UNIVERSITY OF
TORONTO

UNIVERSITY TRIBUNAL – TRIAL DIVISION
SUMMARIES OF KEY PRINCIPLES

(including Discipline Appeals Board decisions)

2000 – Present

This document is updated on a monthly basis

Prepared by Governing Council's Office of Appeals, Discipline and Faculty Grievances

INSTRUCTIONS

This document contains summaries of reasons for decisions that highlight key principles. Each summary includes a bolded section, which is a snapshot of the key points, as well as certain keywords or principles that are underlined. The example below shows that the case is significant because of the Panel's comments on "second chance principles" and "racial antagonism":

> **Trial Division - *s. B.i.1(a)* of *Code* – forged documents – altered term tests resubmitted and forged letter alleging racial discrimination – previous expulsion from another university for similar misconduct – guilty plea – second chance principles – no evidence that Student reflected on conduct - premeditated calculating deliberate and intentional acts - fabrication depended on promotion of racial hatred and stereotyping - racial antagonism – recommendation that the Student be expelled, as per *s. C.ii.(b)(i)* of *Code*; permanent notation on transcript; report to Provost**

A case can be unique for more than one reason. Thus, a summary may be duplicated and found in more than one section. For example, a plagiarism case that results in a recommendation of expulsion may be found in two different sections: plagiarism and recommendation of expulsion.

Some cases may have been appealed to the Discipline Appeals Board (DAB). If a trial division case had been appealed to the DAB, the summary will indicate this and state the result of the appeal. Since many DAB decisions may have precedential value and will need to be easily accessed, they can be found in the Appendix.

Finally, for ease of use, there is interlinking throughout this document, including to the reasons for decision.

If you have any questions or concerns, please do not hesitate to contact us (https://governingcouncil.utoronto.ca/about-adfg-office/who-we-are).

Christopher Lang
Director, Appeals, Discipline and Faculty Grievances

TRIAL DIVISION AND DISCIPLINE APPEALS BOARD DECISIONS: 2000-PRESENT

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DAB = Discipline Appeals Board decisions

ALTERED TESTS RESUBMITTED

FILE: Case #494 (07-08)
DATE: information not available
PARTIES: University of Toronto v R.K.

Hearing Date(s):
information not available
(charges laid on February 14, 2006)

Panel Members:
Julie Hannaford, Chair
Sarah King, Faculty Member
Candace Ikeda-Douglas, Student Member

Appearances
Robert Centa, Assistant Discipline Counsel
R.K., the Student

In Attendance:
Roger Beck, Professor
Lucy Gaspini, Manager, Academic Integrity and Affairs
The Student's Parents

Trial Division - *s. B.i.1(a)* of *Code* – forged documents – altered term tests resubmitted and forged letter alleging racial discrimination – previous expulsion from another university for similar misconduct – guilty plea – second chance principles – no evidence that Student reflected on conduct - premeditated calculating deliberate and intentional acts - fabrication depended on promotion of racial hatred and stereotyping - racial antagonism – recommendation that the Student be expelled, as per *s. C.ii.(b)(i)* of *Code*; permanent notation on transcript; report to Provost

Student charged under *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student altered and submitted two term tests for remarking, and that she forged and submitted an anonymous letter which purported to be authored by another Student and which described the Student as being the victim of racial discrimination. The Student pleaded guilty to the charges. The Student had previously been expelled from an American university for violating the university's mid-term examination honor code, authoring a similarly racially discriminatory anonymous note, and for committing perjury. The Panel found the Student guilty of three offences under *s. B.i.1(a)* of the *Code*. The Student claimed that she was chastened by the events and she apologized for committing the offences, and argued that she was entitled to a "second chance." The Panel considered the principles that applied to considerations of when a "second chance" should be considered in relation to penalties to be imposed. The Panel observed that the concept of "second chance" related 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 reformed. The Panel found that the Student's evidence did not demonstrate that she had reflected on the error of her ways. The Panel considered the evidence of the Student's witness and found that he was unaware of the full nature of the case and the background and complete facts related to the situation. The Panel found that the Student's misconduct constituted a case of premeditated, calculating, deliberate and intentional acts, designed to obtain an advantage by the promotion of racial hatred, racial stereotyping, and the insertion of the Student into the situation, cast as a victim of racial hatred. The Panel found that the Student's fabrication depended on the stirring up of racial hatred, and that all racial antagonism must be sanctioned. The Panel imposed a recommendation to the President that the Student be expelled, further to *s. C.ii.(b)(i)* of the *Code*; a permanent notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #632 (11-12)
DATE: November 10, 2011
PARTIES: University of Toronto v Z.M.

Hearing Date(s):
October 19, 2011

Panel Members:
Clifford Lax, Chair
Markus Bussmann, Faculty Member
Alice Kim, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Kenneth Raddatz, Counsel for the Student, DLS

In Attendance:

Z.M., the Student
G. Scott Graham, Dean's Designate
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – falsified marks on a mid-term test – Agreed Statement of Facts – guilty plea – finding of guilt based on agreed statement of facts – Student proposed a two-year suspension with permission to resume classes after one year – Student submitted that a suspension of greater than two years would amount to an effective expulsion due to personal reasons – prior offence of similar nature – Panel stated that if Student was unable to resume, then she has only herself to blame – permission to attend classes while under suspension contravenes the *Code* – grade assignment of zero for course; three-year suspension; four-year notation on transcript or until graduation; report to Provost

Student charged under *s. B.i.1(a)* of the *Code*. The charge related to allegations that the Student falsified marks on her mid-term test. After receiving her test back, the Student falsely claimed that there appeared to be a typographical error and asked her professor to contact the TA. The Student then submitted her test, smudged and discoloured, to the TA, claiming that her lab partner spilled onto her papers. The TA did not believe that he was reviewing the same test, and the Student, after offering a variety of explanations, admitted at the meeting with the Dean's Designate altering the marks. The Student pleaded guilty to the charge, and the Panel found the Student guilty under *s. B.i.1(a)*. The Student submitted that she should be suspended for two-years with permission to attend classes after one year, provided that her marks would be withheld until the two year suspension had been completed. The Student also submitted that a suspension greater than two years would amount to an effective expulsion because she was to be married and in her culture, it was extremely unlikely that her husband would permit her to continue to be a student. The Panel stated that it was not convinced that the Student would be unable to complete her studies once the period of suspension has ended and that if the Student would be unable to resume because of external factors, she had only herself to blame. The Panel also stated that the language in the *Code* specifically required the Student to be suspended from any form of attendance. Therefore, a permission to attend classes while under suspension contravened the *Code*. In considering precedents, the Panel found *M.S.* (Case 542) and *S.M.* (Case 478), in which the student was suspended for three-years, to be applicable to this case. In both *S.M.* and this case, the sanction was aggravated by a prior academic offence of the same nature. The Student had previously been cautioned in writing for falsifying data in her lab report in another course. The Panel imposed a grade assignment of zero in the course; a three-year suspension; a four-year notation on transcript or until graduation, whichever was to occur first; and a report be issued to the Provost.

FILE: Case #684 (12-13) Finding; Sanction
DATE: June 11, 2013
PARTIES: University of Toronto v C.M.

Hearing Date(s):
February 20, 2013
May 2, 2013

Panel Members:
Lisa Brownstone, Chair
Pascal van Lieshout, Faculty Member
Yingxiang Li, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Assistant Discipline Counsel
C.M, the Student
Stewart Aitchison, Professor
Nick Carriere, Teaching Assistant
Alex Wong, Teaching Assistant
John Carter, Dean's Designate
Diane Kruger, Forensic Document Examiner

In Attendance:
Adam Goodman, to advise student, not on record (Feb. 20, 2013)
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

NOTE: Sanction overturned on appeal.

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – submitted another student's test as Student's own – Student's expert's report submitted minutes before trial unsigned and in draft form –Student could not cross examine University expert on the contents of Student's expert report where Student's expert did not attend hearing – Student retracted admission made at Dean's Meeting – Student did not sign anything at Dean's Meeting – Panel held retracted admission was of limited assistance because it was possible the Student did not genuinely intend to plead guilty – finding of guilt – evidence against Student was substantial and unambiguous – offence was serious – no mitigating factors – Student implicated professor and TA as having presented fabricated evidence – not an aggravating factor for the Student to criticize the system; students must be free to comment without fear – grade assignment of zero in the course; recommendation that the Student be expelled; suspension lasting five years or until Governing Council makes decision on expulsion; report to Provost for publication

Student charged with one offence under *s. B.i.1(a)*. Student was charged in the alternative with one offence under *s. B.i.3(a)* and in the further alternative, with one offence under *s. B.i.3(b)*. The charges related to an allegation that the Student advised the professor a test mark was erroneously recorded as a zero and altered and submitted to the professor another student's test claiming it to be the Student's own. The Student attended the hearing. The Student was accompanied at the hearing by the Student's former counsel who was not on the record but had come to provide the Student with advice.

Both the Student and the University had retained their own forensic document examiners. A week prior to the hearing, an order was made by a Proceedings Chair that University counsel was to deliver the University's expert report by February 13, 2013. The Proceedings Chair also held that if the Student's expert did not attend the hearing, the evidence of the Student's expert would not be admitted. The Student received a report from a forensic document examiner in Michigan on February 18, 2013. No arrangements were made to have the expert appear in person or by video conference. The Student delivered the report to University counsel, unsigned and in draft form, minutes before the hearing on February 20, 2013. The Student attempted to cross examine the University's expert on the contents of the report prepared by the Student's expert. University counsel objected and the Panel ruled that the Student could ask questions based on information learned from the report of his expert, but that the Student could not tender the report as evidence, nor refer to the report in cross-examination.

The Panel determined that the evidence that the Student did not write the test was substantial and unambiguous. The Panel found that the emails between the Student and the TA were sent from the Student, notwithstanding the Student's attempts to characterize these emails as abnormal. The Panel stated that the contents of the email the Student sent to the TA and the email the student provided to the professor, along with the Student's desire to keep the original test paper, all supported the University's allegations. The Panel accepted the evidence of the University's expert and concluded that there was no doubt that the Student's name and student number had been written over top of those of the original student's whose test had been altered. The Panel held that the admission made by the Student at the Dean's Meeting was of limited assistance. The Student had retracted the admission and the Panel agreed that it was possible that the Student had never meant to plead guilty and had only said "yes" to "get it over with." The Student had not signed any documents at the Dean's Meeting. The Panel concluded that the standard of proof set out in *F.H. v McDougall* was met and found the Student guilty of the offence alleged under *s. B.i.1(a)* of the Code.

The sanction phase of the hearing occurred on a separate day. At the sanction phase the Student sought to introduce a variety of documents relevant to liability. The Panel considered whether it was appropriate to reconsider liability at the sanction phase. The Panel observed the existence of a broad right of appeal wherein fresh evidence may sometimes be admitted. The Panel noted that the right of reconsideration is never explicitly addressed in either the Code or the Rules. The Panel also stated that it was unclear whether it had jurisdiction to reconsider liability at the sanction phase, after considering the *Statutory Powers and Procedure Act* and the Rules. The Panel concluded that even if it had this jurisdiction, it would not exercise its discretion to admit new materials relevant only to the issue of liability at this stage given the full hearing had already occurred, the Student had access to counsel at the hearing, and all the information the Student wished the Panel to consider had been available to the Student at the time of the initial hearing.
The Panel underscored the seriousness of the offence and noted that there was a high degree of planning and deliberation involved. The Panel observed that there was no evidence of mitigating factors and was concerned that the Student had implicated one of the TAs and the professor by suggesting they either fabricated or possessed "bogus" emails. The Panel disagreed, however, with the University's submission that it was an aggravating factor for the Student to suggest that there was a problem with "the system." The Panel concluded that this suggestion was not sufficient to call into question the University's integrity and students must be able to bring forward concerns about the systems in

place without fear of those concerns being cast as aggravating factors. The Panel imposed a final grade of zero in the course, a recommendation that the Student be expelled from the University, a suspension of five years or until the Governing Council makes a decision on expulsion, whichever comes first, and ordered that the case be reported to the Provost for publication.

FILE: Case #713 (13-14)
DATE: March 28, 2014
PARTIES: University of Toronto v A.K.

Hearing Date(s):
October 22, 2013

Panel Members:
Julie Rosenthal, Chair
Maria Rozakis-Adcock, Faculty Member
Afshin Ameri, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Damon Chevrier, Registrar, St. Michael's College
Janice Patterson, Legal Assistant, Palaire Rolland Barristers

In Attendance:
Kristi Gourlay, Manager of Office of Academic Integrity, Faculty of Arts and Science
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Not In Attendance:
The Student

Trial Division – *s. B.i.1(a)* and *B.i.3(b)* of the *Code* – falsified documents and documents with falsified information – academic accommodation sought – document purporting to be doctor's medical certificate – personal statement misrepresenting illness – Student did not attend hearing – Student given reasonable notice of Hearing - misrepresentations in the letter fell under *s. B.i.1(a)* as letter was not forged, rather it contained falsified information – finding of guilt – grade of zero in courses at issue; five-year suspension; recommendation that the Student be expelled; report to Provost for publication

The Trial Division of the Tribunal held a hearing on October 22, 2013 to consider charges brought by the University against the Student under the *Code of Behaviour on Academic Matters*. The Student did not attend the hearing but the University produced an affidavit establishing that the Student had received reasonable notice. The Tribunal determined that it was appropriate to proceed.

Student charged with six offences under *s. B.i.1(a)* and, in the alternative, one charge *s. B.i.3(b)* of the Code. The charges related to allegations that the student had falsified several documents, namely one personal statement and five University of Toronto Student Medical Certificates, in support of a request for academic accommodation.

The University called one witness, the Registrar at St. Michael's College. The Witness explained that he had received a petition form and supporting letter, (required documents to obtain accommodations), to defer a final exam and further defer two exams for which a deferral had already been granted from the Student. The documents described the Student's illness and were signed by a doctor. The Witness reviewed and forwarded the documents to the central office of the Faculty of Arts and Science who refused the Student's petition as the dates of the exams were "unreasonably apart." The Witness received a petition for appeal from the Student five months later consisting of a completed petition form, an Absent Declaration letter and several University of Toronto Student Medical Certificates, four signed by a doctor in Toronto and one by doctor in New York. The Witness noticed inconsistencies between the petition and appeal documents with the number of physicians visited, dates the Medical Certificates were signed and language and writing style used by the doctors. The Witness was suspicious and researched both doctors who had allegedly signed the certificates. He found that the Toronto doctor did not exist and the New York doctor had never met the Student. The Witness emailed the Student expressing his belief that the certificates were "not legitimate." The Panel accepted the

Witness' evidence as to the information obtained as a result of his investigation but attached no weight to his personal views as to whether the certificates were falsified.

The Panel found that the five medical certificates were falsified within the meaning of *s. B.i.1(a)* of the Code and that the Student knowingly engaged in a form of fraud or misrepresentation contrary to *s. B.i.3(b)* of the Code in submitting the "Absent Declaration letter." The Panel noted that the misrepresentations included the number of times he had seen a physician and attaching certificates with falsified information. The University argued that the misrepresentations in the letter fell under s. *B.i.1(a)* however the letter itself was not forged, rather the information it contained was falsified.

The University sought a penalty including a grade of zero in the three courses, a recommendation of expulsion, a suspension of five years and that the matter be reported to the Provost. The Panel looked to the principles and factors described in *University of Toronto and Mr. C.* (November 5, 1976/77-3) in considering the appropriate penalty. Little was known about the Student's character, save that he did not appear at the hearing and showed no signs of remorse. While it was the Student's first offence it was very serious and the Panel was not aware of any extenuating circumstances. The Panel also weighed the detriment to the University and the need to deter others from committing the same offence. The Panel considered several cases in which the penalty for forging medical documents was expulsion. There were some forgery cases in which a five year suspension was imposed, but the Panel noted that in those cases the students had admitted their guilt.

The Panel assigned a grade of zero in the three courses at issue, recommended that the Student be expelled from the University, imposed a five-year suspension and ordered that the case be reported to the Provost for publication.

FORGED MEDICAL NOTE / OFFICIAL DOCUMENTS

FILE: Case #03-04-02 (03-04)
DATE: April 16, 2004
PARTIES: University of Toronto v Mr. P.

Hearing Date(s):
January 28, 2003
February 4, 2004
March 31, 2004

Panel Members:
Michael Hines, Co-Chair
Arthur Silver, Faculty Member
Cynthia Wesley-Esquimaux, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Gleb Bazov, Counsel for the Student, DLS
Paul Holmes, Judicial Affairs Officer
Betty-Ann Campbell, Law Clerk to Ms. Harmer
Rosenberg Rothstein LLP
Mr. P., the Student

Note: Expulsion overturned on appeal.

Trial Division - *s. B.i.1(a)* of *Code* – forged documents – forged letters, forged Motor Vehicle Accident Report, false information and forged fax in support of false information – two courses – hearing not attended – hearing adjourned to locate Student and serve notice of hearing – guilty plea – Agreed Statement of Facts - credibility doubted and testimony unreliable - egregious and reprehensible actions – repeated lies to professors, forgery of documents and implication of third party – clear and calculating attempt to avoid full accountability - events a reaction to stress of learning about becoming a father - lies began before learning about becoming a father – inconsistencies between character and core values of University not made up by possibility of success in meeting acceptable academic threshold - University submission on penalty accepted - grade assignment of zero for two courses; recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; five-year suspension pending expulsion decision; and report to Provost

Student charged with five offences under *s. B.i.1(a)*, and alternatively, five offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student provided two forged letters and a forged Motor Vehicle Accident Report in support of a request to write a make-up lab final test in one course, and that the Student provided false information supporting his absence from a term exam in another course and a forged handwritten fax in support of the false information. Neither the Student nor counsel for the Student were present at the hearing. The Panel considered evidence that that there was a possibility that the Student no longer resided in Canada and found that it was appropriate to adjourn the hearing to make further efforts to locate and serve the Student with notice of the hearing. At the reconvened hearing, the Student pleaded guilty to the charges. The parties submitted an Agreed Statement of Facts. The Panel considered the Agreed Statement of Facts and the submissions of counsel and accepted the guilty plea. The Panel doubted the Student's credibility and found his testimony unreliable. The Panel found that the Student's actions were egregious and reprehensible. The Panel found that the Student lied repeatedly to his professors, forged numerous documents, implicated other organizations, including a police service and while admitting wrongdoing to the Dean in one case, he continued to lie about another in a clear and calculating attempt to avoid full accountability. The Panel considered the Student's submission that he was a changed person as a result of the birth of his son and that at the time of the events in question he was reacting to the stress of learning he was to become a father. The Panel found that the Student's lies began one month before he learned that he was to become a father. The Panel observed that stresses resulting from learning about becoming a father do not end with the birth of one's child. The Panel stated its discomfort with the prospect of the Student having to cope with future difficulties. The Panel considered the Student's academic history and status and found that his proximity to obtaining his degree was not a relevant factor to consider. The fact that the Student could have succeeded in meeting an acceptable academic threshold did not make up for the inconsistencies between his character and the core values of the University. The Panel accepted the University's submission on penalty and imposed a mark of zero in the two courses; a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; and that a report be issued to the Provost.

FILE: Case #516 (08-09)
DATE: April 22, 2009
PARTIES: University of Toronto v. Mr. A.B.

Panel Members:
Julie Hannaford, Chair
Marc Lewis, Faculty Member

Alex Kenjeev, Student Member

Hearing Date(s):
information not available

Appearances:
Robert Centa, Assistant Discipline Counsel
Kristi Gourlay, Manager, Office of Academic Integrity
Max Shapiro, Counsel for the Student, DLS
A.B., the Student

Trial Division – *s. B.i.1(d)* and *ss. B.i.1(a)* of *Code* – plagiarism and forged documents – course work, Medical Certificate and *Accessibility Services* Note – guilty plea to charges under *s. B.i.1(d)* – charges under *s.B.i.1(a)* denied – third party implicated – explanation of events not supported by evidence – finding of guilt – penalty hearings not attended – high likelihood of repetition of offence and little prospect of rehabilitation – no insight or remorse – grade assignment of zero for course; recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; and report to Provost – submissions on costs requested – jurisdiction to award costs – see *s. C.II.(a)17(b)* of the *Code* – awarding of costs not appropriate in case

The Student was charged with two offences under *s. B.i.1(d)*, and two offences under of *s. B.i.1(a)* and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to alleged acts of plagiarism contained in two subsequent essays submitted for the same assignment in one course, and the alleged acts of forging or altering a University Medical Certificate and a letter purportedly from the University *Accessibility Services*, both of which were submitted with the first essay. The Student pleaded guilty to the charges under *s. B.i.1(d)* of the *Code*. The Tribunal heard evidence in respect to the remaining charges under *s. B.i.1(a)* and *B.i.3(b)* of the *Code*. The Student did not dispute that the two versions of the essay were plagiarized. The Panel found that the Student's account of the events had changed over the course of the hearing but that the Student's proposition was that a third party had altered and submitted the Student's first essay along with a letter from the University's *Accessibility Services* and created a false Medical Certificate, both of which were designed to extend the time for delivery of a paper by the Student. When meeting with the course professor to discuss concerns about the first essay, the Student submitted a second version of the essay which he said should have been originally submitted. After the meeting, the Student submitted a third version of the essay via email, which the Student claimed was the essay that he had intended to submit all along. The Panel found that the Student's explanation of the events was not supported by the analysis of the USB key on which the paper was composed or by the computer logs at the University library where the Student claimed the paper was composed. The analysis of the USB key demonstrated that the first and second essays underwent significant alterations in order to disguise the existence of plagiarism and that the third essay was not created until after the Student's meeting with the course professor. The Panel found that the Student submitted plagiarized work, altered an *Accessibility Services* Note and a Medical Certificate, repeatedly denied doing the acts and implicated other innocent individuals in the acts. The Panel found that the Student was guilty of all the offences for which he was charged. The Student did not attend either of the two penalty hearing scheduled to accommodate him. In reaching its decision, the Panel focused on the fact that there were four acts which gave rise to the conviction, that the four acts all occurred within a short timeframe, that the second plagiarized essay was submitted at a meeting held to discuss plagiarism concerns and that the four acts were part of a pattern. The Panel observed that the intertwined use and abuse of the *Accessibility Services* by the Student, together with the repeated plagiarism, played a significant role in its consideration of the likelihood of a repetition of an offence by the Student. The Panel observed that when a Student engages in both plagiarism and a misuse of the University policy related to accommodation of students, and when, in addition, the student in defense implicates another student, the need for deterrence becomes important. The Panel found that the Student demonstrated no insight or remorse for the charges he was found, or for which he had pleaded, guilty. The Panel found that there was a high likelihood that the Student would repeat the offence and that there was little to no prospect of rehabilitation. The Panel imposed a grade assignment of zero in the course; a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; and that a report be issued to the Provost. Submissions as to costs were requested by a member of the Panel. In its submissions on costs, the University submitted that, as per *s. C.II.(a)17(b)* of the *Code*, the Panel has jurisdiction to award costs and that the Panel had exercised that jurisdiction recently, but that in the circumstances of the case the University did not request the Panel to do so. The Panel agreed with the University that the awarding of costs was not appropriate in the case.

FILE: Case #450 (09-10)
DATE: July 17, 2009
PARTIES: University of Toronto v R.A.

Panel Members:
Rodica David, Chair
Melanie Woodin, Faculty Member

Joan Saary, Student Member

Hearing Date(s):
May 5, 2008

Appearances:
Lily Harmer, Assistant Discipline Counsel

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – forged and submitted a letter of admissions in support of an application for student loan – hearing not attended – Agreed Statement of Facts – finding of guilt – Joint Submission on Penalty – two previous offences – negative finding on character as Student committed offences in three consecutive years – offence was deliberate and planned – University should not be implicated in criminal behaviour – no extenuating circumstances; Student had other options – strong need for deterrence considering the potential damage to the University's reputation – Panel accepted the JSP – recommendation that the Student be expelled; five-year suspension; report to Provost

Student charged under *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student forged and submitted a letter of admissions to the Royal Bank of Canada as supporting documentation for a student loan. The Student did not attend the hearing. The parties submitted an Agreed Statement of Facts and a Joint Submission on Penalty. The Panel found the Student guilty under *s. B.i.1(a)*. The Panel noted that the Student had two previous offences on which she received relatively lenient sanctions and found that it was a mark of her character that she committed offences in three consecutive years. The Panel stated that the action that the Student took was clearly deliberate and must have involved a significant amount of thought. In discussing the nature of the offence, the Panel stated its view that an attempt to get money from a bank with a forged document could have potential consequences with criminal charges laid. As such, this was an extremely serious offence as it affected the public reputation of the University and that the University should not be implicated in behaviour that could be considered criminal. The Panel found that there were no extenuating circumstances. If the Student did not have the fund to continue her studies, she had many other options including speaking with a faculty member, working part-time, and taking a year off. The Panel also expressed its doubt as to whether the Student actually lacked the funds. The Panel found the need for deterrence to be very strong considering the potential damage to the University's reputation. Based on its discussion of all of the factors, the Panel accepted the Joint Submission of Penalty and imposed a recommendation that the Student be expelled; a five-year suspension; and a report be issued to the Provost.

FILE: Case #606 (11-12)
DATE: February 14, 2012
PARTIES: University of Toronto v A.L.

Panel Members:
Clifford Lax, Chair
Miriam Diamond, Faculty Member
Chris Feng, Student Member

Hearing Date(s):
December 5, 2011
January 17, 2012

Appearances:
Lily Harmer, Assistant Discipline Counsel
Glenroy Bastien, Counsel for the Student
Eleanor Irwin, Dean's Designate
Vincent Murphy, Psychologist

In Attendance:
A.L., the Student
Deepshika Dutt
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Note: Overturned on appeal.

Trial Division – *s. B.i.1(a)* and *s. B.i.3(a)* of *Code* – forged documents – submitted forged transcript to ten employers; claimed to have received scholarship and a study skills success certificate – guilty plea – finding of guilt – Panel rejected that a learning disability can partially justify the misconduct – it had not been proven that expulsion had a greater deterrent effect than a five-year suspension – embarrassment of having to explain formed part of the deterrent effect – statement of remorse relevant but would have been more relevant if it had come at an earlier stage – no prior academic offence – Panel considered *CHK* and *A.K.G.* – for students with no prior offence, expulsion was not the only justifiable sanction – Board in *A.K.G.* imposed a five-year

suspension for a similar offence; the student did not attend hearing – a more severe sanction was not justified in this case – Student's psychologist's testimony – Student attended the hearing, giving Panel an opportunity to assess his character – five-year suspension; five-year notation on transcript; report to Provost – Panel recommended names of guilty students be disclosed

Student charged under *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code*. The charges related to allegations that the Student submitted his forged transcript to ten employers and falsely claimed to have received an entrance scholarship and a study skills success certificate. The Student pleaded guilty to the charges. The Panel found the Student guilty under *s. B.i.1(a)* and *s. B.i.3(a)*. The Student submitted that he suffered from a learning disability and met the criteria for ADHD. The Panel rejected that such suffering from a learning disability can partially justify the misconduct as the misconduct was willful and deliberate and displayed none of the traits associated with ADHD or a learning disability. The Panel considered a five-year suspension to be a more appr/opriate sanction even though the University sought expulsion. The Panel found that it was not proven that the deterrent effect of expulsion exceeded that of a five-year suspension: there was no scientific evidence. Also, the embarrassment of having to explain the gap between the end of studies and his graduation would act as a deterrent. In fact, if deterrence is the prime justification for expulsion, then serious sanctions should result in naming the guilty student rather than using initials to grant the student anonymity as the practice would reduce the effectiveness of deterrence. The Panel found the statement of remorse by the Student to be relevant but it would have had a larger effect if it had come at an earlier stage. The factors that the Panel considered in imposing a five-year suspension were (1) the Student had not committed any prior offence; (2) even though he submitted the transcript to ten employers, all ten instances were part of one continuing offence; (3) the Student in fact had completed sufficient academic credits to earn a degree; and (4) there was credible evidence that the Student felt significant remorse for his actions and was motivated to learn from his mistake. As for prior decisions, the Panel considered *CHK* (Case No. 596, 597 & 598) and found that expulsion was not the only justifiable sanction for serious offences without a previous academic offence. The Panel did not consider prior decisions involving joint submissions as joint submissions indicated students' agreement to the sanction and thus were not useful precedents. The Panel specifically focused on *A.K.G.* (Case No. 508). In *A.K.G.*, the student submitted his forged transcript to employers but his offence was not discovered until after graduation. He did not attend the hearing, and the Board suspended his degree for five years and entered a permanent notation on his transcript. The Panel stated that if a five-year suspension was an appropriate sanction for *A.K.G.*, a more severe sanction was not justified in this case, in which the Student attended the hearing, giving the Panel an opportunity to assess his character. The Panel accepted the Student's psychologist's testimony that the Student described his behaviour as a "significant lapse in judgment," these charges acted "as a huge wake-up call," and that he had learned from his mistake. The Panel imposed a five-year suspension; a five-year notation; and a report be issued to the Provost. Finally, the Panel reiterated its recommendation that names of students who were suspended or expelled be disclosed.

FILE: Case #628 (11-12)
DATE: May 23, 2012
PARTIES: University of Toronto v Y.Z.

Hearing Date(s):
March 28, 2012
April 5, 2012

Panel Members:
Rodica David, Chair
Graeme Hirst, Faculty Member
Susan Mazzatto, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Y.Z., the Student
Michael Nicholson, Associate Registrar
Kristi Gourlay, Manager, Office of Academic Integrity
Don Dewees, Dean's Designate

In Attendance:
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – purchased and submitted a forged medical certificate and a physician's letter to defer an exam; also charged with aiding or abetting to falsify evidence – Student attempted to give evidence in his closing argument; Panel allowed it – Student argued that he should not be found guilty because the charges were all the subject matter of one single charge of forging his petition and

<u>the University could not prove that his petition was falsified as he was actually ill – *s. B.i.1(a)* referred to "any document" implying that each document could be a subject of a separate charge</u> – Student pleaded guilty to falsifying the documents and pleaded not guilty to aiding and abetting – the commercial provider left a voicemail to falsify evidence by pretending to be a doctor's assistant – Student knew or ought to have known that the provider would take action – finding of guilt – premeditated and egregious – wasted University resources – there can be no excuse for submitting false documents – importance of deterrence – mitigating factors – grade assignment of zero for course; four-year suspension; four-year notation on transcript; report to Provost

Student charged under *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student submitted a forged medical certificate and a physician's letter to defer an exam and aided or abetted another person in falsifying evidence. The Student attempted to give evidence in his closing argument, and the Panel allowed it. The Student argued that the charges relating to forging a medical certificate and a physician's letter should have been the subject matter of a single charge of forging the petition. The Student further argued that because it could not be proven that the petition itself was false as he was actually ill, he should not be found guilty. The Panel rejected this argument because "any document" in *s.B.i.1(a)* of the *Code* must be interpreted to mean that each document could be the subject of a separate charge. The Panel also noted that the Student pleaded guilty to the charges without objection until his closing argument. As to the charge relating to aiding and abetting, the Student pleaded not guilty. The Student had purchased the medical certificate and the letter from a commercial provider through internet. When the Student was under investigation, he contacted the service provider who assured him that "he would take care of it." The provider left a voicemail on the Associate Registrar's phone purporting to be the doctor's assistant. Although the Student claimed that he did not know that the provider would do such a thing and thus he did not knowingly aid and abet, the Panel stated that it was immaterial whether the Student knew the exact method by which the provider would "take care of it." The Panel found that the Student knew or ought to have known that the provider would take some actions to confirm the authenticity of the false evidence. The Panel found the Student guilty of all charges under *s. B.i.1(a)*. The Panel stated that the Student's conduct was premeditated and egregious and required the University to spend considerable resources on an investigation. Also, the Panel found that it was not a mitigating factor that the Student chose to purchase the certificate and the letter after speaking with his family physician, because he thought that he would not be able to get a medical certificate in time. The Panel stated that there could be no excuses for submitting false documents. The Panel expressed its concern about the availability of this type of commercial enterprise and emphasized the importance of deterrence. The Panel also stated that the Student, instead of expressing remorse, tried to excuse his misconduct. However, the Panel recognized that there were mitigating factors: (a) he pleaded guilty to two of the charges, (b) he had no previous convictions, (c) the University failed to establish that he was not actually ill, and (d) all three offences related to the one transaction. The Panel also noted that the Student had enough credits to graduate and his ability to graduate had been deferred by one and a half years as a result of the charges. The University was seeking a five-year suspension and a six-year notation. However, in consideration of these mitigating factors, the Panel imposed a grade assignment of zero in the course; a four-year suspension; a four-year notation on the Student's transcript; and a report be issued to the Provost.

FILE: Case #606 (12-13)
DATE: October 10, 2012
PARTIES: University of Toronto v A.L.

Hearing Date(s):
September 18, 2012

Panel Members:
Ronald G. Slaght, Chair
Elizabeth Peter, Faculty Member
Chirag Variawa, Student Member
Graeme Norval, Faculty Member

Appearances:
Lily Harmer for the Appellant, the Provost
Glenroy Bastien for the Respondent, the Student

In Attendance:
A.L., the Student
Eleanor Irwin, Dean's Designate
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

DAB Decision.

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – University appeal from sanction – request to set aside the penalty and impose a recommendation for expulsion – Board need grant little deference given its very broad powers – deference given on the issue of credibility did not apply in this case because the Student did not testify – the possibility of expulsion is a real deterrent effect – no extenuating circumstances to justify a lesser sentence than expulsion – concern that if expulsion was not the result in this case, it would be difficult to justify in any case – whether the Student had prior offences should be seen in combination with other factors – nothing to put context around the first offence in a mitigating sense – no remorse or explanation by the Student – guilty plea in its own terms was neutral or irrelevant – Board found it significant that Student continued his misconduct even after being warned by a potential employer – Board rejected the idea that because the act itself is the same on each occasion, they should be considered all as one – little weight on the psychiatrist evidence – the fact that the Student had accumulated enough credits to graduate was not a mitigating factor – Board differentiated the case from *A.K.G.* on the ground that the circumstances were different – deterrent effect and the harm occasioned to the University by the nature of the offence were the two most important sentencing principles in a serious case such as this – nothing in this case that could blunt or ameliorate the facts of the case or the need for consistency and uniformity in sentencing principles – Appeal allowed – recommendation for expulsion

Appeal by the University from a Tribunal decision in which the Student was found guilty of submitting falsified academic records to prospective employers on three different occasions, contrary to *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code*, and sentenced to a five-year suspension. The University asked the Appeals Board to set the penalty aside and replace it with a recommendation that the Student be expelled. On the issue of deference, the Board stated that it had very broad powers which meant that it need grant little deference to the Trial Panel decision although it does give deference over credibility issues, where they arise in a trial setting and where the Trial Panel has the opportunity to observe the witnesses giving evidence. The Board stated that in this case, the Board did not have to take deference into account because the panel did not have the opportunity to observe the Student as he did not testify. Regarding the Panel's concern that anonymity hurt the deterrent effect and there was no proven difference between the deterrent effect of a five-year suspension and that of a recommendation for expulsion, the Board agreed that anonymity blunted the deterrent effect but stated that the most serious penalty, in the most serious cases, was a real deterrent and it remained an important element in setting penalties in serious cases. The message conveyed that falsifying transcripts generally meant expulsion and not just suspension accomplished deterrence, a legitimate purpose of sentencing. Moreover, the Board found that in this case, there were no extenuating circumstances that would justify a lesser sentence and expressed a concern that if expulsion was not the result in this case, then it would be difficult to justify expulsion in any case. For example, the issue of whether the Student committed a prior offence was an element that had to be seen in combination with others such as whether he had shown remorse for a first offence, the nature and gravity of the offence, the circumstances of the first offence, and other extenuating circumstances that in combination could lead to a lighter penalty for a first offender. In this case, the Board found that there was nothing to put context around the first offence in a mitigating sense. The Student made no personal expression of remorse nor offered any explanation, and the Trial Panel and the Board were left completely in the dark without any explanation for his behaviour and conduct on the original actions, the subsequent denials, and the future prospects. Regarding the Student's guilty plea, the Board noted that a guilty plea in its own terms was neutral or irrelevant in all respects and did not speak to any explanation or remorse for the facts. The Board also found it significant that the Student further submitted falsified academic records after being warned by a potential employer who spotted anomalies and contacted him. As for the Panel's finding that the Student's acts should be seen as one continuing offence rather than 10 offences that he had been charged with, the Board rejected the idea that because the act itself is the same on each occasion, they should be considered all as one. Thus, it was not a mitigating factor. Furthermore, the Board found that it was difficult to place much weight on the evidence given by the Student's psychiatrist without any direct evidence from the Student himself. On the issue that the Student had accumulated sufficient credits to graduate, the Board refused to give effect to this factor, stating that it would convey the message that it would lighten the penalty if a student continues to cover up and deny, until sufficient credits are obtained. Finally, the Board differentiated this case from *A.K.G.* (Case 508) on the ground that the circumstances were different. Unlike this case, in *A.K.G.*, the Student had already earned a degree and after that, on one occasion, submitted a false record to one recipient, and then immediately admitted what he had done. In closing, the Board stated that the deterrent effect of the penalty and the harm occasioned to the University by the nature of the offence were the two most important sentencing principles in a serious case such as this. The Board found that there was nothing in this case that could blunt or ameliorate the facts of the case or the need for consistency and uniformity in

sentencing principles, in order not to skew future cases. The Board allowed the appeal and imposed a recommendation that the Student be expelled.

FILE: Case #690 (13-14)
DATE: September 5, 2013
PARTIES: University of Toronto v S.F.

Hearing Date(s):
August 6, 2013

Panel Members:
Roslyn M. Tsao, Chair
Ato Quayson, Faculty Member
Jonathan Hsu, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

NOTE: Overturned on appeal.

Trial Division – forged documents – submitted multiple petitions containing information known to be false – Student did not attend hearing – Agreed Statement of Facts – guilty plea accepted – Joint Submission on Penalty – third offence – admission of guilt saved time and effort -- Joint Submission on Penalty rejected as it would bring administration of justice into disrepute – grade assignment of zero in seventeen courses; recommendation that the Student be expelled; five-year suspension; seven-year notation on transcript; report to Provost for publication

Student charged with twenty-two offences relating to the forging, altering, or falsifying of documents on many separate submissions to the Committee on Standing in support of petitions for late withdrawal without academic penalty from courses spanning a two year period.[1] The Student did not attend the hearing. The Student had admitted guilt and the matter proceeded by way of an agreed statement of facts. The University withdrew four of the twenty-two charges and the Panel found the Student guilty of the remaining eighteen charges. The parties presented a Joint Submission on Penalty, requesting a grade assignment of zero in seventeen courses, a five-year suspension, and a permanent transcript notation. The University stressed that because the Student had admitted the facts and his guilt to all charges, significant time and effort was saved. The Student had been sanctioned for plagiarism on two prior occasions. The Panel noted that the Student had demonstrated a cavalier disdain for the ethics of all academic institutions. The Panel further observed that the Student's false statements, misrepresentations, and fabrications were not isolated to a single incident and spanned years. The Panel concluded the Joint Submission on Penalty would bring the administration of justice into disrepute as there were too many examples of the Student's disregard for integrity and responsibility and anything less than a recommendation for expulsion would condone the Student's misconduct. The Panel imposed a final grade of zero in seventeen courses, a recommendation that the Student be expelled from the University, a five-year suspension, a seven-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

FILE: Case #714 (13-14)
DATE: October 11, 2013
PARTIES: University of Toronto v N.R.

Hearing Date(s):
September 13, 2013

Panel Members:
John Keefe, Chair
Wayne Enright, Faculty Member
Saneea Tanvir, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Jeff Marshman, Counsel for the Student, DLS
N.R, the Student

[1] Note that the decision does not list the Code section under which the student was charged, but the twenty-two charges were composed of offences under *s. B.i.1(a)* of the Code (forged documents) alongside 'alternative' offences under *s. B.i.3(b)* of the Code.

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code* – forged documents and forged academic records– email sent to four professors containing false information and forged academic records – emails containing fraudulent information are not forged documents – Agreed Statement of Facts – guilty plea accepted for charges under *s. B.i.3(a)* but rejected for charges under *s. B.i.1(a)* – modified guilty plea to charges under *s. B.i.3(b)* accepted – Joint Submission on Penalty – first offence – Student admitted guilt early and cooperated throughout – Student had only one credit remaining to graduate – Student expressed genuine remorse at hearing – transcript forgery among the most serious offences – misconduct involved considerable planning and deliberation – Joint Submission on Penalty accepted – suspension and notation deemed to have commenced the date the Joint Submission on Penalty was signed by the Student to avoid unintended increase in severity of sanction – five-year suspension; seven-year notation; report to Provost for publication

Student charged with four offences under *s. B.i.1(a)*, four offences under *s. B.i.3(a)* and in the alternative, four offences under *s. B.i.3(b)*. The charges related to four separate emails sent by the Student to four separate professors on the same date, each of which allegedly contained false or falsified information. The Student pleaded guilty to the charges under *s. B.i.1(a)* and *s. B.i.3(a)* and the matter proceeded by way of an Agreed Statement of Facts. The emails were sent to request each professor act as her graduate supervisor. Each email contained the same statement that the Student had been granted conditional acceptance to the Pharmacology and Toxicology Graduate Program at the University. At the time, the Student had not been accepted to the Graduate Program. The Student had been advised that her application would be placed on hold pending receipt of her final grades. A forged academic transcript was also attached to each email. The Panel expressed concern with respect to whether the emails could be properly characterized as forged, altered or falsified documents for the purposes of *s. B.i.1(a)*. The Panel observed that although the information contained in the emails was fraudulent, the emails themselves were not falsified. After deliberation, the University and the Student agreed to amend the Agreed Statement of Facts so that the student would plead guilty to four offences under *s. B.i.3(b)* in relation to the emails instead of four forgery offences under *s. B.i.1(a).* The Student would also plead guilty to the four offences under *s. B.i.3(a)* in relation to the academic transcripts as anticipated. The Panel accepted the revised guilty plea and the University withdrew the four charges under *s. B.i.1(a)*. The parties presented a Joint Submission on Penalty. The Student was in her final year at the University and had only one credit remaining in order to graduate. The Student acknowledged guilt at the earliest possible opportunity and cooperated throughout the disciplinary process. She expressed genuine remorse at the hearing. The Student had no prior record of academic misconduct. Transcript forgery is at the most serious end of the range of sanctions. Considerable planning and deliberation went into the falsified academic record in this case. The alteration of marks was not insignificant. Falsification of records strikes at the heart of the honesty and integrity which is at the core of the academic experience and evaluation. The Panel accepted the joint submission, noting that in the absence of the mitigating factors, the sanction could very well have been expulsion. The Panel imposed a five-year suspension, a seven-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication. The Panel observed that if the suspension took effect from the day of the hearing, the Student would in fact be suspended for more than five years because the Tribunal was sitting shortly after the commencement of the Winter term. Accordingly, the Panel, with the consent of the parties, amended the Joint Submission on Penalty to provide that the suspension and transcript notation would commence on August 26, 2013, which was the date of the Student's signature on the Joint Submission on Penalty.

