

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on February 14, 2006

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:

THE UNIVERSITY OF TORONTO

and

Ms. R. K

Members of the Panel:

Ms. Julie Hannaford, Chair

Professor Sarah King, Faculty Panel Member

Ms. Candace Ikeda-Douglas, Student Panel Member

Appearances:

Mr. Rob Centa, Counsel for the University of Toronto

Ms. R. K., the Student

In attendance:

Professor Roger Beck

Ms. Lucy Gaspini

the Student's parents

REASONS FOR DECISION
Prepared by Julie K. Hannaford

“What distinguishes the University from other centres of research is the central place which the relationship between teaching and learning holds. It is by virtue of this relationship that the University fulfills an essential part of its traditional mandate from society, and, indeed, from history: to be an expression of, and by so doing to encourage, a habit of mind which is discriminating at the same time as it remains curious, which is at once equitable and audacious, valuing openness, honesty and courtesy before any private interests.

This mandate is more than a mere pious hope. It represents a condition necessary for free enquiry, which is the University’s life blood. Its fulfillment depends upon the well being of that relationship whose parties define one another’s roles as teacher and student, based upon differences in expertise, knowledge and experience, though bonded by respect, by a common passion for truth and by mutual responsibility to those principles and ideals that continue to characterize the University.”¹

At the heart of this matter is a letter sent to Professor Seguin and Ms. Faulk, who were Teaching Assistants at the University of Toronto. The letter was anonymous. It described how tests written by Ms. K. had been intercepted and therefore prevented from delivery to a professor for grade reconsideration. The author of the letter explained the motivation for intercepting the letter as being resentment and anger over Ms. K’s achievements because she was Hindu. The author of the letter makes it clear that Ms. K and a classmate were the subject of vengeance and retribution by Muslim students. The letter is disturbing and hateful, and it invokes for its foundation and basis the force and forgiveness of Allah. The letter clearly describes Ms. K as being the victim of Muslim-based hatred. Aside from being very disturbing, the letter is actionable because of the damage it purports to do to Ms. K, to her future, and to the concept of tolerance, equity, and fairness in the university environment in general. In general terms, the letter is offensive and strikes at the heart of a tolerant atmosphere – it suggests the worst of poisoned atmospheres existing at the University. For these reasons, the author of the letter attracts serious concern and sanctions for the damage done by the letter to Ms. K. and to the University.

Ms. K. was the author of that letter. She admits this fact. She constructed the idea for the letter; she constructed the idea to make herself the center of a racially motivated conspiracy; and she worded the letter so as to attract the outrage it deservedly incites.

The essence of the offence committed by Ms. K. is contained within the letter described above.

What led up to the writing of the letter, and the background to Ms. K. becoming a student at the University of Toronto is as follows – all of which is taken from the agreed facts in the case:

¹ University of Toronto, “Code of Behaviour on Academic Matters, 1995”.
(<http://www.utoronto.ca/govcncl/pap/policies/behaveac.html>)

Ms. K. attended Princeton University from September 2002 until February 29, 2004. She applied to “transfer” to the University of Toronto on February 25, 2004 and provided the University of Toronto with, among other documents:

- (a) a letter dated February 25, 2004, addressed to Admissions and Awards, a copy of which is included in the Joint Book of Documents on Penalty at Tab 2 (“Admissions Letter”);
- (b) a petition that Ms. K. stated was prepared and signed by friends of hers supporting her at Princeton University, a copy of which is included in the Joint Book of Documents on Penalty at Tab 3 (“Petition”) and
- (c) a letter dated February 29, 2004, from the Associate Dean of the College at Princeton University to Ms. K., a copy of which is included in the Joint Book of Documents on Penalty at Tab 4.

The University admitted Ms. K. to the University of Toronto at Mississauga in the fall of 2004. At that time, the University granted her certain transfer credits because of her prior studies at Princeton University.

The events that occurred at Princeton are relevant and are set out here as follows in summary.

In the fall of 2004, a student accused Ms. K. of violating the honor code during mid-term examinations. The allegations included that Ms. K. had forged her name overtop of another student’s name, that she had copied from another student during an examination, and that she was responsible for some missing examinations.

The day before Ms. K.’s hearing before the Honor Committee, one of the missing midterm examinations was delivered to Ms. K.’s residence room along with an anonymous note authored by a person who claimed responsibility for the midterm violations. The note was described as follows:

“The day prior to the trial, an anonymous note was delivered along with a missing midterm exam, to Ms. K., whose writer claimed responsibility for the midterm violations that Ms. K. had been charged with by the Honor Committee...A number of sordid aspirations of the writer were expressed in the note, including the aim to gain Ms. K.’s admiration/love by rescuing her from a terrible honor trial situation that the writer himself/herself had caused through the abovementioned actions. Furthermore, the writer’s obsession and stalking habits were detailed in the letter, indicating how he/she accessed the rooms of Ms. K. and her neighbor (with whom the note writer was also infatuated), taking items and homework that were verified by Ms. K. and her neighbor to be missing.”

