the forged record.

28. The Tribunal found that the Student is guilty of forging or in any other way altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.1.3(a) of the Code.

29. The Tribunal having made such a finding of guilt, the University withdrew the alternative charge against the Student.

E. Penalty

30. The matter continued with a hearing on the appropriate sanction. The University requested that the Tribunal (a) recommend to the President of the University that he recommend to the Governing Council that the Student be expelled from the University, (b) make an order immediately suspending the Student for up to five years (or to the date of any

decision by the Governing Council to expel her), (c) make an order that a corresponding notation be made on the Student's transcript; and (d) direct that the Tribunal's decision be reported to the Provost in order that it may be reported in the campus press with the Student's name withheld.

31. Discipline Counsel submitted that the Tribunal, in determining the appropriate sanction in a given case, should consider the matters laid out in *Mr. C. v. University of Toronto* (Case # 1976/77-3, November 5, 1976), namely (a) the character of the person charged; (b) the likelihood of a repetition of the offence; (c) the nature of the offence committed; (d) any extenuating circumstances surrounding the commission of the offence; (e) the detriment to the University occasioned by the offence; and (f) the need to deter others from committing a similar offence.

32. Discipline Counsel noted that the only evidence before the Tribunal showed that the Student was prepared to make use of a forged document, which was deliberately dishonest. It was noted that the Student had not participated in the disciplinary process in any manner, including not meeting with the Dean's Designate and not responding to the University's numerous attempts to communicate with her. There was no evidence of either remorse or of any mitigating circumstance available to the Tribunal that it could take into account.

33. Discipline Counsel submitted that there was nothing to suggest the Student would not re-offend or that she has learned from her mistake. While there were no prior offences on the Student's record, she had not shown remorse and she had not accepted any responsibility for her actions.

34. While the offence committed by the Student is essentially forgery, in this instance it also amounts to an attempt to defraud another academic institution. Forgery of an academic record is one of the most serious offences a Student can commit. The public, as well as other academic institutions, rely on the University's records, assuming they are accurate. Making use of a forged transcript undermines the credibility of the University and its students and alumni. See *The University of Toronto v. R. W.* (Case # 502, April 18, 2008) at para. 16.

35. Discipline Counsel submitted that attempting to create general deterrence is important for offences that are difficult to detect. In situations involving forged records, the University must rely, at least in part, on third parties detecting an issue and bringing it to the University's attention. Accordingly, Discipline Counsel submitted that when forgery is detected, it becomes more important that the Tribunal send a strong message that these acts will not be tolerated.

36. As noted by the Tribunal in *The University of Toronto v. N.R.* (Case # 714, October 11, 2013, at paras. 22-23:

The offence of forging an academic transcript is viewed by the University as at the most serious end of the range of sanctions. ... Forging or falsifying an academic history is among the most serious offences a student can commit. The University's reputation and credibility depends on the reliability of its official records. This type of offence is detrimental to the University and it is important that others are deterred from engaging in similar conduct. ...

The falsification of records of transcripts strikes at the heart of the honesty and integrity which is at the core of the academic experience and evaluation.

37. Discipline Counsel provided the Tribunal with a chart setting out the range of penalties imposed for forgery of academic records in prior cases along with copies of those decisions. It is clear that a recommendation for expulsion is a common penalty for such an offence, particularly when the student has not admitted guilt or acknowledged wrongdoing, as it the case here.

38. The Tribunal deliberated and concluded that, under the circumstances, it was appropriate to make a recommendation for expulsion and to make the other orders sought by the University.

F. Conclusion

39. The Tribunal finds that the Student is guilty of the academic offence of altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.I.3(a) of the Code;

40. Accordingly, the Tribunal orders that the following sanctions be imposed on the Student:

1. The Student be immediately suspended from the University of Toronto for a period of up to 5 years from the date of the Tribunal's order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on her academic record and transcript; and
2. the Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University.

41. The Tribunal also orders that the case be reported to the Provost for publication of a notice of this decision and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 8th day of August 2018



Mr. Douglas Harrison, Co-Chair