FILE:	Case # 894 (16 - 17)	Panel Members:
DATE:	May 31, 2017	Ms. Johanna Braden, Barrister and Solicitor, Chair
PARTIES:	University of Toronto v. J.W. ("the Student")	Professor Louis Florence, Faculty Panel Member Ms. Alexis Giannelia, Student Panel Member
Hearing Date(s):	April 3, 2017	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers Mr. Nathan Korneberg, Paralegal, Juslaw Legal Services
		In Attendance: Ms. Lucy Gaspini, Academic lntegrity & Affairs, Office of the Dean, University of Toronto Mississauga Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Office of the Appeals, Discipline, Faculty Grievances Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
		Not in Attendance: The Student

Trial Division – *s. B.i.1(a) of* the *Code* – forging or falsifying information in a petition for accommodation – purchase of forged medical certificates from third party – Student not present – Agreed Statement of Facts – Joint Submission on Penalty – prior offence – sanction – a final grade of zero in the two affected courses, a suspension from the University for three years and eight months, an order on the Student's record and transcript for five years, and a report to the Provost for publication

Student was charged with five charges of forging or falsifying information contained on a University Verification of Student lllness or lnjury Form, a Medical Absence Report, and in her petitions for academic accommodation contrary to *s. B.i.1(a)* of the *Code,* or in the alternative, two charges of academic dishonesty under *s. B.i.3(b)* of the Code. The Student did not attend the hearing, but had a representative attend. In an Agreed Statement of Facts, the Student admitted to committing the five charges that related to forging and falsifying information in her applications for academic accommodation. Based on these admissions, the Panel found the Student guilty of five counts of forging or falsifying information contrary to *s. B.i.1(a)* of the *Code.* The University withdrew the alternative charges of academic dishonesty. The charges related information contained in, and documents submitted in support of, the Student's petitions to have two of her final exams deferred. In each separate petition for accommodation, the Student purported to had visited a clinic and received advice from "Dr. John Winston" who had signed her Verification of Student Illness or Injury Forms and Medical Absence Reports submitted in support of her petitions. A later investigation turned up that Dr. Winston did not exist. In the Dean's Designate meeting, the Student admitted to purchasing the documentation that supported her petition from a third party.

The parties submitted a Joint Submission on Penalty (JSP) of a final grade of zero in the two affected courses, a suspension from the University for three years and eight months, an order on the Student's record and transcript for five years, and a report to the Provost for publication. The Student had been sanctioned for one prior academic offence. In deciding whether to accept the JSP, the Panel applied the factors set out in *University of Toronto and Mr. C* (Case No. 1976177-3, November 5, '1976) and reviewed other cases that involved similar circumstances. The Panel found in cases involving forgery or falsifying documents, students consistently received a final grade of zero for the affected course or courses and sanctions ranging from suspensions for as low as two years (for a first offence involving one forged medical certificate) and as high as five years. On the more stringent end, some cases involving egregious, sustained dishonesty warranted a recommendation of expulsion. The Panel found that the JSP was fair and within that range, ordering a final grade of zero in the two affected courses, a suspension from the University for three years and eight months, an order on the Student's record and transcript for five years, and a report to the Provost for publication.

APPLICATION FORM

FILE: Case #523 (08-09)
DATE: January 14, 2009
PARTIES: University of Toronto v. A.K.

Hearing Date(s):
November 11, 2008

Panel Members:
Andrew Pinto, Chair
Marc Lewis, Faculty Member
Elena Kuzmin, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Associate to Mr. Centa
Isaac Tang, Counsel for the Student, DLS
Donald Dewees, Dean's Designate
A.K., the Student

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – Academic Bridging Program application form and documents for post–admission transfer credits – Agreed Statement of Facts – guilty plea – language in application not understood and degree at foreign university not completed – financial, health and child–care challenges – fraudulent documentation purchased – mitigating factors undermined by two separate occurrences of misconduct – finding of guilt – material distinction not made in sanction between those directly perpetrating a fraud and those who contracts out fraudulent activity to third party – aggravating factor that fraud had commercial aspect – academic status relative to graduation – nearness of completion of degree relevant but not determinative factor in sanction – see *The University of Toronto v. Student,* Case No. 499 – no evidence that illness provided sufficient nexus to misconduct – tentative conclusions of medical evidence minimized mitigating effect – insufficient evidence of nexus between adverse circumstances and impugned conduct – see *University of Toronto v. Student*, Case No. 440 (2006-2007) – recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; permanent notation on academic record; and report to Provost

The Student was charged with four offences under *s. B.i.1(a)* and, alternatively, two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student falsified an application form submitted to the Academic Bridging Program at Woodsworth College, which failed to disclose that she had previously attended a post-secondary institution; and allegations that she knowingly submitted a forged transcript and course descriptions from a foreign university in support of her request for post-admission transfer credits. The Student pleaded guilty to the charges under *s. B.i.1(a)* of the *Code*. The matter proceeded based upon an Agreed Statement of Facts. The Student admitted to paying an individual in Turkey to forge the documents. The Panel accepted the Student's guilty plea to the charges under *s. B.i.1(a)* of the *Code*. At the onset of the Student's evidence, a Book of Documents (Penalty Phase) was provided for the first time to the University and the Panel. The Student claimed that she did not list her post-secondary attendance at the foreign university in the application form because at the time she did not understand the proper meaning of "abroad" and because she did not complete her degree at the university. The Student claimed that she had faced financial, health and child-care challenges since immigrating to Canada. She supported her claim of illness with letters from an endocrinologist and a psychological consultant. The Student claimed that a friend in Turkey had arranged for an individual to help her obtain her Transcript from the foreign university. The Student claimed that in desperation she agreed to purchase the fraudulent documentation from the individual. The Student claimed that with the exception of a cover letter, she did not know what false documentation had been sent to the University. The Panel observed that the Student's misconduct occurred during two different time periods and found that it undermined the Student's claim that her circumstances were relevant mitigating factors. The Panel found that the Student's claim that she misunderstood the meaning of "abroad" was contradicted by her understanding of the term in other parts of the application. The Student's claim that she did not list her studies at the foreign university because she did not complete her degree was undermined by the fact that the application provided for applicants to distinguish between post-secondary degrees sought and those actually conferred and because the Student indicated that she was employed in London around the time that she was actually enrolled at the foreign university. With respect to the forged documents, the Panel found that a material distinction should not be made in sanction between a student who directly perpetrated a fraud and one who contracted out the fraudulent activity to a third party and claimed ignorance. The Panel observed that the Student did not disclose her misconduct at the first opportunity or early in the discipline process. The Panel found that the commercial aspect of the fraud was an aggravating factor that supported expulsion because it related to the professionalization of the academic forgery business. The Panel considered *The University of Toronto v. Student,* Case No. 499 (2008-2009), and found that the nearness to completion of a degree was a relevant but not determinative factor in respect to sanction. The Panel stated that it advocated an approach that neither penalized nor rewarded a student in terms of sanction for the nearness to

completion of a degree and that a better approach was for the Tribunal to have greater information on the consequences of the proposed sanction. The Panel found that the endocrinologist's letter provided little evidence that the Student's illness manifested in a way that would have impaired her judgment or provide a sufficient nexus to her misconduct. The Panel stated that the tentative conclusions of the psychological consultant's report minimized the reliance it placed on it as evidence of mitigation in respect of the Student's psychological frame of mind. The Panel stated that it was unable to have a greater appreciation of any mitigating factors without additional evidence about the Student's character or the challenges she faced. The Panel considered the Student's claim that she would be forced to return to Turkey if she was expelled and found that the outcome was based on a mix of personal and other factors that were not disclosed. The Panel considered *University of Toronto v. Student*, Case No. 440 (2006-2007), and found that while the Student appeared to be remorseful for her conduct and was unlikely to repeat the offence, there was insufficient evidence of a nexus between the adverse circumstances faced by the Student and her impugned conduct to impose a sanction other than expulsion. The Panel recommended to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; that a permanent notation of the expulsion be recorded on her academic record and transcript; and that a report be issued to the Provost.

FILE: Case #692 (13-14)
DATE: November 27, 2013
PARTIES: University of Toronto v C.K.

Hearing Date(s):
September 19, 2013

Panel Members:
Jeffrey Leon, Chair
Richard B. Day, Faculty Member
Jenna Jacobson, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code* – forged documents and forged academic records – documents purporting to be transcripts from other universities submitted in support of two applications for admission to the University and one application to transfer to St. George campus – Student did not attend hearing – Student was given reasonable notice of Hearing – evidence presented by way of affidavit – finding of guilt – egregious conduct that caused serious harm to the integrity of the academic process – five-year suspension; 7.0 credits cancelled; recommendation that the Student be expelled; report to Provost for publication

Student charged with three offences under *s. B.i.3(a)*, six offences under *s. B.i.1(a)* and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to allegations that the student had forged and falsified several documents purporting to be transcripts from other universities and submitted these in support of two applications for admission to the University, and one application to transfer within the University from the Mississauga to the St. George campus. The Student did not attend the hearing but the Panel was satisfied that the Student had reasonable notice of the hearing and had been served in accordance with the Rules of Practice and Procedure of the University Tribunal. Evidence was presented by way of an affidavit of the Assistant Faculty Registrar who was on leave from the University at the time. The Panel accepted the affidavit as evidence in accordance with the University Tribunal Rules of Practice and Procedure. The University withdrew one of the six charges under *s. B.i.1(a)* and the alternative charge. The Panel found the Student guilty of the remaining eight charges. The Panel noted that the conduct of the Student was serious, repetitive, and egregious. The Panel observed that there was no indication of respect by the Student for the discipline process, nor any indication of remorse or extenuating circumstances. The Panel stated that the Student's conduct caused serious harm to the integrity of the University's academic process and that significant sanction was necessary. The Panel imposed a five-year suspension, cancelled 7.0 transfer credits granted to the Student on the basis of falsified documents, recommended that the Student be expelled from the University, and ordered that the case be reported to the Provost for publication.

REFERENCE LETTERS

FILE: Case #870 (16 - 17)
DATE: October 31, 2016
PARTIES: University of Toronto v. J.O. ("the Student")

Hearing Date(s): September 22, 2016

Panel Members:
Paul Michell, Barrister & Solicitor, Chair
Dr. Chris Koening-Woodyard, Faculty Panel Member
Sean McGowan, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University
Professor Luc De Nil, Dean's Designate, Vice-Dean, Students and Dean's Designate for Academic Integrity, School of Graduate Studies
Mr. Victor Kim, Law Student, Downtown Legal Services, for the Student

In Attendance:
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
The Student
Mr. John Darmondy, Recording Technologist, Live Media
Ms. Vicki Vokas, Manager, Portfolio Services

Trial Division - *s. B.i.1(a)* and *s. B.i.1(d)* of *Code* – forged documents – plagiarism - forged reference letter in scholarship application – unattributed ideas in assignment – Agreed Statement of Facts - guilty plea – consideration of Mr. C. factors relevant to expulsion - second chance principle - premeditated calculating deliberate and intentional acts - final grade of zero in the two courses where the Student submitted the plagiarized assignments; recommendation that the Student be expelled; suspension pending expulsion; permanent notation on transcript; report to Provost

Student charged with one count of forgery under *s. B.i.1(a)* of the *Code* and two counts of plagiarism under *s. B.i.1(d)* of the *Code* as well as four alternative charges of academic dishonesty and unauthorized assistance under *s. B.i.1(b)* and *s.B.i.3(b)* of the *Code*. The hearing proceeded by an Agreed Statement of Facts wherein the student admitted to forging a reference letter in a scholarship application, as well as to plagiarising assignments that she had submitted for course credit in two different courses. The Student was present at the hearing. The Student pled guilty to one charge of forgery and two plagiarism charges. Upon the Panel finding the Student guilty of these charges, the University withdrew four charges that had been made in the alternative.

The student testified at the penalty phase of the hearing, which focussed on whether an expulsion was an appropriate penalty. The Panel looked to the principles and factors described in *University of Toronto and Mr. C.* (November 5, 1976/77-3). The Student was of generally good character – a professional, single mother of four children in her 30s who had been working as a nurse for ten years prior to starting her graduate studies at the University. She had expressed remorse for her actions and concerns about their effect on her professional standing. She also pled guilty, which saved the University time and expense. These were the Student's first offences at the University, however the Student had forged the reference letter within a month of starting her program and she used the same forged reference letter five months afterwards, which undermined the Student's assertion that she was acting rashly. The Panel took into account a number of aggravating factors; namely, that both forgery and plagiarism are very serious offences; that the plagiarism here was intentional, extensive, and deliberate; that the Student had derived financial gain by being awarded a $10,000 scholarship that she had used the forged reference letter to apply for; at the same time, she deprived another student from being awarded that scholarship on a legitimate basis. She offered to return the money, but had not taken any steps to actually do so in the months since the forgery had been uncovered. The Panel also weighed the detriment to the University and the need to deter others from committing the same offence. The Panel acknowledged extenuating circumstances surrounding the commission of the offence including the Student's difficult upbringing, family responsibilities, financial hardships, and health issues to be mitigating circumstances to varying degrees.

The Panel considered other cases where recommendation for expulsion had been made and found that forgery was a most serious academic offence, and usually warranted expulsion except in circumstances where there is a Joint Submission on Penalty or significant mitigating factors which were not present here. The Panel held the "second chance" principle did not apply on these facts given the seriousness of the offences, their detriment to the University, and need for general and specific deterrence. The Panel found that the commission of two other serious academic offences on top of forgery weighed in favor of expulsion in this case.

The Panel imposed a recommendation to the President that the Student be expelled, a grade of zero in the courses where the student had submitted the plagiarized assignments, immediate suspension for a period of five years with a corresponding notation on the Student's record pending expulsion, a permanent notion of the sanction on the Student's transcript, and a report to the Provost.

PERSONAL STATEMENTS

FILE: Case # 719 (16 - 17)
DATE: April 11, 2017
PARTIES: University of Toronto v. W.K. ("the Student")

Hearing Date(s): February 16, 2016; April 13, 2016; August 25, 2016; August 30, 2016; October 6, 2016; November 2, 2016; January 16, 2017

Panel Members:
Ms. Sarah Kraicer, Barrister and Solicitor, Co-Chair
Professor Ernest Lam, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland, Barristers
Ms. Lauren Pearce, Articling Student, Paliare Roland, Barristers (February 16, 2016, April 13, 2016)
Ms. Emily Home, Articling Student, Paliare Roland, Barristers (August 25, 2016, August 30, 2016, October 6, 2016, November 2, 2016, January 16, 2017)

In Attendance:
The Student
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts & Science (February 16, 2016, April 13, 2016, August 25, 2016, August 30, 2016, November 2, 2016, January 16, 2017)
Professor John Britton, Dean's Designate, Faculty of Arts & Science (February 16, 2016, April 13, 2016, August 25, 2016, October 6, 2016, January 16, 2017)
Dr. William Ford, Educational Psychologist (October 6, 2016)
Mr. Paul Russell, Associate Registrar, Student Services, New College (October 6, 2016)
Ms. Krista Osborne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances (February 16, 2016)
Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances, (February 16, 2016, April 13, 2016, October 6, 2016, January 16, 2017)
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances (April 13, 2016, August 25, 2016, August 30, 2016, November 2, 2016)
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council (August 25, 2016, August 30, 2016, October 6, 2016, November 2, 2016, January 16, 2017)
Ms. Michelle Henry, Observer, newly-appointed Tribunal Co-Chair (August 25, 2016)

Trial Division - *s. B.i.1(a)* and *s. B.i.1(d)* of the *Code* – falsified personal statement in petition for academic accommodation – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – facts admitted in an ASF relating to a charge that is later withdrawn can still be used in considering remaining charges – plea agreement with no Joint Submission on Penalty – presumptive penalty of expulsion for purchased essays – aggravating factors include two prior offences, disregard for previous warnings, no acknowledgement of responsibility, conduct during the hearing – assignment of zero in the affected courses; immediate five-year suspension pending expulsion; and report to Provost

The Student was charged with 13 counts of misconduct under sections *B.i.1(a), B.i.1(b),* and *B.i.1(d)* of the *Code*, or in the alternative, s. *B.i.3(b)* of the *Code*. The Parties produced an Agreed Statement of Facts (ASF) and entered into a plea agreement. The Student pled guilty to two charges of making false statements in documents seeking academic accommodation contrary to s. *B.i.1(a)* of the *Code* and six charges of plagiarism contrary to s. *B.i.1(d)* of the *Code*. The plagiarism charges related to work that was submitted for course credit in four different courses that was either purchased from a commercial provider of essays, copied from lecture slides, an on-line forum, assigned course readings,

or from academic articles. The Panel found the Student guilty of these eight charges. The University withdrew the other charges.

In determining the appropriate sanction, the Panel applied the principles set out in *University of Toronto v. Mr. C* (Case No. 1976/77-3; November 5, 1976): (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.

The Student had previously been sanctioned for two separate incidents of plagiarism. The Panel found this history, combined with the large number of incidents of misconduct at issue, the fact that these incidents were committed shortly after the Student had already been warned and disciplined for prior offences, and that they were committed while the Student was under a transcript notation for the prior offences, were strong factors which indicated that there is a significant likelihood that the Student was likely to repeat the offences. In addition, the Panel found that the Student had failed to take responsibility for his actions. Further, the Panel found that the Student's conduct at the hearing constituted an aggravating factor for the purpose of sanctioning. The Student's lateness, lack of preparation, and inflammatory accusations against counsel and the Panel demonstrated a lack of respect for the University and its discipline process and raised serious concerns about the Student's continued inability to govern himself in accordance with the University's standards, rules and responsibilities.

The Panel found that the offences of plagiarism and filing a false petition were very serious acts of misconduct that occasioned detriment to the University and required a strong need to deter others. The Panel referred to the Discipline Appeal Board decision, *University of Toronto v C., H. and K.* (Case No. 596, 597, 598, November 23, 2011) which held that purchasing an essay is generally sanctioned by an expulsion because it involves intention, planning and deliberate deception, a 3rd party commercial element, and is often more difficult than other types of plagiarism to detect. The Panel found that falsification of information in a petition was a very serious offence because it took advantage of the University's petition system which is intended to provide students who experience genuine personal difficulties or circumstances with a means to obtain extraordinary relief from academic requirements and deadlines. By submitting false information in his personal statements, the Student breached his relationship of trust with the University and undermined the integrity of the petition system.

The Student argued that the Panel could not consider the facts in the ASF where he had admitted to purchasing an essay because those admissions related to the unauthorized assistance charge, which was subsequently withdrawn by the University when the Student pled guilty to the plagiarism charge that related to the same incident. The Panel held that the withdrawal of a charge by the University does not have the effect of preventing the Tribunal from taking into account facts admitted in the ASF that relate to the withdrawn charge. The facts concerning the unauthorized assistance charge related to and supported the charge of plagiarism to which the Student pled guilty. Furthermore, the Panel found that the argument that "plagiarism" is a different charge than "purchasing an essay" was also not consistent with Tribunal jurisprudence, which commonly considers purchased essays as a form of "plagiarism" under the *Code*.

The Panel did not find that the Student's mental health and learning disabilities to be mitigating factors in the circumstances because the evidence failed to establish that these disabilities had any temporal or causal link to or were a justification, explanation or excuse for the commission by the Student of the offences. The Student was sanctioned with a grade of zero in each of the affected courses; an order that the Student be immediately suspended from the University for up to 5 years pending an order of expulsion; and an order that the case be reported to the Provost for publication with the Student's name withheld.

TURNITIN RECORDS/RECEIPTS

FILE: Case # 924 (2017 - 2018)
DATE: June 20, 2018
PARTIES: University of Toronto v. X.L. ("the Student")

Hearing Date(s): May 14, 2018

Panel Members:
Mr. Paul Michell, Chair
Professor Pascal van Lieshout, Faculty Panel Member
Ms. Alexis Giannelia, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Ms. Hailey Bruckner, Articling Student, Paliare Roland Barristers

In Attendance:
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts and Science
Professor Ryan Balot, Department of Political Science, Witness for the University
Mr. Zhichao Tong, Teaching Assistant, Witness for the University
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not in Attendance:
The Student

Trial Division - s. B.i.1(a) – forging or falsifying a document or evidence required by the University – resubmitting a substantially altered version of an assignment for re-grading – forged Turnitin record – student not present – notice provided – grade of zero in the course, three-year suspension, four-year transcript notation, and a report to the Provost with the Student's name withheld

The Student was charged with two charges of forging or falsifying a document or evidence required by the University contrary to s.B.i.1(a) of the *Code,* or in the alternative two charges of academic dishonesty contrary to s. B.i.3(b) of the *Code.* The charges related to an essay that the Student had submitted for course credit. After receiving her mark from the teaching assistant, she resubmitted a modified version of the essay for remarking by the course instructor, claiming it was the first essay. In support of her application to have her paper re-graded, she provided the University with a falsified Turnitin report, which reported that the essay had been submitted prior to when she received feedback from the teaching assistant (and with a different word count) than what the University Turnitin records indicated.

The Student did not attend the hearing. The Panel found that adequate notice of the hearing had been provided to the Student based on evidence that the Student had been represented by counsel from Downtown Legal Services (DLS) at a number of case conferences, but ultimately, they were unable to represent her because they had difficulty obtaining instructions from her. Upon the withdrawal of the Student's counsel, counsel for the University sent emails to the Student at the two email addresses and attempted to contact the Student at the phone number that DLS had provided (and at the phone number listed for the Student in ROSI).

On the basis of evidence from the teaching assistant and the course instructor, as well as an administrator who testified that the Turnitin report provided to the University had been falsified, the Panel found that the Student was guilty to the two charges of forging or falsifying a document contrary to s.B.i.1(a) of the *Code.* The University withdrew the alternative charges.

The University requested: (1) that the Student's degree be suspended for a period of three years; (2) that the sanction be recorded for a period of four years on the Student's academic record and transcript; and (3) that the case be reported to the Provost with the Student's name withheld. The Panel applied the *Mr. C.* [Case No. 1976/77-3; November 5, 1976] factors, noting that the nature of the offences were serious, that the re-grading process that provides students with the opportunity to have an assignment reviewed only functions if an assignment is the same as the one originally submitted (*N.B.* [Case No. 538; August 14, 2009], submitting a substantially altered version of the original document undermines this process (*L.Y.* [Case No. 883; July 11, 2017] at para. 19) and the academic integrity of the University (*F.M.* [Case No. 522; May 5, 2009] at para. 42) and corrodes the trust between a teaching assistant and the students. The Panel

referred to in *J.Z.* [Case No. 928; June 5, 2017], which addresses the principles for forging an academic record that are equally applicable to forging a Turnitin receipt – that the offence is serious, that forgery is difficult to detect, and that forgery is only rarely a product of inadvertence, rather it is the product of planning and knowing participation. Though it was the Student's first offence, the Student did not attend the hearing so there was no evidence of any other extenuating circumstances.

Absent mitigating circumstances, the Panel concluded that the sanction proposed by the University was reasonable, and in line with cases that had imposed a three-year suspension and a four-year transcript notation where the student committed multiple offences (*B.D.*, [Case No. 845; July 26, 2017]) or had a prior academic offence (*Z.M.* [Case No. 632; November 10, 2011]. The Panel ordered that the Student: (1) receive a grade of zero in the court, be suspended from the University for three years, have a transcript notation for four years, and that the decision be reported to the Provost with the Student's name withheld.

s. B.i.1(b) of *Code*: unauthorized aids/unauthorized assistance

Leading Cases:

- cheat sheets/prepared answers: **648 (13-14), 644 (12-13), 635 (11-12), 499 (08-09), 03-04-01, 786 (15-16), 1041 (20-21)**
- students collaborating: **668 (11-12), 00-01-02, 850 (16-17), 967 (17-18), 991 (20-21)**
- cell phone: **655 (12-13), 499 (08-09), 841 (16-17)**
- division not following policy: **746 (14-15)**
- student and teaching assistant collaborating: **980 (19-20)**

DAB = Discipline Appeals Board decisions

CHEAT SHEETS / PREPARED ANSWERS

FILE: Case #03-04-01 (03-04)
DATE: April 7, 2004
PARTIES: University of Toronto v Ms. B.

Hearing Date(s):
October 1, 2003
November 11, 2003
December 3, 2003
April 1, 2004

Panel Members:
Laura Trachuk, Co-Chair
Marie-Josée Fortin, Faculty Member
Justin Ancheta, Student Member

Appearances:
Eric Lewis, Counsel for Ms. B.
Lily Harmer, Assistant Discipline Counsel
Hugo de Quehen, Deartment of English
The Student's Mother
Ms. B, the Student
Chris Ramsaroop, Student
Susan Lishingman, Administrative Assistant, University College
Endel Tulving, Expert Witness
Susan Bartkiw, Faculty of Arts and Science

Trial Division - *s. B.i.1(d)* and *s. B.i.1(b)* of *Code* – plagiarism and unauthorized aid – submitted test containing passages plagiarized from internet - portions of website unconsciously memorized from study notes and inadvertently reproduced in answers - hearing adjourned *sine die* - expert examination of memory abilities refused – expert opinion evidence – explanation not believable and no other explanation for reproduction of material – finding of guilt – no remorse because offence not admitted to – no prior offences - notation for same period as suspension because coursework for degree potentially completed before start of suspension - inappropriate to delay resumption of academic career beyond suspension - grade assignment of zero for course; two-year suspension; two-year notation on transcript; and report to Provost

Student charged under *s. B.i.1(d)*, *s. B.i.1(b)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted a final test, portions of which were not written by her, and that during the test she used or possessed an unauthorized aid or obtained unauthorized assistance. The Student pleaded not guilty to the charges. It was not in dispute that passages in the Student's examination booklet were identical to passages found from a website printout. The Student claimed that she unconsciously memorized portions of the website from her study notes and then inadvertently reproduced the material in her answers. The Panel adjourned the hearing *sine die* for the purposes of obtaining an expert examination of the Student's memory abilities. The Student refused testing in the hearing interlude. The Panel accepted the qualifications of a human memory expert and considered his opinion evidence that it was not possible that a student could unconsciously memorize study notes. The Panel found that the Student's explanation was not believable because the only other example of her remarkable memory offered was her mother's recollection of her ability to give an oral presentation she had consciously memorized. The Panel found that while it did not know how the Student accessed the website or her study notes during the period of the test, there was no other explanation for how the material was reproduced. The Panel found that the University has provided clear and convincing evidence that the Student violated the *Code* and found her guilty of the offences under *s. B.i.1(d)*and *s. B.i.1(b)* of the *Code*. The Panel found that the Student had not admitted the offences and therefore she had not shown any remorse for them, and that she had no prior offences. The Panel found that the notation of the imposed sanction on the Student's transcript should only be for the same period as the suspension because the Student may potentially complete her coursework for her degree in the term in which the hearing occurred and that the effect of a three-year notation might be to delay the resumption of her academic career beyond the two-year period of the suspension, which would be inappropriate in the circumstances. The Panel imposed a grade of zero in the course; a two-year suspension; a two-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #499 (08-09)
DATE: October 6, 2008
PARTIES: University of Toronto v S.S.

Hearing Date(s):
November 26, 2007

Panel Members:
Raj Anand, Chair
Ikuko Komuro-Lee, Faculty Member
Christopher Oates, Student Member

Appearances:

Lily Harmer, Assistant Discipline Counsel
Jodi Martin
Maurice Vaturi, Counsel for the Student
Ben Zaxks
S.S., the Student

Trial Division – s. *B.i.1(b)* of the *Code* – unauthorized aids – cell phone, cue cards and prior year's examination – unaware of possession of aids and ignorance of how to operate cell phone – invigilator instructions not heard – interpretation of rules – cell phone not defined as unauthorized aid – phrase "ought reasonably to have known" suggests subjective element – Student subjectively knew or ought reasonably to have known that the items were unauthorized aids and ought to have known that the unauthorized aids where in the Student's possession – finding of guilt – continuum of sanctions – see *s. C.ii.(b)* of the *Code* – academic status – no evidence aids used or benefited from – first allegation of academic offence – University not compelled to produce evidence of use and benefit in order to enforce rules and impose sanctions – stress and fatigue of preparing for and writing examinations not relevant mitigating factor – academic impact of sanctions is proper consideration – penalty sought by Student too lenient and penalty sought by University excessive for circumstances – grade assignment of zero in course; two-year notation on transcript; and report to Provost

The Student was charged under *s. B.i.1(b)*, and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to a final examination in which the Student was found to be in possession of a cell phone, cue cards containing text related to the examination, and a photocopy of a prior year's examination. The Student pleaded "Not Guilty" to both charges. The Student claimed that he was unaware that he had had aids in his jacket pocket and he was ignorant of how to correctly operate his cell phone, having believed that he had turned it off. The Student produced a doctor's report, dated two days after the exam, which stated that the Student was experiencing weakness, fatigue, dehydration and headache. The Student claimed that he felt nervous when he arrived to write the exam and that he did not hear any announcements or the exam invigilator asking him to remove his jacket. The Student claimed that he interpreted the rule that certain items were prohibited "at the desk" to mean "on the desk". The University claimed that the Student knew or ought reasonably to have known that the items found in his possession were unauthorized aids. The Student claimed that while cell phones were prohibited at the exam, the *Code* did not define a cell phone as an unauthorized aid. The Student claimed that the phrase "ought reasonably to have known" suggested a subjective element that implies the intent to do wrong. The Panel found the Student guilty of having committed an offence under *s. B.i.1(b)* of the *Code*. The Student subjectively knew or ought reasonably to have known that the cure cards, the previous year's exam and the cell phone (at least while on) were unauthorized aids and he ought to have known that he had those unauthorized aids in his possession during the exam. With respect to penalty, the University claimed that when a student wilfully disregards the rules, it jeopardizes trust and integrity. The Student submitted that the panel should impose sanctions on the more lenient end of the continuum provided by the *Code* at *s. C.ii.(b)*. The Panel considered the Student's registration vis-à-vis graduation and requested that the parties provide written submissions on the academic consequences of proposed penalties, addressing both fact and principle. The Panel found that the nature of the offence was at the less serious end of the spectrum of cases, and that there was no evidence that the Student used the cell phone or other aids to assist him in the examination, or that he benefited from their presence. The Panel found that the Student knew from his time at the University, the examinations he had previously written and the warning at the front of the examination in question, that the aids were unauthorized. Whether or not the Student turned his mind to the issue, he ought to have known that he was violating the rules. The Panel observed that the allegation of academic offence was the first against the Student and it found nothing to suggest that a repetition of the offence was likely. The Panel found that the University should not be compelled to produce evidence of actual use and benefit obtained from prohibited notes or similar items before it is able to enforce its rules and impose sanctions, and to disregard the principle that students must check unauthorized aids at the door before writing the exam would compromise the University's processes. The Panel found that stress and fatigue of preparing for and writing examinations was not a relevant mitigating or extenuating circumstance as it had affected almost all students undergoing evaluation and it was inconceivable that the circumstances could justify a violation of the rules. The Panel found that the academic impact of the sanctions proposed by the respective parties was a proper consideration for the Tribunal for several reasons: the impact of the offence on the University's "public" and on the individual in question is a reflection of the twin factors of general and specific deterrence; there is judicial authority for the application of criminal law principles of sentencing in cases of professional or regulatory discipline; under both criminal and administrative law discipline principles, mitigating or extenuating circumstances are relevant; and the criminal and administrative law discipline principles are reflected in the body of Tribunal cases. The Panel observed that only through inquiry and assessment of the implications of its intended penalty can the Tribunal determine which side

that evidence supports. The Panel considered precedent cases and found that the penalty sought by the Student was too lenient while the penalty sought by the University was excessive for the circumstances. The Panel imposed a mark of zero in the course; a two-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #635 (11-12)
DATE: February 8, 2012
PARTIES: University of Toronto v T.S.

Hearing Date(s):
December 19, 2011

Panel Members:
Lisa Brownstone, Chair
Chris Koenig-Woodyard, Faculty Member
Susan Mazzatto, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
John Carter, Professor
Timothy Bender, Professor
Yury Lawryshyn, Professor

In Attendance:
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aids – possessed unauthorized notes during exams in two courses – hearing not attended – reasonable notice must include a warning – Student had engaged in correspondence from his University email address – reasonable notice provided – Student claimed that he felt that notes were allowed; he did not go to classes or read online announcements – students are responsible for ensuring compliance with course requirements; cannot claim ignorance as defence – Student ought reasonably to have known – finding of guilt – consideration of the facts and precedents – importance of general deterrence – grade assignment of zero for courses; three-year suspension; four-year notation on transcript; report to Provost

Student charged under *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student knowingly possessed unauthorized notes during a midterm test in one course and during a final exam in another course. In both instances, the Student claimed that he did not know that he was not allowed to have the notes. The Student did not attend the hearing. The Panel proceeded to consider whether reasonable notice had been provided. The Panel stated that the reasonable notice must include a warning to the Student that if he does not attend the hearing, the Tribunal may proceed in his absence and the Student will not be entitled to any further notice in the proceeding. In this case, the Student had been in correspondence with the University for a period of three months until two months before the hearing. The Student had responded to the Provost by email after the Provost sent emails advising the Student "If I do not hear back from you, I will ask the Governing Council to set this matter down for hearing in October or November" and again "As I have not heard back from you, the Provost will set this matter down for hearing." As such, the Panel held that reasonable notice had been provided, considering the University's clearly set policy of expecting students to regularly monitor and retrieve mail as well as the fact the Student was engaging in correspondence from his University email address about the hearing. The Panel next proceeded to consider whether the University had met the burden of proof in proving the charges. The Student's course instructor testified that he made online and in-class announcements as well as an announcement on the day of the exam regarding unauthorized aids. However, the Student claimed that he felt that that he was permitted to have his notes and thought that the instructor had said on the first day that the notes were permitted. He also stated that he did not go to classes or read online announcements. In response to the Student's claim, the Panel stated that the Student must take responsibility for becoming aware of and ensuring compliance with course requirements and that the Student cannot claim ignorance as a defence when failed to comply with the rules. The Panel found that in both instances, the Student ought reasonably to have known that the aids were not allowed as there were numerous warnings throughout. The Panel found the Student guilty under *s. B.i.1(b)*. The Panel considered the facts of the case and the precedents referred to by the University and found the proposed penalty to be appropriate. The Panel noted the importance of general deterrence. The Panel imposed a grade assignment of zero in both courses; a three-year suspension; a four-year notation on the Student's transcript; and a report be issued to the Provost.

FILE: Case #644 (12-13)
DATE: July 11, 2012
PARTIES: University of Toronto v Y.T.

Hearing Date(s):
June 19, 2012

Panel Members:
Lisa Brownstone, Chair
Markus Bussman, Faculty Member
Alice Kim, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Mary Phan, Counsel for the Student, DLS
Jingson Ma, Course Instructor
Trelani (Milburn) Chapman, Invigilator

In Attendance:
Y.T., the Student
Eleanor Irwin, Dean's Designate
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aids – possessed unauthorized notes during the exam – whether the invigilator identified the correct student – University must prove on a balance of probabilities – invigilator walked away from the student and "returned" later to write down his name – Student did not engage and had his head down – discrepancy between the testimony of the invigilator and that of the instructor – neither the invigilator or the instructor could identify the Student with certainty – University failed to meet the burden – Student found not guilty

Student charged under *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student possessed unauthorized notes during his exam. The Student pleaded not guilty. The point of dispute was whether the invigilator identified the right student. The University had to prove on a balance of probabilities that the Student was in fact the person who was found to possess the unauthorized aids. When the invigilator found that one of the students in the exam room possessed unauthorized notes, she confiscated the notes but did not write down the student's name. Instead, she went to the professor to ask for the next course of action and then "returned" to the person, the Student, who she thought was found to possess the notes. When the invigilator was writing down his name, the Student did not engage by speaking to her or asking questions; he claimed that he was focused only on writing his exam. The Panel stated that because the invigilator did not check the student's identification at the time she took the aid, she had to be certain that she was going back to the same student when she walked away from him. There was a discrepancy between the testimony of the course instructor and the testimony of the invigilator. Also, neither the instructor nor the invigilator could identify the Student with certainty. Finally, the Panel stated that after the invigilator's testimony that the Student had his head down with eyes downcast, it could not conclude with certainty that it was more likely than not that the Student was the correct student. The Panel held that the University had not met the burden of proving that it was more likely than not he was the correct student. The Panel found the Student not guilty of the charges.

FILE: Case #648 (13-14)
DATE: November 12, 2013
PARTIES: University of Toronto v C.E.

Hearing Date(s):
April 9, 2013
May 27, 2013
June 26, 2013

Panel Members:
Michael Hines, Chair
Joel Kirsh, Faculty Member
Peter Qiang, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Glenn Stuart, Counsel for the Student
Justin Bumgardner, Lecturer (Course Professor)
Miriam Avadisian, a Student
Ivan Ampuero, Campus Police
Charles Helewa, Campus Police
Catherine Seguin, Lecturer
Maeve Chandler, a student
The Student's Brother

The Student's Mother

In Attendance:
C.E., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of the *Code* – unauthorized aid – Student brought completed Mid-Term Exam Booklet into final exam -- Student took materials seized by professor and fled – inability to determine whether materials were aids or not attributable to actions of the Student; Student must therefore provide credible, cogent evidence to support his contention – post-offence conduct more consistent with guilty mind than honest panic – finding of guilt – first offence – extraordinary post-offence conduct and deliberate deception is an aggravating factor – positive reference letters given little weight because authors were unaware of alleged misconduct – evidence of personal tragedy does not mitigate when used to support factual innocence rather than contextualize guilty conduct – grade assignment of zero in the course; three-year suspension; four-year notation on transcript; report to Provost for publication -- suspension and transcript notation deemed to begin on final day of hearing rather than date of issuance because decision issuance delayed for reasons beyond Student's control

Student charged with one offence under *s. B.i.1(b)* and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to an allegation that the Student knowingly used or possessed an unauthorized aid in the exam hall during a final exam. Specifically, the Student was alleged to have brought a completed Mid-Term Exam Booklet from the same course into the final exam. The Student claimed that the Mid-Term Booklet he possessed was from an unrelated course and therefore was not an aid for the purposes of *s. B.i.1(b)*. Both the Mid-Term Exam Booklet and the Final Exam Booklet were seized by the professor during the exam after a brief struggle with the Student. The professor gave the seized materials to the Chief Presiding Officer in the exam hall. Before the exam was finished, the Student grabbed the materials that had been seized and ran from the exam hall. Campus police were contacted and met with the Student for an interview two days later. During the interview, the Student informed the interviewing officer that he had 'stashed' the materials at the bottom of a staircase in the same building in which the exam had been written. The materials were recovered. The Mid-Term Exam Booklet that was found alongside the Final Exam Booklet was from an unrelated course. However, the professor testified that the completed Mid-Term Exam Booklet he had seized from the Student was from the same course. When shown the unrelated Mid-Term Exam Booklet found by the staircase, the Chief Presiding Officer denied that it was the Mid-Term Exam Booklet that had been handed to her by the professor during the exam. The Panel observed that the inability to definitively answer whether the Mid-Term Exam Booklet was related or unrelated was entirely attributable to the actions of the Student. The Panel noted that, while that fact did not relieve the University from the ultimate burden of proof, it obliged the Student to provide credible, cogent evidence to demonstrate how the facts are best explained by his contention that the Mid-Term Exam Booklet in question was from an unrelated course. The Panel found no reason to disbelieve the evidence of the professor that he observed the Mid-Term Exam Booklet was from the same course. The Panel found inconsistencies in the evidence of the Student, and concluded that the Student's behaviour in seizing the exam and fleeing was more consistent with a guilty mind than with an honest student whose panic was nevertheless so extreme as to rob him of any vestige of rationality. The Panel concluded that the Student was guilty of the offence under *s. B.i.1(b)*.

The Student had no prior disciplinary record and provided two letters of reference which spoke highly of him. The Panel noted that the authors of the letters appeared to be unaware of the conduct in question and consequently attribute little weight to these references. The Panel treated the Student's extraordinary conduct after his materials were seized by the professor, and the protracted and deliberate course of deception he engaged in afterwards, as aggravating factors. The Panel acknowledged the series of personal tragedies experience by the Student in the months preceding the events in question. However, the Panel concluded that these tragedies could not be used as mitigating factors because the Student relied on them in attempt to provide an innocent explanation for his conduct which the Panel rejected. The tragedies did not explain or mitigate the fact found by the Panel that the Student had attempted to mislead the Tribunal. The Panel found that the Student was unlikely to repeat this type of offence and that it was not therefore necessary to prevent his return to the University altogether. The Panel imposed a final grade of zero in the course, a three-year suspension, a four-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication. The Panel noted that for reasons beyond the Student's control, it had taken more than four months for the Decision to be

issued. The Panel therefore directed that both the suspension and the transcript notation be deemed to have commenced on the final day of the hearing, rather than the date of issuance.

FILE: Cases #786 (15-16)
DATE: March 24, 2016
PARTIES: University of Toronto v S.H.L.

Hearing Date(s):
December 4, 2015
January 15, 2016

Panel Members:
Sana Halwani, Chair
Chris Koenig-Woodyward, Faculty Member
Alice Zhu, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Tegan O'Brien, Counsel for Mr. S.J.P.
Lawrence Veregin, Counsel for Mr. S.J.P.
Rabiya Mansoor, Counsel for Mr. S.J.P.
Steve Joordens, Professor of the Course
Ada Le, Invigilator for the Final Exam in the Course
Ainsley Lawson, Undergraduate Course Coordinator, Department of Psychology & Neuroscience
Wayne Dowler, Dean's Designate, University of Toronto Scarborough
Emily Dies, Law Student, University of Toronto Faculty of Law
Kinson Leung, Invigilator for the Final Exam in the Course

In Attendance:
Hayley Ossip, Articling Student, Gilbert's LLP
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Tracey Gameiro, Observer
Nisha Panchal, Observer, Student Conduct & Academic Integrity Officer
Mr. S.J.P., the suspected collaborator
Mr. S.H.L., the Student

Trial Division – *s. B.i.1(b), s. B.i.1(a), s. B.i.3(b)* of the *Code* – unauthorized aid, forged documents, and academic dishonesty – obtained an unauthorized aid for a final exam while on a bathroom break – destroyed the aid after it was discovered – denied having the aid – initial hearing not attended – Student claimed he was ill and, though skeptical, the Panel accepted this and adjourned the initial hearing – later hearings attended – finding on evidence – not necessary to determine how the Student obtained the unauthorized aid – non-expert statistical evidence not accepted – finding on guilt – grade assignment of zero in the Course; 2-year suspension; 3-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(b), s. B.i.1(a),* and *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly used or possessed an unauthorized aid in connection with a final exam, that the Student obtained the unauthorized aid while he went on a bathroom break during the Exam, and that the Student subsequently forcefully took and destroyed the unauthorized aid after it was seized by the Exam invigilators.

Student was not present for the initial hearing date. Reasonable notice of the hearing was provided. The Student claimed that he had become too ill to attend the hearing, and contacted the Office of Appeals, Discipline, and Faculty Grievances in the early hours of the scheduled hearing date. The initial hearing was adjourned, with reluctance, because

though the evidence with respect to the Student's illness warranted skepticism, the evidence was essentially uncontradicted. The Student was present at the subsequent hearings.

The Panel emphasized the onus of proof set out in the *Code*, noting that to prove the charges against the Student, the University must satisfy on a balance of probabilities standard, with clear and cogent evidence, that the Student used an unauthorized aid to assist him in the exam and then destroyed the unauthorized aid. For the purposes of the Student's charges, it was not necessary for the Panel to determine how or where the Student obtained the cheat sheet.

Taking into account the evidence supporting the existence or absence of the unauthorized aid, the Panel accepted the evidence of the invigilators and determined that even without the physical cheat sheet being in evidence, the University had provided ample evidence to meet its burden of proving the existence of the cheat sheet. The Panel placed no weight on the statistical evidence that compared the Student's exam answers to those of the suspected supplier of the unauthorized aid because of the lack of expert evidence provided as well as the general difficulties associated with statistical evidence.

Student was found guilty of all three charges. The Panel took into account that the Student was a first time offender. The Panel also took into account several aggravating factors; namely, that the Student destroyed the evidence rather than dealing with the repercussions of being caught cheating, the serious nature of the offence, and the Student's lack of remorse throughout the proceeding and failure to accept responsibility. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension; a 3-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case # 1041 (2020-2021)
DATE: December 15, 2020
PARTIES: University of Toronto v. D.S. ("the Student")

Hearing Date(s):
September 28, 2020, via Zoom

Panel Members:
Mr. Douglas F. Harrison, Chair
Professor Julian Lowman, Faculty Panel Member
Ms. Julie Farmer, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Ms. Krista Kennedy, Hearing Secretary and Administrative Clerk, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division – s. B.i.1(b) of Code – unauthorized aid – Student knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in a final exam - Student did not attend hearing – reasonable notice of hearing provided – University's *Policy on Official Correspondence with Students* – Rule 9(c), 13, and 17 of the University Tribunal's *Rules of Practice and Procedure* ("Rules") - ss. 6 and 7(3) of the *Statutory Powers Procedure Act* ("SPPA") – calculated and pre-meditated effort to cheat - finding of guilt – s. C.ii.(b) of the Code – final grade of zero in the course; three-year suspension; a four-year notation on the Student's transcript; and publication of notice of decision and sanctions with the Student's name withheld.