Ms. K. advised the University of Toronto in the Admissions Letter that:

“The night before my hearing, an anonymous confession letter was dropped off at my dorm room. Though I had no idea where it came from, I brought it to the committee’s attention. The author of the letter admitted to switching students’ papers and claimed that he/she helped students frequently for money. Because the Committee had already in their minds determined

my guilt, they did not give the letter any weight and in fact, used its existence against me, claiming I was guilty of perjury.”

On January 10, 2004, the Honor Committee found Ms. K. guilty of three counts of violating the Princeton University honor code during the mid-term examinations. The Honor Committee concluded that Ms. K. had authored the anonymous note and found that she had committed perjury.

The Honor Committee concluded that she should be expelled from Princeton. Ms. K. appealed the decision to the Dean of Undergraduate Students on the basis of procedural fairness and bias. The Dean dismissed Ms. K.’s appeal.

[The Honor System at Princeton University is different from the way in which the Code is administered at the University of Toronto. The following is a summary of the way the Honor System operates:

Jurisdiction over violations of academic rules and regulations rests with two distinct committees at Princeton University. All written examinations, tests, and quizzes that take place in class are conducted under the honor system. The Undergraduate Honor Committee (“Honor Committee”) investigates and deals with all violations of the honor code. A copy of the Constitution of the Honor Committee is included in the Joint Book of Documents on Penalty at Tab 5. Violations of rules and regulations pertaining to all other academic work, including essays, term papers, and laboratory reports, fall under the jurisdiction of the Faculty/Student Committee on Discipline.

Princeton University does not use examination invigilators to supervise the conduct of its examinations. Examinations are not supervised. The instructor in charge distributes the examination papers, waits for a short time for any questions, and then leaves the room, returning at the end of the stated period to collect the answer books. On each examination paper, the student writes out and signs the following statement: “I pledge my honor that I have not violated the honor code during this examination.”

Article V of the Constitution of the Honor Committee states:

1. Violations of the honor system shall consist of any attempt to receive assistance from written or printed aids, or from any person or papers, or of any attempt to give assistance, whether the one so doing has completed his or her own work or not. This rule holds both inside and outside of the examination room. Other violations include, but are not limited to any attempt to gain an unfair advantage in regard to an examination, such as tampering with a graded exam or claiming another’s work to be one’s own.

2. Violations shall also consist of obtaining or attempting to obtain, previous to any examinations, copies of the examination papers or the questions to appear thereon, or to obtain any illegal knowledge of these questions.]

I. Procedural History and Background

On February 14, 2006, the University of Toronto (“University”) filed charges against Ms. K. under its *Code of Behaviour on Academic Matters* (“Code”). A copy of those charges is included in the Joint Book of Documents at Tab 2 (“Charges”).

The University Tribunal delivered a Notice of Hearing to Ms. K. on April 13, 2006.

The University admitted Ms. K. to the University of Toronto at Mississauga in the fall of 2004. At that time, the University granted Ms. K. certain transfer credits because of her prior studies at Princeton University.

II. Financial Accounting – MGT120 and the Term Tests

In January 2005, Ms. K. enrolled in MGT120, an introduction to the theory and concepts of financial accounting, which was taught by Professor Catherine Seguin (“Financial Accounting”).

On February 9, 2005, Ms. K. wrote a term test worth 25% of the final grade in Financial Accounting. Ms. K. received a mark of 25.5 out of 40 (“Term Test #1”).

On March 23, 2005, Ms. K. wrote a second term test in Financial Accounting that was worth 30% of the final grade. Ms. K. received a grade of 23 out of 55 on Term Test #2 (“Term Test #2” and both of Ms. K.’s tests, collectively, “Term Tests”).

Kathy Falk, a Teaching Assistant in Financial Accounting, recorded both of Ms. K.’s marks. Students in Financial Accounting were able to check their marks using a web-based course management tool called WebCT.

Ms. K. reported that her grades were not recorded accurately

On April 22, 2005, Ms. K. emailed Ms. Falk. A copy of Ms. K.’s email is included in the Joint Book of Documents at Tab 6. Ms. K. stated that she had checked her grades for the Term Tests on WebCT and that they were not recorded accurately. Ms. K. asked Ms. Falk what she could do to correct the “mistake”. Ms K. wrote, in part:

“Hi Kathy.