The Student was charged under s. B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he knowingly used or possessed an unauthorized aid, or aids, or obtained unauthorized assistance in a final exam. In the alternative, the Student was charged under s. B.i.3(b) of the *Code* on the basis that the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in connection with use or possession of study notes in a final exam.

Neither the Student nor a legal representative of the Student appeared at the hearing. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges and notice of hearing. The University's *Policy on Official Correspondence with Students* provides that students enrolled at the University are responsible for maintaining current contact information in the Repository of Student Information ("ROSI") database inclusive of a valid University-issued email account. Rule 9(c) of the Rules provides that service can be effected on a student by email to a student's email address as recorded in ROSI. The Panel noted that there was evidence that the Student had accessed his email account after service of the charges and after various emails from Assistant Discipline Counsel enclosing

disclosure and requests to schedule the matter. The Student was subsequently provided an opportunity to provide submissions in relation to the request of Assistant Discipline Counsel for this matter to proceed electronically due to the COVID-19 pandemic. The Student did not respond to this request and the hearing was ordered to proceed electronically. The charges, notice, and other email correspondence to the Student went unanswered. Relying on Rule 13 and 17 of the University Tribunal's *Rules of Practice and Procedure* ("Rules") and s. 7(3) of the *Statutory Powers Procedure Act* ("SPPA"), the Panel ordered that the hearing proceed in the Student's absence as it found that reasonable notice of the hearing and charges had been provided to the Student.

Regarding the charges laid under s. B.i.1(b) of the Code, the Panel examined the evidence of Dean's Designate and two Chief Presiding Officers where it was determined that the Student was using various study notes in a final exam without authorization. There was further evidence that the Student admitted to the Dean's Designate that he possessed an unauthorized aid during the final exam, but the Student did not admit to using it during the exam. The Panel outlined that a finding of possession of an unauthorized aid does not require any evidence that the unauthorized aid was used during the final exam. On the evidence presented by the University and the Panel's review of the final exam answer booklet and the study notes, the Panel found that the Student was guilty of one count of knowingly using or possessing an unauthorized aid in a final exam, contrary to section B.i.1.(b) of the Code as the Student had copied a significant amount of the material from the study notes into his final exam booklet. Given the Panel's finding, the University withdrew the charge under s. B.i.3(b) of the Code.

In determining sanction, the Panel considered that the Student brought extensive notes into the final exam and disguised those notes by handwriting them in a term exam answer booklet that could easily be mistaken for a final exam answer booklet and might therefore go unnoticed by the invigilators. The Panel declined to accept the University's position on penalty as the Panel found that in this case the Student's actions were evidence of a calculated, pre-meditated effort to cheat on the exam, with complete disregard for rules at the final exam. The Panel further found that academic honesty is a fundamental principle of the University and when a student is found cheating or flouting the rules of the University, the Panel must take a strong stand to sanction the Student and send a strong message to the University community that these actions will not be tolerated. Without the Student's participation, the Panel found no evidence of mitigating circumstances or factors that would prevent the Panel from imposing a strong sanction. Given the seriousness of the offence the Panel imposed the following sanctions: a final grade of zero in the course; a three-year suspension; a four-year notation on transcript; and a publication by the Provost of a notice of the decision and sanctions imposed with the Student's name withheld.

STUDENTS COLLABORATING

FILE: Case #00-01-02 (00-01)
DATE: April 25, 2001
PARTIES: University of Toronto v R.D. and K.U.

Hearing Date(s):
February 28, 2001
March 7, 2001
March 14, 2001
April 17, 2001
April 25, 2001
June 5, 2001

Panel Members:
C. Anthony Keith, Senior Chair
Roland J. Le Huenen, Faculty Member
Paul Macerollo, Student Member

Appearances:
Maurice Vaturi, Counsel for K.U.
Yvonne D. Fiamengo, Counsel for R.D.
Linda R. Rothstein, Discipline Counsel
Lily Harmer, Assistant Discipline Counsel
Siobhan Brady, Invigilator
Mazda Jenab, Invigilator
James B. Campbell, Faculty
Lilian U. Thompson, Faculty
Betty I. Roots, Emeritus Faculty
Rebecca Spagnolo, Chief Presiding Officer, Examination
Tanya Wood, Chief Presiding Officer, Examination
R.D., the Student
K.U., the Student

Trial Division - *s. B.i.1(b)*, *s. B.ii.1(a)*, *s. B.ii2* of *Code* – unauthorized aid - joint hearing – inappropriate communications during two final examinations – objection to joint hearing – no consent to joint hearing - power to determine Tribunal practices and procedures subject to provisions of *Code* – see *s. C.ii.(a).7* of *Code* – consent requirements of *Statutory Powers Procedure Act* not applicable – see *ss. 9.1(1)* of *Statutory Powers Procedure Act* – single proceeding because same evidence tendered - exigencies relating to University community - application for separate proceedings dismissed - circumstantial evidence - onus of proof on University not discharged - motion for costs not awarded - University not reckless malicious or unreasonable

Two Student's charged with identical offences under *s. B.i.1(b)*, *s. B.ii.1(a)*, *s. B.ii2*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Students engaged in inappropriate communications during the final examinations of two courses, in an attempt to cheat or obtain unauthorized assistance. Student U., with the support of Student D., raised an objection to hearing the charges in a joint hearing, on the grounds that he did not consent to a joint hearing and that to combine the proceedings or hear them jointly would be prejudicial. The Panel considered *s. C.ii.(a).22* of the *Code* and found that it was the Chair's function to rule individually on the issue. The Chair considered *s. C.ii.(a).7* of the *Code*, the *Statutory Powers Procedure Act*, and whether the matter was two proceedings or one proceeding involving charges against different people. The Chair found that the power of the Tribunal to hear and dispose of charges included the power to determine its practice and procedure subject to the provisions of the *Code* and that the consent requirements in *ss. 9.1(1)* of the *Statutory Powers Procedure Act* did not apply if another act or regulation that applied to the proceedings allowed the Tribunal to combine them or hear them at the same time without consent. The Chair found that while not free from doubt, it was his view that the matter was a proceeding involving two accused against whom identical charges had been laid because the same evidence was to be tendered with respect to the charges against both of the Students. The Chair found that while the Tribunal was an administrative tribunal, it had to be mindful of the exigencies that related to the University community. The Chair found that the matter should be heard as one proceeding and dismissed the application for separate proceedings. The Panel considered the evidence, including the oral testimony and the written exhibits and the submissions of counsel, and found that the University's evidence was circumstantial and that the onus of proof on the University had not been discharged. The Senior Chair did not exercise his discretion under *ss. C.ii.(a).17(b)* of the *Code* to grant the Students' motion for costs because he found that the University did not act recklessly nor maliciously in laying the charges and it did not act unreasonably in bringing forward the evidence that it did.

FILE: Case #668 (11-12)
DATE: April 27, 2012

Panel Members:
Paul Schabas, Chair

PARTIES: University of Toronto v P.H.

Hearing Date(s):
March 27, 2012

Nick Cheng, Faculty Member
Amy Gullage, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Julia Wilkes, Articling Student
Sierra Robart, Counsel for the Student, DLS
Camille Labchuk, Counsel for the Student, DLS
Matthew MacKay, Course Instructor
Sinisa Colic, Teaching Assistant
P.H., the Student
Ali Afshar, a student
Armin Ayattolahi, a student

In Attendance:
John Carter, Dean's Designate
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aids – midterm contained answers allegedly copied from another student – some similarities between answers submitted by the two students – Student omitted intermediate steps – University only needs to prove the case on a balance of probabilities – evidence only circumstantial – test instructions regarding intermediate steps were ambiguous – charges not brought promptly – testimony from classmates that they did not see Student looking at the other student's test – Provost failed to prove the charges on a balance of probabilities – charges dismissed

Student charged under *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student copied answers from another student during a midterm test. The Student sat next to the other student whom he allegedly copied his answers from. The invigilator testified that he saw the Student's mouth moving during the exam and told both students not to speak. He, as well as the course instructor, also testified that the two students were sitting closer to each other than other students in the room. When he was marking the exam, he noted similarities between the two tests and also noted that the Student's answers were lacking intermediate steps. The Student testified that he arrived with the other student and chose the first two available seats and that he did not speak to the other student during the test. He stated that he thought he listed all appropriate intermediate steps. The other student testified that he did not notice anything unusual during the test and that he had not started working on the test question under question when the invigilator warned both of them not to speak. Two of the Student's classmates who took the test in the same room also testified that they did not notice anything unusual during the test. The Panel stated that although the University need only prove its case on a balance of probabilities, it had failed to do so in this case. The Panel found that there was no direct evidence that the Student cheated on the test – evidence was only circumstantial as no one saw the Student copying answers. The Panel also found the test instruction ambiguous as it said to list "appropriate" intermediate steps. Also, the Panel criticized the University for bringing the charges late, two months after the test. Had the charges been brought promptly, the Student would have been easily able to rebut the charges with the scrap papers he used during the test. Taking all factors into account, the Panel dismissed the charges.

FILE: Case #850 (16-17)
DATE: July 18, 2016
PARTIES: University of Toronto v M.L.

Hearing Date(s):
June 27, 2016

Panel Members:
Roslyn M. Tsao, Chair
Faye Mishna, Faculty Member
Vassilia (Julia) Al Akaila, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Kalina Staub, Instructor of the Course

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sean Lourim, IT Support

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – majority of Student's assignment identical to that of another student – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – not necessary to determine which student drafted the original contents of the assignment provided it is clear that the students collaborated or knew that the work was being used for assistance – University submission on penalty accepted – grade assignment of zero in the Course; 2-year suspension; 3-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(d), s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the majority of the Student's assignment was identical to that of another student in the Course. The Student did not attend the hearing. The Panel determined that reasonable notice had been provided pursuant to the *Rules of Practice and Procedure*, and it proceeded in the absence of the Student.

Student was found guilty of plagiarism and unauthorized assistance. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel noted that though it was not clear which student had copied from the other, it is not necessary to determine who drafted the original contents of the assignment, whether the students collaborated, or whether the Student copied from the other student or vice versa – all of these scenarios will attract a finding of guilt provided that it is clear that the students collaborated or that the Student was aware that her work or the other's was being used for assistance. The Panel found that there was clear and convincing evidence that the students collaborated or that one of them knowingly made his/her work available to the Student to copy. The Panel accepted the University's submissions on penalty and imposed a grade assignment of zero in the Course; a 2-year suspension; a 3-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE:	Case # 967 (2017 - 2018)	Appearances:
DATE:	June 6, 2018	Ms. Lily Harmer, Assistant Discipline Counsel for University, Paliare Roland Barristers
PARTIES:	University of Toronto v. Y.W. ("the Student")	The Student
Hearing Date(s):	April 3, 2018	In Attendance: Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies
Panel Members:		Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances
Ms. Roslyn M. Tsao, Chair		
Professor Graeme Hirst, Faculty Panel Member		
Mr. Eric Bryce, Student Panel Member		

Trial Division - s. B.ii.1(a)ii – aiding or assisting another person to commit an offence under s. B.i.1(b) of the *Code* – misconduct by teaching assistant – teaching assistant completing assignments for a student enrolled in the course – penalties for misconduct after a degree has been conferred – degree suspension - agreed statement of facts – guilty plea – joint submission on penalty – recommendation of suspension of the degree for three years, transcript notation for four years, and a report to the Provost for publication

The Student had recently obtained his Master of Arts degree from the University and was working as a teaching assistant. The charges related to his providing unauthorized assistance to a student enrolled in the course by writing the majority of her assignments in the course. The matter proceeded by way of an agreed statement of facts (ASF), a guilty plea and a joint submission of penalty (JSP). The Student pled guilty to three of the charges which related to aiding or assisting another person contrary to Section B.ii.l(a)(ii) to obtain unauthorized assistance contrary to Section B.i.l(b) of the *Code*. The University withdrew the other four charges.

The Parties' JSP requested: (1) that the Student's degree be suspended for a period of three years; (2) that the sanction be recorded for a period of four years on the Student's academic record and transcript; and (3) that the case be reported to the Provost with the Student's name withheld. The Panel noted that there is a very high threshold for departing from a JSP; that the Panel would need to find that its acceptance would be contrary to the public interest and bring the administration of justice into disrepute. The Panel was referred to other cases which showed that the penalties available to impose on a student who has graduated are more limited than for a current student but the more serious sanction of revocation of the Student's degree was not appropriate given that it was a first offence, that the Student had admitted guilt early in the process and acknowledged his misconduct. The Panel found the JSP was reasonable in these circumstances and ordered: (1) that the Student's degree be suspended for a period of three years; (2) that the sanction be recorded for a period of four years on the Student's academic record and transcript; and (3) that the case be reported to the Provost with the Student's name withheld.

FILE: Case # 991 (2020-2021)
DATE: July 6, 2020
PARTIES: University of Toronto v. Y. W. ("the Student")

Hearing Date(s):
January 29, 2020, in person, and May 7, 2020, via Zoom

Panel Members:
Ms. Lisa Talbot, Chair
Professor Margaret MacNeill, Faculty Member
Mr. Jin Zhou, Student Member

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Megan Phiffer, Law Student, Paliare Roland Rosenberg Rothstein LLP
Ms. Olivia Eng, Law Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:
Ms. Krista Kennedy, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances (January 29, 2020 & May 7, 2020)
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances (May 7, 2020)

NOTE: The hearing followed the Panel's hearing in the related matter of the *University of Toronto and V.T.* (Case No. 980, May 5, 2020), in which it made findings of fact that are referenced in these reasons.

Trial Division – s. B.i.1(b) of Code – unauthorized assistance – Student initially found guilty of knowingly obtaining unauthorized assistance from a teaching assistant - *Policy on Official Correspondence with Students* – joint Submission on Penalty ("JSP") accepted - Student knowingly committed multiple offences and engaged in a scheme to cover-up the true facts from the University, which were viewed as aggravating factors – Students must know that they cannot seek to obtain unfair benefits from teaching assistants with whom they share a social network, or at all, and that doing so constitutes a breach of trust by everyone involved - grade of zero in the course – up to five-year suspension – a recommendation that the Student be expelled, further to s. C.ii.(b)(i) of Code – report to Provost for publication of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

The Student was initially charged with five counts under s. B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") for knowingly using or possessing an unauthorized aid or aids or obtaining unauthorized assistance from a teaching assistant in connection with a programming course. The University subsequently withdrew three of these charges. Alternatively, she was charged with one count under s. B.i.3(b) of the Code for knowingly doing or omitting to do something to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage. This was charge was also withdrawn.

The Student did not attend the hearing on January 29, 2020. Based on various affidavits and the University's *Policy on Official Correspondence with Students*, the Panel found that she had been served with the charges and the Notice of Hearing and had received reasonable notice of the hearing. The Panel ordered that the hearing proceed in her absence and found her guilty of two counts of knowingly obtaining unauthorized assistance, contrary to s. B.i.1(b) of the Code. Following the University's submissions on penalty, the Panel adjourned the hearing to afford the Student a further opportunity to make submissions on penalty. The Panel accepted the Student's subsequent adjournment request and reconvened on May 7, 2020 with her in attendance.

The Student admitted that she had engaged in misconduct and accepted the University's sanctions set out in the JSP. The Panel found that she exhibited dishonesty and unethical character because she was prepared on two occasions to take unauthorized assistance and to copy the instructor's solutions, and was prepared to exploit her relationship with a teaching assistant to obtain unauthorized assistance in a course in which she was registered. The Panel highlighted that the Student's actions were not isolated, but repeated, indicating that she did not suffer a momentary lapse of judgment and was prepared to mislead and lie repeatedly to the University about the misconduct when confronted. Furthermore, the Panel noted that she had only admitted her misconduct, expressed remorse and indicated that she was prepared to accept the consequences at the continuation hearing, after having engaged in a conspiracy to mislead the University over many months. According to the Panel, the fact that she originally conspired with other students to avoid sanction for herself and for the teaching assistant suggests she would likely commit such an offence if she thought she would not get caught or to protect another student engaging in misconduct. It also noted that the Student sees a distinction between cheating on a lab and cheating on an exam suggests she would likely cheat again if she thought it wasn't "serious". Her engagement in multiple breaches of the *Code* also contributed to the Panel's view that there is a likelihood of the Student committing ethical breaches again.

The Panel characterized the offences as serious because the Student was aware of what she was doing and aware that her actions were in breach of the *Code*. It also noted that she then deliberately misled the University in its investigation. According to the Panel, the Student's admission and her expression of remorse constituted mitigating factors. The fact that the Student knowingly committed multiple offences and engaged in a scheme to cover-up the true facts from the University was viewed as aggravating factors. The University has an important interest in protecting the integrity of the institution. Such integrity is fundamental to the academic relationship important that students are deterred from committing academic dishonesty. Students must know that knowingly breaching the *Code* will not be tolerated. They must also know that they cannot seek to obtain unfair benefits from teaching assistants with whom they share a social network, or at all, and that doing so constitutes a breach of trust by everyone involved.

The Panel imposed the following sanctions: a grade assignment of zero in the course; up to five-year suspension; a recommendation to the President that the Student be expelled further to s. C.ii.(b)(i) of *Code*; report to Provost for publication of a notice of the decision and sanction imposed, with the name of the Student withheld.

CELL PHONE

FILE: Case #499 (08-09)
DATE: October 6, 2008
PARTIES: University of Toronto v S.S.

Hearing Date(s):
November 26, 2007

Panel Members:
Raj Anand, Chair
Ikuko Komuro-Lee, Faculty Member
Christopher Oates, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Jodi Martin
Maurice Vaturi, Counsel for the Student
Ben Zaxks
S.S., the Student

Trial Division – s. *B.i.1(b)* of the *Code* – unauthorized aids – cell phone, cue cards and prior year's examination – unaware of possession of aids and ignorance of how to operate cell phone – invigilator instructions not heard – interpretation of rules – cell phone not defined as unauthorized aid – phrase "ought reasonably to have known" suggests subjective element – Student subjectively knew or ought reasonably to have known that the items were unauthorized aids and ought to have known that the unauthorized aids where in the Student's possession – finding of guilt – continuum of sanctions – see *s. C.ii.(b)* of the *Code* – academic status – no evidence aids used or benefited from – first allegation of academic offence – University not compelled to produce evidence of use and benefit in order to enforce rules and impose sanctions – stress and fatigue of preparing for and writing examinations not relevant mitigating factor – academic impact of sanctions is proper consideration – penalty sought by Student too lenient and penalty sought by University excessive for circumstances – grade assignment of zero in course; two-year notation on transcript; and report to Provost

The Student was charged under *s. B.i.1(b)*, and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to a final examination in which the Student was found to be in possession of a cell phone, cue cards containing text related to the examination, and a photocopy of a prior year's examination. The Student pleaded "Not Guilty" to both charges. The Student claimed that he was unaware that he had had aids in his jacket pocket and he was ignorant of how to correctly operate his cell phone, having believed that he had turned it off. The Student produced a doctor's report, dated two days after the exam, which stated that the Student was experiencing weakness, fatigue, dehydration and headache. The Student claimed that he felt nervous when he arrived to write the exam and that he did not hear any announcements or the exam invigilator asking him to remove his jacket. The Student claimed that he interpreted the rule that certain items were prohibited "at the desk" to mean "on the desk". The University claimed that the Student knew or ought reasonably to have known that the items found in his possession were unauthorized aids. The Student claimed that while cell phones were prohibited at the exam, the *Code* did not define a cell phone as an unauthorized aid. The Student claimed that the phrase "ought reasonably to have known" suggested a subjective element that implies the intent to do wrong. The Panel found the Student guilty of having committed an offence under *s. B.i.1(b)* of the *Code*. The Student subjectively knew or ought reasonably to have known that the cure cards, the previous year's exam and the cell phone (at least while on) were unauthorized aids and he ought to have known that he had those unauthorized aids in his possession during the exam. With respect to penalty, the University claimed that when a student wilfully disregards the rules, it jeopardizes trust and integrity. The Student submitted that the panel should impose sanctions on the more lenient end of the continuum provided by the *Code* at *s. C.ii.(b)*. The Panel considered the Student's registration vis-à-vis graduation and requested that the parties provide written submissions on the academic consequences of proposed penalties, addressing both fact and principle. The Panel found that the nature of the offence was at the less serious end of the spectrum of cases, and that there was no evidence that the Student used the cell phone or other aids to assist him in the examination, or that he benefited from their presence. The Panel found that the Student knew from his time at the University, the examinations he had previously written and the warning at the front of the examination in question, that the aids were unauthorized. Whether or not the Student turned his mind to the issue, he ought to have known that he was violating the rules. The Panel observed that the allegation of academic offence was the first against the Student and it found nothing to suggest that a repetition of the offence was likely. The Panel found that the University should not be compelled to produce evidence of actual use and benefit obtained from prohibited notes or similar items before it is able to enforce its rules and impose sanctions, and to disregard the principle that students must check unauthorized aids at the door before writing the exam would compromise the University's processes. The Panel found that stress and fatigue of preparing for and writing examinations was not a relevant mitigating or extenuating circumstance as it had affected

almost all students undergoing evaluation and it was inconceivable that the circumstances could justify a violation of the rules. The Panel found that the academic impact of the sanctions proposed by the respective parties was a proper consideration for the Tribunal for several reasons: the impact of the offence on the University's "public" and on the individual in question is a reflection of the twin factors of general and specific deterrence; there is judicial authority for the application of criminal law principles of sentencing in cases of professional or regulatory discipline; under both criminal and administrative law discipline principles, mitigating or extenuating circumstances are relevant; and the criminal and administrative law discipline principles are reflected in the body of Tribunal cases. The Panel observed that only through inquiry and assessment of the implications of its intended penalty can the Tribunal determine which side that evidence supports. The Panel considered precedent cases and found that the penalty sought by the Student was too lenient while the penalty sought by the University was excessive for the circumstances. The Panel imposed a mark of zero in the course; a two-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #655 (12-13)
DATE: October 24, 2012
PARTIES: University of Toronto v P.T.

Hearing Date(s):
September 26, 2012

Panel Members:
Wendy Matheson, Chair
Louis Florence, Faculty Member
Eleni Patsakos, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Jeremy Burgess, Counsel for the Student, DLS

In Attendance:
P.T., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(b), s. B.i.1(b)* and *(d)* of *Code* – unauthorized aid and plagiarism – three offences: cheated on an assignment; had a cell phone in possession during an exam; and submitted an essay containing passages taken verbatim – Agreed Statement of Facts – guilty plea – finding of guilt – Joint Submission on Penalty – penalty would only delay graduation without the Student having to do further coursework and demonstrate that he had learned from the experience – Panel would have considered a more severe penalty absent the joint submission – high threshold for rejecting a joint submission not met – grade assignment of zero for two courses and 50% for one course; three-year suspension; three-year notation on transcript; report to Provost

Student charged under *s. B.i.1(b)* and *(d)* of the *Code*. The charges related to allegations that the Student altered the date on an assignment to mislead the instructor (Course 1), had an iPhone in possession during an exam (Course 2), and submitted an essay containing passages taken verbatim from secondary sources (Course 3). The Parties submitted an Agreed Statement of Facts, and the Student pleaded guilty to the charges. The Panel found the Student guilty under *s. B.i.3(b), s. B.i.1(b),* and *s. B.i.1(d)* of the *Code*. The Parties submitted a Joint Submission on Penalty proposing a three-year suspension and a grade assignment of zero in Courses 1 and 3 and a grade assignment of 50% in Course 2. Regarding Course 2, the University noted that the phone had not actually been used and the Student had admitted misconduct at an early stage. The University submitted that in those circumstances, the grade of 50, rather than zero, was appropriate. With a passing grade in Course 2, the Student would have enough credits to graduate. The Panel stated that absent the Joint Submission, it would have considered a more serious penalty although it recognized the mitigating factors that the Student did not actually use the phone during the exam, had made an early admission of misconduct, cooperated with the University, and had no prior discipline history. Because the Student would be given a passing grade, the effect of the penalty would be to delay graduation only without the Student having to do further coursework and demonstrate that he had learned from the experience. However, the Panel noted that there was a high threshold for rejecting a Joint Submission and this was not such a case that met the threshold. The Panel accepted the Joint Submission and imposed a grade assignment of zero in Courses 1 and 3; a grade assignment of 50% in Course 2; a three-year suspension; a three-year notation on the Student's transcript; and a report be issued to the Provost.

FILE:	Case # 841 (16 - 17)	Appearances:
DATE:	March 13, 2017	Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
PARTIES:	University of Toronto v. L.S. ("the Student")	Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto - Mississauga
Hearing Date(s): November 29, 2016		Ms. Emma Planinc, Head Teaching Assistant for POL 200Y
Panel Members:		The Student
Mr. Shaun Laubman, Lawyer, Chair		In Attendance:
Professor Graeme Hirst, Faculty Panel Member		Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances, University of Toronto
Mr. Harvey Lim, Student Panel Member		Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division – *s. B.i.1(d), s.B.i.1(b),* of *Code* – plagiarism or unauthorized aid – student's essay bore similarities to peer's essay after peer review process – lack of convincing evidence – unfair to penalize student for using idea shared in peer review – similarities considered in context and outweighed by evidence of independent analysis by student

The Student was charged with one offence of plagiarism under *s. B.i.1(d)* of the *Code*, and alternatively, use of an unauthorized aid under *s. B.i.1(b)* of the Code, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to a final essay in a course. All students in the course were given the option of a peer review process in which other students reviewed and commented on a draft of their work. The University alleged that the Student changed their paper after reviewing a colleague's draft, plagiarising that draft's thesis, structure, and arguments. However, the Student argued that they changed their topic before seeing their colleague's draft, and that some other similarities were the result of following their colleague's suggestions from the peer review.

The University was unable to show its case on clear and convincing evidence. The Tribunal engaged in a close reading of the Student's essay against their colleague's essay. While many similarities were found, some were the result of the typical structure and style of such essays, others were traced to the wording of the assignment, and others to the course readings. The Tribunal looked past superficial similarities of form, wording, and chosen citations, to determine that the Student had performed their own analysis. The Tribunal viewed such similarities against the overall context of each section in each paper. Moreover, there was limited evidence of the range of theses used in the class that could show that the Student's thesis was unusually similar to their colleague's. The Tribunal found that when a process is in place for peer review, it would be unfair to penalize a student for incorporating an idea arising from that process or to characterize it as unauthorized assistance.

One member of the Tribunal dissented. They agreed that the similarity of thesis could be chance, and that the similarity of essay structure was innocuous. However, they found that the formal similarity could be an indicator of plagiarism combined with other evidence. The dissenter considered that it was more likely that specific quotations from a given source were pulled from the Student's colleague's draft rather than from that source because the draft was 10 pages long while the source was at least 75 pages long, and the quotations were not obvious choices. The dissenter thought that the majority wrongly focussed on differences instead of similarities. Thus the dissenter would have found the Student guilty of plagiarism and academic misconduct. The dissenter agreed with the majority that it would be unjust to punish the Student by finding a fruit of the peer review process to be an unauthorized aid.

DIVISION NOT FOLLOWING POLICY

FILE: Case #746 (14-15)
DATE: January 14, 2015
PARTIES: University of Toronto v Y.W.

Hearing Date(s):
December 12, 2014

Panel Members:
Bernard Fishbein, Chair
Michael Saini, Faculty Member
Susan Mazzatto, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel

In Attendance:
Raymond Grinnell, Senior Lecturer
Nikki Alber, Graduate Student,
Wayne Dowler, Dean's Designate, UTS
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

Trial Division – *s. B.i.1(b)* and *s. B.i.3(d)* of the *Code* – unauthorized aids on exam – illegal calculator – illegal notes – Student not present – affidavits served – grade of zero in course; suspension of two years; notation on transcript for three years; report to Provost for publication – lesser penalty for unauthorized calculator might have been imposed but for the notes attached – division not following policy

Student charged with an offence under *s. B.i.1(b)*, and in the alternative, an offence under *s. B.i.3(b)* of the Code. The Student did not attend the hearing but the Panel was satisfied that the Student had reasonable notice of the hearing and had been served several affidavits in accordance with the Rules of Practice and Procedure of the University Tribunal. The Panel proceeded in accordance with the University Tribunal Rules of Practice and Procedure.

The charges related to possession of both a calculator with unauthorized functions, and notes during an exam. An invigilator testified that students were given both written and spoken instruction that certain calculators with special functions would not be permitted for use on the exam. She further checked every student's calculator and found that the Student had an illegal calculator with notes and formulas attached to the back and case of the calculator. The Student denied that the notes were for the course, had the calculator confiscated, and was permitted to write the exam.
The instructor for the course testified that certain calculators were illegal as they defeated the purpose of the exam. He reviewed the confiscated calculator's functions and demonstrated that it was one of the types that were banned from the exam. He also testified that the notes were blatantly for the course.

The University submitted that the Student had blatantly violated s. *B.i.1(b)* of the Code, knowingly using an illegal calculator and notes, and further had not participated in the proceedings. The University sought a penalty including a grade of zero in the course, a two year suspension from the date from the hearing, a notation on the Student's transcript for three years from the date of the hearing, and that the case be reported for publication.

The Panel unanimously ruled that the Student had violated *s. B.i.1(b)* of the Code and the University withdrew the alternative charge. Although it was a first offence, the Panel found no mitigating circumstances and that a two year suspension was the ordinary sanction in similar circumstances.

The Panel imposed the sanctions sought by the University but noted that a lesser sanction may have been imposed as the exam rules did not call for confiscation of calculators, but only that they be turned off. However, because of the extensive notes on the calculator, the Panel agreed with the University's proposed sanctions.

STUDENT AND TEACHING ASSISTANT COLLABORATING

FILE: Case # 980 (2019-2020)
DATE: May 5, 2020
PARTIES: University of Toronto v. V.T ("the Student")

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Date(s):
January 29, 2020

Not in Attendance:
The Student

Panel Members:
Ms. Lisa Talbot, Chair
Professor Margaret MacNeill, Faculty Panel Member
Mr. Jin Zhou, Student Panel Member

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearing Secretary of the Office of Appeals, Discipline Faculty Grievances

NOTE: The hearing in this matter preceded the Panel's hearing in the related matter of the *University of Toronto and Y.W.* (Case No. 991, July 6, 2020).

Trial Division – ss. B.i.1(c) and B.i.1(b) of Code - academic misconduct – impersonation – Student knowingly had another student personate him when the other student submitted an in-class assignment in the Student's name – Student knowingly did or omitted to do something for the purpose of aiding or assisting students to obtain unauthorized assistance in connection with course assignments – In his capacity as a teaching assistant, the Student provided unauthorized assistance to two students registered in a programming course – the Student did not attend hearing – reasonable notice of hearing provided – Agreed Statement of Facts ("ASF") – Joint Book of Documents ("JBD") – Joint Submission on Penalty ("JSP") – finding of guilt – teaching assistants must be beyond reproach – final grade of zero – five-year suspension – recommendation of expulsion – publication of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

The Student was charged with two counts of academic misconduct under s. B.i.1(c) of the *Code of Behaviour on Academic Matters, 1995* (the "Code"), and alternatively with one count under s. B.i.3(b) of the Code, on the basis that for one course he knowingly had another student in his class personate him by having the other student submit an in-class assignment in the Student's name.

Additionally, the Student was charged with respect to another course with seven counts under s. B.i.1(b) of the Code, and alternatively with one count under s. B.i.3(b) of the Code, for knowingly doing or omitting to do something for the purpose of aiding or assisting students to obtain unauthorized assistance in connection with course assignments. Specifically, the Student, in his capacity as a teaching assistant, provided unauthorized assistance to two students registered in a programming course. He provided solutions for coding exercises and assignments that the Student had received in his capacity as a teaching assistant and for his authorized duties only. The Student knew that he was not permitted to give, show, or make the instructor's solutions available to students in Programming Languages. He also knew or ought to have known that doing so would breach the Code and violate his obligations as a teaching assistant. The students who received assistance from the Student knew him personally before the term in question. They did not pay for the assistance received.

Neither the Student nor a legal representative of the Student appeared at the hearing. The hearing proceeded on the basis of an Agreed Statement of Facts ("ASF"), in which the Student pleaded guilty to all charges and admitted that he had received a copy of the charges and reasonable notice of the hearing. The Panel accepted the Student's consent to proceed in his absence and to waive his right to any further notice of the proceedings.

In determining the appropriate sanction, the Panel considered the Student's character, the likelihood of repetition of the offences, the nature of the offences committed, extenuating circumstances, and the need for deterrence. Although the Student had no prior history of academic misconduct, the Panel noted that his repeated actions had occurred with two students. It further noted that the Student had actively concealed the facts, lied to the Dean's designate and exhibited a disregard for the Code, which revealed a dishonesty in character. In discussing the Student's ultimate cooperation and possible remorse, the Panel took into account that he had proceeded by way of a guilty plea, and an ASF and JSP. The

Panel highlighted, however, that his cooperation came only after having engaged in a cover-up scheme and having been caught.

According to the Panel, several factors contributed to the likelihood that the Student would commit other offences, namely the fact that he had conspired with other students to avoid sanctions, committed academic offences as a student and committed repeated academic dishonesty as a teaching assistant with two students. The Panel held that these offences are serious. As mitigating factors, it considered the fact that the Student entered into guilty pleas and cooperated with the University by signing an ASF and agreeing to a JSP. As for the aggravating factors, it explained that the Student knowingly committed multiple offences and engaged in a cover-up scheme. In the Panel's view, the Student engaged in a gross breach of the trust placed in him as a teaching assistant. On the issue of deterrence, it stressed that integrity is fundamental to the academic relationship and that students must be deterred from committing offences of academic dishonesty. It also stressed that teaching assistants, who are in a unique position of trust among the students at the University, must be beyond reproach and understand that any violation of their position of trust will be treated with great severity. It further added that students must understand that knowingly breaching the Code will not be tolerated and that they cannot seek to obtain unfair benefits from teaching assistants.

The University withdrew the alternative charges under s. B.i.3(b) of the Code.

The Panel imposed the following sanctions: grade assignment of zero for course; five-year suspension; recommendation of expulsion; publication by the Provost of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

s. B.i.1(c) of *Code*: impersonation

Leading Cases:

- commercial element: **617 (07-08), 837 (16-17)(DAB)**
- no commercial element: **609 (11-12), 01-02-05, 722 (13-14), 980 (19-20)**

DAB = Discipline Appeals Board decisions

COMMERCIAL ELEMENT

FILE: Case #617 (11-12)
DATE: August 25, 2011
PARTIES: University of Toronto v J.O.

Hearing Date(s):
February 16, 2011

Panel Members:
Jeffrey Leon, Chair
Andrea Litvack, Faculty Member
Eric Siu, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Mike Canniffe, Counsel for the Student, DLS

In Attendance:
J.O., the Student
John Browne, Dean's Designate
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(c)* of *Code* – impersonation – impersonator paid to write term test – Student had denied the allegations the day before the test – Agreed Statement of Facts – guilty plea – finding of guilt – Student's conduct fell within the most serious category of impersonation – need for both specific and general deterrence – commercial transaction; availability of online advertising makes it harder to monitor – strong need for general deterrence – these factors outweigh rehabilitation needs – grade assignment of zero for course; five-year suspension; recommendation that Student be expelled; report to Provost

Student charged under *s. B.i.1(c)* of the *Code*. The charges related to allegations that the Student hired an individual through advertisements to impersonate him and write a term test as if he were the Student. The parties submitted an Agreed Statement of Facts. At the meeting with Departmental representatives, the Student denied the allegations, explaining he was only looking for a tutor; the Departmental representatives found him credible. The next day, the Student sent an impersonator to write the term test and was discovered and charged. The Student pleaded guilty to the charges. The Panel found the Student guilty under *s. B.i.1(c).* The Panel stated that the particular course of conduct by the Student fell within the most serious category of conduct involving personation; anything less than a recommendation for expulsion would not indicate sufficient condemnation and would not achieve both specific and general deterrence. The Panel also emphasized the need for general deterrence. Because this was a commercial transaction and the availability of online advertising makes it harder to monitor these types of transactions, a forceful message needed to be sent to promote general deterrence. The Panel held that these factors outweighed the possibility of rehabilitation. The Panel imposed a grade assignment of zero in the course; a five-year suspension; a recommendation that the Student be expelled; and that a report be issued to the Provost.

FILE: Case #837 (16 - 17)
DATE: December 22, 2016
PARTIES: University of Toronto v. M.A. ("the Student")

Hearing Date(s): December 13, 2016

Panel Members:
Mr. Ronald Slaght, Chair
Professor Elizabeth Peter, Faculty Panel Member
Professor Allan Kaplan, Faculty Panel Member
Ms. Jiawen Wang, Student Panel Member

Appearances:
Mr. Robert Centa, Counsel for the University

In Attendance:
Mr. David Dewees, Dean's Designate

DAB Decision

NOTE: See the Tribunal case summary for detailed facts

Discipline Appeal Board – University appeal from sanction – Joint Submission on Penalty accepted - reasonableness of Joint Submission on Penalty – definition of "public interest" in university context –

standards of unreasonableness and unconscionability – objective standard of reasonableness - policy benefits of Joint Submissions of Penalty - where an agreement to never reapply to the University is negotiated in a Joint Submission on Penalty when an expulsion is otherwise appropriate, it should be accompanied by a permanent notation on the student's transcript to alert other institutions of misconduct — Appeal allowed

Appeal by the University from a Tribunal decision not to accept the parties' Joint Submission on Penalty (JSP). The Student pled guilty to two charges of impersonation. The matter proceeded by an Agreed Statement of Facts and a JSP. Included in the JSP was a penalty of a permanent notation on the Student's transcript coupled with an agreement that the Student never reapply to the University. The Panel accepted all the sanctions in the JSP, including the agreement that the Student not reapply to the University, except it replaced the permanent notation on the Student's transcript with a lesser penalty of a five-year notation on the Student's transcript. The University appealed and sought a permanent notation on the Student's transcript as agreed to in the JSP.

The Board allowed the appeal and ordered a permanent notation on the transcript per the JSP. In so doing, they followed the test set out in the Board decision, *The University of Toronto v S.F.* (2014, DAB Case # 690). The Board found the parties should be able to expect the Panel to uphold a JSP unless it is fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable after considering all the relevant circumstances. The Board elaborated that a JSP is against the public interest of the University if it is offensive to the values and behaviours that members of the University community are expected to uphold. Examples of these values may be found in the preamble of the *Code.* The Board adopted the standard of unreasonableness or unconscionable sentencing agreements set out by Moldaver J in the Supreme Court of Canada decision *R v Anthony Cook*, (2016 SCC 43) where sentencing agreements are unconscionable if they are "so unhinged from the circumstances of the offence" that their acceptance would lead a reasonable observer to believe that the proper functioning of the justice system had broken down.

The Board further cited the policy reasons for deference to negotiated sentences from the *Cook* decision which states that sentencing agreements are both commonplace and vitally important to the justice system at large. The Board found that JSPs promote certainty in circumstances where an accused has given up their right to a hearing in exchange for a guilty plea and a negotiated sentence, acceptable to all. Time and resources are thus conserved, furthering the greater interests of fairness and efficiency. The Board found that the Panel erred by concentrating on its own subjective view on the reasonableness of the penalty, and not that of the greater community interests.
Finally, the Board found that the Panel did not consider the actual circumstances surrounding the JSP, namely, that both parties gained advantages in the negotiated sanction. The Student admitted to three serious offences (though only charged and pled guilty for two of them) which justified a sanction of an expulsion had the Student not agreed that she would never reapply to the University. In making this agreement not to reapply which was not recorded on her transcript, the University obtained the benefit of the effect of an expulsion, at the same time, the Student avoided having a permanent notation of an expulsion on her transcript. If the notation was limited to five years, there would be nothing flagging the Student's serious academic misconduct at the University should she choose to apply for admission to other institutions after five years. Finally, the parties were represented by counsel throughout the process. Taken together, the Board found that the JSP was reasonable in the circumstances and ought to have been accepted by the Panel.

Appeal allowed.

NO COMMERCIAL ELEMENT

FILE: Case #01-02-05 (01-02)
DATE: April 9, 2002
PARTIES: University of Toronto v P.M.

Hearing Date(s):
March 28, 2002

Panel Members:
Kirby Chown, Co-Chair
Anne Marie Salapatek, Faculty Member
Michael Kohler, Student Member

Appearances:
Salim Hirji, Counsel for the Student
Lily Harmer, Assistant Discipline Counsel

In Attendance:
P.M., the Student

Trial Division - *s. B.i.3(c)* of *Code* – impersonation – final exam – Agreed Statement of Facts – guilty plea - Joint Submission on Penalty – premeditated and deliberate offence – expression of remorse and admission of guilt – no prior academic offences - effect of sanction on Student and family - family background and pressures – grade assignment of zero in course; five-year suspension; five-year notation on the Student's transcript; and report to Provost

Student charged under *s. B.i.3(c)* of the *Code*. The charges related to allegations that the Student had another person impersonate him at a final examination. The parties submitted an Agreed Statement of Facts. The Student pleaded guilty to the charge. The Panel accepted the guilty plea. The Parties Submitted a Joint Submission on Penalty. The Panel considered the sentencing principles enunciated in the case of *Mr. C* and found that while the Student's act was a deliberate and premeditated attempt to cheat, he expressed remorse to the Panel directly and his early admission of guilt was significant. The Panel found that the offence was the Student's first and that the sanction would have an effect on him and his family; and that the offence was serious and constituted a breach of trust between the Student and his faculty. The Panel found that the Student's individual circumstances, with respect to his family background and the pressures he felt to complete his studies should be taken into account as extenuating circumstances. The Panel found that the offence was a violation of the trust that must exist within the University community, and that severe sanctions attached to such an offence would add to the deterrence of students and demonstrate that such behaviour was not tolerated. The Panel considered previous Tribunal cases involving impersonation and stated its desire that a consistent message be sent for the type of offence. The Panel imposed a grade of zero in the course; a five-year suspension; a five-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #609 (11-12)
DATE: March 11, 2012
PARTIES: University of Toronto v S.O.

Hearing Date(s):
February 21, 2012

Panel Members:
Clifford Lax, Chair
Dionne Aleman, Faculty Member
Jake Brockman, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Marc Cadotte, Instructor
Nicholas Mirotchnick, Teaching Assistant
Mary Olaveson, Professor
John Harper, Systems and Networking, Information and Instructional Technology Services
Ali Choudhry, a student

In Attendance:
Eleanor Irwin, Dean's Designate
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* and *s. B.i.1(c)* of *Code* – unauthorized aids and impersonation – impersonated a professor to obtain a copy of a midterm test and the answer key – hearing not attended – reasonable notice provided – evidence from the computer systems manager – Student denied the charges – wide ranging and serious damaging repercussions to the University community – plagiarism offence – innocent classmate under suspicion – finding of guilt based on evidence – offences are of brazen nature – need for general deterrence – grade assignment of zero for courses; five-year suspension; recommendation that the Student be expelled; permanent notation on transcript; report to Provost

Student charged under *s. B.i.1(b)* and *s. B.i.1(c)* of the *Code*. The charges related to allegations that the Student impersonated a professor to obtain a copy of an upcoming midterm and the answer key. The Student did not attend the hearing. The University informed the Student of the allegations at the Dean's meeting, provided notice through his UToronto email account as well as his other email account. The University also spoke with his mother who acknowledged that she would convey him the message. The Panel concluded that reasonable notice had been provided. The Panel found the evidence overwhelming that the Student personated a professor and obtained the midterm test and the answer key. The manager of computer systems at the University provided evidence that the Student personated a faculty member as well as used his computer to hack into the University's system. Having obtained the answer key, the Student received a perfect score on the midterm, a significant improvement from his previous midterm mark of 44%. The Student denied the charges, and the Panel stated that the Student's conduct as well as his protestations had wide ranging and serious damaging repercussions to the University community, including the professors involved and his classmates. Within a month of being confronted with the allegations, the Student committed plagiarism by submitting his classmate's assignment as his own, causing suspicion to fall on the innocent classmate. On the basis of the evidence, the Panel found the Student guilty under *s. B.i.1(b)* and *s. B.i.1(c)*. The Panel stressed the need for general deterrence by stating that the brazen nature of both offences requires a penalty which leaves no doubt that the Student's behaviour is wholly unacceptable. The Panel imposed a grade-assignment of zero in the two courses; a five-year suspension; a recommendation that the Student be expelled; a permanent notation on the Student's transcript; and a report be issued to the Provost.