I’ve never been on WEBCT before to check my accounting marks (since we only had two tests and I knew my marks), but I was online today and a little shocked to see that the grades recorded on WEBCT are not my actual marks!!

Online, it shows my first test is a 25.5/40. This was my original mark, but then you added 3 to my test because my marks weren’t tallied up correctly on my test. I actually got 28.5/40. So I can understand that the first test mark perhaps wasn’t updated on WEBCT yet. However, the second test shows that I received a 23/55!!!! I nearly aced that test with a 49/55!!! In fact, (though I don’t like to admit it), I picked up my test from you in tutorial and left because I lost marks mostly in the multiple choice section and on definitions (first time I’d ever not stayed for the entire tutorial...I’m usually in the front row!). I am concerned only because I am not confident with how well I did on the final...and I need those two test grades to help out my final grade. I’m hoping it’s just a mistake on the computer, but how can I go about getting that changed back? Can I come in to show you the tests or meet with someone in the registrar’s office perhaps? Please do let me know what you think I should do.

Ms. Falk advised Ms. K. to deliver the Term Tests to the Management Department’s office on Monday, April 25, 2005, so that Ms. Falk could review them.

On April 24, 2005, Ms. K. told Ms. Falk in an e-mail that she would deliver the Term Tests as soon as possible. A copy of this e-mail is included in the Joint Book of Documents at Tab 7.

On May 7, 2005, Ms. K. emailed Ms. Falk to inquire about the status of her appeal. Ms. K. stated:

“I’d really appreciate if you could let me know as soon as you can what my new grade will be. I know what my two term test scores were (I still have photocopies of them with me since I gave you the originals), but I don’t know how the final went or what my final grade is.”

Ms. Falk replied that she had never received the Term Tests.

On May 8, 2005, Ms. K. sent an email message to Ms. Falk asking her to check again for the Term Tests and expressed concern over the missing originals. Ms. Falk asked Ms. K. to whom had she given the Term Tests. A copy of this exchange is included in the Joint Book of Documents at Tab 9.

On May 9, 2005, Ms. K. sent a message to Ms. Falk and stated that she slid the original Term Tests under Prof. Seguin’s door in a large white envelope. A copy of Ms. K.’s message is included in the Joint Book of Documents at Tab 10.

On May 10, 2005, Ms. Falk contacted Prof. Seguin regarding the situation. Prof. Seguin asked Ms. K. to bring in the photocopied Term Tests, which she did. A copy of Term Test #1 and Term Test #2 as submitted by Ms. K. for re-grading is included in the Joint Book of Documents at Tab 11 and Tab 12, respectively.

Prof. Seguin and Ms. Falk examined the photocopied Term Tests. The cover of Term Test #1 indicated a score of 28.5 marks, and the cover of Term Test #2 indicated a score of 49 marks. Thus, the Term Tests appeared to be consistent with what Ms. K. told Ms. Falk on April 22, 2005, and were inconsistent with the marks recorded by Ms. Falk and made available through WebCT.

However, Prof. Seguin and Ms. Falk were extremely suspicious of the Term Tests because they thought the marks and the total number of marks recorded on the covers of the Term Tests had been altered.

Despite the efforts of the University, the course instructor was not able to meet with Ms. K. to discuss this matter until August 24, 2005, as Ms. K. was working in New York over the summer.

At 2:00 p.m. on November 2, 2005, Ms. K. met with Professor Roger Beck, the Dean’s Designate for academic offences at the University of Toronto at Mississauga, pursuant to s. C.I.(a)5 of the Code. Professor Beck warned Ms. K., pursuant to s. C.I.(a) 6 of the Code, that anything she said at that meeting could be used or received in evidence against her at the tribunal hearing.

Ms. K. denied altering the Term Tests prior to photocopying them and submitting them for re-grading. Ms. K. maintained that she did bring in her original Term Tests and had placed them under the door of the Management Office.

III. Anonymous Letter and the appearance of Term Test #1

On November 2, 2005, the same day as the meeting with the Dean's Designate, Ms. Falk arrived at her office at 12:05 p.m., opened the door, and found that Ms. K.'s original Term Test #1 had been slid under her door along with an anonymous letter ("Anonymous Letter").