FILE: Case #722 (13-14)
DATE: February 18, 2014
PARTIES: University of Toronto v N.P.

Hearing Date(s):
January 30, 2014

Panel Members:
Clifford Lax, Chair
Louis Florence, Faculty Member
Peter Qiang, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Eleanor Irwin, Dean's Designate
The Student

In Attendance:
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(c)* personation of a faculty member and *s. B.i.3(b)* of the *Code* – removing exam paper from exam room – complex scheme involving personation of a faculty member and request of an exam of another faculty member – Student met with Dean's Designate – admission of guilt – first time offender – grade of zero in the course; four year suspension; sanction recorded on academic record; and ordered that the case be reported to the Provost for publication until graduation

Student charged with personation of two faculty members and two offences under *s. B.i.3(b)* of the *Code*. The personation charges related to a scheme that the Student pretended to be a faculty member in correspondence with another faculty member. It was a sophisticated scheme the end goal of which was obtaining an exam. It was not a single isolated instance of bad judgement but a planned and deliberate attempt. The Student failed to obtain an exam and attended the exam on April 15,2013 where he confirmed his attendance but removed an exam from the room. The Student met with the Dean's Designate where he acknowledged that he removed the paper from the exam but denied impersonating the faculty member. The meeting was adjourned one week for the Student to seek legal advice and upon reconvention the Student admitted his personation scheme.

The Student appeared at the disciplinary hearing and admitted his guilt and the University withdrew one count. The University sought a penalty including a grade of zero in the course, a four year suspension, the sanction recorded on his academic record until graduation, and that the case be reported to the Provost for publication. The Student filed a "Letter of Mitigation" expressing remorse for his conduct. He asked the Panel to take into account that it was his first offence, he had good overall academic standing, and that he felt compelled to carry out his scheme due to immense pressure from his family. The Panel felt that while the Student did feel deep remorse he did not take full responsibility for his actions. The conduct required a severe sanction because if the Student's scheme had succeeded he would almost certainly have been expelled. That he failed and admitted guilt justifies a reduction in length of suspension to four years. The Panel ordered a grade of zero in the course, a four year suspension, that this sanction be recorded on his academic record until graduation, and ordered that the case be reported to the Provost for publication.

FILE: Case # 980 (2019-2020)
DATE: May 5, 2020
PARTIES: University of Toronto v. V.T ("the Student")

Hearing Date(s):
January 29, 2020

Panel Members:
Ms. Lisa Talbot, Chair
Professor Margaret MacNeill, Faculty Panel Member
Mr. Jin Zhou, Student Panel Member

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearing Secretary of the Office of Appeals, Discipline Faculty Grievances

NOTE: The hearing in this matter preceded the Panel's hearing in the related matter of the *University of Toronto and Y.W.* (Case No. 991, July 6, 2020).

Trial Division – ss. B.i.1(c) and B.i.1(b) of Code - academic misconduct – impersonation – Student knowingly had another student personate him when the other student submitted an in-class assignment in the Student's name – Student knowingly did or omitted to do something for the purpose of aiding or assisting students to obtain unauthorized assistance in connection with course assignments – In his capacity as a teaching assistant, the Student provided unauthorized assistance to two students registered in a programming course – the Student did not attend hearing – reasonable notice of hearing provided – Agreed Statement of Facts ("ASF") – Joint Book of Documents ("JBD") – Joint Submission on Penalty ("JSP") – finding of guilt – teaching assistants must be beyond reproach – final grade of zero – five-year suspension – recommendation of expulsion – publication of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

The Student was charged with two counts of academic misconduct under s. B.i.1(c) of the *Code of Behaviour on Academic Matters, 1995* (the "Code"), and alternatively with one count under s. B.i.3(b) of the Code, on the basis that for one course he knowingly had another student in his class personate him by having the other student submit an in-class assignment in the Student's name.

Additionally, the Student was charged with respect to another course with seven counts under s. B.i.1(b) of the Code, and alternatively with one count under s. B.i.3(b) of the Code, for knowingly doing or omitting to do something for the purpose of aiding or assisting students to obtain unauthorized assistance in connection with course assignments. Specifically, the Student, in his capacity as a teaching assistant, provided unauthorized assistance to two students registered in a programming course. He provided solutions for coding exercises and assignments that the Student had received in his capacity as a teaching assistant and for his authorized duties only. The Student knew that he was not permitted to give, show, or make the instructor's solutions available to students in Programming Languages. He also knew or ought to have known that doing so would breach the Code and violate his obligations as a teaching assistant. The students who received assistance from the Student knew him personally before the term in question. They did not pay for the assistance received.

Neither the Student nor a legal representative of the Student appeared at the hearing. The hearing proceeded on the basis of an Agreed Statement of Facts ("ASF"), in which the Student pleaded guilty to all charges and admitted that he had

received a copy of the charges and reasonable notice of the hearing. The Panel accepted the Student's consent to proceed in his absence and to waive his right to any further notice of the proceedings.

In determining the appropriate sanction, the Panel considered the Student's character, the likelihood of repetition of the offences, the nature of the offences committed, extenuating circumstances, and the need for deterrence. Although the Student had no prior history of academic misconduct, the Panel noted that his repeated actions had occurred with two students. It further noted that the Student had actively concealed the facts, lied to the Dean's designate and exhibited a disregard for the Code, which revealed a dishonesty in character. In discussing the Student's ultimate cooperation and possible remorse, the Panel took into account that he had proceeded by way of a guilty plea, and an ASF and JSP. The Panel highlighted, however, that his cooperation came only after having engaged in a cover-up scheme and having been caught.

According to the Panel, several factors contributed to the likelihood that the Student would commit other offences, namely the fact that he had conspired with other students to avoid sanctions, committed academic offences as a student and committed repeated academic dishonesty as a teaching assistant with two students. The Panel held that these offences are serious. As mitigating factors, it considered the fact that the Student entered into guilty pleas and cooperated with the University by signing an ASF and agreeing to a JSP. As for the aggravating factors, it explained that the Student knowingly committed multiple offences and engaged in a cover-up scheme. In the Panel's view, the Student engaged in a gross breach of the trust placed in him as a teaching assistant. On the issue of deterrence, it stressed that integrity is fundamental to the academic relationship and that students must be deterred from committing offences of academic dishonesty. It also stressed that teaching assistants, who are in a unique position of trust among the students at the University, must be beyond reproach and understand that any violation of their position of trust will be treated with great severity. It further added that students must understand that knowingly breaching the Code will not be tolerated and that they cannot seek to obtain unfair benefits from teaching assistants.

The University withdrew the alternative charges under s. B.i.3(b) of the Code.

The Panel imposed the following sanctions: grade assignment of zero for course; five-year suspension; recommendation of expulsion; publication by the Provost of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

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s. B.i.1(d) of *Code*: plagiarism

Leading Cases:

- copied from answer key: **725 (13-14), 724 (13-14)**
- copied from internet: **488 (07-08), 03-04-01**
- copied from another student/other: **699 (13-14), 657 (12-13), 495 (08-09), 410 (07-08), 624 (14-15), 834 (15-16), 850 (16-17), 901 (17-18), 914 (17-18), 916 (17-18)**
- purchased/sold essay: **602 (10-11), 596, 597 & 598 (10-11), 539 (09-10), 440 (06-07), 862 (16-17)**
- no dishonest intent: **546 (09-10), 00-01-06**
- lack of proper attribution / unspecified: **521 (08-09), 779 (15-16), 815 (15-16), 911 (17-18)**
- work taken with permission: **718 (14-15)**
- insufficient evidence: **729 (13-14)**
- drafts: **856 (16-17)**
- peer review: **841 (16-17)**

DAB = Discipline Appeals Board decisions

COPIED FROM ANSWER KEY

FILE: Case #724 (13-14)
DATE: October 10, 2013
PARTIES: University of Toronto v Q.C.

Hearing Date(s):
September 16, 2013
October 4, 2013

Panel Members:
Roslyn M. Tsao, Chair
Charmaine Williams, Faculty Member
Maria Wei, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel

In Attendance:
Q.C., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aids – use of Answer Key from previous year – use of another student's work – uncited excerpts – Agreed Statement of Facts – guilty plea accepted for three of four charges – guilty plea for plagiarism of previous year's Answer Key rejected – Joint Submission on Penalty – second offence – prior offence involved similar misconduct and was therefore a serious aggravating factor – Student pleaded guilty early and was cooperative – Joint Submission on Penalty accepted – grade assignment of zero in two courses; suspension just under three years; notation on transcript just under three years; report to Provost for publication

Student charged with two offences under *s. B.i.1(d)*, two offences under *s. B.i.1(b)*, and in the alternative, two offences under *s. B.i.3(b)*. The first set of charges related to allegations that the Student had obtained a copy of the Answer Key to a homework assignment, used the Key as an unauthorized aid, and included verbatim or nearly verbatim excerpts from the Key without reference or attribution to the course instructor. The second set of charges related to a different course and involved allegations that the Student obtained a copy of another student's assignment, used this assignment as an unauthorized aid and included verbatim or nearly verbatim excerpts from the assignment without reference or attribution to the other student. The Student pleaded guilty and the matter proceeded by way of an Agreed Statement of Facts. The Panel accepted the Student's guilty plea with regards to both offences under *s. B.i.1(b)*. However, the Panel accepted the Student's guilty plea with regards to only one of the two offences under *s. B.i.1(d)*. The Panel accepted that use of the Answer Key from a previous year constituted use of an unauthorized aid but concluded that an additional offence of plagiarism was not supported by the facts. The University withdrew the two alternative charges. The parties presented a Joint Submission on Penalty. The Student had admitted guilt to the Dean's Designate and cooperated with the University in entering her guilty plea. The Student had been sanctioned on a prior occasion for the use of unauthorized assistance relating to three homework assignments. The Panel noted that this prior offence was a very serious aggravating factor given that it involved similar misconduct. The Panel accepted the Joint Submission on Penalty and imposed a final grade of zero in two courses, a suspension for just under three years, a notation on the Student's transcript for just under three years, and ordered that the case be reported to the Provost for publication.

FILE: Case #725 (13-14)
DATE: December 12, 2013
PARTIES: University of Toronto v R.C.

Hearing Date(s):
September 18, 2013

Panel Members:
Sarah Kraicer, Chair
Bruno Magliocchetti, Faculty Member
Fikir Haile, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Danielle Muise, Counsel for the Student, DLS

In Attendance:
R.C., the Student

The Student's Father
Eleanor Irwin, Dean's Designate
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* and *s. B.i.1(d)* of the *Code* – unauthorized aids and plagiarism – use and possession of smartphone and lecture notes during examination – use and possession of previous year's examination and solutions during examination – use of previous year's online discussion thread when formulating mandatory online discussion contribution – included verbatim and nearly verbatim excerpts of previous year's online discussion thread without attribution – included verbatim and nearly verbatim excerpts of previous year's answer key without attribution – Agreed Statement of Facts – guilty plea accepted – Joint Submission on Penalty – one prior offence – brazen and repeated misconduct – Panel concerned that pattern of misconduct will likely continue if Student remains at University – Student was cooperative and expressed remorse – grade assignment of zero in four courses; suspension just over 56-months; notation on transcript just over 56-months; report to Provost for publication

Student charged with three offences under *s. B.i.1(d)*, five offences under *s. B.i.1(b)* and in the alternative, four offences under *s. B.i.3(b)* of the Code. The charges related to alleged misconduct in four distinct courses.

Two of the five charges under *s. B.i.1(b)* related to allegations that the Student used or possessed unauthorized aids during an examination in two different classes. During one exam, the Student had in his possession a bundle of notes and a smart phone. In the other, the Student had in his possession a copy of a previous year's exam and solutions. Another two of the five charges under *s. B.i.1(b)* related to allegations that the Student made unauthorized use of Blackboard discussion threads from a prior session of the course when formulating his own mandatory online discussion contributions. These contributions were explicitly intended to reflect the Student's own work. The final charge under *s. B.i.1(b)* relates to an allegation that the Student made unauthorized use of a copy of the professor's answer guide from a prior year that was posted on the internet in order to complete an assignment.

Two of the three charges under *s. B.i.1(d)* related to allegations that the Student included verbatim and nearly verbatim excerpts from a prior session's Blackboard discussion threads in his own mandatory online discussion contributions without attribution. The third charge under *s. B.i.1(d)* related to allegations that the Student included verbatim and nearly verbatim excerpts from the professor's answer key in his own assignment without attribution.

The Student pleaded guilty and the matter proceeded by way of an Agreed Statement of Facts. The Panel accepted the Student's guilty pleas and the University withdrew the four alternative charges. The parties presented a Joint Submission on Penalty. The Student had been sanctioned for academic misconduct on one prior occasion. The prior offence involved the possession of an unauthorized aid during a final examination and the Student was sanctioned at the Decanal level. The Panel highlighted that the misconduct regarding the use of unauthorized aids was brazen and repeated. The Panel noted that in one instance, the Student used unauthorized aids despite being personally told by the invigilating professor to put them away. The Panel observed that the Student committed misconduct in five courses (the four being considered by the Panel, and the one instance of prior misconduct) and expressed concern that the Student is likely to continue the pattern of misconduct should he continue to be a student at the University. The Panel noted that the Student had been cooperative and had presented a letter that included a genuine expression of remorse and demonstrated a degree of insight. The Panel noted that the information provided as to the nature and timing of potential health difficulties the Student may have was insufficient to mitigate the seriousness of the misconduct at issue. The Panel accepted the joint submission and imposed a final grade of zero in four courses, a suspension just over 56-months, a notation on the Student's transcript for just over 56-months, and ordered that the case be reported to the Provost for publication.

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FILE: Case #03-04-01 (03-04)
DATE: April 7, 2004
PARTIES: University of Toronto v Ms. B.

Hearing Date(s):
October 1, 2003
November 11, 2003
December 3, 2003
April 1, 2004

Panel Members:
Laura Trachuk, Co-Chair
Marie-Josée Fortin, Faculty Member
Justin Ancheta, Student Member

Appearances:
Eric Lewis, Counsel for Ms. B.
Lily Harmer, Assistant Discipline Counsel
Hugo de Quehen, Deartment of English
The Student's Mother
Ms. B, the Student
Chris Ramsaroop, Student
Susan Lishingman, Administrative Assistant, University College
Endel Tulving, Expert Witness
Susan Bartkiw, Faculty of Arts and Science

Trial Division - *s. B.i.1(d)* and *s. B.i.1(b)* of *Code* – plagiarism and unauthorized aid – submitted test containing passages plagiarized from internet - portions of website unconsciously memorized from study notes and inadvertently reproduced in answers - hearing adjourned *sine die* - expert examination of memory abilities refused – expert opinion evidence – explanation not believable and no other explanation for reproduction of material – finding of guilt – no remorse because offence not admitted to – no prior offences - notation for same period as suspension because coursework for degree potentially completed before start of suspension - inappropriate to delay resumption of academic career beyond suspension - grade assignment of zero for course; two-year suspension; two-year notation on transcript; and report to Provost

Student charged under *s. B.i.1(d)*, *s. B.i.1(b)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted a final test, portions of which were not written by her, and that during the test she used or possessed an unauthorized aid or obtained unauthorized assistance. The Student pleaded not guilty to the charges. It was not in dispute that passages in the Student's examination booklet were identical to passages found from a website printout. The Student claimed that she unconsciously memorized portions of the website from her study notes and then inadvertently reproduced the material in her answers. The Panel adjourned the hearing *sine die* for the purposes of obtaining an expert examination of the Student's memory abilities. The Student refused testing in the hearing interlude. The Panel accepted the qualifications of a human memory expert and considered his opinion evidence that it was not possible that a student could unconsciously memorize study notes. The Panel found that the Student's explanation was not believable because the only other example of her remarkable memory offered was her mother's recollection of her ability to give an oral presentation she had consciously memorized. The Panel found that while it did not know how the Student accessed the website or her study notes during the period of the test, there was no other explanation for how the material was reproduced. The Panel found that the University has provided clear and convincing evidence that the Student violated the *Code* and found her guilty of the offences under *s. B.i.1(d)*and *s. B.i.1(b)* of the *Code*. The Panel found that the Student had not admitted the offences and therefore she had not shown any remorse for them, and that she had no prior offences. The Panel found that the notation of the imposed sanction on the Student's transcript should only be for the same period as the suspension because the Student may potentially complete her coursework for her degree in the term in which the hearing occurred and that the effect of a three-year notation might be to delay the resumption of her academic career beyond the two-year period of the suspension, which would be inappropriate in the circumstances. The Panel imposed a grade of zero in the course; a two-year suspension; a two-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #488 (07-08)
DATE: November 14, 2007
PARTIES: University of Toronto v S.B.

Hearing Date(s):
September 6, 2007

Panel Members:
Raj Anand, Chair
Bruno Magliocchetti, Faculty Member
Christopher Oates, Student Member

Appearances:

Lily Harmer, Assistant Discipline Counsel
Steve Frankel, Counsel for the Student
S.B., the Student

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Mike Nicholson, Office of Academic Integrity

Trial Division - *s. B.i.1(d)* and *s. B.i.1(f)* of *Code* – plagiarism and concoction – plagiarized research paper containing concocted research source - similarities between research paper and internet websites – no correspondence between citations to print material and texts cited - guilty plea offered to resolve issue at decanal level – interview subject had memorized and read off website text - staffing issues contributed to delay in prosecuting charges – Student's explanations not credible – finding of guilt - two prior plagiarism offences - inadequate responses to charges - offence committed while notation from second offence still outstanding and after instructions on how to avoid repeating offence - gap in causation between responsibilities as parent of disabled children and commission of misconduct - four-and-a-half-year delay in prosecuting charges not significant for penalty - no significance attached to voluntary absence during time span of charges – see case of *Mr. S.* - penalty not back dated – see case of *Mr. S.* and case of *Mr. L.* – serious breach of trust evokes at least two-year suspension and three-year or longer suspension for repeat offences - University submission on penalty accepted – grade assignment of zero for course; three-year suspension – four-year notation on transcript or until graduation; and report to Provost

Student charged under *s. B.i.1(d)*, *s. B.i.1(f)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted a plagiarized research paper, portions of which were reproduced verbatim from unacknowledged internet sources, and which contained a personal interview which had been concocted as a source of research. The Student pleaded not guilty to the charges. The Student did not submit a required signed declaration attesting to his knowledge and compliance with plagiarism guidelines. The Panel considered the testimony of the course professor and found that there were extensive similarities between the Student's research paper and several internet websites, and that many citations to print material contained within the paper did not correspond with the actual texts cited. At a Dean's meeting, the Student originally denied any misconduct but offered to plead guilty if the University would agree to resolve the issue at the decanal level. The University argued that the extensive similarity between the internet source and the Student's paper established that the personal interview had been concocted. The Student testified that he had interviewed a Buddhist monk as part of his research and that the monk had memorized the internet source and then repeated the words to the Student during the interview. The Student also claimed that the monk had read text from a piece of paper which was taken from the internet. The Student claimed that he did not think it was necessary to submit the required signed declaration regarding plagiarism because it should have been obvious to the course professor that he had not plagiarized. The Student claimed that he had been prepared to plead guilty at a Dean's meeting because he perceived the Dean's Designate to be a holy man who would bless him through punishment and because he wanted to avoid the shame of going before the Tribunal. The Panel found that staffing issues may have contributed to the delay between the date that the offence was committed and the date of the Dean's meeting with the Student regarding the allegations. The Panel found that the Student's explanations for the similarities between the paper and internet sources were not credible and that the sources were concocted because the citations did not match up to the sources cited. The Panel found the Student guilty of the charges under *s. B.i.1(d)* and *s. B.i.1(f)*. The Student had committed two prior plagiarism offences. The Panel found that the Student provided inadequate responses to all previous and present charges against him and that apart from the Student's personal circumstances, there was no evidence in favour of his character. The Panel found that the offence was the third of the same kind, and was committed while the notation on the Student's transcript from the second offence was still outstanding and after he had received instructions on how to avoid repeating the offence. The Panel found that the offences went to the heart of the University's trust relationship and were increasingly prevalent and more easily detected with the availability of the internet. The Panel found that there was a gap in causation between the Student's responsibilities as a parent of two disabled children and the commission of the dishonest acts as a student. There was no evidence of the impact of the Student's personal situation on the Student himself, or which tied his situation to a propensity for dishonest or irrational behaviour. The Panel found that the four-and-a-half-year delay in prosecuting the charges were not significant in terms of penalty. There was no evidence as to why the Student was not in class for a period of time. The Panel, as per the case of *Mr. S.* (August 24, 2007), attached no significance to the voluntary absence during the time span of the charges. There was no motion to dismiss the charges and no protest or warning of reliance on delay by the Student until the penalty phase of the hearing. The Panel

considered the case of *Mr. S.* and the case of *Mr. L.* (August 13, 2007) and found that despite the charges pending against the Student for at least two years, the penalty should not be back dated. The Panel found that the University's credibility, academic mission and degrees could be harmed by the commission of plagiarism and concoction. The Panel found that Tribunal decisions should send the message that academic cheating would be met with signification sanctions. The Panel considered previous Tribunal cases and found that a serious breach of trust such as plagiarism and/or concoction should evoke a response of at least a two-year suspension for a first offence and a three year or longer suspension on a subsequent finding. The Panel considered the Student's academic status relative to graduation and found that no evidence was called regarding the academic consequences of different potential penalties. The Panel observed that greater assistance, in the form of an agreed chart or statement concerning the implications of penalties, would help the Tribunal. The Panel imposed a grade of zero in the course; a three-year suspension; a four-year notation on the Student's academic record and transcript (or until graduation, whichever was to occur first); and that a report be issued to the Provost.

COPIED FROM ANOTHER STUDENT/OTHER

FILE: Case #410 (07-08)
DATE: August 20, 2007
PARTIES: University of Toronto v A.L.

Panel Members:
John A. Keefe, Chair
Melanie Woodin, Faculty Member
Liang Yuan, Student Member

Hearing Date(s):
April 3, 2007

Appearances:
Lily Harmer, Assistant Discipline Counsel

Trial Division – *s. B.i.1(b)*, *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code* – plagiarism, unauthorized aids and cheating – two students enlisted to complete assignments – cheat sheets created by third party and used in exams – hearing not attended - Direction of Tribunal - reasonable notice of hearing - see *Code* and *the Statutory Powers Procedures Act* – allegations denied – evidence of witnesses credible – finding of guilt – duplicative charges dismissed - violations of University practices and procedures - manipulation of two students – conduct over several years and involving several courses – no evidence of extenuating circumstances - University's submission on Penalty accepted – recommendation that the Student be expelled, as per *s. C.ii.(b)(i)* of *Code*; grade assignment of zero for eight courses; five-year suspension pending expulsion decision; and report to Provost

Student charged with 84 offences under *s. B.i.1(b)*, *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The charges related to 9 courses in which the Student was alleged to have enlisted the aid of two female students to prepare 21 assignments, including course assignments, essays and exams, which the Student submitted as his own work. The Student was also alleged to have been in possession of, and copying from, text relevant to the subject matter of several exams in the courses at issue. The Student did not attend the hearing. The Panel considered the evidence submitted by the University and the Direction of the Tribunal, and found that the Student had received reasonable notice of the hearing in accordance with the *Code* and *the Statutory Powers Procedures Act*, and that it was appropriate to proceed in the Student's absence. The University submitted that the female students attended the lectures on behalf of the Student, wrote his assignments or essays, and then allowed him to submit them, or submitted them for him, under his name. The Panel considered the affidavits and oral testimony of the two "friends" and e-mail exchanges between the Student and the "friends". The Panel found that the email exchanges provided clear evidence that all the work for the assignments was done by the "friends" and not by the Student. The Panel found the two "friends" to be credible. The Panel also considered affidavit evidence from the course professors and instructors, the Chair of the department and the Manager of the Divisional Office of Student Academic Conduct. According to the University, the Student had denied the allegations and claimed that he had done all of the work for the courses himself although he might have obtained editing help for some assignments. At a Dean's meeting regarding the allegations, the Student was unable to provide meaningful answers to questions concerning the content of the coursework. The Panel observed that some of the charges against the Student were duplicative because they alleged different offences for the same misconduct. The Panel found that a conviction should be entered on one count only relating to each event of misconduct with other charges being dismissed as duplicative. With respect to the first course, the Panel found that the evidence was inconclusive as to whether the Student used draft answers, prepared by Friend 1, as "cheat-sheets" on the exam. The Panel dismissed the six charges related to the first course. With respect to the second course, the Panel compared the research paper submitted by the Student and the documents tendered as exhibits to the affidavit of Friend 1 and found that it corroborated Friend 1's evidence that she prepared the paper. The evidence of Friend 1 was that she also prepared the webpage related to the project without any assistance or input from the Student. The Panel found the Student guilty of two offences under *s. B.i.1(b)* and *B.i.1(d)* of the *Code* in connection with the course work, and two offences under *B.i.1(d)* of the *Code* in connection with the essay and the webpage. There were two term tests and a term paper at issue with respect to the third course. The Panel found that there was no clear and convincing evidence that the Student used draft answers, prepared by Friend 1, on the first test, and dismissed the charges associated with the test. The Panel found that the Student took a test booklet with answers pre-prepared by Friend 2 to a re-write of a second test and that he submitted a term paper prepared by Friend 2 as his own work. The Panel dismissed the charges in connection with the first term test and found the Student guilty of two offences under *s. B.i.1(b)* and *s. B.i.3(b)* of the *Code* in connection with the second term test, and one offences under *B.i.1(d)* in connection with the term paper. There were two course assignments and a term paper at issue with respect to the fourth course. The Panel found that the first assignment was prepared by Friend 1 and submitted on behalf of the Student, and that the second assignment and term paper were prepared by Friend 1 and submitted by the Student as his own work. The Panel found the Student guilty of three offences under *s. B.i.1(d)* of the *Code* in connection with the two assignments and the term paper. With respect to the fifth course, the Panel compared

the book report submitted by the Student and the documents submitted as exhibits to the affidavit of Friend 1 and found that it corroborated her testimony that she prepared the report, with assistance from Friend 2, which was submitted by the Student as his own work. The Student was taking work from Friend 1 and Friend 2 at the same time. The Panel found the Student guilty of one offence under *s. B.i.1(d)* of the *Code* in connection with the book report. With regard to the sixth course, the Panel considered the evidence and testimony of Friend 2 and found that she prepared the answer for a test in advance of the test and that the Student copied the answer on to a cheat-sheet which he used while writing the test. The Panel found the Student guilty of one offence under *s. B.i.3(b)* of the *Code* in connection with the test. With regard to the seventh course, the Panel considered the evidence of Friend 2 and found that she did all the course work for an essay worth 100 per cent of the course grade and that she prepared the essay that was submitted by the Student as his own work. The Panel found the Student guilty of one offence under *s. B.i.1(b)* in connection with the course work and *s. B.i.1(d)* of the *Code* in connection with the essay. There was an essay and an exam at issue with respect to the eighth course. The Panel considered the evidence of Friend 2 and found that the essay was prepared by Friend 2 and submitted by the Student as his own work. The Panel found that the evidence was inconclusive as to whether the Student used draft answers, prepared by Friend 2, as "cheat-sheets" on the exam. The Panel found the Student guilty of one offence under *s. B.i.1(d)* of the *Code* in connection with the essay and dismissed the charges in connection with the exam. There was a term test and an essay at issues with respect to the ninth course. The Panel considered the evidence of Friend 2 and found that there was no clear evidence that the Student used draft answers, obtained by other students and edited by Friend 2, as a "cheat-sheet" on the test. The Panel found that the essay was prepared by Friend 2 and submitted by the Student as his own work. The Panel dismissed the charges in connection with the exam and found the Student guilty of one offence under *s. B.i.1(d)* of the *Code* in connection with the essay. The Panel considered the guidelines for determining appropriate sanction and found that the Student demonstrated a pattern of deliberate disregard for University's rules of ethical conduct. The Student submitted work that was not authored by him, that was not his original work and that was entirely the work of others; there was evidence of cheating on tests and assignments; and there was a pattern of deliberate dishonest and manipulative conduct. The Panel found that the Student's pattern of conduct involved violations of the University's practices and procedures and the manipulation of the two students, and took place over several years and involved several courses. The Panel found no evidence of extenuating circumstances. No evidence was presented by the Student to rebut the evidence of the "friends"; he did not participate in the Tribunal process; he intentionally evaded service; he perpetuated his dishonesty when confronted with the allegations; and he showed no understanding of his wrongdoing. The Panel accepted the University's submission on penalty and imposed a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; a grade of zero in the nine courses; a five-year suspension pending the expulsion decision; and that a report be issued to the Provost.

FILE: Case #495 (08-09)
DATE: information not available
PARTIES: University of Toronto v. T.F.O.K.

Hearing Date(s):
May 26, 2008
November 26, 2008

Panel Members:
Bernard Fishbein, Chair
Kristina Dahlin, Faculty Member
Joan Saary, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Max Shapiro, Counsel for the Student, DLS

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – course work in two courses – Agreed Statement of Facts – guilty plea with regard to one assignment – charges disputed with regard to another assignment – third party submitted copy of essay – explanation of circumstances not credible – finding of guilt – Joint Submission on Penalty – effective date of proposed sanction disputed – *de facto* greater suspension because of loss of work in full year courses – but for agreement of parties suspension of greater duration would have been imposed – delay in Tribunal process – prior academic offence – little remorse – academic misconduct not admitted until sentencing – impact of suspension would work to greater effect because of delay in Tribunal process – delay in Tribunal process not attributed to Student – suspension not to commence until the end of second term – grade assignment of zero for two courses; three-year suspension; four-year notation on transcript; and report to Provost

The Student was charged with two offences under *s. B.i.1(d)* and, alternatively, two offences under *s. B.i.3(b)* of the *Code*. The charges related to alleged acts of plagiarism with regard to two assignments, submitted in two courses, both of which contained unacknowledged verbatim or nearly verbatim text from another student's paper. The Student pleaded

guilty to the first allegation of plagiarism but disputed the charges with respect to the second assignment. The matter proceeded as an Agreed Statement of Facts. With respect to the first assignment, the Student admitted that he had copied passages from another student's paper which was posted on the course website. With respect to the charges in the second assignment, the Student submitted an essay which was virtually identical to an essay submitted by another student in the course. Upon investigation it was discovered that the other student in the course had resubmitted, with corrections, an essay which she had previously submitted in a summer course. The Student was also in the summer course with the other student. The other student confessed to altering her essay for the summer course and re-submitting it with the alterations in the course in question. The essay submitted by the Student contained the same errors as the original essay submitted by the other student in the summer course. The other student could not explain how the Student obtained a copy of her essay. The Student claimed that he had written the essay for the summer course initially but that his USB had gone missing from the computer lab and that it was irretrievable without the USB key. The Student claimed that he later discovered his draft of the essay on his sister's laptop and he submitted it to fulfill the essay requirement in the course in question. The Manager of the UTM police testified that no report was filed regarding the purported missing USB key. Participants in the investigation process asserted that the Student's previous explanation of events ran contrary to the Student's evidence in chief. The reference material footnoted in the essay was not available from the Library where the Student asserted he had done the research nor did documents that the Student provided during the investigation match the footnotes or quotes contained in the essay. The library records at the University showed that the other student had borrowed the relevant books footnoted in the essay at the relevant time. The Panel found that the Student's explanation was not credible. The Panel found that there was no evidence to support the Student's claim that the other student had obtained a copy of his essay and submitted it as her work in both the summer course and later in the second course with some alterations. The Panel found that, even in absence of any direct evidence of how the Student had obtained the other student's essay, on the balance of probabilities, the University had established that contrary to *s. B.i.1(d)* of the *Code*, the Student had knowingly represented as his own the work of another. Although the parties made a Joint Submission on Penalty, the effective date of the proposed three-year suspension was disputed. The University proposed that the date of suspension commence at the beginning of the next term. The Student opposed that proposal since it would have turned the three year suspension into a *de facto* greater suspension as he would have lost the work already completed in his full year courses. The Student claimed that if the Tribunal deliberations had concluded earlier he would not have enrolled in the full year courses and that the delay in the tribunal process made the impact of the penalty more severe. The Panel stated that but for the agreement of the parties, it would have imposed a longer suspension. It was not the Student's first offence with respect to similar misconduct, he displayed little remorse or contrition over his academic misconduct and he resisted any admission of his academic misconduct until the sentencing portion. The Panel observed that, having accepted the agreed upon suspension, the actual impact of the suspension would work to an even greater effect because of the delay in the Tribunal process. The delay in the Tribunal process could not be attributed to the Student. The Panel accepted the Student's position and ordered that the suspension not commence until the end of the second term. The Panel imposed a grade of zero for the two courses; a three-year suspension; a four-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #657 (12-13)
DATE: September 11, 2012
PARTIES: University of Toronto v. the Student

Hearing Date(s):
August 23, 2012

Panel Members:
Roslyn M. Tsao, Chair
Ato Quayson, Faculty Member
Blake Chapman, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Mary Phan, Counsel for the Student, DLS

In Attendance:
The Student
Kristi Gourlay, Manager, Office of Academic Integrity
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(f)* of *Code* – plagiarism and concoction – passages from essay taken verbatim from sources not properly attributed and references concocted to disguise plagiarism – Agreed

Statement of Facts – guilty plea – finding of guilt – Joint Submission on Penalty – Panel stated it was disinclined to accept JSP and invited Parties for further submissions for the following reasons: (1) Student had committed two earlier plagiarism offences, the latest disposed only a month ago; (2) the Dean's designate had suspended the commencement of suspension to save Student from losing the rest of the term; and (3) without a JSP, Panel would have considered expulsion – Parties cited *Tsicos*: high threshold for rejecting a JSP – Panel considered extending the period of notation but "tinkering" with JSP would be difficult to reconcile with the *Tsicos* test – Panel reluctantly accepted JSP – grade assignment of zero for course; five-year suspension; the later of either a six-year notation on transcript or until graduation; report to Provost

Student charged under *s. B.i.1(d)* and *s.B.i.1(f)* of the *Code*. The charges related to allegations that the Student submitted an essay containing passages taken verbatim from unattributed sources and concocted references to disguise plagiarism. The Student pleaded guilty to the charges, and the Panel found the Student guilty under *s. B.i.1(d)* and *s. B.i.1(f)*. The Parties submitted a Joint Submission on Penalty ("JSP"). In considering the JSP, the Panel invited the Parties for further submissions, stating that it was disinclined to accept the JSP for the following reasons: (1) the Panel was troubled by the prior findings of guilt for the same offence and in particular, the second offence committed only a month before the current offence; (2) the Student was able to complete other courses because the Dean's designate had kindly deferred the commencement of suspension for the second offence to allow the Student to complete the term; and (3) without a JSP, the Panel would be inclined to consider expulsion. After hearing further submissions, the Panel reluctantly accepted the JSP. In further submissions, both Parties cited *Tsicos* which endorsed the principle that a JSP ought not to be rejected unless the requested penalty "would be contrary to the public interest or bring the administration of justice into disrepute". The Panel considered extending the period of notation but stated that "tinkering" with the terms of a JSP would be difficult to reconcile with the test in *Tsicos*. The Panel imposed a grade assignment of zero for the course; a five-year suspension; the later of either a six-year notation on transcript or until graduation; and report be issued to the Provost

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FILE: Case #699 (13-14)
DATE: August 21, 2013
PARTIES: University of Toronto v V.P.

Hearing Date(s):
August 13, 2013

Panel Members:
Clifford Lax, Chair
Pascal van Lieshout, Faculty Member
Stoney Baker, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Julia Wilkes, Counsel for the Student

In Attendance:
V.P., the Student
Brian Corman, Dean, School of Graduate Studies and Vice-Provost, Graduate Education
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(e)* and *s. B.i.1(d)* of the *Code* – plagiarism and resubmitted work – submitted work that had been authored by a group including the Student without attribution to former group members – submitted work that had been previously submitted as a group assignment for credit – Agreed Statement of Facts – guilty plea – Joint Submission on Penalty – second offence – previous offence was recent and for similar conduct – Student admitted guilt early and was cooperative throughout the process – Joint Submission on Penalty accepted – grade assignment of FZ for one course; four-year suspension; five-year notation on transcript; report to Provost for publication

Student charged with one offence under *s. B.i.1(e)*, one offence under *s. B.i.1(d)*, and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to an allegation that the Student resubmitted work for which she had previously received credit. The Student pleaded guilty and the matter proceeded by way of an Agreed Statement of Facts. The work that was resubmitted by the Student for credit was originally authored by a group that included the Student. The resubmitted work did not include appropriate reference to the contributions made by the Student's former group members. The Panel accepted the Student's guilty plea and the University withdrew the alternative charge. The parties

presented a Joint Submission on Penalty. This was the Student's second offence. The Student had been sanctioned for similar conduct at the Decanal level a year prior to the current hearing. The Student admitted to committing the offence early in the process and subsequently cooperated with the University. The Panel accepted the joint submission and imposed a final grade of FZ in one course, a four-year suspension, a five-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

FILE: Case #624 – Finding; Sanction (14-15)
DATE: December 8, 2014 and May 11, 2015
PARTIES: University of Toronto v A.M.

Hearing Date(s):
September 29, 2014
January 26, 2015

Panel Members:
Paul Schabas, Chair
Gabriele D'Eleuterio, Faculty Member
Christopher Tsui, Student Member

Appearances:

Lily Harmer, Assistant Discipline Counsel for the University
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Nathan Innocente, Teaching Assistant
Julie Waters, Academic Counsellor
Kathy Gruspier, Course Instructor

In Attendance:
Sinead Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

NOTE: Heard together with Case #605 (Finding; Sanction)

Trial Division – *s. B.i.1(d), s. B.i.1(b)* and *s. B.i.3(b)* of the *Code* – plagiarism – three counts in two different classes – requested postponement granted – Student not present at hearing – substantially similar papers – identical bibliographies – identical spelling errors – finding of guilt – knew or ought to have known - sanction – no prior offence – grade of zero in each course; three year suspension; notation on transcript until earlier of graduation or four years; report to Provost for publication

The Student did not appear at the specified time for the hearing. The Panel waited for 15 minutes after which the doors were locked and a note was left with instructions on entering the building should she attend. The matter was initially scheduled for July but postponed at the request of the Student.

Student charged with three offences under *s. B.i.1(d)*, three offences under *s. B.i.1(b) and*, in the alternative, three offences under *s. B.i.3(b)* of the Code. The charges included the Student's representation of another's ideas as her own in two essays and an annotated bibliography.

The first charges arose from an assignment the Student submitted which was substantially similar to a paper that had been submitted a year earlier. The second set related to an essay which had significant similarities to another student's in the course and annotated bibliographies which were identical.

The instructor of the first course testified that she had warned the students about what constitutes plagiarism and required students to submit papers through Turnitin.com, a plagiarism detection site. The Student's paper showed a 37% match. In addition to similar structure, the paper contained several identical spelling mistakes. The Student did not cite the earlier paper.

The Teaching Assistant of the second course testified that he had marked the bibliographies and noticed that the Student's bibliography cited the same 17 sources as one from the same year. There were strong similarities between the two papers and identical mistakes in the bibliographies.

An Academic Counsellor attended a Dean's Designate meeting with the Student and took notes. She testified that the Student had admitted to plagiarizing and signed a form admitting guilt, but the Panel found her testimony and notes unconvincing and placed no weight on it.

The Manager of Academic Integrity and Affairs at the University of Toronto Mississauga also gave evidence about the Dean's designate meeting and provided the Student's academic record.

The Panel was satisfied that the offences under *s. B.i.1(d)* had been demonstrated. The similarities between the papers were unmistakeable and the evidence overwhelming. Similarly, the Panel found that the Student had collaborated with a classmate on the preponderance of the evidence. The Panel found that even if the Student did not appreciate that she had to work independently, she ought to have known.

The Panel found the Student was guilty of knowingly representing as her own work the work of another, of improperly collaborating with another student, and of representing as her own work, work that was prepared by both herself and another student.

The Panel found the Student had committed two different counts of academic misconduct. The University sought a grade of zero for the Student in the course, a four-year suspension and a notation on the Student's transcript for five years.

The Panel agreed with the University that the starting point on sanction was 2 years and can increase or decrease depending on other factors. However, the cases of four-year suspensions that the University referred to involved prior incidents and the Panel found that to be a compelling factor which differentiated these cases.

The Panel imposed a penalty of a grade of zero in each course, a suspension of three years from September 1, 2014, a notation on the Student's academic record for the earlier of four years or graduation, and that the case be reported to the Provost for publication.

FILE: Case #834 (15-16)
DATE: February 25, 2016
PARTIES: University of Toronto v J.Y.

Hearing Date(s):
February 10, 2016

Panel Members:
Roslyn M. Tsao, Chair
Pascal Van Lieshout, Faculty Member
Michael Dick, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Kalina Staub, Instructor of the Course

In Attendance:
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d), s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – Student's assignment very similar to another student's assignment – not necessary to determine whether the Student or the suspected collaborator drafted the original content – hearing not attended – reasonable notice of hearing provided as per the *Rules of Practice and Procedure* – finding on evidence – finding on guilt – aggravating factor of failing to respond to the Course Instructor's emails – University submission on penalty accepted – grade assignment of zero in the Course; 2-year suspension; 3-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under s. *B.i.1(d), s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted an Assignment with a very high degree of similarity to an essay submitted by another student in the Course. The Panel found that the similarities between structure, phrases, grammatical errors, and the peculiar use of some words could not have been innocuous. The Student did not attend the hearing. The Panel determined that

reasonable notice had been provided pursuant to the *Rules of Practice and Procedure*, and it proceeded in the absence of the Student.

Student was found guilty of plagiarism and of obtaining unauthorized assistance. The Panel noted that it was not necessary to determine whether it was the Student or the suspected collaborator who drafted the original content of the Assignment or whether the Student copied the collaborator's assignment or vice versa; all of these scenarios will attract a finding of guilt provided the Panel concludes that the Students collaborated or that the original drafter was aware that his work was being used for assistance. The Panel found the Student's failure to respond to the Course Instructor's emails about the Assignment to be an aggravating factor. The University did not withdraw the alternative charge but did not pursue a finding thereon. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension from the University; a 3-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case #850 (16-17)
DATE: July 18, 2016
PARTIES: University of Toronto v M.L.

Hearing Date(s):
June 27, 2016

Panel Members:
Roslyn M. Tsao, Chair
Faye Mishna, Faculty Member
Vassilia (Julia) Al Akaila, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Kalina Staub, Instructor of the Course

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sean Lourim, IT Support

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – majority of Student's assignment identical to that of another student – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – not necessary to determine which student drafted the original contents of the assignment provided it is clear that the students collaborated or knew that the work was being used for assistance – University submission on penalty accepted – grade assignment of zero in the Course; 2-year suspension; 3-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(d), s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the majority of the Student's assignment was identical to that of another student in the Course. The Student did not attend the hearing. The Panel determined that reasonable notice had been provided pursuant to the *Rules of Practice and Procedure*, and it proceeded in the absence of the Student.