It read:

To Ms. Seguire [sic] and Ms. Faulk [sic] (TA)

Alongside our apology you will find Ms. K.'s [sic] accounting test. Though you may not understand our motives for hurting her we will explain. Both she and _____ took the positions of class representative in our accounting class which we wanted. It looks very good on resume but they got the positions. Upset us greatly that a hindu [sic] girl got the position and not one of us. We came to learn through mutual friends that Ms. K.'s [sic] test scores had been wrongfully entered and heard she was going to drop them off to the office. My friend was able to take her tests as much of the big envelope was sticking out of under the door. This was our duty. She never helped us much like she helped her friends. We both tried to get the two class representatives in trouble during the final exam but ended up being moved away by TAs. God already gave _____ what she deserved by injuring her leg but nothing to Ms. K. We both each [sic] took one of her tests to keep to remind us that we did our duty, but I am coming to realize that this is not right. Her friends speak nicely of her and so I am returning what I have wrongly taken. My friend does not see this the same way and is nonwilling [sic] to return the other one. I do wish there was something I could do in that manner but I can not convince my friend otherwise. InshAllah I will be forgiven. Forgiven by you and Ms. K. and _____ and above all, God himself. I realize she has already been badly hurt by our actions and we misused our relationships with her close friends in order to achieve this. But InshAllah all will be well again. Though we see both of them often, please wish them the best of luck and all the happiness from me. God willing everything will turn out okay.

Thanking you much for your time

Ms. Falk and Prof. Seguin were suspicious of the Anonymous Letter.

Meeting with the Dean's Designate – December 2, 2005

On December 2, 2005, Ms. K. met again with Prof. Beck, the Dean's Designate for academic offences, pursuant to s. C.I.(a)5 of the Code to discuss the Anonymous Letter and the return of the original copy of Term Test #1. Professor Beck warned Ms. K., pursuant to s. C.I.(a)6 of the Code that anything she said at that meeting could be used or received in evidence against her at the tribunal.

Ms. K. denied having anything to do with the Anonymous Letter and stated that Professor Seguin had previously advised her that the photocopied Term Tests could not be re-graded because they were not originals. Ms. K. repeatedly requested that Term Test #1 now be re-graded because the original test had appeared.

Later that day, Ms. K. telephoned Lucy Gaspini, the Executive Assistant in the office of the Dean of the University of Toronto at Mississauga. Ms. Gaspini subsequently sent Ms. K. an e-mail

stating that if she decided to admit committing the offences, she should do so in writing within one week. A copy of Ms. Gaspini's email to Ms. K. is included in the Joint Book of Documents at Tab 14.

On December 15, 2005, Ian Orchard, Vice-President and Principal of the University of Toronto at Mississauga requested that Prof. Edith Hillan consider laying charges against Ms. K. under the Code.

On December 25, 2005, Ms. K. wrote Prof. Beck a lengthy e-mail. A copy of that e-mail is included in the Joint Book of Documents at Tab 15. The message read, in part, as follows:

"Dear Professor Beck,

How are you? I hope this holiday season has been relaxing and enjoyable for you. I hope you can spare a few minutes to read this email and try to understand my position and feelings in the matter. I am writing to you at this time, as I have received a notice from the Dean's office at UTM that my case has been forwarded on to the Proverst [sic]. Firstly, I would like to apologize for not pulling things in writing sooner. I was under a lot of pressure with this case, and with exams at the time.....

Professor Beck, though I feel that an email is not the most appropriate way to deal with this matter, I really needed to tell you a few things. I did want to meet with you without having other faculty and professors around so that I could openly express to you what I had done, and why I had done it. As it stands, a lot of what happened was not my doing, but I no longer deny that I did play a role in a lot of the wrongdoings that occurred. I apologize wholeheartedly, and cannot begin to express in an email how sorry I am for what I did.

I realize what I did was unacceptable. I honestly do....You seemed to be very fair and understanding, and as soon as the meeting was over, I wanted to speak to you and accept responsibility for my actions.

Take care, and I look forward to hearing from you soon.

Warmest wishes,

Ms. K."

Ms. K. admits that:

- a. the marks she earned on the Term Tests were at all times properly recorded on WebCT that is, 25.5 out of 40 on Term Test #1 and 23 out of 55 on Term Test #2;
- b. she did not deliver the original Term Tests for re-grading, in a large white envelope or otherwise in late April or early May 2005;
- c. she misled Ms. Falk on May 7, 8, 9, and 10, 2005, by telling her that she had dropped off her original Term Tests for re-grading;
- d. she altered the original Term Tests and increased the marks to 28.5 out of 40 and 49 out of 55;

- e. she photocopied the altered Term Tests before she re-submitted them in order to make it more difficult to detect her alterations;
- f. she submitted the altered Term Tests to attempt to obtain higher marks and an undeserved academic advantage;
- g. she lied to the Dean's Designate on November 2, 2005, when she stated that she had delivered the original Term Tests to Ms. Falk;
- h. she wrote the Anonymous Letter and did so to explain the reappearance of the original (but altered) Term Test #1, which she wanted Prof. Seguin to re-grade;
- i. she slid the Anonymous Letter and the original (but altered) Term Test #1 under Ms. Falk's door on November 2, 2005; and
- j. she lied to the Dean's Designate on December 2, 2005, when she said that she had nothing to do with the Anonymous Letter.