Student was found guilty of plagiarism and unauthorized assistance. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel noted that though it was not clear which student had copied from the other, it is not necessary to determine who drafted the original contents of the assignment, whether the students collaborated, or whether the Student copied from the other student or vice versa – all of these scenarios will attract a finding of guilt provided that it is clear that the students collaborated or that the Student was aware that her work or the other's was being used for assistance. The Panel found that there was clear and convincing evidence that the students collaborated or that one of them knowingly made his/her work available to the Student to copy. The Panel accepted the University's submissions on penalty and imposed a grade assignment of zero in the Course; a 2-year suspension; a 3-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case # 901 (17-18)
DATE: September 6, 2017
PARTIES: University of Toronto v. D.K. ("the Student")

Hearing Date(s): June 20, 2017 and July 18, 2017

Panel Members:
Mr. R.S.M. Woods, Barrister and Solicitor, Chair
Professor Faye Mishna, Faculty Panel Member
Ms. Alexis Giannelia, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Olando Vinton, Elita Chambers, Counsel for the Student

In Attendance:
The Student (June 20, 2017 and July 18, 2017)
Ms. Chelsea Laidlaw, Assistant to Mr. Olando Vinton, Elita Chambers (June 20, 2017 and July 18, 2017)
Professor Roberta Fulthorpe, University of Toronto Scarborough (June 20, 2017)
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies (June 20, 2017 and July 18, 2017)
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances (June 20 and July 18, 2017)

NOTE: Under Appeal

Trial Division - *s. B.i.1(d)* - plagiarism – graduate student – copying work from unattributed sources in a series of essays – copying work from others in an application for a scholarship from a third party – marital problems and health issues insufficient extenuating circumstances – English language proficiency not an excuse for plagiarism – no prior misconduct – final grade of zero in the affected courses, immediate suspension for a period of five years pending expulsion, recommendation of expulsion, permanent transcript notation, and report to the provost.

The Student was charged with three counts of plagiarism contrary to *s. B.i.1(d)* of the *Code,* or in the alternative, one count of academic misconduct not otherwise described contrary to *s. B.i.3(b)* of the *Code.* The charges related to two essays and a research statement in an application for a scholarship that contained significant portions of text that were the ideas or work of another person that the Student had represented as her own ideas. The Panel found the Student guilty of the three charges of plagiarism contrary to *s. B.i.1(d)* of the *Code.* Upon the Panel's finding of guilty on the plagiarism charges, the University withdrew the alternative charge of academic dishonesty.
In determining the appropriate penalty, the Panel applied the factors described in *University of Toronto v N. A* (Case No.: 661, February 29, 2012): (i) the character of the person charged; (ii) the likelihood of a repetition of the offence; (iii) the nature of the offence committed; (iv) any extenuating circumstances surrounding commission of the offence; (v) the detriment to the University occasioned by the offence; and (vi) the need to deter others from committing a similar offence. The Student had no prior record, but the Panel found that the plagiarism was too significant and too pervasive in the Student's work to merit anything other than the most serious sanction available. The Panel emphasized it was particularly egregious that the Student was a graduate student who had used the work of others three times. The plagiarism in the application for the scholarship was a particularly aggravating circumstance as the Student was putting forward as her own a project being undertaken by another student in the same lab as she had been working. The Panel did not find any extenuating circumstances in the Student's personal circumstances, specifically, her marital problems, lack of proficiency in the English language, or medical issues. The Panel was troubled by the Student's comment that she would not be in this situation if someone had noticed her plagiarism earlier. On the last two factors, the Student's actions reflected poorly on the University, as the plagiarism was on an application for funding for a scholarship from a third party.
The Panel referred to several decisions that held that an immediate suspension and a recommendation to the President of the University that the student be expelled is the appropriate penalty where there are multiple incidents of plagiarism by a graduate student, when the improper conduct relates to obtaining some financial benefit, potentially deprives another student of some benefit, or reflects poorly on the University as a whole (*The University of Toronto v. O.G.* (Case No.: 587, April 14, 2010); *The University of Toronto v. D.D.* (Case No.: 593, September 3, 2010) and *The University of Toronto v. K. K.* (Case No.: November 3, 2009)). The Panel ordered a final grade of zero in the affected courses; immediate suspension from the University for five years pending expulsion; a recommendation of that the Student be expelled; a permanent notation of the sanction on the Student's academic record and transcript; and that the matter be reported to the Provost for publication.

FILE: Case #914 (2017 - 2018)
DATE: February 18, 2018
PARTIES: University of Toronto v. Q.L. ("the Student")

Hearing Date(s): November 24, 2017

Panel Members:
Ms. Sandra Nishikawa, Barrister and Solicitor, Chair
Professor Pascal Riendeau, Faculty Panel Member
Ms. Sherice Robertson, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland, Barristers
Ms. Nisha Panchal, Student Conduct and Academic Integrity Officer, Office of the Dean & Vice-Principal Academic, UTSC
Ms. Margaret Roberts, Facilitated Study Group Coordinator, The Centre for Teaching and Learning, UTSC

In Attendance:
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not in Attendance:
The Student

Trial Division - *s. B.i.1 (d)* – plagiarism – ideas in class assignments, research assignment, and in the final exam represented work that was not the Student's – hearing not attended – sufficient notice provided – finding of plagiarism where no original work to compare alleged plagiarism with – plagiarism based on different quality of work - final grade of zero in the course; three-year suspension; the sanction be recorded on academic record and transcript for four years; and that the decision be reported to the Provost for publication with the Student's name withheld.

The Student was not present at the hearing. In determining the preliminary issue of whether the hearing could proceed in his absence, the Panel referred to sections 6 and 7 of the *Statutory Powers Procedure Act* (the "Act") and Rule 17 of the *University of Toronto Rules of Practice and Procedure* (the "Rules"), which provide that a hearing may proceed in the absence of a Student where reasonable notice of an oral hearing has been given to a party in accordance with the Act. Given that the University made numerous attempts to serve notice on the Student by email, courier, process server, and telephone; as well as the fact that Counsel had a telephone conversation with the Student, during which she specifically advised him of the hearing date, the Panel concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules. Further, the University led evidence that the Student's University email account had been accessed, after the emails attaching the charges and the disclosure brief had been sent.

The Student was charged with three charges of plagiarism contrary to s. B.i.1(d) of the *Code,* with alternative charges of unauthorized assistance contrary to s. B.i.1(b) of the *Code;* and further alternative charges of academic misconduct not otherwise described contrary to s.B.i.3(b) of the *Code.* The charges related to course assignments and a research paper that the Student had submitted for course credit that contained passages that did not seem to reflect the Student's language abilities; as well as the Student's final exam which included significant portions that had been copied from the exam materials themselves. The Panel found the Student guilty of the first charge of plagiarism in submitting a research assignment that was not his own work contrary to s. B.i.1(d) of the *Code.* Upon this finding of guilt, the University withdrew the alternative charges relating to the research assignment and did not proceed with the remaining charges.

The Panel noted that this was not a typical plagiarism case, since the turnitin.com report assessed the research assignment at 0% similarity to other work so there was no original text to compare it with. Referring to the case *University of Toronto v W.J* (Case No. 815, January 19, 2016), the Panel found that it all that was necessary to constitute plagiarism is that a student represent someone else's work as their own. And that in this case it was clear given the different quality of English contained in the research assignment compared to the Student's previous assignments, in-class work, and final exam that the Student submitted work that he did not write as his own.

In determining the appropriate sanction, the Panel referred to the *Mr. C.* factors: the character of the person charged, the likelihood of repetition, the nature of the offence, the need to deter others from engaging in similar behaviour, the detriment to the University, protection of the public, as well as any extenuating circumstances. (*University of Toronto v Mr. C.*, Case No. 1976/77-3; November 5, 1976 at p. 12.). The Panel emphasized that plagiarism is a serious offence, which strikes at the core of academic integrity (*University of Toronto v D.S.,* Case No. 554, October 7, 2009at para 39) and warrants a significant sanction to reflect the seriousness of misconduct. In this case, the Student was provided with the

opportunity to obtain assistance from his instructor, but instead continued to submit plagiarized work for course credit. It was the Student's first offence and took place during his first term at the University. The Student's failure to participate in the hearing deprived the Panel of being able to consider any mitigating or extenuating circumstances. The Panel ordered: (i) the Student receive a zero grade in the Course, (ii) the Student be suspended for three years, (iii) a notation of the suspension be placed on the Student's record for four years, and (iv) that the case be reported to the Provost with the Student's name withheld.

FILE:	Case #916 (2017 - 2018)
DATE:	March 12, 2018
PARTIES:	University of Toronto v. M.S. ("the Student")
Hearing Date(s):	December 15, 2017

Panel Members:
Ms. Cheryl Woodin, Chair
Professor Pascal van Lieshout, Faculty Panel Member
Ms. Natasha Ramkissoon, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University, Palaire Roland Barristers

In Attendance:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies
Mr. Brian Alexic, IT Support, Office of the Governing Council

Not in Attendance:
The Student
Ms. Julia Wilkes, Counsel to the Student, Wardle Daley Bernstein Bieber LLP

Trial Division - s. B.i.1 (d) – plagiarism – graduate student - passages in a dissertation copied from unattributed source – hearing not attended – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – no prior offences – undertaking – joint submission should not be rejected unless its acceptance would bring the administration of justice into disrepute – final grade of zero in the course; degree recall; permanent notation of the sanction be recorded on academic record and transcript; and that the decision be reported to the Provost for publication with the Student's name withheld

The Student was charged with one charge plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative, one charge of unauthorized assistance contrary to s. B.i.1(b) of the *Code;* or in the further alternative, one charge of academic misconduct not otherwise described contrary to s.B.i.3(b) of the *Code.* The charges related to the Student's dissertation, which contained several passages that had been copied verbatim or nearly verbatim from works of another scholar. The plagiarism came to light after the Student had graduated and approached that scholar to supervise his postdoctoral project. The Student and his counsel consented to the hearing proceeding in their absence. The matter proceeded by way of agreed statement of facts (ASF) and a joint book of documents. Portions of the ASF were removed from the decision at the request of the Student on the basis that they summarize information relating to the Student's medical circumstances which need not be published. The Student pled guilty to the first charge of plagiarism contrary to s. B.i.1(d) of the *Code.* Upon the Panel accepting the Student's guilty plea to the first charge, the University withdrew the alternative charges.

The parties submitted a Joint Submission on Penalty (JSP) requesting: (a) final grade of zero in the course; (b) that the degree be cancelled and recalled; (c) the sanction be permanently recorded on academic record and transcript; and (d) that the decision be reported to the Provost for publication with the Student's name withheld. The JSP was accompanied by an undertaking that the Student not enrol in, or apply for admission to, any program or course at the University until the Fall 2020 term or later. The Student also undertook to return his degree certificate to the University and consented to the removal of his thesis from the University library and any affiliated organizations or databases. In deciding whether to accept the JSP, the Panel considered the plagiarism within its broader context. Mitigating factors included that it was the Student's first offence, he had cooperated throughout the discipline process, and that the plagiarism was committed while the Student's dissertation was on an expedited timeline. Aggravating factors included that the Student had been confronted about he attribution problems prior to submitting his dissertation, the seriousness of the offence, and the fact that it had occurred in the context of a dissertation thesis, which has significant visibility. Further, the Student intended the thesis to form the basis for a book, where it would have had even greater prominence and visibility as a

representation of the University's academic quality. The Panel found that the threshold for departing from a JSP had not been met in this case (*The University of Toronto and M.A.* (Case No. 837, December 22, 2016). The Panel accepted the parties' JSP and ordered:(a) final grade of zero in the course; (b) that the Student's degree be cancelled and recalled; (c) a permanent notation of the sanction be recorded on the Student's academic record and transcript; and (d) that the decision be reported to the Provost for publication with the Student's name withheld.

PURCHASED/SOLD ESSAY

FILE: Case #440 (06-07)
DATE: April 6, 2006
PARTIES: University of Toronto v the Student

Hearing Date(s):
November 15, 2005
November 16, 2005

Panel Members:
Julie Hannaford, Chair
Markus Bussmann, Faculty Member
Saimah Aleem, Student Member

Appearances
Linda Rothstein, Assistant Discipline Counsel
Robert Centa, Assistant Discipline Counsel
Emily Lawrence, Assistant Discipline Counsel
Rob Wakulat, Counsel for the Student
The Student

Trial Division - *s. B.i.1(d)* and *s. B.i.1(b)* of *Code* – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – integrity of *Code* debased by cheating through commercial transactions – enterprise of purchasing work and severity of threat recognized – difficulty of detection required message to be sent about severity of offence and commitment to eradication - severity of sanction not diminished by its inability to curtail commercial providers of essays – serial offences - understanding of severity and seriousness of offences not acquired – adverse medical and personal circumstances not sufficiently connected to offence nor sufficient in kind to reasonably give rise to suspension of judgment - assignment of zero for two courses; recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; and report to Provost

Student charged under *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student submitted plagiarized course work, including two term papers and a term test in two courses, which she had purchased from a commercial provider of academic essays. The Student admitted to having to committed the offences set out in *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code*. The Parties agreed on the facts relating to the offences. The Panel considered the parties' submissions and accepted the Student's guilty plea. The Panel considered the nature of the offence, the detriment that was occasioned and the need to deter others from committing a similar offence and found that the offence of cheating, when compounded by the fact that it came about through a commercial transaction, demeans the pursuit of original thought and debases the integrity of the *Code* and the attempts to protect learning in a fair and honest environment. The Panel found that the failure to recognize the "enterprise" of purchasing work for submission threatens the integrity and respect necessary to maintain the University community and that the failure to recognize the severity of the threat would be punitive to honest member of that community. The Panel observed that the difficulty of detecting the offence made it imperative that sanctions have an import that sent a message to the community about the severity of the offence, and the commitment of the University community to its eradication. The Panel found that the fact that punishing the product of the cheating enterprise did not curtail the commercial providers of essays was not a reason to diminish the severity of the sanction. The Panel considered the serial nature of the Student's offences, the Student's initial denial and subsequent excuses offered to the University, and the Student's explanation for committing the offences and found that the Student had not acquired a genuine understanding of the severity of the offences. The Panel found that the adverse medical and personal circumstances encountered by the Student were not sufficiently connected to the occurrence of the offence nor was that adversity sufficient in kind to reasonably give rise to the suspension of otherwise sound judgment. The Panel imposed a grade of zero in the two courses; a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled; and that a report be issued to the Provost.

FILE: Case #539 (09-10)
DATE: August 11, 2009
PARTIES: University of Toronto v S.H.

Hearing Date(s):
February 26, 2009
June 30, 2009

Panel Members:
Roslyn M. Tsao, Chair
Andrea Litvack, Faculty Member
Sadek Ali, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Julia Wilkes, Counsel for the Student, DLS
R. Singh, Counsel for the Student

In Attendance:
S.H., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of *Code* – plagiarism and unauthorized aids – sold essays to other students – Agreed Statement of Facts – Student's statement to the Campus Police – sworn affidavit from a buyer – case delayed for six months due to the lack cooperation from Student – guilty plea – finding of guilt based on agreed statement of facts – Tribunal adjourned for penalty phase – further delay of three months due to Student terminating his counsel – Student's father's testimony – receipts for prescriptions for medication; letters confirming employment and volunteer services – adverse finding on character – risk of re-offending – a "seller" in general is not a more significant player but engagement in an on-going enterprise is an aggravating factor – detriment to University as discussed in *V.L.* (Case No. 440) – Appendix "C" of the *Code* applies to sellers as well as to buyers – evidence of previous offences – no basis to reduce penalty due to general deterrence effect being minimal – need for specific deterrence as Student has not displayed remorse – principle of consistency as discussed in *Y.* (Case No. 404) – Student completed courses and earned credits he would not have earned if not for the delay – five-year suspension commencing the date of the original hearing; seven-year notation on transcript; report to Provost

Student charged under *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student sold essays to other students. The evidence included the Student's statement to the Campus Police admitting that he sold an essay to another student and a sworn affidavit by another student charged with purchasing coursework. The filing of charges was delayed for six months as the Student avoided the attempts by the University to address the allegations. The Student promised to get back to the University and never did. The Student pleaded guilty to the charges. The Panel found the Student guilty of the offences under *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code*. The Tribunal adjourned for one month for the penalty phase to allow the Student to respond to the University's recommendation for expulsion. At the hearing, the counsel for the Student did not appear as the Student terminated his counsel on the date of or just before the hearing. The Panel allowed an adjournment for the Student to obtain new counsel. At the resumed hearing, the Student's father testified that it was very important for his sons to finish university and that he had taken his son to religious counseling after learning about his dishonest behaviour. He also testified that his son had started taking medication and had become more attentive and responsible. The Student did not testify but tendered copies of receipts for prescriptions for medication and letters confirming that he tutored for a period of ten months and that he volunteered at a food bank for ten hours. The Panel did not give any weight to the receipts as they did not prove that the Student was actually taking his medication. The Panel made an adverse finding about the character of the Student because of (i) his lack of cooperation and (ii) his failure to apologize or display any remorse despite the guilty plea. The Panel found that the letters did not convincingly support the Student's submission that he had made attempts to improve himself. The Panel found that the Student failed to demonstrate that there was no risk of re-offending given the lack of apology/remorse, the lack of extenuating circumstances, and that the Student has delayed at all stages. The Panel stated that while a "seller" in general was not a more significant player in the sale/purchase of academic work, engagement in an on-going enterprise was an aggravating factor. The Panel also found that selling of academic work is obviously detrimental to the University as discussed in *V.L.* (Case No. 440). The Panel found that Appendix "C" of the *Code* applied to sellers as well as to buyers. As for deterrence, the Panel stated that the fact that this is a rare case involving a seller and thus having a minimal effect on general deterrence is no basis for reducing penalty. Furthermore, the Panel found that there was a justification for specific deterrence as the Student has not displayed remorse. The Panel took into consideration the Student's submission that suspension was the more appropriate penalty based on other cases relating to "purchasers" and other plagiarism-type situations and also the principle of consistency acknowledged by the discipline counsel in *Y.* (Case No. 404). The Panel stated that the Student would not have earned the credits during the six months preceding the hearing if not for the delay. The Panel found that the University was not responsible for the delay. The Panel imposed a five-year suspension commencing the original date of the hearing before the delay; a seven-year notation on the Student's transcript; and a report be issued to the Provost.

FILE: Case #602 (10-11)
DATE: May 6, 2011
PARTIES: University of Toronto v. Mr. H.

Panel Members:
Michael Hines, Chair
Charmaine Williams, Faculty Member
Jorge Prieto, Student Member

Hearing Date(s):

August 18, 2010

Appearances:
Robert Centa, Assistant Discipline Counsel
Camille Labchuk, Counsel for the Student, DLS
Janet Pool, Instructor

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Martha Harris, Integrity Officer, Office of Academic Integrity
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division - *s. B.i.1(d), s. B.i.1(b), and s. B.i.3(b)* of *Code* – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – no prior academic offence – rejected sanction proposed by the Student as it was no hardship – submitting an essay purchased from another is one of the most egregious offences – need to balance deterrence with rehabilitation – considered *CHK* and *S.P.* – absent the most exceptional circumstances, sanction should be expulsion unless the Student promptly acknowledges their wrongdoing, which the Student did in this case – Panel would have imposed expulsion had the Student been a repeat offender – grade assignment of zero; five-year suspension; seven-year notation on transcript; report to Provost

Student charged under *s. B.i.1(d), s. B.i.1(b),* and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted an essay purchased from a commercial provider of academic essays. The parties agreed on the facts relating to the offences. The Student admitted to having committed the offences as set out in *s. B.i.1(d), s. B.i.1(b),* and *s. B.i.3(b)* of the *Code* and pleaded guilty to the charges. The Panel found the Student guilty of the offences under *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* and accepted the withdrawal of the charge under *s. B.i.3(b)*. As for sanction, the Provost sought a recommendation for expulsion coupled with an immediate five-year suspension. The Student submitted that he should receive a mark of zero for the course and a two to three-year suspension. The Student claimed that he was one credit short of receiving his degree, he had received notice that he would be required to serve in the South Korean military for a period of two years, and that should he fail the course, it would be very hard for him to come back after two years only for the purpose of obtaining one credit. He claimed that his lack of confidence in his ability to pass the course coupled with the consequences of failure led him to purchase the essay. The Student had never been convicted of an academic offence. The Panel stated that the sanction suggested by the Student is wholly inadequate as it would work no hardship on him given the fact that he would be serving in the military anyway during the proposed period of the suspension. The Panel stated that the decision to be made is between expulsion and a five-year suspension. The Panel agreed that purchasing and submitting an essay prepared by another is one of the most egregious offences but also stated the need to balance general deterrence with the objective of rehabilitation. In the Panel's view, absent the most exceptional circumstances, a guilty student should only be able to avoid expulsion by demonstrating an ability to reform their behaviour with a prompt acknowledgement of his or her wrongdoing when confronted, which the Student did in this case. Had the Student been a repeat offender, the Panel would have imposed a recommendation for expulsion. The Panel differentiated this case from *CHK* in that the Student had no prior conviction and also from *S.P.* that the Student acknowledged his wrongdoing promptly. The Panel imposed a grade of zero in the course; a five-year suspension; a seven-year notation on the Student's transcript; and that a report be issued to the Provost.

FILE: Case #596, 597 & 598 (10-11)
DATE: November 10, 2010
PARTIES: University of Toronto v C., H., and K.

Hearing Date(s):
June 14, 2010

Panel Members:
Julie Hannaford, Chair
Andrea Litvak, Faculty Member
Sybil Derrible, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Camille Labchuk, Counsel for a student, DLS
Joshua Chan, Counsel for a student, DLS
Alyssa Manji, Counsel for a student, DLS

In Attendance:
Tamara Jones, Integrity Officer [former], Office of Academic Integrity
John Browne, Dean's Designate
Rebecca Smith, Coordinator, Student Crisis Response Program
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Note: Overturned on appeal (see below).

Majority:
Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – essays purchased from a commercial provider of essays – Agreed Statement of Facts – guilty plea – finding of guilt – each Student had at least two previous offences (*H* had previously purchased an essay) – Students collaborated on a 2% quiz – Students were also victims – previous offences did not indicate a continuum of planned and deliberate dishonesty – a five-year suspension arguably had the same deterrent effect as an expulsion – except for most egregious offences, expulsion should be reserved for when there is a repetition in kind of offences – precedents should be considered only as guidance – Students' expression of remorse was clear and unwavering – grade assignment of zero for course; five-year suspension; notation on transcript until graduation; report to Provost

Dissent:
Extenuating circumstance is but only one factor to be considered – For extenuating circumstances to play a role, there has to be a connection between the causative symptom and the academic offence; the onus is on the Student to show that there was a close connection – *C* did not want to be in school; *H*'s self-doubt did not rise to the level of being pathological; and the divorce of *K*'s parents happened five years ago so the timing did not coincide – no causative relationship – likelihood of repetition as the Students failed to learn from their previous mistakes – plain and obvious detriment to the University as the industry of custom essays had been expanding and it would become harder to detect once they start cleansing metadata – planning, deliberation and collaboration as well as the fact that the Students had many opportunities to reconsider were aggravating factors – consideration of actual deterrence was irrelevant – would have imposed a grade assignment of zero for course; an immediate suspension; a recommendation that each Student be expelled; and report to Provost

Students charged under *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Students each purchased an essay from a commercial provider of essays. The parties submitted an Agreed Statement of Facts, and each Student pleaded guilty to the charges. The Panel found the Student guilty under *s. B.i.1(d)* and *s. B.i.3(b)*. Each Student had at least two previous academic offences. *C* had been convicted of knowingly providing unauthorized assistance for giving her boyfriend a file stored on her computer. *H* had been convicted for altering the time of her flight ticket to escape from writing her test. *K* had been convicted of providing unauthorized assistance for letting her friend copy her answer to a question during an exam. Their second offence was committed together: they were convicted of knowingly receiving unauthorized assistance for copying each other's answers during a term test worth 2% of the course grade. *H* had also previously purchased an essay, which was submitted in the same month as she collaborated on the test. The majority of the Panel imposed a five-year suspension while the dissent would have imposed a recommendation that the Students be expelled.

Reasons for the Penalty Imposed (Majority):
The Panel stated that as much as the University was the victim of places like The Essay Place, so were the three students, who lived far away from home, isolated and coping with financial and medical pressures. Although each Student displayed a pattern of failing to learn from previous mistakes, the previous offences did not indicate a continuum of planned and deliberate dishonesty: *C* and *K*'s offences were misguided attempts to be magnanimous, and *H*'s offence was an act out of desperation to avoid confronting her lack of preparedness. The Panel also stated that, in regards to the 2% quiz, the Students' realization of the gravity of committing an academic offence was an important consideration in the continuum of their expression of remorse. As for deterrence, the Panel stated that a five-year suspension was a severe lengthy suspension and would arguably have the same deterrent effect as an expulsion. The Panel was of a view that expulsion should be reserved for cases where there is a repetition in kind of offences, and not a series of unrelated offences except when the offences are most egregious. As for considering precedents, the Panel stated that it was to look

to them for guidance and not for a formulaic approach because each case had its own collection of facts, circumstances, and mitigating factors. The Panel also stated that a five-year suspension was warranted in this case because of the Students' clear and unwavering expression of remorse. The Panel imposed a grade assignment of zero in the course; a five-year suspension; a notation on the Students' transcripts until their graduation; and a report be issued to the Provost.

Dissent (As to Penalty Only):
The Dissent stated that extenuating circumstances was only one of the considerations, and expressions of remorse or regret were not enough to mitigate the penalty that followed from this type of academic dishonesty. For extenuating circumstances to play a role, there has to be a connection between the causative symptom and the academic offence; the onus is on the student to show that their extenuating circumstance was so closely connected to the commission of the offence as to suggest that their otherwise good judgment was irretrievably clouded, and that the offence occurred during that dark time, and specifically because of it. The Dissent stated that there was no such connection in this case. For *C*, the real adversity was that she did not want to be in school, and this was unrelated to a decision to purchase an essay. For *H*, her self-doubt did not rise to the level of being pathological. For *K*, her parents' divorce happened five years ago so the timing did not coincide. As such, the Students did not prove the causative relationship. The Dissent also stated that there was a likelihood of repetition, considering that the Students failed to learn from their previous mistakes. The Dissent considered the detriment to the University to be plain and obvious: the industry of custom essay writing services had been expanding and it would become harder to detect once they start cleansing metadata. The planning, deliberation and collaboration as well as the fact that the Students had many opportunities to reconsider were aggravating factors. As to the argument that a long suspension would have the same deterrent effect as an expulsion, the Dissent stated that the consideration of actual deterrence was irrelevant to the ultimate decision on penalty since there was no evidence as to actual deterrence. The Dissent would have imposed a grade assignment of zero in the course; an immediate suspension; a recommendation that each Student be expelled; and that a report be issued to the Provost.

FILE: Case #596, 597 & 598 (11-12)
DATE: November 23, 2011
PARTIES: University of Toronto v C., H., and K.

Hearing Date(s):
October 24, 2011

Panel Members
Ronald G. Slaght, Chair
Elizabeth Peter, Faculty Member
Kenneth Davy, Student Member
Sabrina Tang, Student Member

Appearances:
Robert Centa for the Appellant
Joy-Ann Cohen for the Respondents, C. and K.
Philip Trotter for the Respondent, H.

DAB Decision
NOTE: See the Tribunal case summary above for detailed facts.

Discipline Appeal Board – University appeal from sanction – expulsion a likely sanction in purchased essay cases – *s. E.7(c)* allows Board not to show any deference – principled approach showing some deference – majority erred in concluding Student were victims – submitting purchased essays could not be justified – majority erred in treatment of previous offences – no continuum of remorse – previous offence did not have to be identical to be relevant – majority erred by giving too much weight to demeanor and expressions of remorse – multitude of factors relevant in sentencing – effect of previous offences – indications of continuing dishonest motive and a failure to recognize and adhere to core University values – in purchased essay cases, two *Chelin* factors were more relevant than others: the detriment to the University and the need for deterrence – expulsion was the appropriate sanction – H's affidavit was not much different from her earlier expressions of regret and there would need to have been something materially more dramatic to have an effect – Appeal allowed

Appeal by the University from a Tribunal decision in which the Students were each found guilty of purchasing an essay, contrary to *s. B.i.1(d)* of the *Code*, and sentenced to a five-year suspension. The University sought a recommendation that each Student be expelled. The Board started the analysis by stating that expulsion should be considered as a likely, or the most likely, sanction in purchased essay cases. On the issue of deference, the Board stated that although the language of *s. E.7(c)* of the *Code* allowed it to simply substitute its own view of the sanction for whatever reason, the Board in previous decisions showed some deference, basing determinations on a principled analysis. The Board stated that its role

would involve a two-step process: (1) determining whether the Panel has made a reversible errors of law or fact; and (2) if so, whether those errors should result in a variation of the penalty imposed.

(1) The Board held that the majority of the Panel made significant errors in material findings of fact and characterization of the evidence in concluding that the Students were victims of commercial companies such as the Essay Place. The Board stated that the Students did not portray themselves as victims and the evidence showed rather that their concerns were more with the high dollar cost of purchasing the essays. In addressing the majority's finding that the Students purchased the essays as a last resort, the Board stated that it could not endorse any suggestion that purchasing essays could be justified. The Board also found that the majority erred in taking a benign view of the previous offences committed by the Students: the majority failed to appreciate that within two months of their meeting with the Dean regarding their previous offence, the Students were conspiring together to commit much more serious offences, in the full realization that what they were doing was wrong. This was inconsistent with the majority's finding that there was a continuum of expression of remorse. It should count that the Students committed a further offence after cheating, being caught, expressing remorse and apologizing. However, the fact that the earlier offences were not identical to the last offence should have no bearing in trying to measure their importance in the overall context of deciding a sanction for the last offence. The Board further found that the majority erred by giving too much weight in the Students' demeanor during the hearing and their expressions of shame, regret, and remorse. The demeanor and such expressions should not be elevated to that degree of significance when measured against other sentencing factors.

(2) The Board stated that while the Tribunal should approach sentencing in purchased essay cases with a working assumption that expulsion was the sanction best commensurate with the gravity of the offence, the result in each case would depend on multitude of factors. These factors include the circumstances under which the essay was purchased and submitted; the degree of intent and deliberation; recognition by the student that the conduct was grave and wrong; involvement of other people; influences that can legitimately influence the penalty; subsequent events; and egregious or ameliorating factors. Although whether the student learned from the entire matter or true expressions of remorse are relevant, these will rarely blunt the force of the offence. On the issue of previous offences, the Board stated that when there was none, expulsion may not be the result. When there were one or more, whatever their nature, it would be a powerful indication that expulsion may be warranted. Moreover, when the previous offence involved purchasing and submitted an essay, it would be most unusual for the student to escape expulsion. The Board emphasized, however, that previous offences did not have to be similar; they served as indications of continuing dishonest motive and a failure to recognize and adhere to core University values. The Board further stated that in balancing the factors in purchased essay cases, two sentencing principles should be paramount over the others: the detriment to the University and the need for deterrence. Accordingly, the Board concluded that expulsion was the appropriate penalty for the Students. On the issue of the new affidavit submitted by H., the Board stated that it was not much different from her earlier expressions of regret and there would need to have been something materially more dramatic to overcome the overwhelming facts that otherwise point to expulsion.

Appeal allowed.

FILE: Case #862 (16-17)
DATE: August 23, 2016
PARTIES: University of Toronto v Z.Z.

Hearing Date(s):
July 14, 2016

Panel Members:
Paul Schabas, Chair
Chris Koenig-Woodyward, Faculty Member
Sue Mazzatto, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Thomas Kierstead, Instructor of the Course
Kristi Gourlay, Manager, Office of Academic Integrity

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – Student plagiarized and obtained unauthorized assistance for two essays in the Course – though the Panel made no explicit

finding that the second essay was purchased, the evidence clearly showed that it was a custom written essay not written by the Student, and it was therefore reasonable to infer that it was purchased – finding on evidence – finding on guilt – grade assignment of zero in the Course; recommendation of expulsion; permanent notation of the expulsion on the Student's academic record if the recommendation is accepted; 5-year suspension and notation on the Student's academic record and transcript pending the Governing Council's decision on expulsion; case reported to Provost for publication

Student charged with two offences under *s. B.i.1(d),* two offences under *s. B.i.1(b)* and, in the alternative, two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted two essays for the Course containing many elements of plagiarism and unauthorized aid. The Student was not present at the hearing. The Panel found that reasonable notice of the hearing had been provided, and the hearing continued in the absence of the Student.

The Student was found guilty of the plagiarism charges under *s. B.i.1(d)*. The Panel accepted evidence regarding the improper citations, unattributed sources, and the disparity between the level of English between the two essays and between the essays and the Student's in class work. The second essay appeared to be purchased from a commercial provider of essays given the level of professionalism in which it was written. The Panel concluded that, on a balance of probabilities the essays were not the work of the Student. Having found the student guilty of plagiarism, the Panel did not make findings on the charges under *s. B.i.1(b)* and *s. B.i.3(b)*.

Though the Panel made no explicit finding that the second essay was purchased, the evidence clearly showed that it was a custom written essay not written by the Student, and it was therefore reasonable to infer that it was purchased. The Panel therefore concluded that it was appropriate to consider the jurisprudence on purchased essays in this case. The Panel noted that the purchase of essays is among the most serious of offences that can be committed in a University setting, and that the sanction is generally expulsion. There mitigating factors to suggest a lesser penalty; the Student was already aware of concerns with the academic integrity of his first essay when the second essay was handed in, and the Student was aware of this discipline process but chose not to engage. The Panel imposed a grade assignment of zero in the Course; a recommendation of expulsion; a permanent notation of the expulsion on the Student's academic record if the recommendation is accepted; a 5-year suspension and notation on the Student's academic record and transcript pending the Governing Council's decision on expulsion; and that the case be reported to the Provost for publication.

NO DISHONEST INTENT

FILE:	Case #00-01-06 (00-01) **	Panel Members
	Supplemental Reasons on Penalty	John Keefe, Chair
	to Case #00-01-04 (00-01)	Patrick Macklem, Faculty Member
DATE:	September 19, 2001	Martha Kumsa, Student Member
PARTIES:	University of Toronto v. Ms. C.	

Hearing Date(s):
May 29, 2001
August 23, 2001

Trial Division – supplemental reasons on penalty – see case of *#00-01-04* – *s. B.i.1(d)* of *Code* and *s. B.i.3(b)* – plagiarism - take home test and essay – finding of guilt under *s. B.i.1(d)* of *Code* – not guilty under *s. B.i.3(b)* of *Code* – no dishonest intent - unusual and extenuating circumstances more appropriately dealt with in context of penalty - teaching assistants' strike and academic background– no cited cases involving finding of guilt based on extended definition of knowingly – not likely to reoffend – suspension not warranted – motion to stay proceedings on grounds of undue delay - period of delay not inordinate - sanction ramifications or final course grade assignment not addressed in original decision – imposing passing course mark not consistent with Panel's original approach - Student allowed to complete course by re-writing two assignments, pending approval of course instructor and further to *s. C.ii.B.1.(b)* of the *Code*; if permission denied then the Student could apply for late admission to the summer offering of course; final course grade to be recorded on the Student's transcript equal to the average of the course work already completed excluding the assignments, if not feasible to grant late admission to summer offering; if summer offering of course not applied to then the Student would have to apply to the fall offering of course in order to complete course; grade assignment of 37.5 for work in course; oral and written reprimand; one-year notation on the Student's academic record and transcript; and report to Provost

Supplemental reasons on penalty for the Tribunal case *#00-01-04*. Student charged with two offences under *s. B.i.1(d)*, and alternatively, two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted a plagiarized take home test and a plagiarized essay in one course. The Panel found that in both assignments the Student had failed to provide proper attribution for words taken from other sources. The Panel found the Student guilty of the charges under *s. B.i.1(d)* and not guilty to the charges under *s. B.i.3(b)* of the *Code* because the Student had not acted with dishonest intent, although the conduct fell within the expanded definition of "knowingly" as defined in the *Code*. The Panel found that there were unusual and extenuating circumstances, particularly a teaching assistants' strike and the Student's academic background and circumstances, but that the issues were more appropriately dealt with in the context of penalty. The Panel considered previous Tribunal decisions involving plagiarism and sentencing principles, and found that none of the cited cases involved a finding of guilt based on the extended definition of "knowingly." The Panel considered the instruction provided to the Student on plagiarism; the nature of the offence; the fact that the Student believed she had done the assignment properly; the teacher's assistant strike; and the Student's academic history and status. The Panel found that the Student did not understand proper citations techniques. The offence was the Student's first. The Panel found that although the Student did not plead guilty, she did learn from the incident and was unlikely to reoffend. The Panel found that a suspension was not warranted because of the lack of dishonest intent. At the time of the hearing, the Student required a passing mark in the course to graduate. At the onset of the hearing, the Student brought a motion to stay the proceedings on the grounds of undue delay in proceeding with the complaint. The Panel found that the period of delay, while not inordinate, was such that if the Panel ruled in the Student's favour, she would be unable to graduate within a specified period of time. In rendering its original decision, the Panel ordered that the Student be allowed to enroll in the summer offering of the course, however it failed to address what would happen if the Student chose not to apply to that offering of the course or what grade she was to be given for her work completed in the course when she first took it. The Panel found that if the Student did not apply to the summer offering of the course, then she would have to apply to the fall offering if she wished to complete the course; and that the Student should receive a failing grade in the course, calculated by totaling the marks received for all her course work and assuming she received a zero for the two assignments in question. The Panel found that giving a passing mark in the course was not consistent with its original approach, and that in order to achieve a passing grade the Student would have to complete the fall offering of the course. The Panel imposed that the Student be allowed, pending approval of the course instructor, to complete the course by re-writing the two take home papers within equivalent time deadlines as the original assignments required so that a final mark for the course could be recorded on her transcript in time for her to

graduate within the specified period of time, further to *s. C.ii.B.1.(b)* of the *Code*; that if permission of the course instructor was not granted, then the Student could apply for late admission to the summer offering of the course, and that if she so applied, that she be granted late admission to the course; that if the Student applied for late admission to the course and it was not feasible for the University to grant such late admission, the final grade in the course was to be recorded on her transcript equal to the average of her course work already completed, excluding the two take home assignments, within time for her to graduate within the specified period of time; that if the Student did not apply to the summer offering of the course, she would have had to apply to the fall offering of the course if she wished to complete the course; that the Student would be given a failing grade of 37.5 for her work in the section of the course at issue; that the Student would receive an oral and written reprimand; a one-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #546 (09-10)
DATE: May 31, 2010
PARTIES: University of Toronto v K.X.

Hearing Date(s):
May 4, 2010
May 10, 2010
May 20, 2010

Panel Members:
Michael Hines, Chair
Annette Sanger, Faculty Member
Mir Sadek Ali, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Camille Labchuk, Counsel for the Student, DLS (May 20, 2010)
Kristi Gourlay, Manager, Office of Academic Integrity
Tamara Jones, Academic Integrity Officer
Justin Fisher, Academic Integrity Officer
John Britton, Dean's Designate
Joshua Hjartarson, Instructor

In Attendance:
K.X., the Student
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of the *Code* – plagiarism – submitted essays containing plagiarized passages – plagiarism not deliberate – finding of guilt – Student ought to have known he was plagiarizing – presumptive two-year suspension for first offence plagiarism does not apply where deliberate plagiarism is neither admitted nor proven – cavalier attitude toward University rules off-setting personal mitigating circumstances – grade assignment of zero for the course; 18-month suspension; three-year notation on transcript or until graduation; report to Provost for publication.

Student charged with two offences under *s. B.i.1(d)* and, in the alternative, one offence under *s. B.i.3(b)1* of the *Code*. The charges related to allegations that the Student submitted two essays, extensive portions of which were copied from other works without attribution. The Student pleaded not guilty. The professors became concerned about plagiarism when a report generated by turnitin.com indicated there was extensive verbatim and nearly verbatim copying from uncited sources. The professors emailed the Student to arrange a meeting. The Student stated that he believed that he was contacted by his professors because his essay was substandard. The Student responded to the email two days later indicating that he had just submitted a second version of the same essay, along with a medical certificate explaining he had been ill. The second essay was substantially different from the first, but still contained extensive material copied from other sources without attribution. The Student testified that this was the first time he had been required to submit a social science essay requiring proper citation. The Student suggested that the University did not take adequate time to teach students what was expected in this regard. The Student noted that the syllabus stated that a failure to use proper citation would result in a substantial penalty in calculating the assigned grade. The Student claimed that he inferred this meant that, at worst, failure to properly cite sources would result in a reduced score for his essay, rather than prosecution under the *Code*. The Panel found that the submission of the second essay containing as much plagiarism as the first supported the Student's contention that he did not understand the rules. The Panel did not accept the University's primary submission that the student knowingly engaged in deliberate wrongdoing. The Panel did accept, however, that

the student ought to have known he was in violation of the *Code*. The Panel found the Student guilty of the charges under *s. B.i.1(d).*

The University introduced in evidence a Letter of Reprimand dated April 29, 2008 that had been issued to the Student for taking a cell phone into a computer sciences exam. The Student testified that he was a single parent without a job; that he was working towards a degree so he could support himself and his son; and that he was only one course shy of completing his degree. The Student was willing to take a workshop on essay writing. The Student did not demonstrate an appreciation that he had committed plagiarism, nor did he indicate any remorse. The Panel noted that the presumptive two-year penalty for a first conviction on plagiarism should be modified in a case where deliberate plagiarism has neither been admitted to, nor established. The Panel stated that the potential mitigating force of the Student's personal circumstances was offset by his cavalier attitude toward the rules of the University. The Panel imposed an a grade of zero in the course, an 18-month suspension, a notation on the Student's transcript lasting three years or until graduation, and that the case be reported to the Provost for publication in the University newspaper.

LACK OF PROPER ATTRIBUTION

FILE: Case #521 (08-09)
DATE: January 12, 2009
PARTIES: University of Toronto v M.H.H.

Hearing Date(s):
December 9, 2008

Panel Members:
Clifford Lax, Chair
Ron Smyth, Faculty Member
Melany Bleue, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Betty-Ann Campbell, Law Clerk to Ms. Harmer
Eleanor Irwin, Dean's Designate

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – course work in two courses – hearing not attended – reasonable notice of hearing – extent of plagiarism precluded possibility of error or lack of proper attribution – finding of guilt – three year suspension warranted due to finding of guilt on two counts of plagiarism – grade assignment of zero for two courses; three-year suspension; four-year notation on transcript or until graduation; and report to Provost

The Student was charged with two offences under *s. B.i.1(d)*, and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted two plagiarized essays in two courses. The Student did not attend the hearing. The Panel considered submissions with respect to the University's request to proceed in the absence of the Student and found that the Student received notice of the hearing, either via mail, email or courier, and that it was appropriate to proceed in the absence of the Student, without further notice of the proceeding. During the hearing the Student emailed the Judicial Affairs Officer indicating he would not be attending due to lack of notice. The Panel did not become aware of the email until after it had concluded its deliberations but found that the email confirmed that the Student had received notice of the hearing. With respect to the first essay, the Panel considered the testimony of the course professor and found that the extent of the plagiarism found in the essay precluded any possibility that it was a result of error or a lack of proper attribution and that the Student had made obvious use of another student's paper and submitted the other student's ideas and text as though they were his own. With respect to the second essay, the Panel considered the evidence from the course professor and found that the Student quoted from texts without using quotation marks to delineate the words of the source materials. The Panel found the Student guilty on the charged under *s. B.i.1(b)* of the *Code*. The University filed a Book of Authorities regarding sanctions in similar cases of plagiarism. The Panel considered the *University of Toronto v. S.B.* and *Re: University of Toronto v. A.K.* and found that a two year suspension was the usual threshold for a first time offence but that a three year suspension was warranted due to the Student having been found guilty of a second count of plagiarism. The Panel imposed a three-year suspension; a grade of zero in the two courses; a four-year notation on the Student's academic record and transcript (or until graduation, whichever was to occur first); and that a report be issued to the Provost.

FILE: Case #779 (15-16)
DATE: August 31, 2015
PARTIES: University of Toronto v B.L.