When she appeared before the University Tribunal, Ms. K. pleaded guilty to charges #1, 4 and 7 of the Charges.

She admitted she is guilty of charge #1 and that she committed an offence contrary to B.i.1(a) of the *Code* because she knowingly forged, altered, and falsified Term Test #1 and that she knowingly uttered, circulated and made use of that forged, altered and falsified version of Term Test #1.

She admitted she is guilty of charge #1 and that she committed an offence contrary to B.i.1(a) of the *Code* because she knowingly forged, altered, and falsified Term Test #2 and that she knowingly uttered, circulated and made use of that forged, altered and falsified version of Term, Test #2.

She admitted she is guilty of charge #1 and that she committed an offence contrary to B.i.1(a) of the *Code* because she knowingly forged the Anonymous Letter and that she knowingly uttered, circulated and made use of that forged Anonymous Letter.

The focus of the submissions of Ms. K. related to her entitlement to a "second chance". The position of Ms. K. was that she was demonstrably chastened by the events, that she was sorry for having committed the offences, and that she was entitled to be given a "second chance".

The words "second chance" are in quotations because within the case law collected by the Tribunal, the concept of a "second chance" is central to discussions of appropriate penalty. It may be useful to consider those principles that apply to considerations of when a "second chance" should be considered in relation to penalties to be imposed.

The concept of second chance relates to the principle that an individual who displays flawed behaviour is entitled to reflect upon the error of their ways, integrate the error, and be given an opportunity to demonstrate that their views and their character is, in essence, reformed. The idea of reform is central to the principles of enlightened sanctioning. The factors that relate to sanction form a consistent theme in penalty reasoning, evolving from the "Mr. C.". It is common

ground that those factors inform the penalty phase in any argument, and are important for a tribunal to consider in the penalty phase.

The evidence of Ms. K. did not give rise to any suggestion or conclusion that such sober reflection had indeed taken place – in fact, her evidence was suggestive of a re-visitation of events both at Princeton and at the University of Toronto – with a view to showing that she was both not at fault and that she had been somehow wronged by the process (at least at Princeton).

The only other evidence given was that of the witness who gave his evidence in writing, and who responded to questions arising from Mr. Centa. The witness wrote fulsomely on the topic of the need for a “second chance”. But, he was unaware of the full nature of the case and the facts both as background to the instant situation and the complete facts related to this situation.

The offences that have been admitted by Ms. K. are, in the view of the tribunal, of a kind that attracts the need for a deterrent message. The effect of these offences is to promote a poisoned environment in the University and to “fan the flames of religious intolerance and hatred” (as it was put by University counsel). The offences as a whole, constitute a clear case of premeditated, calculating, deliberate and intentional acts, designed to obtain an advantage by the most pernicious means – namely the promotion of racial hatred, racial stereotyping, and the further insertion of Ms. K. (the author of the acts and the offending letter) into the situation, cast as a victim of such racial hatred.

Of any case that speaks to the need for the effects of the expulsion sanction it is this one. Aside altogether from the manufacturing of the documents that took place and aside altogether from the tortuous history of revision and retrenchment of fact that was admitted to have occurred, it is striking, that (as was observed by counsel for the University), the entirety of the fabrication depended, for its force, on the stirring up of racial hatred – namely retaliation by Muslim students against a Hindu. For the university to thrive in a free and open environment, for the encouragement of the open exchange of ideas, it is critical that any scintilla of racial antagonism, any flavour of racial hate, be sanctioned.

For all of these reasons it is the unanimous decision of the panel that:

1. pursuant to C.ii.(b).1.(g) the Tribunal assigns the sanction of a grade of 0 in the course MGT120H5
2. pursuant to C.ii.(b).1.(i) the Tribunal recommends to the President that the President recommend to the Governing Council that the Student be expelled from the University; that the Student be denied any further registration in courses at the University of Toronto; and that the expulsion be permanently recorded on the Student’s transcript and academic record.
3. pursuant to C.ii.(b).3 the Tribunal will report this case to the Provost and will request that the Provost exercise his/her discretion in favour of publishing a notice of the decision of the Tribunal and the sanctions it imposed in the University newspaper with the name of the Student withheld.