Hearing Date:
February 20, 2015

Panel Members:
Andrew Pinto, Chair
Louis Florence, Faculty Member
Yusra Qazi, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Wayne Dowler, Dean's Designate, University of Toronto Scarborough
André Sorensen, Instructor of the Course

In Attendance:
Sinéad Cutt, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of the *Code* – plagiarism – Student used significant portions others' work without attribution, too extensive to be done accidentally – hearing not attended – reasonable notice of hearing

provided – finding on evidence – finding on guilt – grade assignment of zero in the Course; 2-year suspension; notation on the Student's academic record and transcript until his graduation; case reported to Provost for publication

Student charged under *s. B.i.1(d)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student used the work of another author without attribution in an essay worth 20% of the overall Course grade. Turnitin software revealed a substantial similarity between parts of the Student's essay and previously published work. The extensive nature of the material cited without attribution suggested that the impugned text could not have been placed accidentally by the Student. The Student was not present for the hearing. The Panel found that reasonable notice of the hearing had been provided and determined that it would be appropriate for the hearing to proceed in the Student's absence.

Student was found guilty with respect to the plagiarism charge. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel took into account Tribunal cases on plagiarism in determining the appropriate sanctions, noting that the Student had engaged in a deliberate act of plagiarism, that the importance of academic integrity had clearly been brought to the Student's attention, and that the Student had failed to cooperate with the University by failing to meet with the professor, failing to attend the hearing, and unhelpfully taking an aggressive, accusatory and personal tone in email communications with his professor. There was no evidence of the Student's remorse or other mitigating circumstances. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension; a notation on the Student's academic record and transcript until his graduation; and that the case be reported to the Provost for publication.

FILE: Case #815 (15-16)
DATE: January 19, 2016
PARTIES: University of Toronto v W.L.J.

Hearing Date:
December 3, 2015

Panel Members:
Bernard Fishbein, Chair
Ann Tourangeau, Faculty Member
Raylesha Parker, Student Member

Appearances:
Robert A. Centa, Assistant Discipline Counsel
Lauren Pearce, Articling Student, Paliare Roland
Tyler Evans-Tokaryk, Associate Professor, Teaching Stream, University of Toronto Mississauga
Brian Price, Instructor of the Course

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Lucy Gaspini, Manager, Academic Affairs, University of Toronto Mississauga

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – Student's Essay improved dramatically from his previously submitted essay and the high level of writing was inconsistent with his level of English – hearing not attended – reasonable notice of hearing provided pursuant to the *Statutory Powers Procedure Act* and the *Code* – finding on evidence – finding on guilt for the charge of plagiarism – other charges withdrawn – plagiarism unusual in the sense that there was no original text to compare with the Essay, but the Student had still represented someone else's work as his own – prior academic offence of plagiarism and unauthorized aid – University submission on penalty accepted – grade assignment of zero in the Course; 3-year suspension; 4-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(d)* and *s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly represented as his own an idea of another in an Essay, and that the Student knowingly obtained unauthorized assistance in connection with the Essay. The Student was not present at the hearing.

The Panel noted that the Student had not participated in any stage of the disciplinary process. The Panel concluded that the efforts made to contact the Student by email and phone were reasonable as per the *Statutory Powers Procedure Act* and the *Code*. The Panel ordered that the hearing proceed in the Student's absence.

Student was found guilty with respect to the plagiarism charge. The plagiarism in this case was unusual in the sense that there is usually an original text to compare with the submitted work, but that is not necessary to convict a student of plagiarism; what is necessary is that someone represent someone else's work as their own. The Student had admitted to a prior academic offence of plagiarism and unauthorized aid. The Panel took into account evidence that the quality of the writing and analysis in the Essay submitted improved dramatically from the Student's first essay in the Course. The Panel also took into account expert evidence that the difference in the two essays was too stark to possibly be the work of the same student, and that the level of writing was inconsistent with the Student's level of spoken English as observed by the Course Instructor. The University withdrew the charge of unauthorized aid and the alternative charge of academic dishonesty not otherwise described. The Panel accepted the University's submissions for sanction and imposed a grade assignment of zero in the Course; a 3-year suspension; a 4-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case #911 (2017 - 2018)
DATE: November 2, 2017
PARTIES: University of Toronto v. Y.S. ("the Student")

Hearing Date(s): August 3, 2017

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair
Professor Richard B. Day, Faculty Panel Member
Ms. Sophie Barnett, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances, University of Toronto
Mr. David Jones, Technology Assistant, Information Commons
Professor Esme Fuller-Thomson, Factor-Inwentash, Faculty of Social Work
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies

Not in Attendance:
The Student

Trial Division - *s. B.i.1(d)* – plagiarism – Ph.D. Student who failed to properly cite sources – student not present – reasonable notice provided with proof that email had been accessed and courier package signed for by someone with same first initial and last name – jurisdiction – work submitted in capacity as a research assistant and not for course credit – prior offence – student ought to have known her citations amounted to plagiarism - notation longer than suspension – suspension of three years, transcript notation for three years, and report to the provost.

The Student was charged with plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative one charge of unauthorized assistance contrary to s. B.i.1(b) of the *Code*, or in the further alternative, one charge of academic misconduct not otherwise described contrary to s. B.i.3(b) of the *Code.* The charges related to written work that the Student had produced as a research assistant which included insufficient citations. Specifically, the Student had failed to put quotation marks around text to show that it was directly copied and she often failed to cite the primary sources for the material but instead cited the secondary sources that had been cited in the primary source.

The Panel found that reasonable notice of the proceeding had been given to the Student and that the hearing could proceed in the Student's absence based on evidence that a courier package that included the Charges and Notice of Hearing was sent to the Student's address in Israel and signed for by a person with the same first initial and last name as the Student. As well, the University established that the Student's email account was accessed recently, after numerous emails regarding the Charges and the Hearing had been sent by the University to that email account.

The Panel addressed two jurisdictional issues: (1) whether the Panel had jurisdiction over the Student when she was employed as a research assistant; and (2) whether the *Code* applied to work prepared as a research assistant for a faculty member. With regards to the first issue, the Panel referred to the case *University of Toronto v. A.A.* (Case No. 528, January 14, 2009) and found that the Panel had jurisdiction over the Student's conduct as a research assistant because being a student at the University is a status, and that being a research assistant requires that status of being a student. As a student, she was bound by her obligations to the university community, including the commitment to academic integrity contained in the *Code*. As for the second issue, the Panel acknowledged that it was not a typical case where the *Code* was being applied to an assignment or an exam but that the relevant provisions of the *Code* include language that it can apply to "any other form of academic work" and that the work performed as a research assistant fit within that broad definition.

Though there was some evidence that the Student may not have understood what she submitted constituted plagiarism, the Panel found that even if the Student did not actually know that she was committing the offence of plagiarism, as a Ph.D. student, she ought to have known that her citation style was deficient. Upon the Panel finding the Student guilty of plagiarism, the University withdrew the alternative charges.

In determining a sanction, the Panel referred to the *Mr. C* (Case No.: 1976/77-3, November 5, 1976) factors, particularly: (1) that the plagiarism in this case was less serious than instances when no source at all is referenced; (2) the Student apologized for her actions and admitted that she was perhaps not qualified to continue in the Ph.D. program; (3) the Student had a prior offence and was warned about the consequences being more serious for a second offence; (4) the plagiarism in this case would have directly affected the Professor had it not been identified – an aggravating factor that is muted by the idea that this was a first draft and further editing and checking of the work by the Professor was expected; and (5) the Student withdrew from the Ph.D. program, which would remain on her academic permanently and make her chances of re-offending low. That the Student was a "strong student" was not a factor in the Panel's decision. Taken together, the Panel found that the lack of intention to deceive on the part of the Student coupled with the seriousness of the offence of plagiarism warranted a penalty of a suspension for two years from the University; a notation on the Student's transcript and record for three years; and a report to the Provost.

WORK TAKEN WITH PERMISION

FILE: Case #718 (14-15)
DATE: February 25, 2015
PARTIES: University of Toronto v O.K.

Hearing Date(s):
November 8, 2013 & January 24, 2014

Panel Members:
Julie Rosenthal, Chair
Markus Bussmann, Faculty Member
Adel Boulazreg, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Janet Poole, Course Instructor
Sara Osenton, Graduate Student
Lisa Smith, Academic Integrity Office
Don Dewees, Dean's Designate

In Attendance:
Sinead Cutt, Administrative Assistant,
Appeals, Discipline and Faculty Grievances

NOTE: Affirmed on appeal.

Trial Division – *s. B.i.1(b), s. B.i.1(d),* and *s. B.i.3(d)* of the *Code* – plagiarism – unauthorized aid –partial admission of guilt – work misrepresented as Student's own not plagiarism when taken with permission – grade of zero in course; five-year suspension; notation on transcript until graduation; report to Provost for publication

The Student did not attend the hearing, but the Panel accepted several affidavits that the Student had been notified, by email and post, in accordance with the Rules of Practice and Procedure of the University Tribunal. The Panel proceeded after a fifteen minute wait.

Student charged with three offences under *s. B.i.1(b)*, three offences under *s. B.i.1(d)*, and in the alternative, four offences under *s. B.i.3(b)* of the Code. The charges related to four acts in one class.

The first set of charges related to an assignment on class readings. The instructor testified that she was notified by an assistant that the Student's paper was very similar to a scholarly article, and upon further research by the instructor, another article was found with virtually identical sentences. The second set related to a make-up quiz the Student took with a graduate student supervising. The supervisor testified that she saw the Student trying to hide something under her paper. When the supervisor reached for her paper, the Student pulled them away. The supervisor testified there was another smaller paper with text in a very small font on the paper. The third and fourth sets related to a draft and final draft of an essay the Student was required to complete for the class. The instructor was suspicious of the Student's paper as it was not to be a research paper and the Student discussed ideas that had not been mentioned in class. Further, the writing styles of the Student's paper and the in class work were markedly different. Finally, the author of the paper in Microsoft Word was not the Student, it was a man who shared the name of a professional essay writer.

The Student met with the Dean's Designate and the course instructor where she admitted to plagiarism on the first charge. Regarding the second charge, the Student admitted to typing the notes but claimed she did not intend to use them and lacked intent to cheat. Regarding the third and fourth charges, the Student admitted to having a peer editor help her with her essay and it was clear she did not understand some of the words used in her essay. When the name of the author was brought up the Student initially denied knowing him before admitting that he helped with the paper. The Panel found the Student guilty of plagiarism on the first charge as she had represented ideas that were not her own as her own. The Panel also found the Student guilty on the second charge for possessing an unauthorized aid. On the third and fourth charges the Panel did not find enough of a connection between the name of the author and the professional essay drafter to find that the Student had purchased the essay. Further, they did not find that the Student was guilty of plagiarism as she did not take the ideas without permission, and found plagiarism had to have this as an element because the definition in the Code contained the word "purloining". The Panel did find the Student guilty of using unauthorized aid on the third and fourth charges and the alternative charges were dropped.

The Panel considered the penalty factors from the *Mr. C* case, considering the Student's partial admission and high likelihood for repetition. The Panel also noted the seriousness of the offence, need for deterrence, and detriment to the

University. The Panel considered like cases with a prior offence and found the penalties to range from four to five year suspensions.

The Panel ordered a penalty of a zero in the courses in question, a suspension of five years, a notation be placed on her academic records until graduation, and that the case be reported to the Provost for publication.

INSUFFICIENT EVIDENCE

FILE: Case #729 (13-14)
DATE: January 20, 2014
PARTIES: University of Toronto v W.N.B.

Hearing Date(s):
November 26, 2013

Panel Members:
Dena Varah, Chair
Maria Rozakis-Adcock, Faculty Member
Lucy Chau, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
The Student

In Attendance:
Lucy Gaspini, Manager, Academic Integrity and Affairs, UTM
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* and *s. B.i.1(d)* of the *Code* – unauthorized aids and plagiarism – purchase and use of course materials from a previous year – submission of assignment with copied answers from report previously submitted – sale of course materials to two students leading to unauthorized assistance in their academic work – Agreed Statement of Facts – guilty plea accepted in part – insufficient evidence to prove one charge of *s. B.i.1(d)* – one prior incident not rising to level of prior offence because no penalty had been imposed when these offences were committed – family and financial concerns – suggested penalty contested by student but with no alternative – grade of zero in course; suspension five years; recommendation of expulsion; report to Provost for publication

Student charged with two offences under *s. B.i.1(d)* and two under *s. B.i.1(b)*, and in the alternative, two offences under *s. B.i.3(b)* of the *Code*. The charges related to alleged misconduct in one course, though in separate semesters.

The first set of charges under *s. B.i.1(b), s. B.i.1(d),* and *s. B.i.3(b)* (Charges 1, 2, and 3), related to allegations that the Student purchased and used materials from a student previously enrolled in the course. The Student submitted a report having copied answers to three questions from the purchased report. The course syllabus made it clear that it was an academic offence to give or receive unauthorized aid toward completion of course work.

The second set of charges under *s. B.i.1(b), s. B.i.1(d),* and *s. B.i.3(b)* (Charges 4, 5, and 6), related to allegations that the Student posted a note on a website indicating that her course materials were for sale. The Student admits to selling the materials, including assignments, reports, tests, the report she purchased, and the report she submitted, to two different students enrolled in the course. One student plead guilty to academic misconduct in use of the materials to complete a report. The second student shared the materials with two other students. They all then collaborated in preparation of their answers to an experiment, admitting they received unauthorized assistance in their academic work.

The Student pleaded guilty and the matter proceeded by way of an Agreed Statement of Facts. The Panel accepted the Student's guilty pleas to the first charges under *s. B.i.1(b),* and *s. B.i.1(d)* and the University withdrew the alternative charge under *s. B.i.3(b).* The Student also pleaded guilty to the second set of charges under *s. B.i.1(b),* and *s. B.i.1(d),* however, the Tribunal noted that the Student had not explicitly pleaded guilty to Charge 5. Discipline Council was not aware if the three students implicated with respect to Charges 4, 5, and 6, had plagiarized the purchased material, only that they pleaded guilty to "use of unauthorized materials." The Tribunal did not convict on Charge 5 and the University withdrew the second alternative charge under *s. B.i.3(b).*

Penalty was contested. The Student had been sanctioned for academic misconduct on one prior occasion. The Student had admitted to receiving unauthorized assistance from another student in violation of the *Code*. In that instance, the student submitted a letter from a Community Safety Case Worker at the University as indication of the Student's domestic and financial issues. The Student submitted that she initially purchased the material to prepare for a midterm, noting that a student organization sold prior examinations and she did not believe it to be improper. On cross-examination she recanted this claim. Discipline Council submitted a penalty of a final grade of "0" in the course, an immediate 5 year suspension, and recommendation to the Governing Council that the Student be expelled. The Student submitted the penalty was inappropriate but did not submit an alternative. Panel did not find that the prior offence was an aggravating circumstance, as the Student had notice the Professor was investigating her, but penalty for this prior

offence had yet to be imposed at the time the Student committed the offences at issue before the Tribunal. Therefore it did not rise to the level of a prior offence. Panel distinguished case from "Purchased Essay Cases" (PEC) as the Student purchased the material with intent to prepare for exams, not with "intention, deliberation and knowing deception" characteristic of PEC. However, the subsequent sale of course materials and the Students' lack of regard for her fellow students and the University, led the Panel to recommend expulsion over suspension. The Panel imposed a penalty of a final grade of "0" in the course, an immediate suspension of five years, a recommendation to the Governing Council that the Student be expelled, and ordered that the case be reported to the Provost for publication.

DRAFTS

FILE:	Case #846 (16-17)	Panel Members:
DATE:	September 21, 2016	Mr. Andrew Pinto, Lawyer, Chair
PARTIES:	University of Toronto Mississauga v. Z.W. ("the Student")	Professor Louis Florence, Faculty Panel Member Ms. Raylesha Parker, Student Panel Member
Hearing Date(s):	June 24, 2016	Appearances: Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers Professor Judith Poë, Bioinorganic Chemistry & Chemistry Education, University of Toronto, Mississauga Professor Christoph Richter, Associate Chair, Undergraduate, Biology, University of Toronto, Mississauga Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, Office of the Dean, University of Toronto, Mississauga
		In Attendance: Ms. Z.W., the Student Ms. Diane Matias, (Observer), Undergraduate Advisor, Department of Biology, University of Toronto, Mississauga Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division –*s. B.i.1(d)* and *s. B.i.3(b)* of the *Code* – plagiarism – laboratory assignments contained text copied from website – consequences of plagiarism for 'draft' assignments – finding of guilt – no prior offences – no evidence of extenuating circumstances –no mitigating evidence – not having been previously engaged in a discipline process not a mitigating factor - participating in discipline process but denying wrongdoing not akin to 'cooperation' – distinction between a student who commits a second offence after imposition of an academic discipline process resulting in a guilty finding and a student who commits multiple infractions prior to the imposition of a first academic process - grade assignment of zero in two courses; two-year suspension; three year notation on transcript; and report to the Provost.

Student charged with 4 offences under *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The charges related to laboratory assignments, one in chemistry and one in biology, that were submitted in partial completion of course requirements. The laboratory assignments were handed in two days apart. They contained unattributed ideas, the expression of ideas, and verbatim or nearly verbatim text from a website that the student represented as her own ideas.

The Student participated in both the Dean's Designate meeting and the Tribunal hearing. The Student admitted to copying portions of the assignment from the Internet, but denied wrongdoing. The Panel found the Student ought reasonably to have known that her conduct was unacceptable and constituted an academic offence. The Panel also rejected the Student's suggestion that, because the assignment in one course involved submitting a mere "draft" and not the final report, submitting work that was not her own, was acceptable. Upon finding the Student guilty of plagiarism, the University withdrew the academic dishonesty charges.

In sanctioning the Student, the Panel acknowledged that the Student did not have a prior discipline history. The Panel emphasized that whether or not a student has participated in a prior academic discipline process is but one factor among many that must be weighed in the sanctioning process. That a student has not engaged previously in a discipline process is not a mitigating factor. Rather, where a student is found guilty of an academic infraction that was committed after the student participated in an academic discipline process, the Panel will consider this as a factor that may warrant a more serious sanction since the student's prospects for rehabilitation are diminished.

Here, the charges related to two infractions that occurred days apart, but prior to any meeting with the Dean's Designate or engagement with the academic discipline process. The Panel accepted that in situations like this, the University distinguishes between a student who commits a second offence after the imposition of an academic discipline process that results in a finding of guilt, and a student who commits multiple infractions prior to the imposition of a first academic discipline process.

In the former situation, the University can legitimately assert that the student committed the second offence despite involvement in the University's discipline process. These circumstances reflect poorly on the student's ability or willingness to have gained insight from the discipline process. In the latter situation, however, the University would not be able to assert that the student ought to have gained insight from the academic discipline process. Depending on the facts, particularly where the infractions occurred within a relatively short period, multiple infractions may be bundled up in one offence or be considered two or more offences that occurred within a short spate of time.

The Panel did not accept University Counsel's submission on a penalty of three years' suspension, distinguishing the Student's case from precedent where three years' suspension was found to be an appropriate penalty. Here the student committed two distinct infractions prior to any involvement with the discipline process so the Student's ability to learn from her misconduct was limited by the close succession of the offences. The Student had no prior record of academic dishonesty. Finally, she attended the Dean's Designate meeting and the Tribunal hearing. She denied wrongdoing throughout so it could not be said that she "cooperated" in the discipline process, but the Panel found that it would be incorrect to treat the Student akin to students who partially or wholly avoid the discipline process altogether.

The Panel imposed a final grade of zero in two courses; suspension from the University for two years; the sanction be recorded on the Student's academic record and transcript for three years; and reporting to the Provost.

PEER REVIEW

FILE:	Case # 841 (16 - 17)
DATE:	March 13, 2017
PARTIES:	University of Toronto v. L.S. ("the Student")

Hearing Date(s): November 29, 2016

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair
Professor Graeme Hirst, Faculty Panel Member
Mr. Harvey Lim, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto - Mississauga
Ms. Emma Planinc, Head Teaching Assistant for POL 200Y
The Student

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

Trial Division – *s. B.i.1(d), s.B.i.1(b),* of *Code* – plagiarism or unauthorized aid – student's essay bore similarities to peer's essay after peer review process – lack of convincing evidence – unfair to penalize student for using idea shared in peer review – similarities considered in context and outweighed by evidence of independent analysis by student

The Student was charged with one offence of plagiarism under *s. B.i.1(d)* of the *Code*, and alternatively, use of an unauthorized aid under *s. B.i.1(b)* of the Code, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to a final essay in a course. All students in the course were given the option of a peer review process in which other students reviewed and commented on a draft of their work. The University alleged that the Student changed their paper after reviewing a colleague's draft, plagiarising that draft's thesis, structure, and arguments. However, the Student arguedthat they changed their topic before seeing their colleague's draft, and that some other similarities were the result of following their colleague's suggestions from the peer review.

The University was unable to show its case on clear and convincing evidence. The Tribunal engaged in a close reading of the Student's essay against their colleague's essay. While many similarities were found, some were the result of the typical structure and style of such essays, others were traced to the wording of the assignment, and others to the course readings. The Tribunal looked past superficial similarities of form, wording, and chosen citations, to determine that the Student had performed their own analysis. The Tribunal viewed such similarities against the overall context of each section in each paper. Moreover, there was limited evidence of the range of theses used in the class that could show that the Student's thesis was unusually similar to their colleague's. The Tribunal found that when a process is in place for peer review, it would be unfair to penalize a student for incorporating an idea arising from that process or to characterize it as unauthorized assistance.

One member of the Tribunal dissented. They agreed that the similarity of thesis could be chance, and that the similarity of essay structure was innocuous. However, they found that the formal similarity could be an indicator of plagiarism combined with other evidence. The dissenter considered that it was more likely that specific quotations from a given source were pulled from the Student's colleague's draft rather than from that source because the draft was 10 pages long while the source was at least 75 pages long, and the quotations were not obvious choices. The dissenter thought that the majority wrongly focussed on differences instead of similarities. Thus the dissenter would have found the Student guilty of plagiarism and academic misconduct. The dissenter agreed with the majority that it would be unjust to punish the Student by finding a fruit of the peer review process to be an unauthorized aid.

s. B.i.1(e) of *Code*: resubmitted work

Leading Cases:

- resubmitted group assignment: 699 (13-14)
- resubmitted an assignment: 1312 (21-22)

DAB = Discipline Appeals Board decisions

RESUBMITTED GROUP ASSIGNMENT

FILE: Case #699 (13-14)
DATE: August 21, 2013
PARTIES: University of Toronto v V.P.

Hearing Date(s):
August 13, 2013

Panel Members:
Clifford Lax, Chair
Pascal van Lieshout, Faculty Member
Stoney Baker, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Julia Wilkes, Counsel for the Student

In Attendance:
V.P., the Student
Brian Corman, Dean, School of Graduate Studies and Vice-Provost, Graduate Education
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(e)* and *s. B.i.1(d)* of the *Code* – plagiarism and resubmitted work – submitted work that had been authored by a group including the Student without attribution to former group members – submitted work that had been previously submitted as a group assignment for credit – Agreed Statement of Facts – guilty plea – Joint Submission on Penalty – second offence – previous offence was recent and for similar conduct – Student admitted guilt early and was cooperative throughout the process – Joint Submission on Penalty accepted – grade assignment of FZ for one course; four-year suspension; five-year notation on transcript; report to Provost for publication

Student charged with one offence under *s. B.i.1(e)*, one offence under *s. B.i.1(d)*, and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to an allegation that the Student resubmitted work for which she had previously received credit. The Student pleaded guilty and the matter proceeded by way of an Agreed Statement of Facts. The work that was resubmitted by the Student for credit was originally authored by a group that included the Student. The resubmitted work did not include appropriate reference to the contributions made by the Student's former group members. The Panel accepted the Student's guilty plea and the University withdrew the alternative charge. The parties presented a Joint Submission on Penalty. This was the Student's second offence. The Student had been sanctioned for similar conduct at the Decanal level a year prior to the current hearing. The Student admitted to committing the offence early in the process and subsequently cooperated with the University. The Panel accepted the joint submission and imposed a final grade of FZ in one course, a four-year suspension, a five-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

RESUBMITTED AN ASSIGNMENT

FILE: Case # 1312 (2021-2022)
DATE: December 7, 2021
PARTIES: University of Toronto v. H.L. ("the Student")

Hearing Date(s):
September 8, 2021, via Zoom

Panel Members:
Ms. Cheryl Woodin, Chair
Professor Ian Crandall, Faculty Panel Member
Mr. David Allens, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline
Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Ms. Krista Kennedy, Administrative Clerk, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(e) of Code – credit already obtained – resubmitted work – Student knowingly submitted, without the knowledge and approval of the instructor to whom it was submitted, an essay for which credit had previously been obtained – Student did not attend hearing – Agreed Statement of Facts ("ASF") – admission of guilt – Student accepted and requested that the hearing proceed in their absence – finding of guilt – Joint Submissions on Penalty ("JSP") – a final grade of zero in the course; a three-year suspension; a notation on transcript until graduation; and a report to the Provost for publication.

The Student was charged under s. B.i.1(e) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that the Student knowingly submitted, without the knowledge and approval of the instructor to whom it was submitted, an essay for which credit had previously been obtained for the same course in a different term at the University.. The Student was also charged under s. B.i.1(d) of the Code on the basis that the Student knowingly represented as their own an idea or expression of an idea, and/or the work of another in an essay. In the alternative to each of these charges, the Student was charged under s. B.i.3(b) of the Code on the basis that the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind.

The Student was not represented and did not attend the hearing. The Panel received an Agreed Statement of Facts ("ASF") and a Joint Submission on Penalty ("JSP"). The Panel noted that the Student both accepted and requested that the hearing proceed in their absence and waived any entitlement to further notice in respect to the proceedings.

Regarding the charge laid under s. B.i.1(e) of the Code, the Panel noted that the ASF outlined that the Student enrolled in JAV152H1 (the "Course") on two occasions. The ASF further outlined that the Student admitted that the essay they submitted for academic credit contained significant amount of text from an essay they submitted the first time they took the Course. Furthermore, the Student admitted that they did not ask the Professor who taught the Course for permission to resubmit an essay that was previously submitted for academic credit. The Panel also noted that the ASF outlined that at the Dean's Designate meeting the Student admitted that they had resubmitted a prior essay for academic credit without the permission of the instructor. The Panel noted that the Student acknowledged that they signed the ASF freely and voluntarily, knowing the potential consequences, and did so with the advice of counsel or waived the right to counsel. Based on the Student's admission and uncontested evidence, the Panel was satisfied that there was clear and convincing evidence that the Student had knowingly submitted an essay for which credit had previously been obtained. Given this finding, the University withdrew the charges under s. B.i.1(d) and s. B.i3(b) of the Code.

The Panel considered the JSP submitted jointly by the Student and the University. The Panel noted that the JSP outlined that the Student had two prior plagiarism offences. In determining sanction, the Panel noted that a JSP should only be rejected where to give effect to the submission would be contrary to the public interest or bring the administration of justice into disrepute. On the basis of the Panel's consideration of the evidence and guidance from similar cases, the Panel noted that it was not concerned that the JSP would be contrary to the public interest or bring the administration of justice into disrepute since similar cases have resulted in similar penalties to the one that was jointly proposed by the

parties. The Panel was satisfied that the proposed penalty achieves both general and specific deterrence, but also balances the objective of effective deterrence with the opportunity for rehabilitation and return to the University. Based on the forgoing, the Panel accepted the JSP. The Panel imposed the following sanctions: a final grade of zero in the course; a three-year suspension; a notation on transcript until graduation; and a report to the Provost for publication.

s. B.i.1(f) of *Code*: concoction

Leading Cases:

- in connection with plagiarism: **01-02-07 (01-02), 1131 (20-21)**
- graduate student research: **634 (12-13)(DAB), 634 (11-12), 462 (05-06)**
- distinct from plagiarism: **697 (13-14), 971 (18-19)**

DAB = Discipline Appeals Board decisions

IN CONNECTION WITH PLAGIARISM

FILE: Case #01-02-07 (01-02)
DATE: May 6, 2002
PARTIES: University of Toronto v D.B.

Hearing Date(s):
April 22, 2002
April 24, 2002

Panel Members:
Ronald G. Slaght, Co-Chair
Daniel R. Brooks, Faculty Member
Karen Iverson, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Paul Holmes, Judicial Affairs Officer
Thomas Legler, Postdoctoral Fellow
Liisa North, Faculty Member, York University
Miguel Torrens, Reference Librarian, Robarts Library
Susan Bartkiw, Administrative Assistant, Faculty of Arts and Science

Trial Division – *s. B.i.1(d)* and *s. B.i.1(f)* of *Code* – plagiarism and concoction – paper plagiarized from another student's work at another university and concocted bibliography – hearing not attended – reasonable notice of hearing - document warning against and defining plagiarism received or made available - paper written in response to another university course's assignment and material - two bibliography references concocted and other alterations affected – finding of guilt - two-year suspension consistent with past Tribunal decisions – no mitigating evidence - three-year notation an incentive to return to the University and effect rehabilitation – University's submission on penalty accepted - grade assignment of zero for course; two-year suspension; three-year notation on the Student's transcript; and report to Provost

Student charged under *s. B.i.1(d)* and *s. B.i.1(f)* of the *Code*. The charges related to allegations that the Student submitted a paper that was plagiarized from an answer, written by another individual, to a question on a take-home examination given for a course at another university, and that he concocted the bibliography submitted with the paper. The Student did not attend the hearing. The Panel considered the evidence of the Judicial Affairs Officer and found that adequate notice of the hearing dates had been given. The Panel found that despite no direct evidence it was reasonable to infer that the Student received a document, or a document was made available to him, that warned against and defined plagiarism. The Panel examined the assignment instructions and reviewed the paper at issue and found that the paper was not responsive to the assignment. The Panel considered the bibliography and found that references were changed to conform to the assignment requirements. The Panel considered the testimony of the professor who wrote the exam question at the other university and found that the submitted paper was written using the articles from the course kit for the course at the other university, contained references consistent with the professor's citation instructions, and was written as a response to the take-home examination assignment from that course. The Panel considered the evidence from a reference librarian and found that on all the evidence, two references in the bibliography were concocted and that other alterations and fictitious references in the bibliography were affected in an attempt to alter sources from those found in the course kit. The Panel found that, on the basis of all the circumstantial evidence and the fact that the Student did not attend at the hearing, the Student obtained the paper from a third party, and probably also the kit contents index; concocted major elements of the bibliography; knowingly submitted another's work as his own; and that the charges were proved on clear and convincing evidence. The Panel found that a two-year suspension was consistent with past Tribunal decisions in like cases. The Panel found that as a result of the Student not being in attendance, it was not in a position to consider mitigating evidence. The Panel found that a three-year notation was acceptable because it might act as an incentive for the Student to return to the University and effect some rehabilitation. The Panel found that the fact that there were two offences should not technically lead to impose a more severe sanction. The Panel accepted the University's submission on penalty and imposed a grade of zero in the course; a two-year suspension; a three-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case # 1131 (2020-2021)
DATE: June 24, 2021
PARTIES: University of Toronto v. W.K.S. ("the Student")

Hearing Date(s):
April 5, 2021, via Zoom

Panel Members:
Ms. Cynthia Kuehl, Chair
Professor Ian Crandall, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Sonia Patel, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

Trial Division – ss. B.i.1(d), B.i.1(f), and B.i.1(a) of the Code – plagiarism – Student knowingly represented an idea or expression of an idea or work of another as their own in an assignment – forged, altered or falsified document – submission of a Verification of Student Illness or Injury Forms ("VOI") – concocted reference or statement of fact – Student did not attend hearing – reasonable notice of hearing provided – Rules 9 and 17 of the *Tribunal Rules of Practice and Procedure* ("Rules") - ss. 6 and 7 of the *Statutory Powers Procedure Act* ("SPPA") – University's *Policy on Official Correspondence with Students* – finding of guilt – University did not prove the Student concocted a source - for an allegation of concoction to be proven on a balance of probabilities, the University needs to demonstrate that the source that was cited could not be validated – final grade of zero in the courses; four-year suspension; five-year notation on transcript; and a report to the Provost for publication.

The Student was charged under ss. B.i.1(d), B.i.1(f), and B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he (a) on two occasions, knowingly represented the ideas of another, or the expressions of the ideas of another, as his own work in two assignments; (b) on three occasions, knowingly forged or in any other way altered or falsified a document or evidence required by the University in reference to three Verification of Student Illness or Injury Forms ("VOI"); and (c) on one occasion, knowingly submitted academic work containing a purported statement of fact or reference to a source which has been concocted in an assignment he submitted for a course. In the alternative, the Student was charged under s. B.i.3(b) of the Code on the basis that the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in various courses and assignments.

Neither the Student nor a legal representative of the Student appeared at the hearing. The Panel waited fifteen minutes after the hearing was scheduled to commence but the Student did not appear. Rule 9 of the University Tribunal's *Rules of Practice and Procedure* ("Rules") provides that service can be effected via email to the student's email address in ROSI. The Panel noted that students are responsible for maintaining a current and valid mailing address and University-issued email account on ROSI and are expected to retrieve mail and email on a frequent and consistent basis. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges, a disclosure brief, and the notice of electronic hearing. Counsel for the University provided further evidence that their office attempted to contact the Student via the ROSI email, LinkedIn and telephone to discuss the matter and hearing dates with the Student. The Panel also received evidence that the Student had last accessed his University email the day after the notice of electronic hearing was delivered. The Panel found that reasonable notice of the hearing had been provided to the Student in accordance with the rule 9 and 17 of the Rules and ss. 6 and 7 of the *Statutory Powers Procedure Act*, therefore the Panel ordered that the hearing proceed in the Student's absence.

Regarding the charges laid under ss. B.i.1(d), B.i.1(f), and B.i.1(a) of the Code, the Panel examined the evidence of the two Professors who taught the courses for which the assignments in question were submitted as well as the Associate Registrar for the University of Toronto Mississauga campus. The Panel received evidence from the Professors that the Student was required to submit his assignments via Turnitin.com.

The Turnitin Originality Report for the assignment submitted for POL208Y5Y had a 57% similarity index to other sources in the Turnitin database. The Professor explained that the Student quoted verbatim from secondary sources but did not use quotation marks, copied text from secondary sources near verbatim, and included a quotation on the assignment that was purported to be from the Professor's slideshow but in fact, it did not appear in the slideshow. The Professor also noted that the Student had cited source material in some of the footnotes, but those citations were different than other material that the Professor had identified as the likely source of the content. The Professor for POL200Y5Y noted that Turnitin is an instrument for detecting plagiarism and is used as an initial screen only. The Professor provided evidence that when the Turnitin originality report returns a high similarity index, she reviews the citations herself. She testified that in this case she discovered that three lines of the assignment that were identical to the first lines of an online essay which the Student did not paraphrase or cite in their essay.

The Associate Registrar provided evidence that the Student submitted six petitions/VOI's to defer four final exams. Two of the VOIs submitted were accepted by the University which allowed the deferral of two exams. Three additional VOIs were submitted by the Student as supporting documentation for the conditional deferrals granted to the Student. Upon investigation, the University determined that the registration number for the doctor did not match the doctor's name nor did the hospital have any records of the Student attending that hospital. The Associate Registrar provided evidence that the Student admitted to the academic offences with reference to the two assignments submitted by the Student. However, the Student denied that he submitted the invalid VOIs to the Office of the Registrar and that the only VOIs he submitted were the two that the University accepted. On the evidence presented by the University, the Panel found that on the balance of probabilities the Student was guilty of two counts of knowingly representing the idea of another, or the expressions of the ideas of another, contrary to section B.i.1(d) of the Code but the Panel found that the University did not prove, on a balance of probabilities, that the Student concocted a source referenced in the assignment, contrary to B.i.1(f) of the Code. The Panel noted that <u>for an allegation of concoction to be proven on a balance of probabilities, the University needs to demonstrate that the source that was cited could not be validated</u> and, in this case, the Panel found that without such confirmation or validation, the University had not established this allegation. With respect to the remaining allegations under s. B.i.1(a) of the Code, the Panel found that the totality of the evidence supports a finding of guilt, namely that the Student made use of forged, altered or falsified documents in support of exam deferral requests. Given the Panel's finding, the University withdrew the charge under s. B.i.3(b).

In determining sanction, the Panel considered the principles and factors relevant to sanction discussed in *University of Toronto and Mr. C.* ("Mr. C. factors") and determined that it was important to consider the very serious and deliberate nature of the offence, the detriment to the University and the need to deter others from committing similar offences. The Panel noted that this offence is very serious and deliberate in nature. The University must be able to trust that its students are submitting legitimate documentation in support of an accommodation or late withdrawal requests and when this trust is abused, they risk the ability of other students to obtain the same type of accommodation or request. The Panel further noted that general deterrence is an important factor in these cases and given the number of relevant cases, the misuse and falsification of VOIs is an ongoing issue at the University for which there must be deterrence. It also recognizes that plagiarism strikes at the heart of academic integrity and, accordingly, the Panel found that it is appropriate to send a strong message to students that this type of misconduct will be treated very seriously. Upon review of the relevant case law and the Mr. C. factors, the Panel found that the sanction proposed by the University was appropriate. The Panel imposed the following sanctions: a final grade of zero in the courses; a four-year suspension; a five-year notation on the transcript; and a report to the Provost for publication.

GRADUATE STUDENT RESEARCH

FILE: Case #462 (05-06)
DATE: February 22, 2006
PARTIES: University of Toronto v the Student

Hearing Date(s):
January 18, 2006
January 25, 2006

Panel Members:
John A. Keefe, Chair
Melanie A. Woodin, Faculty Member
Matto Mildenberger, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Jeremy Glick, Counsel for the Student, DLS
Chris Burr, Counsel for the Student, DLS

Trial Division - *s. B.i.1(f)* of *Code* – concoction – falsified research in conference abstract and podium presentation – guilty plea - Agreed Statement of Facts - conduct violated all University ethical research policies and guidelines – see *Policy on Ethical Conduct in Research, s. 4.4* of Faculty of Medicine's *Principles and Responsibilities regarding Conduct of Research, Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* and *School of Graduates Studies Student Guide on Ethical Conduct* – general deterrence most important consideration – unfair and inappropriate to impose expulsion due to mitigating circumstances - reasonably held belief that second chance was provided by academic supervisor - Dean's conclusions not supported by file - evidence of remorse and recognition of seriousness of conduct – five-year suspension; five-year notation on transcript; grade assignment of zero for course; and report to Provost

Student charged under *s. B.i.1(f)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted an abstract and presented a podium presentation at an international conference which contained references to fabricated, falsified and misrepresented research data. The Student pleaded guilty to the charge under *s. B.i.3(b)* of the *Code* and not guilty to the charge under *s. B.i.1(f)* of the *Code*. The parties submitted an Agreed Statement of Facts. The Panel considered the Agreed Statement of Facts and accepted the guilty plea. The matter proceeded as a contested hearing on sanction. The Panel considered testimony and email correspondence from the Student's academic supervisor, testimony from the Dean of the School of Graduate Studies, Meeting Notes of the Student's meeting with the Dean, the Student's file, and testimony from the Student's father. The Panel considered the University's *Policy on Ethical Conduct in Research, s. 4.4* of the Faculty of Medicine's *Principles and Responsibilities regarding Conduct of Research*, the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans*; and the *School of Graduates Studies Student Guide on Ethical Conduct* and found that the Student's conduct violated all of the University's ethical research policies and guidelines. The Panel found the Student's conduct to be at the more serious end of academic offences. The Panel considered previous Tribunal cases and found that the principles of general deterrence were the most important consideration when dealing with falsified research because of the impact that such conduct had on the reputation of the University as a centre for research. The Panel found that mitigating circumstances made it unfair and inappropriate to impose the sanction of expulsion. The Panel found that the falsified data was not published in a peer-reviewed journal or thesis; the Student was a first time offender; the Student showed genuine remorse; the Student understood the seriousness of his conduct and did not attempt to minimize the seriousness of his conduct; the Student pleaded guilty at the hearing; the Student openly acknowledged his conduct; the Student made an attempt to remedy the situation and comply with the Tribunal process; the Student did not offer any excuses for his conduct; there was no possibility of repetition of a similar offence by the Student; the Student acknowledged his guilt at a very early stage; the Student reasonably believed, based on his discussions and e-mail correspondence with his academic supervisor, that he was being given a second chance; the Student's academic supervisor acknowledged to the other researchers in the lab that he had offered the Student a second chance; the Student had been, in effect, put on probation and instructed to perform specific tasks in order to clean up the research for the purposes of a subsequent presentation at a second conference based on the same abstract; the Student was permitted to attend and make a presentation to a reputable international organization at the second conference based on the same abstract; that on the same day that he had made the presentation to the second conference he was advised by his academic supervisor that he was being put on a leave of absence and had been effective suspension since that date; that although his apology to his colleagues came after the second presentation and after he was put on a leave of absence, his apology was genuine and abject, and he acknowledged his remorse and demonstrated that he understood the seriousness of his actions, despite being under no compulsion to apologize as he did; the Student openly acknowledged his wrongdoing when he met with the Dean of Graduate Studies; the Dean's conclusion that the matter should be referred to the Provost for disciplinary action was based, in part, on her conclusion that the absence of apparent remorse was an aggravating factor which militated against a second chance, however, the Student's file did not support the Dean's conclusion that there was no indication of the

Student's guilt or remorse, and there was in fact clear evidence of remorse and a recognition of the seriousness of the Student's conduct. The Panel imposed a five-year suspension; a five-year notation on the Student's academic record and transcript; a grade of zero in the course; and that a report be issued to the Provost.

FILE: Case #634 – Finding; Sanction (11-12)
DATE: December 14, 2011 (Guilt)
March 22, 2012 (Sanction)
PARTIES: University of Toronto v M.K.

Hearing Date(s):
November 23, 2011

Panel Members:
Roslyn M. Tsao, Chair
Annette Sanger, Faculty Member
Amy Gullage, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Michael Ratcliffe, Faculty of Medicine
James Carlyle, Faculty of Medicine
M.K., the Student

In Attendance:
Jane Alderdice, Director, Quality Assessment and Governance
Berry Smith, Dean's Designate
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

NOTE: Affirmed on appeal.

Trial Division – *s. B.i.1(f)* of *Code* – concoction – falsified research results – credibility of Student – shifting explanations – ex-post rationalization – clear evidence of falsification to make the research results positive or successful – double jeopardy defence – previously cautioned in writing by Chair although exonerated of data falsification in the end – academic dishonesty rules are not relaxed if one re-submits offending material even if it was under investigation in the past – the letters supported a finding that Student ought to have known – finding of guilt – 30 days to make submissions regarding penalty – nature of the offence is serious and inexcusable – Student lacks insight into his actions and their effect on University – Student's allegation of intimidation by his supervisor is an aggravating factor – grade assignment of zero for course; five-year suspension; recommendation that the Student be expelled

Student charged under *s. B.i.1(f)* of the *Code*. The charges related to allegations that the Student falsified his research results ("Problem Slides) being used toward his Ph.D. work. The Panel considered and rejected the Student's argument that he was guilty of sloppiness and inattention but not of knowingly committing the offence. The Panel found the Student's shifting explanations to be concerning. The Panel stated that the Student's submission, that he was not using the Problem Slides to make his research paper appear successful as the Problem Slides showed an unsuccessful result anyway, to be an ex-post rationalization without any credible foundation. The Panel found that one of the slides was absolutely presented to demonstrate positive research finding. The Student pleaded a "double jeopardy" defence. He had previously been cautioned in writing by the Chair of his previous lab about the same concerns which are subjects of this hearing even though the Chair exonerated the Student and his previous supervisor from data fabrication or falsification. The Panel rejected the double jeopardy argument, reasoning that the academic dishonesty rules were not somehow relaxed if one re-submitted offending material even if the material was the subject of an investigation in the past. On the contrary, the fact that the Student was cautioned previously supported a finding that the Student ought reasonably to have known that the offence was committed based on the extended definition of "knowingly" in the Code. The Panel found the Student guilty under *s. B.i.1(f)*. Regarding penalty, the Panel ordered the University to provide its submission to the Student/Tribunal within 30 days of the Decision and the Student to provide his reply submission within 30 days. After receiving the submissions, the Panel stated that the deliberate falsification of research results by the Student in a Ph.D program was a serious and inexcusable offence. The Panel also stated that the Student lacked insight into his actions and their effect on the University's reputation. The Panel found the Student's submission of allegations of intimidation by his supervisor as a mitigating circumstance to be an aggravating factor at this stage as no response could have been made to rebut the allegation. The Panel imposed a grade assignment of zero in the course; a five-year suspension; and a recommendation that the Student be expelled.

FILE: Case #634 (12-13)
DATE: October 4, 2012
PARTIES: University of Toronto v M.K.

Hearing Date(s):
October 3, 2012

Panel Members:
Patricia D.S. Jackson, Chair
Faye Mishna, Faculty Member
Graeme Norval, Faculty Member
Yuchao Niu, Student Member

Appearances:
Robert Centa for the Respondent

DAB decision

NOTE: See the Tribunal case summary above for detailed facts.

Discipline Appeal Board – Student appeal from sanction – appeal limited to the Panel's recommendation that he be expelled – hearing not attended despite the accommodations Student received regarding scheduling – hearing proceeded in Student's absence – Student claimed he made every effort to address mistakes and did not attempt to deceive and blamed the prosecution and his supervisor – attempt to introduce new evidence did not meet the criteria for the admission of fresh evidence – Student's allegations were contrary to factual findings – deference especially appropriate in cases such as this where credibility was at the heart of the decision – Board would have reached the same conclusion even if it was not for deference – discussion of *Chelin* factors – deliberate fabrication of research results was a serious and inexcusable offence – detriment to the University exacerbated by the inclusion of fabricated data in a grant proposal – Student did not demonstrate remorse and offered no prospect of rehabilitation – evidence of bad character – deterring misrepresentation of research results must be a significant priority – appeal dismissed

Appeal by the Student from a Tribunal decision in which he was found guilty of deliberately falsifying research results in his Ph.D. program, contrary to *s. B.i.1(f)* of the *Code*, and sentenced to a recommendation that the Student be expelled. The Student only appealed the Panel's recommendation that he be expelled and did not appeal the finding of academic misconduct and other sanctions. Before the hearing, the Student had sought and received accommodations regarding scheduling of the hearing. The Board allowed an extension of time to appeal the Trial Panel's decision and scheduled the hearing on a date to accommodate the Student's situation and wish to order the transcript of the tribunal hearing. After a number of correspondences with the University, which included contradicting reasons he provided for his non-attendance, the Student did not attend the hearing. No one on the Student's behalf appeared at the hearing to explain his absence. Therefore, the hearing proceeded in his absence. In his submissions, the Student asserted that he had made every effort to address his mistakes and did not attempt to deceive anyone. He also claimed that the prosecution was motivated by the supervisor's concern that if he left, the supervisor would lose grant funding. The Board found that this attempt to introduce new evidence did not meet the criteria for the admission of fresh evidence. Furthermore, the Student's allegations were entirely contrary to the factual findings made by the Trial Panel. On the issue of deference, the Board stated that as noted in the *CHK* appeal decision (Case 596, 597 & 598), Appeal Boards had been reluctant to embrace the broad powers authorized by the *Code* and instead had generally analyzed decisions under appeal to examine whether the Trial Panel made an error in: the application of general administrative law; the interpretation and application of the large body of University Tribunal and Appeals Board cases; or fact finding, particularly where the findings are unsupported by any evidence. The Board further stated that deference was particularly appropriate in cases such as this where credibility was at the heart of the Panel's decision. However, the Board stated that it would have reached the same conclusion as the Trial Panel even if it was not for deference: the sanction was not overly punitive in light of the *Chelin* factors. The Board agreed with the Panel that the deliberate falsification of research results by the Student in a Ph.D. program was a serious and inexcusable offence and found that it clearly supported the sanction imposed. Moreover, the detriment to the University was clear and exacerbated by the inclusion of fabricated data in a grant proposal from the University. As for extenuating circumstances, the Board found that the Student had not demonstrated any remorse or insight and offered no prospect of rehabilitation, which was demonstrated in his submissions as well as his attempt to engage the appellate process to delay the result. Also, there was a likelihood of a repetition of the offence as the Student chose to disregard the warning given previously by an academic journal that had expressed concern about data fabrication. As for the character, the Board stated that the evidence suggested that the Student misled the participants in the discipline process, shifted and fabricated evidence, and attempted to blame others; this was not evidence of good character. Finally, deterring the misrepresentation of research results must be a significant priority. Appeal dismissed.

DISTINCT FROM PLAGIARISM

FILE:	Case #697 – Finding; Sanction (13-14)	Panel Members:
DATE:	August 8, 2013 and January 17, 2014	Paul Schabas, Chair
PARTIES:	University of Toronto v B.S.	Pascal van Lieshout, Faculty Member
		Adam Found, Student Member
Hearing Date(s):		Appearances:
July 12, 2013 and December 17, 2013		Robert Centa, Assistant Discipline Counsel
		Michael Alexander, Lawyer for the Student (at Sanction only)
		The Student
		Betty-Ann Campbell, Law Clerk, Palaire Roland Barristers (at Finding only)
		Serene Tan, Instructor (at Finding only)
		Rana Nouri (at Finding (only)
		Rohina Gul (at Finding only)
		In Attendance:
		Lucy Gaspini, Manager, Academic Integrity and Affairs, UTM
		Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *B.i.1(f)* – plagiarism –witnesses – first offence – ought reasonably to have known – finding of guilt – reference plagiarized, not concocted – differing penalty submissions – Student's submission of community service rejected - no binding appellate authority – sanction to reflect the seriousness of offence – no mitigating factors – aggravating factors – three-year suspension; grade of zero in the course; notation on the Student's transcript for three and a half years or until the Student graduates

Student charged with an offence under each of *s. B.i.1(d)*, *B.i.1(f)* and *B.i.3(b)* of the Code. The charges related to allegations that the student had submitted a plagiarized essay and allegedly concocted a reference. The Student submitted a paper in a course at the University of Toronto Mississauga knowing that it contained verbatim passages from unreferenced sources and concocted references to conceal his plagiarism.

The syllabus contained a section on academic integrity and advised that assignments were to be submitted to www.turnitin.com, a plagiarism detection site. The assignment at issue had a remarkably high similarity index of 51%. Upon further investigation the instructor pinpointed three sources with an unacceptable degree of similarity to the Student's paper, with only the third source referenced in the footnotes.

The Panel found the Student guilty of the charge under *s. B.i.1(d)* of the *Code*, noting that while the term "knowingly" is used, that is deemed to have been met if "the person ought reasonably to have known" they were committing an offence. The evidence against him was strong, his explanations were unconvincing and the Panel found the Student guilty of deliberate plagiarism. The Panel found the evidence so convincing they would have also have found the Student knew he was plagiarizing. The Panel was not satisfied that the charge under *s. B.i.1(f)* of the *Code* was established. *S. B.i.1(f)* requires "concocting" a reference. While not condoning the Student's behaviour, the Panel did not find this an accurate charge for the Student's conduct as the footnote was plagiarized from a source that existed. It was not necessary to deal with the charge under *s. B.i.3(b)* of the *Code*.

In reasons for Decision on August 8, 2013, the Panel found the Student guilty of plagiarism.

The University submitted a penalty of a final grade of zero in the course, a suspension of three years from the date of the order, and a notation on the Student's academic record for four years. The University noted that the penalty is up to Panel discretion and there is no binding appellate authority.

The Student submitted a penalty of zero for the paper (worth 20% of the course grade), a one year suspension, and a notation on the Student's transcript until he graduates (expected two years). Additionally, the Student was prepared to do

a year of community service as a demonstration of remorse, but proposed no plan, and the Panel had no power to impose or oversee such a "sanction".

The Panel, recognizing that there is no formula dictating a specific sanction for a particular act, did note that a two year suspension is akin to a starting point for a first offender. Additionally some decisions state that a two year suspension is the appropriate "threshold" penalty for plagiarism (Case No. 509,488, and 521). While the Panel was not bound by any presumption of a two year suspension as a starting point it did recognize the importance of fairness and consistency. The Panel considered the case of *Mr. C* (Case No. 1976/77-3) which stated that the purposes of punishment are reformation, deterrence, and protection of the public and set out a number of criteria in assessing punishment. The Panel considered the seriousness of the offence of plagiarism noting that it cannot be tolerated. Both the preamble to the *Code* and *Section B* of the *Code* assert this and instructors stress the importance of integrity and give guidance on how not to plagiarize. The seriousness of the offence meant that, absent mitigating factors, the sanction must reflect the harm caused and convey the seriousness of the misconduct to others. In this case the plagiarism was significant as virtually the whole paper was plagiarized knowingly and deliberately.

The Panel addressed the Student's submissions noting the importance of rehabilitation and that for a first offence of plagiarism a student is not generally given a life sentence. The Panel also noted that falling behind one's peers a result of suspended graduation may not be a disadvantage as economic circumstances are unpredictable and many students take a "gap year" during their studies. The Panel agreed with the University that there were no mitigating circumstances and the Student's conduct aggravated the matter. The penalty should be consistent with principles that have guided other panels. While many first offence plagiarism cases receive two year suspensions some receive lighter sentences when there are mitigating circumstances and others receive longer suspensions when aggravating factors are present.

The Panel imposed a three-year suspension from the date of the order, assigned a grade of zero in the course, and ordered a notation on the Student's transcript for three and a half years or until the Student graduates, whichever occurs first.

FILE: Case #971 (2018-19)
DATE: November 28, 2019
PARTIES: University of Toronto v. M.A. ("the Student")

Hearing Date(s): September 19, 2018

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Ken Derry, Faculty Panel Member
Mr. Bradley Au, Student Panel Member

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel for University, Paliare Roland Barristers

Hearing Secretary:
Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

Trial Division - s. B.i.3(f) – concocted sources in an essay – student did not attend hearing – notice provided through email - first offence – Tribunal can consider concurrent charges in the alternative – reliance on Professor's expertise in determining whether sources are relevant – suspension backdated to recognize delay not attributable to the Student - grade of zero in the course, two-year suspension, notation on transcript for three years, and report to the Provost with the Student's name withheld.

The Student was charged with three charges related to an essay that had been submitted for course credit: (1) attributing the expressions of the ideas of another as their own work contrary to s.B.i.1(d) of the Code; (2) unauthorized assistance contrary to s. B.i.1(b) of the Code; (3) concocting sources, contrary to s. B.i.1(f) of the Code; or in the alternative, academic dishonesty not otherwise described contrary to s. B.i.3(b) of the Code.

The Student did not attend the hearing. The Tribunal found that notice of the hearing had been effected on the Student on the basis of affidavit evidence that numerous emails had been sent to the Student's ROSI email account, and that the

account had been accessed since notice had first been sent via email. The Tribunal found that the hearing could proceed in the Student's absence.

While the University advanced the charges on a concurrent basis, the Tribunal found that it was open to them to consider the charges in the alternative as they related to a single essay. The Tribunal found that the evidence supported a finding of concoction on the basis of examples advanced by the professor that showed that, in many cases, the sources cited were clearly not on point (even to the non-expert Tribunal) and were included to provide a "patina of academic rigour" to the essay. The Tribunal found the Student not guilty on charges 1 and 2 relating to "plagiarism" and "use of unauthorized aid". Upon the Tribunal's finding of guilt on charge 3, the University withdrew the alternative charge of academic dishonesty not otherwise specified.

In determining the appropriate penalty, the Tribunal considered the *Mr. C.* factors (Case No. 1976/77-3, November 5, 1976). The Student had no prior discipline history but had only earned 19 credits in his four years at the University and last attended in the Fall 2016 Term, so rehabilitation was of minor importance given that the Student was inactive. The Tribunal accepted that it was important that the sanction would allow the Student to return to the University should he choose to resume his studies. The Tribunal accepted the University's proposed penalty, awarding: (a) a final grade of zero in the Course; (b) a suspension from the University for two years starting back from January 1, 2018 (to account for delay that is not attributable to the Student); (c) a notation of the sanction on his academic record and transcript for three years; and (d) that the case be reported to the Provost for publication of a notice of the decision with the name of the Student withheld.

s. B.i.3(a) of *Code*: forged academic records

Leading Cases:

- submitted with job application / to employer: **492 (08-09), 406 (06-07), 833 (15-16), 856 (16-17), 848 (16-17), 848 (17-18)(DAB), 913 (17-18), 1142 (21-22)**
- submitted with application to post-secondary institution: **468 (07-08)**
- submitted to U of T: **491 (08-09), 553 (09-10), 692 (13-14)**
- public misrepresentation: **976 (18-19)**
- omissions: **966 (18-19)**
- submitted to an immigration officer: **1011 (19-20)**
- mere preparation: **994 (19-20)**

DAB = Discipline Appeals Board decisions

SUBMITTED WITH JOB APPLICATION / TO EMPLOYER

FILE: Case #406 (06-07)
DATE: May 1, 2007
PARTIES: University of Toronto v S.D.

Hearing Date(s):
February 12, 2007
February 13, 2007
March 26, 2007

Panel Members:
Ronald Slaght, Chair
Stéphane Mechoulan, Faculty Member
Adrian Asselin, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Mark A. Lapowich, Counsel for the Student
Linda Rothstein, Assistant Discipline Counsel
William M. Trudell

Trial Division – *s. B.i.3(a)* of *Code* - forged academic record – forged academic records twice submitted to employer – Agreed Statement of Facts – guilty plea - previous falsification incident at Faculty of Law - unable to advance towards Bar while charges outstanding – expulsion or degree recall for falsification of academic record - see case of *Mr. L.* and case of *Mr. Y.* – deliberate acts of deception and dishonesty – third party involvement - fraud and deception perpetrated on third party particularly offensive – publicity caused University to suffer from commission of offence - character highly relevant to disposition – possibility for rehabilitation - three-year suspension; permanent notation on the Student's transcript; and report issued to Provost

Student charged under *s. B.i.3(a)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted an altered academic record to his employer, which misrepresented his marks in three courses and that he later altered his academic record in the same particulars when he submitted a second false record to the law firm. The matter proceeded on an Agreed Statement of Facts and a contested hearing on sanction. The Student admitted that he had asked a friend to effect the two alterations to his academic record because he believed it would improve his chances of being offered an articling position and subsequently a job as an associate lawyer at the law firm. The Panel considered the Agreed Statement of Facts and the submissions of counsel, and accepted the Student's guilty plea to the charge under *s. B.1.3(a)* of the *Code*. At the time of the alleged second falsification, the Student had graduated from the University. The Panel observed that although it did not have jurisdiction to convene a hearing into the second falsification, it would have been possible for the University to convene a hearing of its Governing Council which would have had the jurisdiction to potentially recall the Student's degree. The Panel observed that while the parties had agreed that the second falsification could be taken into account to the extent that the Student had repeated his conduct, the matter before the hearing and the penalty to be levied was with respect to the plea to one charge only, for the first falsification. The parties submitted an Agreed Statement of Facts Relevant to Sanction, which centered on a publicized previous falsification incident at the Faculty of Law. The Panel considered the Student's apology to the firm and his conduct in self-reporting himself to the Law Society. The Panel observed that the Student was unable to advance towards the Bar so long as the charges remained outstanding. The Panel considered previous decisions of the Tribunal, including the case of *Mr. L.* and the case of *Mr. Y.* and found that the Tribunal and its predecessors had imposed expulsion or recall of the degree for the falsification of an academic record, and that the deception of third parties was emphasised as particularly offensive conduct. The Panel found that the Student was a sophisticated and senior student who was aware of the traumatic effect of the previous forgery incident upon the Faculty; that he had been exposed to both academic teaching and practical instruction underlying the requirement for ethical behavior; that he had committed himself to uphold the standards of integrity at the Rotman School; and that previous misrepresentations he had made to the Rotman School occurred after he had submitted his falsified transcript to the firm. The Panel found that the Student's acts of deception and dishonesty were deliberate; that he involved a friend in his misconduct; that he perpetrated a fraud and deception upon a third party, both as a law student and as a law graduate; and that the University suffered from the commission of the offence, as it was widely publicized as another failure at the Faculty of Law. The Panel recognized the concern of the University for a penalty that would act as a deterrent, having regard to the publicity that the matter had generated. The Panel found that the Student's character was highly relevant to its disposition. The Panel considered how the Student dealt with the facts surrounding the incident; his post incident conduct; his circumstances at the time of the hearing; and the character evidence presented by a representative of the Student's former law firm and the opinion of a well respected lawyer. The Panel considered the principle goal of reformation and found that on all the evidence, including its assessment of the Student's response to questions and demeanour in the witness box, the Student could be fully rehabilitated, and that he should be given the opportunity to continue on towards

an eventual call to the Bar, should the Law Society permit him to do so. The Panel imposed a three-year suspension; a permanent notation on the Student's academic record; and that a report be issued to the Provost.

FILE: Case #492 (08-09)
DATE: July 31, 2008
PARTIES: University of Toronto v S.K.

Hearing Date(s):
June 18, 2008

Panel Members:
Andrew Pinto, Chair
Bruno Magliocchetti, Faculty Member
Melany Bleue, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Danny Kastner, Assistant Discipline Counsel
Max Shapiro, Counsel for the Student, DLS
Lucy Gaspini, Manager, Academic Integrity and Affairs

Trial Division – *s. B.i.3(a)* of *Code* – forged academic records – degree certificate and falsified curriculum vitae – Agreed Statement of Facts – guilty plea – jurisdiction relative to former students – see *Appendix A, s. 2(s)* of the *Code* – Joint Submission on Penalty – act required significant deliberation – Joint Submission on Penalty accepted – recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; five-year suspension pending expulsion decision; and report to Provost

The Student was charged with two offences under *s. B.i.3(a)*, and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted to a potential employer a forged University degree certificate purporting to confer a Bachelor of Science degree, and a falsified curriculum vitae indicating that the Student's formal education consisted of an Honours Bachelor of Science and an Honours Bachelor of Arts. The Panel was provided with an Agreed Statement of Facts in which the Student admitted to the allegations. The Student did not attend but was represented by counsel. The Panel noted that the Student had not been registered at the University for a number of years and sought clarification on its jurisdiction relative to former students. The Panel found that *Appendix A, s. 2(s)* of the *Code* conferred its jurisdiction relative to former students. Based on the Agreed Statement of Facts, the Panel found the Student guilty of the charges under *s. B.i.3(a)* of the *Code*. A Joint Submission on Penalty was submitted to the Panel. The Panel considered the consequence of expulsion with respect to the Student's academic achievements and found that the credits earned by the Student while at the University would not be affected by expulsion. The Panel observed that the forgery of a University document required a significant amount of deliberation and that the Student's fabricated resume listed two bachelor degrees from the University. The Panel found that the Student made a poor decision in giving in to the factors in his personal life that tempted him to misrepresent his academic achievements. The Panel accepted the Joint Submission on Penalty and recommended to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; a suspension of up to five-years pending the expulsion decision; and that a report be issued to the Provost.

FILE: Case #833 (15-16)
DATE: April 27, 2016
PARTIES: University of Toronto v S.R.

Hearing Date:
March 8, 2016

Panel Members:
Johanna Braden, Chair
Michael Evans, Faculty Member
Adam Wheeler, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland Barristers
Laura Ferlito, Office of the Registrar, University of Toronto Mississauga

In Attendance:
Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga
Tracey Gameiro, Office of Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a)* – forged academic record – Student submitted falsified letter of enrolment to employer – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – not necessary to prove Student's purpose in circulating forged record for finding of guilt – prior offence of academic dishonesty and lack of mitigating factors warranted a recommendation of expulsion – University submission on penalty accepted – 5-year suspension; recommendation of expulsion; case reported to Provost

Student charged under *s. B.i.3(a)* of the *Code*. The charge related to allegations that the Student knowingly forged, altered, or falsified a Letter purported to be from the Registrar's Office in order to represent that she was enrolled as a full-time student and had completed three years of studies when in fact this was not the case, and that the Student circulated this falsified Letter to her employer. The Student was not present at the hearing. The Panel concluded that the efforts made to contact the Student by email and courier were reasonable pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* and the University Tribunal Rules of Practice and Procedure. The Panel ordered that the hearing proceed in the Student's absence.

Student found guilty of the forged academic record charge. The Panel took into account evidence that clearly established that the Letter was false. The Panel noted that though the evidence about the purpose for which the Letter was forged and circulated was unclear and the Panel could therefore not conclude that the Letter was submitted in support of an employment application, the essential elements of the forged academic record were proven on a balance of probabilities. In determining the appropriate sanction, the Panel took into account as an aggravating factor that during the time period supposedly confirmed by the letter, the Student was not enrolled at the University and was in fact suspended because of admitted academic dishonesty charges. The Panel emphasized that this made the likelihood of repetition high. The Panel also noted that the falsification of the Letter was deliberate and careful, showing calculated dishonesty. Additionally, the Panel noted there was detriment to the University as the Student misrepresented her academic status to an outside party which undermines the public's perception of the integrity of the University's academic records. The Panel further noted that the need to deter others from committing similar offences was high because confirmation of enrolment letters are sent to third parties and are therefore hard for the University to police. The Panel concluded that a 5-year suspension would not be a sufficient sanction given the Student's prior academic offence and lack of evidence of mitigating circumstances. The Panel imposed a 5-year suspension; a recommendation of expulsion, and that the case be reported to the Provost for publication.

FILE:	Case #856 (16-17)	Panel Members:
DATE:	October 6, 2016	Mr. Paul Morrison, Chair
PARTIES:	University of Toronto v. T.C. ("the Student")	Professor Dionne Aleman, Faculty Panel Member Ms. Sue Mazzatto, Student Panel Member
Hearing Date(s):	July 6, 2016	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Faculty of Arts and Science Ms. Brenda Thrush, Faculty Registrar, Leslie Dan Faculty of Pharmacy
		In Attendance: Ms. Krista Osbourne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a) and B.i.3(b)* of the *Code* – forged academic records – circulated forged academic records in application for employment – hearing not attended – reasonable notice of hearing - prior academic offences – falsifying pharmaceutical degree raises significant concerns with respect to the safety of the public - University obligation to uphold and maintain the integrity of its academic degrees and degree-granting process – recommendation that the Student be expelled; immediate suspension from the University for a period of up to five years pending expulsion; permanent notation on academic record.

The Student was charged with two offences under the *Code*. The charges related to alleged representations that were made by the Student in a cover letter and resume that were submitted to Safeway Food and Drug ("Safeway") for employment as a Pharmacist (the "Application"). Though the Student had not completed any degree program at the University of Toronto, the Application falsely claimed that she had graduated with an Honours Bachelor of Science in Human Biology and Physical Anthropology from the University and was a candidate in the Doctor of Pharmacy program at the University.

The Student denied the allegations with respect to falsifying her academic record at the meeting with the Dean's Designate. Upon further investigation after that meeting, the University found that the student had previously been under academic suspension for plagiarism and had also previously been suspended by the University for failure to maintain a 1.5GPA. Neither the Student nor counsel for the Student attended the hearing. The Panel was satisfied that appropriate efforts to effect service on the Student had been made and that the provisions of the Tribunal's Rules of Practice and Procedure had been satisfied.

The Panel concluded that the Student forged and falsified her academic record. Upon the entering of a finding of guilt with respect to *s. B.i.3(a)* of the *Code,* counsel for the University withdrew the charge in relation to *s. B.i.3(b).* The Panel considered the aggravating facts that the student had previously been suspended by the University for failure to maintain a 1.5 GPA and that that she had also previously admitted to plagiarism and had been warned, in writing, that a second offence would be dealt with more severely. The Panel found that the offense of falsification of one's academic record for advantage to the Student is a most serious offense and one that, absent sufficient mitigating circumstances, would call for a recommendation of expulsion. In this case, there were also significant concerns with respect to the safety of the public as a result of a falsified degree in pharmacy. The Panel held that the University has an obligation to uphold and maintain the integrity of its academic degrees and its Degree-granting process. The Panel accepted the University's submission on penalty and imposed a penalty of immediate suspension from the University for a period of up to five years; recommended that the Student be expelled; and that a permanent notation be placed on the Student's academic record and transcript.

FILE: Case #848 (16-17)
DATE: November 2, 2016
PARTIES: University of Toronto v. D.H. ("the Student")

Hearing Date(s): March 16, 2016 and August 9, 2016

Panel Members:
Mr. John A. Keefe, Barrister and Solicitor, Chair
Professor Gabriele D'Eluterio, Faculty Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Palaire Roland Barristers
Mr. Glenroy Bastien, Counsel for The Student
Professor John Britton, Dean's Designate, Office of Student Academic Integrity (March 16, 2016)
Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science (

In Attendance:
Mr. Christopher Lang, Director, Appeals, Discipline, and Faculty Grievances (March 16, 2016)
Krista Osbourne, Administrative Assistant, Appeals, Discipline, and Faculty Grievances (August 9, 2016)
The Student

Note: Appeal dismissed.

Trial Division – *s. B.i.3(a)* and *s.B.ii.2* of *Code* – forged academic records and intent to commit an offence - student ordered transcripts after disciplinary sanction was imposed but before notation was made on transcript for the purpose of employment, immigration, and professional licensing – Agreed Statement of Facts – guilty plea – third offence – prior convictions included falsification of academic record and academic dishonesty – deliberate offence – contested hearing on sanction - Agreed Statement of Facts on Penalty – University

submission on Penalty accepted – recommendation that Student be expelled per *s. C.ii.(b)(i)* of the *Code,* interim notation until Governing Council makes decision on expulsion, and report issued to Provost

The Student was charged with two offences for attempting to circulate falsified academic records pursuant to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* or alternatively, three charges under *s. B.i.3(b), s. B.ii.2 and B.i.3(a)* of the *Code.* The charges related to the Student's attempt to order transcripts and obtain letters of good standing from the University once he had learned that he had been suspended for three years, but before the notation had been recorded on his record in the University system. The Panel convened for an initial hearing and then a subsequent sanction hearing. At the initial hearing, the matter proceeded based upon an Agreed Statement of Facts. The Student pled guilty to the charges under *s. B.i.3(a)* and *s. B.ii.2* of the *Code.* Upon the Panel's finding of guilt on the two charges relating to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* the University withdrew the remaining charges.

The sanction hearing proceeded by way of Agreed Statement of Facts on Penalty which indicated that the Student had been guilty of two prior academic offences. The Student's first offence was academic dishonesty relating to an incident where he altered and re-submitted a test to be re-graded. He pled guilty and was sanctioned to a zero on the test and resulting reduction in his course mark, as well as a notation on his academic transcript for two years. The Student's second academic offence was for forging or otherwise falsifying his academic record. Those charges related to an application for employment where the Student submitted a transcript that omitted the notation of academic dishonesty from the prior year. The Panel considered the Student's mitigating circumstance of mental health issues and sanctioned the Student to a suspension for a period of up to three years; a notation on the Student's academic record for four years; and a report to the Provost. The reasons for that decision were available on May 19, 2015. Although the normal practice was to immediately record the Panel's decision on the Repository of Student Information (ROSI), out of a concern for the Student's mental health, the Panel also postponed making the notation the Student's record until after the Student had the opportunity to read the decision with counsellors present, on June 1, 2015.

On June 2, 2015, the Student ordered ten transcripts, knowing the sanction had not yet been implemented on ROSI. On June 3, 2015, he requested that Woodsworth College provide letters on his behalf to Canada Immigration, CPA Ontario, and "To Whom It May Concern" stating that he was a student in good standing at the University and that he was expected to graduate in the Summer of 2017. The Student knew that the transcripts that he had ordered online and the letters that he had requested did not reflect his academic record and he admitted that he intended to make use of them.

The Panel found that the Student's actions were not spontaneous, but deliberate, since they took place over a three-day period. The Panel found that it was particularly troubling that the Student took advantage of the Panel's sympathetic treatment because of the Student's fragile emotional state, but then took immediate steps to obtain transcripts that he knew were false. Aggravating considerations were that the charge of falsification of an academic record is a very serious offence, this was the Student's third offence, and it occurred immediately after he received a three-year suspension for his second offence. The Panel considered mitigating circumstances that there was an Agreed Statement of Facts and an Agreed Statement of Facts on Penalty, that the Student admitted guilt at a very early stage, he attended the hearing, and that the Student was suffering from severe mental distress at the time the offence was committed. The Panel found that there was a pattern of dishonest conduct and prior convictions, and recommended that the Student be expelled, an interim notation until Governing Council makes decision on expulsion, and that the case be reported to the Provost.

FILE:	Case #848 (2017 - 2018)	Appearances:
DATE:	October 13, 2017	Mr. Glenroy K. Bastien, Counsel for the Student
PARTIES:	University of Toronto v. D.H. ("the Student")	Ms. Tina Lie, Counsel for the Respondent, the University of Toronto
Hearing Date(s):	August 4, 2017	In Attendance: The Student

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Mr. Sean McGowan, Student Panel Member Professor
Elizabeth Peter, Faculty Panel Member
Ms. Alena Zelinka, Student Panel Member

DAB Decision.

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Student appeal from sanction – request to set aside order of expulsion - *s.B.ii.2– s. B.i.3(a)* – forged academic record – third offence – Board need grant little deference given its very broad powers – deference given on the issue of credibility – expulsion generally penalty for forgery when prior offence – Appeal dismissed – recommendation for expulsion

Appeal by the Student from a Tribunal decision in which the Student pled guilty to two charges of forging or falsifying an academic record contrary to *s. B.ii.2* and *s. B.i.3(a)* of the *Code*, and sentenced to expulsion. The Student asked the Appeals Board to set the penalty aside because the Tribunal either overlooked his medical evidence, or failed to provide reasons which indicated what weight, if any, was attached to that evidence. Finally, the Student alleged that the Tribunal arbitrarily attempted to fit this case into the penalties imposed in previous cases, without regard to the Student's fragile mental condition.

The Board stated that it had very broad powers and that it need not show deference to the Tribunal decision except for matters relating to credibility, where the Tribunal has the opportunity to observe witnesses giving evidence and draw conclusions from this based on their first-hand exposure to the demeanour and quality of evidence. The Board also stated that it is appropriate for it to vary a sanction which it believes to be wrong whether because of an error of law, significant errors of fact, or a material inconsistency with the weight of other Tribunal and appeal decisions.

The Board found no such errors in the Tribunal decision. The Board found that the Tribunal did not overlook the medical evidence, but rather admitted it notwithstanding its late delivery, absence of any cross-examinations or testing and over the objection of the University. The Tribunal specifically referred to the Student's "fragile mental state", and noted as a mitigating factor that the offence occurred when the Student was suffering from significant mental distress and at the lowest point of his academic career. Finally, the Board did not find that the Tribunal was artificially trying to fit this case within the confines of previous cases and without regard to the facts and circumstances of the Student. The Board found that in cases where a Student has forged an academic record, the penalty of expulsion (or where the student has completed a degree, the revocation of that degree) recognizes both the seriousness of the harm inflicted on the institution and the fact that it is difficult to detect. In the rare cases where expulsion has not been recommended, the Board stated that it was generally on the basis that the student had no prior offences and also, usually, because the case proceeded by way of a joint submission on penalty. In this case, the Board agreed with the Tribunal's conclusion that given that it was the Student's third conviction, that forgery is a serious offence, and that it occurred immediately after the Student was notified of the penalty for his second offence, that a recommendation of expulsion was appropriate.

The Board accepted the University's request that, due to delay associated with the hearing caused by the Student, the Student's current period of suspension be extended to the later of May 19, 2018 or the date on which the Governing Council makes its decision on expulsion. Appeal dismissed.

FILE: Case # 913 (2017-2018)
DATE: January 15, 2018
PARTIES: University of Toronto v. A.P. ("the Student")

Hearing Date(s): October 16, 2017

Panel Members:
Mr. Paul Michell, Chair
Professor Dionne Aleman, Faculty Panel Member
Mr. Ramz Aziz, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Dr. Kristi Gourlay, Manager and Academic Integrity Officer, Office of Student Academic Integrity, University of Toronto
Mr. Jackson Foreman, Law Student, Downtown Legal Services, for the Student

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

Trial Division – s. B.i.3(a) of the *Code* - falsifying an academic record – student provided a forged degree certificate to a prospective employer – student's LinkedIn profile claimed to have degrees that had not been granted by the University – application for employment containing false information – Agreed Statement of Facts – no prior offence – appropriate penalty where a student commits a number of serious offences and cooperates with the discipline process – dissenting panel member - recommendation of expulsion, suspension for a period of up to 5 years, corresponding notation on the Student's transcript, and report to the Provost with the Student's name withheld.

The Student was charged with two counts of forging or falsifying an academic record contrary to s. B.i.3(a) of the *Code*; and one count of engaging in academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code*. The charges related to the Student claiming that she had graduated with an Honours Bachelor of Science from the University in an application that she submitted to a prospective employer, a false degree certificate she had submitted to a prospective employer, and in maintaining a public LinkedIn Profile in which she claimed to have a Doctor of Philosophy degree and an Honours Bachelor of Science degree granted by the University. The matter proceeded by an Agreed Statement of Facts (ASF) in which the Student pled guilty to the first two charges. Upon the Panel's acceptance of the Student's guilty pleas, the University withdrew the third charge of academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code*.

The Panel considered the Student's argument that the penalty of expulsion should be reserved for cases where there is a combination of a serious offence and a failure to cooperate with the discipline process because to do otherwise would remove the incentive for students to cooperate. The Panel rejected this argument and held that the Student's willingness to cooperate with the Provost, admit guilt, attend the hearing, agree to a statement of facts, or give evidence of mitigating circumstances do count for something: but they must be weighed and evaluated in the context of the other factors to determine the appropriate sanction. The effect they will have necessarily varies with the circumstances, as a Student's cooperation is just one of *Mr. C.* [Case No. 1976/77-3; Nov. 5, 1976] factors to consider. The Panel noted that the penalty of expulsion has been imposed in a number of cases where students had cooperated with the process and shown remorse (e.g. *M.K.* [Case No. 491, November 5, 2008] where the mitigating circumstances were insufficient to outweigh the other *Mr. C.* factors; and *A.L.* [Case No. 590; August 10, 2010] at para. 18 where the penalty of expulsion was seen as consistent with other forgery cases). Where a penalty other than expulsion has been handed down in forgery cases, it has been where there has been a Joint Submission on Penalty or where a student has already received a degree (e.g. *S.D.* [Case 13 No. 406; May 1, 2007]).

The Panel then applied the *Mr. C.* factors to the Student's circumstances: (1) The offences committed in this case were serious, and that the forgery of a degree, in particular, is a most serious offence; (2) The offences were deliberate, which generally justify expulsion (*C.A.* [Case No. 828; April 11, 2016] at para. 19); (3) the offences show the most serious lack of academic and personal integrity, and forgery in particular is often difficult to detect, which make general deterrence a factor to weigh heavily in favour of expulsion; (4) The offences cause harm to the reputation of the University and undermine the trust the employers have in the University, and other students who obtain legitimate degrees who must compete with those who falsely claim to hold degrees, which adds further weight in favour of expulsion; (5) Though the Student had admitted guilt, she tended to deflect responsibility for her actions during cross examination as well her letter to the prospective employer in which she admitted to lying about her qualifications failed to mention the forged degree certificate, so the mitigating weight is limited; (6) for specific deterrence, or the likelihood of reoffending, though these were the Student's first offence, they were calculated; (7) the Panel found that the extenuating circumstances of supporting her family of four siblings after her father had a heart attack, the long commute, and the Student's remorse to be extenuating circumstances but were given little weight given that it was apparent that the Student had not fully appreciated the extent of her misconduct through her actions in the hearing. After weighing all of these factors, the majority of the Panel conceded that if there had only been one offence, a lesser penalty may have been appropriate but given the seriousness of the conduct here, the first three factors outweighed the mitigating factors and a penalty of expulsion was appropriate. The Panel ordered: (a)a recommendation that the Student be expelled from the University; (b) a suspension from the University for up to five years from the date of the order, and that a corresponding notation be placed on her transcript; and (c) that that case be reported to the Provost for publication.

Dissent: The Student Panel Member dissented on the decision as to penalty and would have awarded a five-year suspension instead of an expulsion. The Student Panel Member reached this outcome because he accorded a different weight to the mitigating factors in the majority's *Mr. C.* analysis. In particular, he found that a five-year suspension carried with it sufficient stigma to achieve general deterrence while at the same time, it would incentivize other students

to cooperate with the discipline process. The Student Panel Member found that the Student's circumstances were at the extreme end of extenuating circumstances a student can experience: a family tragedy, the disruption of her education, unexpected financial responsibility, and a misrepresentation to fulfill said responsibility - notably one that she could not easily rectify without harm to her loved ones. With more weight is allotted to the extenuating circumstances, the dissenting member of the Panel ordered a five-year suspension.

FILE: Case # 1142 (2021-2022)
DATE: January 19, 2022
PARTIES: University of Toronto v. U.M. ("the Student")

Hearing Date(s):
October 21, 2021, via Zoom

Panel Members:
Ms. Joelle Ruskin, Chair
Dr. Ian Crandall, Faculty Panel Member
Mr. Branden Cave, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.3(a) of Code – forged and falsified record – Student knowingly forged or falsified an academic record uttered, circulated or made use of such forged, altered or falsified record, namely a document which purported to be an unofficial academic history from the University of Toronto – Student did not attend the hearing – Rules 9(c), 13, 16, and 17 of the University Tribunal's *Rules of Practice and Procedure* – Panel was satisfied the hearing could proceed in the Student's absence – the unofficial academic history provided to a prospective employer was altered, forged or falsified – finding of guilt – forgery of an academic record is one of the most serious offences a student can commit – the expressions of remorse made by the Student in his emails to counsel for the University do not describe any extenuating circumstances faced by the Student at the time of the offence – Statements made by the Student do not mitigate the premeditated and egregious conduct of circulating a false academic record – immediate suspension from the University for a period of up to five years; a recommendation that the Student be expelled, as per s. C.ii(b)(i) of Code; and a report to the Provost for publication.

The Student was charged under s. B.i.3(a) of the *Code of Behaviour on Academic Matters*, 1995 (the "Code") on the basis that the Student 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 which purported to be the Student's unofficial academic history from the University of Toronto.

The Student did not attend the hearing and counsel for the University provided the Panel with an email chain which confirmed that the Student was aware of the hearing but was not able to attend. The Student further confirmed that they were waiving their right to attend the hearing and agreed that the Tribunal should proceed in their absence. The Panel noted that the Student had also previously communicated via email with counsel for the University to advise that they would not be at the hearing. Based on the evidence, and considering rules 9(c), 13, 16, and 17 of the University Tribunal's *Rules of Practice and Procedure*, the Panel was satisfied that the Student was served with the charge and the Notice of Electronic Hearing, and ordered that the hearing proceed in the absence of the Student.

The Panel received affidavit evidence of a Student Success Representative in the Office of the Registrar (the "Representative"). The Representative's affidavit outlined that she received a call from a Pre-Employment Screening Coordinator with BMO Financial Group ("BMO") seeking to confirm the authenticity of a transcript of academic record provided by the Student as part of a job application (the "Purported Transcript"). Upon review of the Purported Transcript, the Representative she determined the Purported Transcript had been falsified. The Panel noted that the requirement that the Student act "knowingly" is made out if the Student ought reasonably to have known that the academic record in question had been forged, altered or falsified. The Panel determined that the evidence clearly established that the

Purported Transcript provided by the Student to BMO was false. Furthermore, the Panel found that it was more likely than not that the Student was responsible for circulating and making use of the forged record since there was evidence that the Student had provided it to BMO. Based on the foregoing, the Panel found the Student 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.i.3(a) of the Code.

In determining sanction, the Panel noted that the Code confirms that in the case of forgery or falsification of an academic record, the Provost will ask the Tribunal to recommend expulsion. The Panel further noted that it is required to consider the factors outlined in the *University of Toronto v. Mr. C* (Case No. 1976/77-3, November 5, 1976). The Panel noted that the Student did not meaningfully participate in the academic discipline process or in this proceeding nor did the Student sign an Agreed Statement of Facts when given the opportunity. The Panel considered the Student's prior sanction as an aggravating factor in determining the appropriate penalty. The Panel noted that even if it was to accept as admissible, the expressions of remorse made by the Student in his emails to counsel for the University, those statements do not describe any extenuating circumstances faced by the Student at the time of the commission of the offence. Furthermore, those statements do not mitigate what the Tribunal considers to be premeditated and egregious conduct of the Student in circulating a false academic record as part of a job application. In reviewing the case law provided by counsel for the University, the Panel observed that these cases establish that forgery of an academic record is one of the most serious offences a student can commit. Based on the foregoing and all of the circumstances, the Panel concluded that it was appropriate to make a recommendation for expulsion. The Panel imposed the following sanctions: immediate suspension from the University for a period of up to five years; a recommendation that the Student be expelled, as per s. C.ii(b)(i) of Code; and a report to the Provost for publication.

SUBMITTED WITH APPLICATION TO POST-SECONDARY INSTITUTION

FILE: Case #468 (07-08)
DATE: information not available
PARTIES: University of Toronto v N.L.

Hearing Date(s):
March 22, 2007

Panel Members:
Rodica David, Chair
Carolyn Pitchik, Faculty Member
Sharon Walker, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Jayne Lee, Counsel for the student
N.L., the Student

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity

Trial Division - *s. B.i.3(a)* of *Code* – forged academic records - altered transcript twice submitted to Ontario Universities' Application Centre – guilty plea - two separate acts of forgery – age and occupation not extenuating circumstances – excuse for conduct not accepted – no expression of remorse – Joint Submission on Penalty accepted - recommendation that the Student's degree be cancelled and recalled, as per *s. C .ii.(b)(j)(i)* of *Code*; permanent notation on transcript; and report to Provost - jurisdiction for the restoration of a degree that had been cancelled, recalled or suspended – see *s. 48* of *the University of Toronto Act of 1947* - no specific regulations or directions for implementation of restoration - seriousness of conduct should be taken into account in any application made for reinstatement of degree – no jurisdiction to make recommendation that significant time need expire before Student could succeed in application for restoration of degree

The Student was charged with two offences under *s. B.i.3(a)* and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student twice submitted an altered University Transcript of Consolidated Academic Record to the Ontario Universities' Application Centre in support of an application to medical school. The Student pleaded guilty to the charges under *s. B.i.3(a)* of the *Code*. The parties submitted an Agreed Statement of Facts. The Panel accepted the guilty plea. The parties submitted a Joint Submission on Penalty. The Panel considered that the Student increased his marks by way of an additional forgery indicating higher marks when the marks that were originally forged were not high enough to gain admission into medical school. The Panel found the Student's conduct more egregious because he engaged in two separate deliberate acts of forgery a period of time apart from one another. The Panel found that the facts that the Student was 27 years old and had worked in a Laundromat for a number of years did not create any type of extenuating circumstances. The Panel did not accept the Student's excuse that the two forgeries occurred "on the spur of the moment." No evidence as to whether the Student had been subjected to any other disciplinary proceedings was adduced. The Panel found that the case was more serious than in the case of *the University of Toronto v.* (case blacked out) because there were two acts of forgery and no expressions of remorse. The Panel accepted the Joint Submission on Sanction and imposed a recommendation to Governing Council, further to *s. C .ii.(b)(j)(i)* of the *Code*, that the Student's degree be cancelled and recalled; a permanent notation on the Student's academic record and transcript; and that a report be issued to the Provost. The Panel stated that it desired its reasons be considered if the Student were to make an application for reinstatement of his degree. The Panel observed that *s. 48* of *the University of Toronto Act of 1947* conferred jurisdiction for the restoration of a degree that had been cancelled, recalled or suspended and that there were no specific regulations or directions as to the procedure for the implementation of such a restoration. The Panel stated that the seriousness of the Student's conduct should be taken into account in any future application that the Student might ever make for reinstatement of his degree. The Panel stated that if it had been given additional jurisdiction, it would have recommended that a significant amount of time would have to expire before the Student could succeed in any application for restoration of his degree.

SUBMITTED TO THE UNIVERSITY OF TORONTO

FILE: Case # 966 (18-19)
DATE: February 27, 2019
PARTIES: University of Toronto v B.L.

Hearing Date
December 17, 2018

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Ken Derry, Faculty Member
Ms. Elizabeth Frangos, Student Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel,Palaire Roland Rosenberg Rothstein LLP
Ms. Brittany Smith, Counsel for the Student, Bytensky Prutschi Shikhman

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.3(a) of *Code* – falsified academic record – student knowingly omitted information from application for admission to the University and from subsequent application for research grant, demonstrating propensity to re-offend – deliberate misrepresentation in student's letter to admission committee – Agreed Statement of Facts – guilty plea – definition of "academic record" includes application for admission and supporting documents – expulsion only practical remedy available – offence and detriment to University significant - threshold for departing from Joint Submission on Penalty very high - Joint Submission on Penalty accepted – recommendation that Student be expelled; immediate five-year suspension or until expulsion decision made, whichever is earlier; corresponding notation on transcript; and publication by Provost of notice of decision and sanctions with student's name withheld

The Student was charged with five counts of academic misconduct for falsifying evidence required by the University contrary to section B.i.1(a) of the *Code*, and for falsifying an academic record and engaging in academic dishonesty contrary to sections B.i.3(a) and (b) of the *Code,* respectively. The charges related to the Student's application for admission to the University and to the Student's application for an undergraduate research grant. Both applications omitted relevant information regarding the Student's prior attendance at another post-secondary institution and the conferral of a degree from that institution. The Student did not attend the hearing, but was represented at the hearing by legal counsel.

The Panel found the Student guilty of violating section B.i.3(a) of the *Code* based on an Agreed Statement of Facts wherein the Student admitted to knowingly committing an academic offence by submitting a falsified academic record in his application for admission to the University. The Panel referred to the University's "Policy on Access to Student Academic Records" to confirm that the definition of "academic record" includes a student's application for admission to the University and supporting documents. The University withdrew all remaining charges.

The parties submitted a Joint Submission on Penalty recommending the Student be expelled from the University. In deciding whether to accept the Joint Submission on Penalty, the Panel noted that the Student had no prior academic misconduct at the University and had pleaded guilty at the hearing. However, the Panel found the Student's denials prior to the hearing, and his "catch-me-if-you-can" attitude, mitigated against a finding of remorse from his guilty plea at the hearing. While assessing the Student's character, the Panel highlighted deliberate misrepresentations made by the Student in a letter to the Admission Committee of the Computer Engineering Department. The Panel stated that this letter provided insight into the lengths to which the Student went to mislead the University. The Panel described the letter as "wholly designed" to create an impression that the Student was not in school when, in fact, he was actively pursuing a degree at another institution. The Panel found that the Student's application for a research grant, filed after admission to the University, was an indicator of the Student's propensity to re-offend. The Panel concluded that the nature of the offence and corresponding detriment to the University were significant because the place of another applicant had been usurped by the Student through his misleading and falsified application. The Panel stated that cases provided by the University demonstrated that the requested penalty was in the appropriate range of sanctions in similar circumstances. The Panel also stated that the threshold for departing from a joint submission on penalty was very high

and required a finding that the acceptance of same would be contrary to the public interest and bring the administration of justice into disrepute. No such finding was made in this case.

The Panel accepted the parties' Joint Submission on Penalty recommending the Student be expelled from the University. The Panel noted that expulsion was the only practical remedy available given that the Student's application for admission was based on false information and the Panel had no jurisdiction to revoke his credits. In addition to the expulsion recommendation, the Panel also ordered the following sanctions: immediate five-year suspension or until the expulsion recommendation was accepted by the University, whichever came first; a corresponding notation on the Student's academic record and transcript; and publication by the Provost of a notice of the decision and sanctions with the Student's name withheld.

FILE: Case #491 (08-09)
DATE: November 5, 2008
PARTIES: University of Toronto v the Student

Hearing Date(s):
October 30, 2008

Panel Members:
Ronald G. Slaght, Chair
Graham Trope, Faculty Member
Melany Bleue, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Zak Muscovitch, Counsel for the Student

Trial Division – *s. B.i.3(a)* of *Code* – forged academic records – documents submitted for Post Admission Transfer Credits – Agreed Statement of Facts – guilty plea – contested hearing on sanction – depression and anxiety triggered by class participation – belief that demands of required course could not be met – mental or physical disabilities not causative of conduct – falsified transcript in respect of two courses was in nature of a fabricated degree or University transcript – planned and deliberate offence – circumstances permitted withdrawal from plan – third party involvement – continued deceptions – University's submission on penalty accepted – recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; and permanent notation on academic record

The Student was charged with three offences under *s. B.i.1(a)* and alternatively, with three offences under *s. B.i.3(b)* and one offence under *s. B.i.3(a)* of the *Code*. The charges concerned allegations that the Student had forged and falsified three documents which she submitted in an application to obtain Post Admission Transfer Credits. The matter proceeded on a plea of guilty and a contested hearing on sanction. The Panel accepted the guilty plea based on the Agreed Statement of Facts. The Student claimed that she created the false documents with the assistance of her friend and that no money changed hands. The Student claimed that she had suffered symptoms of depression and anxiety that were triggered by the requirements of class participation. She supported her claim with letters from health practitioners. The Student claimed that the course requirements in one of the courses for which she sought a post admission transfer credit was too heavy for her and that she believed that she could not meet the demands of the course. The course was a requirement for the Student's degree. The Panel found that at the material time when the false documents were created, the Student was physically and mentally well and that any mental or physical disabilities were not causative of her conduct but rather a reason for it. The Panel considered the planned and deliberate nature of the offence, the circumstances which had permitted the Student to have withdrawn from her plan at any time, the Student's involvement of a third party, and her continued deceptions when first confronted with the allegations, and found that the University's recommendation of expulsion should be accepted. The Panel found that while the falsified transcript was in respect of two courses and not an entire academic record, the effect of the Student's actions was in the nature of a fabricated degree or University transcript. It was designed to accomplish the same purpose of obtaining a degree that otherwise would not be obtained. The Panel recommended to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; and that a permanent notation of the expulsion be recorded on her academic record and transcript.

FILE: Case #553 (09-10)
DATE: October 9, 2009
PARTIES: University of Toronto v N.A.

Hearing Date(s):

Panel Members:
Laura Trachuk, Chair
Graham Trope, Faculty Member
Adil D'Sousa, Student Member

September 10, 2009

Appearances:
Phil Downes, Counsel for the Student
Linda Rothstein, Assistant Discipline Counsel
Lily Harmer, Assistant Discipline Counsel

Trial Division – *s. B.i.3(a)* of *Code* – forged academic records – TA, Student's brother, altered Student's marks – TA and Student claimed that the Student did not know that his marks had been inflated – Dean's designate decided not to charge the Student – University subsequently discovered changes to Student's marks in an earlier course and decided to lay charges with respect to both courses – Student argued that University was barred from reversing the earlier decision – Panel found that it was not necessary to consider the issue because University failed to prove that Student knew about the changes on a balance of probabilities – no direct evidence and insufficient circumstantial evidence – Student found not guilty

Student charged under *s. B.i.3(a)* of the *Code*. The charges related to allegations that the Student knowingly forged his academic records by letting his brother, the TA for his courses, change his marks in two courses. The TA inflated marks for his brother's midterm and final exam in a course in 2007 and for a final exam in a course in 2008. Before the incidents, the University had never been informed that they were brothers. When the incident in 2008 was discovered, the Dean's designate decided not to charge the Student, as the TA testified that his brother, the Student, had no knowledge that his marks had been changed. However, the University decided to lay charges when it subsequently learned about changes to the Student's grades in 2007. The Student argued, relying on *s. C.I.(a)3* and *7*, that the University had no authority to impose charges with respect to the later course since the Dean's designate had already made and issued a decision that no charges would be laid. The Panel held that it was not necessary to consider this issue because the University failed to prove on a balance of probabilities that the Student knew that his brother changed his marks. There was no direct and insufficient circumstantial evidence that the Student knew what his brother was doing. The fact that they were brothers who lived in the same house and that the brother used his position to change the Student's marks was all relevant circumstantial evidence but it was not clear and convincing enough to prove the charges. Given that the Student had been academically successful, the Panel could not infer that the Student necessarily should have known that his marks had been inflated. The Panel found the Student not guilty.

FILE: Case #692 (13-14)
DATE: November 27, 2013
PARTIES: University of Toronto v C.K.

Hearing Date(s):
September 19, 2013

Panel Members:
Jeffrey Leon, Chair
Richard B. Day, Faculty Member
Jenna Jacobson, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code* – forged documents and forged academic records – documents purporting to be transcripts from other universities submitted in support of two applications for admission to the University and one application to transfer to St. George campus – Student did not attend hearing – Student was given reasonable notice of Hearing – evidence presented by way of affidavit – finding of guilt – egregious conduct that caused serious harm to the integrity of the academic process – five-year suspension; 7.0 credits cancelled; recommendation that the Student be expelled; report to Provost for publication

Student charged with three offences under *s. B.i.3(a)*, six offences under *s. B.i.1(a)* and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to allegations that the student had forged and falsified several documents purporting to be transcripts from other universities and submitted these in support of two applications for

admission to the University, and one application to transfer within the University from the Mississauga to the St. George campus. The Student did not attend the hearing but the Panel was satisfied that the Student had reasonable notice of the hearing and had been served in accordance with the Rules of Practice and Procedure of the University Tribunal. Evidence was presented by way of an affidavit of the Assistant Faculty Registrar who was on leave from the University at the time. The Panel accepted the affidavit as evidence in accordance with the University Tribunal Rules of Practice and Procedure. The University withdrew one of the six charges under *s. B.i.1(a)* and the alternative charge. The Panel found the Student guilty of the remaining eight charges. The Panel noted that the conduct of the Student was serious, repetitive, and egregious. The Panel observed that there was no indication of respect by the Student for the discipline process, nor any indication of remorse or extenuating circumstances. The Panel stated that the Student's conduct caused serious harm to the integrity of the University's academic process and that significant sanction was necessary. The Panel imposed a five-year suspension, cancelled 7.0 transfer credits granted to the Student on the basis of falsified documents, recommended that the Student be expelled from the University, and ordered that the case be reported to the Provost for publication.

PUBLIC MISREPRESENTATION

FILE: Case # 976 (18-19)
DATE: January 25, 2019
PARTIES: University of Toronto v D.K.

Hearing Date: November 2, 2018

Panel Members:
Ms. Michelle S. Henry, Chair
Professor Pierre Desrochers, Faculty Panel Member
Mr. Abdul Sidiqi, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

In Attendance:
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

Trial Division – s. B.i.3(a) of the *Code* – falsified academic record - Student did not attend hearing – Student given reasonable notice of hearing – the *Code* extends to public misrepresentation online of a student's academic status and history - finding of guilt – five-year suspension; recommendation that the Student be expelled; report to Provost for publication with Student's name withheld

A hearing of the trial division of the University Tribunal (the "Tribunal") was held on November 2, 2018 to consider charges brought by the University against the Student under the *Code of Behaviour on Academic Matters*, 1995, (the "*Code*"). The Student was charged with an academic offence pursuant to s. B.i.3(a) of the *Code* on the basis that she falsified her academic record by publically misrepresenting that she held either a Doctor of Philosophy degree or a Doctorate in Education from the University.

The Student did not attend the hearing, although affidavit evidence submitted by the University demonstrated that the Student had corresponded with Discipline Counsel about the hearing. The Tribunal therefore concluded that the Student had received reasonable notice of the hearing in accordance with the notice requirements set out in the *Statutory Powers Procedure Act* and the *University Tribunal Rules of Practice and Procedure*. The Tribunal proceeded to hear the case on its merits in the absence of the Student.

Affidavit evidence submitted by the University explained that the Student had registered for the Doctor of Philosophy Program in Curriculum Studies and Teacher Development at the Ontario Institute for Studies in Education in 2010, but that the Student had not reached the stage of candidacy when her registration lapsed in 2016. The Student's registration remained lapsed at the time of the hearing. Although the Student had not completed the academic requirements of her program, she nevertheless represented that she held either a Doctor of Philosophy degree or a Doctorate in Education from the University. The misrepresentation appeared in her LinkedIn profile and in her resume posted on her website. The misrepresentation also appeared in an article the Student wrote and published online.

Before considering the question of liability, the Tribunal considered whether the alleged misrepresentation could constitute falsification of an academic record under the *Code*. The Tribunal referred to the Ontario Superior Court of Justice (Divisional Court) decision in *Shank v. Daniels*, 2002 Carswell 71 and concluded that the *Code* extends to the public misrepresentation of a student's academic history and status online. In doing so, the Tribunal adopted the reasoning of the Divisional Court in *Shank v. Daniels* that the public has a stake in the integrity of the information contained in a student's academic record, and not merely in the integrity of an official piece of paper certifying the information.

The Tribunal found the Student guilty of the academic offence of falsifying an academic record as defined in s.B.i.3(a) of the *Code*. Before making a decision on penalty, the Tribunal noted that the Student's correspondence demonstrated a blatant disrespect for the discipline process and that the Student continued to engage in the misrepresentation even when directed to cease and desist by the University. The Tribunal also noted, among other things, that there was no evidence of any mitigating or extenuating circumstances. The Tribunal stated that it must send a strong message to other students that misrepresenting one's academic history and status is a serious offence that will lead to a recommendation of expulsion.

The Tribunal imposed the following penalty: immediate suspension up to five years or until a decision is made on expulsion, whichever comes first; a corresponding notation on the Student's academic record and transcript; a

recommendation of expulsion from the University; and publication by the Provost of a notice of decision and sanctions imposed, with name of Student withheld.

OMMISSIONS

FILE: Case # 966 (18-19)
DATE: February 27, 2019
PARTIES: University of Toronto v B.L.

Hearing Date: December 17, 2018

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Ken Derry, Faculty Member
Ms. Elizabeth Frangos, Student Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Palaire Roland Rosenberg Rothstein LLP
Ms. Brittany Smith, Counsel for the Student, Bytensky Prutschi Shikhman

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.3(a) of *Code* – falsified academic record – student knowingly omitted information from application for admission to the University and from subsequent application for research grant, demonstrating propensity to re-offend – deliberate misrepresentation in student's letter to admission committee – Agreed Statement of Facts – guilty plea – definition of "academic record" includes application for admission and supporting documents – expulsion only practical remedy available – offence and detriment to University significant - threshold for departing from Joint Submission on Penalty very high - Joint Submission on Penalty accepted – recommendation that Student be expelled; immediate five-year suspension or until expulsion decision made, whichever is earlier; corresponding notation on transcript; and publication by Provost of notice of decision and sanctions with student's name withheld

The Student was charged with five counts of academic misconduct for falsifying evidence required by the University contrary to section B.i.1(a) of the *Code*, and for falsifying an academic record and engaging in academic dishonesty contrary to sections B.i.3(a) and (b) of the *Code,* respectively. The charges related to the Student's application for admission to the University and to the Student's application for an undergraduate research grant. Both applications omitted relevant information regarding the Student's prior attendance at another post-secondary institution and the conferral of a degree from that institution. The Student did not attend the hearing, but was represented at the hearing by legal counsel.
The Panel found the Student guilty of violating section B.i.3(a) of the *Code* based on an Agreed Statement of Facts wherein the Student admitted to knowingly committing an academic offence by submitting a falsified academic record in his application for admission to the University. The Panel referred to the University's "Policy on Access to Student Academic Records" to confirm that the definition of "academic record" includes a student's application for admission to the University and supporting documents. The University withdrew all remaining charges.

The parties submitted a Joint Submission on Penalty recommending the Student be expelled from the University. In deciding whether to accept the Joint Submission on Penalty, the Panel noted that the Student had no prior academic misconduct at the University and had pleaded guilty at the hearing. However, the Panel found the Student's denials prior to the hearing, and his "catch-me-if-you-can" attitude, mitigated against a finding of remorse from his guilty plea at the hearing. While assessing the Student's character, the Panel highlighted deliberate misrepresentations made by the Student in a letter to the Admission Committee of the Computer Engineering Department. The Panel stated that this letter provided insight into the lengths to which the Student went to mislead the University. The Panel described the letter as "wholly designed" to create an impression that the Student was not in school when, in fact, he was actively pursuing a degree at another institution. The Panel found that the Student's application for a research grant, filed after admission to the University, was an indicator of the Student's propensity to re-offend. The Panel concluded that the nature of the offence and corresponding detriment to the University were significant because the place of another applicant had been usurped by the Student through his misleading and falsified application. The Panel stated that cases provided by the University demonstrated that the requested penalty was in the appropriate range of sanctions in similar circumstances. The Panel also stated that the threshold for departing from a joint submission on penalty was very high and required a finding that the acceptance of same would be contrary to the public interest and bring the administration of justice into disrepute. No such finding was made in this case.

The Panel accepted the parties' Joint Submission on Penalty recommending the Student be expelled from the University. The Panel noted that expulsion was the only practical remedy available given that the Student's application for admission was based on false information and the Panel had no jurisdiction to revoke his credits. In addition to the expulsion recommendation, the Panel also ordered the following sanctions: immediate five-year suspension or until the expulsion recommendation was accepted by the University, whichever came first; a corresponding notation on the Student's academic record and transcript; and publication by the Provost of a notice of the decision and sanctions with the Student's name withheld.

SUBMITTED TO AN IMMIGRATION OFFICER

FILE:	Case # 1011 (2019-2020)	Panel Members:
DATE:	October 7, 2019	Ms. Johanna Braden, Chair
PARTIES:	University of Toronto v. H.A. ("the Student")	Professor Julian Lowman, Faculty Member Ms. Natasha Brien, Student Member
HEARING DATE:	July 8, 2019	Appearances: Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
		Hearing Secretary: Ms. Jennifer Dent, Associate Director, Office of Appeals, Discipline and Faculty Grievances
		Not in Attendance: The Student

Trial Division – s. B.i.3(a) of the Code – forgery of academic record – Student knowingly forged, circulated or made use of two documents purporting to be Confirmation of Enrolment letters from University in support of application for replacement study permit - Student did not attend hearing – ss. 6 and 7 of the *Statutory Powers and Procedures Act* – Rules 9, 14 and 17 of the University Tribunal's *Rules of Practice and Procedure* – *Policy on Official Correspondence with Students* – reasonable notice of hearing provided – finding of guilt – confirmation of enrolment letters are "academic records" for purposes of Code – enrolment letters represent an official control mechanism for verifying enrolment, so that only students registered with the University can claim the benefits associated with registration – falsification of University enrolment for immigration purposes jeopardizes University's reputation and undermines University's efforts to accommodate international students – need for general deterrence significant concern – no extenuating circumstances as Student declined to participate in hearing - a five-year suspension; a recommendation that the Student be expelled, as per s. C.ii.(b)(i) of Code; and a report to the Provost for a publication.

The Student was charged with two counts of academic misconduct under s. B.i.3(a) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he knowingly falsified, circulated or made use of two forged academic records, namely, documents purporting to be Confirmation of Enrolment letters from the University dated June 23, 2017 and September 6, 2017, respectively.

Neither the Student nor a legal representative of the Student appeared at the hearing. The Panel noted that the *Policy on Official Correspondence with Students* makes it clear that a student is responsible for maintaining a current and valid University-issued email account. Students are also expected to monitor and retrieve their email on a frequent and consistent basis. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges and notice of hearing. The Student was subsequently served with a revised notice of hearing changing the name of the Chair; and a second revised notice of hearing, changing the location of the hearing. Neither of the revised notices changed the date or time of the hearing. The Panel noted that there was evidence that the Student had accessed his email account after service of the charges and the original notice of hearing which notified him of the date and time of the hearing. Taking into consideration rules 9, 14 and 17 of the *Rules of Practice and Procedure* of the University Tribunal coupled together with sections 6 and 7 of the *Statutory Powers and Procedures Act*, the Panel found the Student had been given reasonable notice of the hearing and ordered the hearing to proceed to be heard on its merits in the absence of the Student.

The Student was registered at the University from Fall 2015 to Fall-Winter 2016-2017. A Risk Assessment Officer at Immigration, Refugees and Citizenship Canada ("ICRCC") received two letters from the Student in support of the Student's application for a study permit replacement. The two letters sent by the Student to ICRCC purported to be Confirmation of Enrolment letters from the University, but were forgeries. The two letters were clearly forged or altered and were not genuine letters from the University. There was no direct evidence that the Student forged or altered them himself; the only evidence was the letters sent to ICRCC and then to the University for authentication. The Tribunal

found it more likely than not that the Student, at the very least, circulated and made use of two falsified Confirmation of Enrolment letters so that he could fraudulently obtain a study permit replacement allowing him to remain in Canada.

The Tribunal was satisfied that the two forged Confirmation of Enrolment letters were "academic records" for the purposes of the Code. The Tribunal noted that the definition of "academic record" contained in the Code includes "any other record or document of the University ... used, submitted or to be submitted for the purposes of the University." Although the Panel noted that Confirmation of Enrolment letters are typically used to satisfy third parties regarding a student's academic standing, they serve an important purpose of the University. They represent an official control mechanism for verifying enrolment, so that only students registered with the University can claim the benefits associated with registration. The Panel found the Student guilty of the two charges.

In determining the appropriate sanction, the Panel noted that although this was the Student's first academic offence, the dishonest conduct was repeated, and the falsifications were deliberate and careful. There was no evidence of extenuating circumstances, as the Student declined to participate in the hearing. The Panel noted that when people fake their University enrolment with immigration officials, they put honest international students at a disadvantage, jeopardize the University's reputation and undermine the University's efforts to accommodate and support international students. The Panel also stated that the need for general deterrence is a significant concern as this type of offence is hard for the University to police. The Panel concluded that a five-year suspension would not be appropriate. Had the Student appeared and given credible, truthful evidence of compelling mitigating circumstances that helped to explain the misconduct, the Panel stated that it might have concluded differently. As the Student did not attend, the Panel found that the most severe sanction, a recommendation of expulsion, was the most suitable.

The Panel imposed the following sanctions: a five-year suspension; a recommendation that the Student be expelled, as per s. C.ii.(b)(i) of Code; and a report to the Provost for a publication.

MERE PREPARATION

FILE: Case # 994 (2019-2020)
DATE: May 27, 2020
PARTIES: University of Toronto v. H.W. ("the Student")

Hearing Date(s):
February 21, 2020

Panel Members:
Mr. Dean F. Embry, Chair
Professor Lynne Howarth, Faculty Panel Member
Ms. Julie Farmer, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
The Student
Mr. Denna Jalili, the Student's Representative, Downtown Legal Services

Hearing Secretary:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

NOTE: This decision is on finding only. Reasons for the decision on sanction are reported as *University of Toronto v. H.W.* (Case 994, August 2020).

Trial Division – ss. B.i.3(a), B.ii.2 and B.i.1(d) of the Code – intention to commit the offence of forging or in any other way altering or falsifying an academic record - the Student did or omitted to do something for the purpose of carrying out that intention – online order for stamp and a seal embosser that replicate the official stamp and seal used by the Office of the Registrar at the University of Toronto Mississauga ("UTM") - plagiarism - the Student knowingly represented as her own an idea or expression of an idea or work of another in a term paper that she submitted – *actus reus* – mental element – mere preparation - *Deutsch v. The Queen* [1986] 2 SCR 2 - reasonable inferences drawn from evidence – competing inferences available - Agreed Statement of Facts ("ASF"), a Joint Book of Documents ("JBD")

The Student was charged under ss. B.i.3(a) and B.ii.2 of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that she intended to commit the offence of forging or in any other way altering or falsifying an academic record and she did or omitted to do something for the purpose of carrying out that intention. Alternatively, she was charged under s. B.i.3(b) of the Code. Additionally, she was charged with one count under s. B.i.1(d) of the Code on the basis that she knowingly represented as her own an idea or expression of an idea or work of another in a term paper that she submitted in a course. She was also charged alternatively for this offence under s. B.i.3(b) of the Code.

The parties submitted an Agreed Statement of Facts ("ASF"), a Joint Book of Documents ("JBD") and affidavit evidence. The Student did not contest the charge under s. B.i.1(d) of the Code. She acknowledged that she had included verbatim or nearly verbatim text and ideas in her essay without proper attribution and represented the ideas of another person as her own and in doing so committed plagiarism. Consequently, the Panel found her guilty.

The Student contested the allegation pertaining to ss. B.i.3(a) and B.ii.2 of the Code. The Student had placed an online order for a self-inking customized stamp and a seal embosser. It was admitted that the content of each item replicates the official stamp and seal used by the Office of the Registrar at the University of Toronto Mississauga ("UTM") to authenticate official documents. The Student's order came to the attention of the University because a representative of the company contacted the Office of the Registrar to confirm that they had ordered these items.

The Panel found the Student guilty under ss. B.i.3(a) and B.ii.2 because the mental element and *actus reus* had been proven. With respect to the *actus reus* necessary to make out the offence, the Panel found that the Student had clearly gone beyond "mere preparation", a principle outlined in *Deutsch v. The Queen* [1986] 2 SCR 2. It considered the cost of the stamp and seal she ordered and their accuracy. It commented that the careful steps of acquiring, studying and replicating these items would have had to be taken before ordering the stamps online. The Panel also found that the Student's actions constituted an attempt because there were very few steps remaining within the Student's control to complete the offence once she received the items. As for the mental element, the Panel found that when the Student ordered the items,

she intended to use them to commit the offence. It accepted that the most likely use to be made of the items once received would be to forge or falsify documents for some sort of material gain.

In discussing and weighing the inferences available, the Panel explained that when applying the balance of probabilities standard, it is not enough for there to be another reasonable inference available. Any reasonable inferences available must effectively outweigh the inference that the items were intended to be used to commit the offence. It also stated that any competing inferences did not have to be led directly in evidence but would have to arise from the evidence received by the Panel. The Panel found that the inference that the items were going to be used in an offence was much more likely than all other inferences when put together.

The Panel did not accept the Student's argument that it risked falling afoul of the rule of law. She argued that nothing in the *Code* prohibits students from ordering instruments that resemble those used by the University and asserted that if the Panel were to find that doing so constitutes an offence, it would be creating a new offence. According to the Student, this would offend the rule of law requirement of prior notice as to what is forbidden. According to the Panel, this argument did not consider the general nature of codified offences and mischaracterized the issue and what the Panel was tasked to consider. The Panel observed that the fact that it was asked to rely on reasonable inferences to consider the issue did not result in the Panel inventing a prohibition. It was merely an instance of drawing inferences from proven facts to come to a conclusion.

Ultimately, the Panel concluded that all charges had been proven.

s. B.i.3(b) of *Code*: academic dishonesty not otherwise described

Leading Cases:

- concealing plagiarism: **625 (12-13)**
- removal of exam: **722 (13-14)**
- falsifying documents: **713 (14-15), 807 (15-16)**
- falsely claiming assignment submitted: **941 (17-18)**
- misrepresentation**:** **1054 (19-20), 1054 (20-21) (DAB)**

DAB = Discipline Appeals Board decisions

CONCEALING PLAGIARISM

FILE: Case #625 (12-13)
DATE: February 13, 2013
PARTIES: University of Toronto v L.W.

Hearing Date(s):
November 28, 2012

Panel Members:
Sarah Kraicer, Chair
Ernest Lam, Faculty Member
Afshin Ameri, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel

In Attendance:
L.W., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)*, *s. B.i.1(d)*, *s. B.i.1(f)* and *s. B.i.3(b)* of the *Code* – unauthorized aid, plagiarism, concocted sources and academic dishonesty – submitted essay containing another student's work – submitted essay containing plagiarized passages and references to concocted sources – Agreed Statement of Facts – guilty plea accepted – reasonable to infer guilt in absence of evidence of content of concocted source – revised essay to conceal plagiarism – contested hearing on sanction – two prior offences – Student admitted guilt – Student was absent from University for almost two years before hearing – grade assignment of zero in two courses; four-year suspension; six-year notation on transcript; report to Provost for publication.

Student charged with offences related to two different assignments in two different classes. The first series of charges included one offence under *s. B.i.1(d)*, one offence under *s. B.i.1(b)*, and in the alternative, one offence under *s. B.i.3(b)* of the *Code*. These charges related to an allegation that the Student did not attend to conduct field work and instead obtained data from a classmate. The Student submitted the calculations provided by the classmate as if they were his own. The Student met with the Dean's designate regarding these charges and admitted guilt. The Panel accepted the Student's guilty plea for this first series of charges on the basis of an Agreed Statement of Facts. The University withdrew the alternative charge.

The second series of charges included one offence under *s. B.i.1(d)*, one offence under *s. B.i.1(f)*, and in the alternative, one offence under *s. B.i.3(b)* of the *Code*. The second series of charges also included one offence under *s. B.i.3(b)* not issued in the alternative to any other charges. These charges related to an allegation that the Student submitted a draft essay that included verbatim or nearly verbatim passages from secondary sources that were not properly cited. The Student was required to submit a draft essay for review by classmates. The classmate reviewing the Student's paper suspected that parts of it may have been copied from another source. The classmate entered the first line of the Student's essay on the Google search engine and found that sentenced and other portions verbatim in a website. The classmate confronted the Student and recommended he speak with the professor. The Student refused and asked the classmate not to speak with the professor. The classmate emailed the professor the next day and related his concerns. The classmate attached a copy of the Student's draft essay, as well as the source of the passages copied verbatim without citation. The professor requested the Student submit his draft essay and meet as soon as possible. The Student responded several days later by email to schedule a meeting. Attached to this email was a draft essay that, contrary to assignment requirements, was significantly different than the draft essay submitted for peer review to the classmate. Approximately 75% of the content of the draft essay submitted for peer review included verbatim or nearly verbatim passages from secondary sources that were not properly cited. The Student met with the Dean's designate regarding these charges and indicated that he was not guilty. The Student, at a later, unspecified time, changed his plea to guilty on these charges. The Panel accepted the Student's guilty plea on the charges. The Panel found that the Student knowingly included uncited material and concocted sources in his draft essay. The Panel also found that the Student revised this draft essay between the time he submitted it for peer review and the time he submitted it to the professor, contrary to assignment requirements, for the purpose of concealing the fact that the original draft contained plagiarism from unattributed websites. The University withdrew the alternative charges.

The Student had been previously found guilty of offences under *s. B.i.1(b)* and *s. B.ii.1(a)(ii)* of the *Code*. The Student received decanal sanctions for these offences after admitting guilt. There were no mitigating circumstances surrounding

the commission of the current offences before the Tribunal. The Student cooperated with the University throughout the process. The Student attended the hearing, expressed remorse, and in large measure acknowledged responsibility for his actions. The Student had been absent from the University for nearly two years prior to the hearing date of his own accord. While the Panel did not feel it was appropriate to backdate the sanction to when the Student ceased to take courses, the Student's voluntary withdrawal was a relevant mitigating factor for the purposes of sanction. The Panel imposed a final grade of zero in the two courses, a four-year suspension, a six-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

REMOVAL OF EXAM

FILE: Case #722 (13-14)
DATE: February 18, 2014
PARTIES: University of Toronto v N.P.

Hearing Date(s):
January 30, 2014

Panel Members:
Clifford Lax, Chair
Louis Florence, Faculty Member
Peter Qiang, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Eleanor Irwin, Dean's Designate
The Student

In Attendance:
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(c)* personation of a faculty member and *s. B.i.3(b)* of the *Code* – removing exam paper from exam room – complex scheme involving personation of a faculty member and request of an exam of another faculty member – Student met with Dean's Designate – admission of guilt – first time offender – grade of zero in the course; four year suspension; sanction recorded on academic record; and ordered that the case be reported to the Provost for publication until graduation

Student charged with personation of two faculty members and two offences under *s. B.i.3(b)* of the *Code*. The personation charges related to a scheme that the Student pretended to be a faculty member in correspondence with another faculty member. It was a sophisticated scheme the end goal of which was obtaining an exam. It was not a single isolated instance of bad judgement but a planned and deliberate attempt. The Student failed to obtain an exam and attended the exam on April 15,2013 where he confirmed his attendance but removed an exam from the room. The Student met with the Dean's Designate where he acknowledged that he removed the paper from the exam but denied impersonating the faculty member. The meeting was adjourned one week for the Student to seek legal advice and upon reconvention the Student admitted his personation scheme.

The Student appeared at the disciplinary hearing and admitted his guilt and the University withdrew one count. The University sought a penalty including a grade of zero in the course, a four year suspension, the sanction recorded on his academic record until graduation, and that the case be reported to the Provost for publication. The Student filed a "Letter of Mitigation" expressing remorse for his conduct. He asked the Panel to take into account that it was his first offence, he had good overall academic standing, and that he felt compelled to carry out his scheme due to immense pressure from his family. The Panel felt that while the Student did feel deep remorse he did not take full responsibility for his actions. The conduct required a severe sanction because if the Student's scheme had succeeded he would almost certainly have been expelled. That he failed and admitted guilt justifies a reduction in length of suspension to four years. The Panel ordered a grade of zero in the course, a four year suspension, that this sanction be recorded on his academic record until graduation, and ordered that the case be reported to the Provost for publication.

FALSIFYING DOCUMENTS

FILE: Case #713 (13-14)
DATE: March 28, 2014
PARTIES: University of Toronto v A.K.

Hearing Date(s):
October 22, 2013

Panel Members:
Julie Rosenthal, Chair
Maria Rozakis-Adcock, Faculty Member
Afshin Ameri, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Damon Chevrier, Registrar, St. Michael's College
Janice Patterson, Legal Assistant, Palaire Rolland Barristers

In Attendance:
Kristi Gourlay, Manager of Office of Academic Integrity, Faculty of Arts and Science
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Not In Attendance:
The Student

Trial Division – *s. B.i.1(a)* and *B.i.3(b)* of the *Code* – falsified documents and documents with falsified information – academic accommodation sought – document purporting to be doctor's medical certificate – personal statement misrepresenting illness – Student did not attend hearing – Student given reasonable notice of Hearing - misrepresentations in the letter fell under *s. B.i.1(a)* as letter was not forged, rather it contained falsified information – finding of guilt – grade of zero in courses at issue; five-year suspension; recommendation that the Student be expelled; report to Provost for publication

The Trial Division of the Tribunal held a hearing on October 22, 2013 to consider charges brought by the University against the Student under the *Code of Behaviour on Academic Matters*. The Student did not attend the hearing but the University produced an affidavit establishing that the Student had received reasonable notice. The Tribunal determined that it was appropriate to proceed.

Student charged with six offences under *s. B.i.1(a)* and, in the alternative, one charge *s. B.i.3(b)* of the Code. The charges related to allegations that the student had falsified several documents, namely one personal statement and five University of Toronto Student Medical Certificates, in support of a request for academic accommodation.

The University called one witness, the Registrar at St. Michael's College. The Witness explained that he had received a petition form and supporting letter, (required documents to obtain accommodation), to defer a final exam and further defer two exams for which a deferral had already been granted from the Student. The documents described the Student's illness and were signed by a doctor. The Witness reviewed and forwarded the documents to the central office of the Faculty of Arts and Science who refused the Student's petition as the dates of the exams were "unreasonably apart." The Witness received a petition for appeal from the Student five months later consisting of a completed petition form, an Absent Declaration letter and several University of Toronto Student Medical Certificates, four signed by a doctor in Toronto and one by doctor in New York. The Witness noticed inconsistencies between the petition and appeal documents with the number of physicians visited, dates the Medical Certificates were signed and language and writing style used by the doctors. The Witness was suspicious and researched both doctors who had allegedly signed the certificates. He found that the Toronto doctor did not exist and the New York doctor had never met the Student. The Witness emailed the Student expressing his belief that the certificates were "not legitimate." The Panel accepted the Witness' evidence as to the information obtained as a result of his investigation but attached no weight to his personal views as to whether the certificates were falsified.

The Panel found that the five medical certificates were falsified within the meaning of *s. B.i.1(a)* of the Code and that the Student knowingly engaged in a form of fraud or misrepresentation contrary to *s. B.i.3(b)* of the Code in submitting the

"Absent Declaration letter." The Panel noted that the misrepresentations included the number of times he had seen a physician and attaching certificates with falsified information. The University argued that the misrepresentations in the letter fell under s. *B.i.1(a)* however the letter itself was not forged, rather the information it contained was falsified.

The University sought a penalty including a grade of zero in the three courses, a recommendation of expulsion, a suspension of five years and that the matter be reported to the Provost. The Panel looked to the principles and factors described in *University of Toronto and Mr. C.* (November 5, 1976/77-3) in considering the appropriate penalty. Little was known about the Student's character, save that he did not appear at the hearing and showed no signs of remorse. While it was the Student's first offence it was very serious and the Panel was not aware of any extenuating circumstances. The Panel also weighed the detriment to the University and the need to deter others from committing the same offence. The Panel considered several cases in which the penalty for forging medical documents was expulsion. There were some forgery cases in which a five year suspension was imposed, but the Panel noted that in those cases the students had admitted their guilt.

The Panel assigned a grade of zero in the three courses at issue, recommended that the Student be expelled from the University, imposed a five-year suspension and ordered that the case be reported to the Provost for publication.

FILE: Case #807 (15-16)
DATE: April 7, 2016
PARTIES: University of Toronto v C.D.

Hearing Date:
February 29, 2016

Panel Members:
Roslyn M. Tsao, Chair
Richard B. Day, Faculty Member
Jeffery Couse, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Kristi Gourlay, Manager, Office of Student Academic Integrity
Ralph Tassone, Instructor of the Course
Lesley Mak, Associate Director, Academic Program Services at Rotman Commerce

In Attendance:
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* and *s. B.i.3(b)* of the *Code* – forged documents and academic dishonesty – Student forged three Verification of Student Illness or Injury Forms – Student deliberately misled the Course Instructor with respect to two quizzes and an examination that he purported to have submitted but in fact had not – not necessary to know exactly what happened to the alleged quizzes and examination - hearing not attended – reasonable notice of hearing provided as per the *Rules of Practice and Procedure* – finding on evidence – finding on guilt – University submission on penalty accepted – grade assignment of zero in the four affected courses; 5-year suspension from the University, or a suspension until the Governing Council decision on expulsion, and a corresponding notation on the Student's academic record and transcript; recommendation of expulsion; case reported to Provost for publication

Student charged with three offences under *s. B.i.1(a)* and two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student forged Verification of Student Illness or Injury Forms to obtain academic accommodation and that the Student engaged in academic dishonesty, fraud or misrepresentation to obtain academic advantage by representing that he had written and submitted two quizzes and two final examination answer booklets in a Course when in fact he had not. The Student was not present at the hearing. The Panel concluded that reasonable notice of the hearing was provided pursuant to Paragraph 9(c) of the *Rules of Practice and Procedure*.

Student was found guilty with respect to the forged document charges. The Student admitted to forging three Medical Notes at a meeting with the Dean's Designate, and the Panel accepted evidence from the purported examining physician to support a finding of guilt on these charges. The Panel took into account the fact that the Student was fully aware that he was engaging in dishonest/fraudulent conduct at the time of committing the forgeries on the three separate occasions.

Student was found guilty with respect to the academic dishonesty charges. The Student maintained that he had written two quizzes and that he had submitted two booklets for the final examination of the Course, but no quizzes had been submitted, and only one examination booklet had been submitted. The Panel noted that it is not necessary to know exactly what happened to the alleged quizzes and examination answer booklet; the Panel needs only to find that offences occurred on a balance of probabilities. The Panel took into account the clear and convincing evidence of the Course Instructor with respect to his marking protocols and examination invigilation and concluded that it was more likely than not that the Student attempted to mislead the Course Instructor about two fictitious quiz results and a missing examination booklet that was purportedly submitted. The Panel noted that the circumstances relating to the offences about the missing quizzes and the final examination in the Course were symptomatic of calculated behaviour and misconduct.

The Panel noted that the Student had not participated in the hearing process and showed no indication of remorse, emphasizing its concern about the likelihood of repetition and the detriment to the University occasioned by the offences. The Panel also noted that the offences spanned multiple occasions and over a year in time, and that the third-year Student was well aware of the elements of academic dishonesty. The Panel imposed a grade assignment of zero in the four affected courses; a 5-year suspension from the University, or a suspension until the Governing Council decision on expulsion, and a corresponding notation on the Student's academic record and transcript; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FALSELY CLAIMING ASSIGNMENT SUBMITTED

FILE: Case #941 (2017 - 2018)
DATE: February 16, 2018
PARTIES: University of Toronto v. H.E. ("the Student")

Hearing Date(s): November 22, 2017

Panel Members:
Ms. Michelle S. Henry, Lawyer, Borden Ladner Gervais LLP, Chair
Professor Michael Saini, Faculty Panel Member
Mr. Andrey Lapin, Student Panel Member

Appearances:
Mr. Pouya Makki, Legal Case Worker for the Student, Downtown Legal Services
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

In Attendance:
The Student
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Faculty of Arts and Science
Mr. Benny Chan, Student at Law, Borden Ladner Gervais LLP
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. Joan Griffin, Assistant Secretary, Office of the Governing Council (Observer)
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division - *s.* B.i.1 (d) – plagiarism – s.B.i.3(b) – academic dishonesty not otherwise described – ideas in an assignment copied from another student – essay copied from online source – claims that an assignment had been submitted when it had not, in fact, been submitted – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – undertaking – Panel accepted JSP – final grade of zero in the affected courses; four-year suspension; the sanction be recorded on academic record and transcript from the date of the order until December 31, 2023; and that the decision be reported to the Provost for publication with the Student's name withheld

The Student was charged with two charges of plagiarism contrary to s. B.i.1(d) of the *Code,* with alternative charges of unauthorized assistance contrary to s. B.i.1(b) of the *Code;* or in the further alternative, charges of academic misconduct not otherwise described contrary to s.B.i.3(b) of the *Code.* In addition, the Student was charged with one charge of academic conduct not otherwise described contrary to s.B.i.3(b). The charges were made in connection to three separate incidents in three different courses. The first set of plagiarism charges related to an assignment that the Student had submitted for course credit that contained passages that were pulled verbatim from an assignment that had been submitted by another student in the class. The second set of plagiarism charges related to an essay that had been submitted for course credit that contained passages that were pulled verbatim from an essay that was found online. The third incident, which is connected to the charge of academic dishonesty not otherwise described, was based in the Student's assertions to an instructor that he had submitted an assignment when he had not, in fact, done so. The matter proceeded by way of an agreed statement of facts and a joint book of documents. The Student pled guilty to the two charge of plagiarism contrary to s. B.i.1(d) of the *Code* and the charge of academic dishonesty not otherwise described contrary to s.B.i.3(b) of the *Code.* Upon the Panel accepting the Student's guilty plea to these charges, the University withdrew the alternative charges.

The parties submitted a Joint Submission on Penalty (JSP) requesting: (a) final grade of zero in the affected courses; (b) a four-year suspension; (c) the sanction be recorded on academic record and transcript from the date of its decision until December 31, 2023; and (d) that the decision be reported to the Provost for publication with the Student's name withheld. The JSP was accompanied by an undertaking that the Student complete at least six writing workshops offered by the University within the first two terms in which he is next registered for a course at the University. In deciding whether to accept the JSP, the Panel was referred to the narrow circumstances that would allow for them to depart from a JSP (*University of Toronto v. S.F.* [DAB Case No. 690; October 20, 2014]) as well as the factors that are to be considered in determining the appropriateness of a penalty contained in the *Mr. C.* case [Case No. 1976/77-3; Nov. 5, 1976]. The Panel found that the offences were deliberate and serious. Though the Student did not entirely take responsibility for the first and third offences and his explanation concerning the commission of the second offence was not entirely credible, the Student ultimately admitted to guilt at the hearing and cooperated with the University throughout the discipline process – which showed that he took responsibility for his actions. The Panel accepted the parties' JSP and ordered:(a) final grade of zero in the affected courses; (b) a four-year suspension; (c) the sanction be recorded on academic record

and transcript from the date of the order until December 31, 2023; and (d) that the decision be reported to the Provost for publication with the Student's name withheld.

MISREPRESENTATION

FILE: Case # 1054 (2019-2020)
DATE: January 31, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
November 13 and 20, 2019, and January 15, 2020

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair Professor Julian Lowman, Faculty Panel Member Ms. Karen Chen, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg, Rothstein LLP
Ms. Hanna Yakymova, Downtown Legal Services, Representative for the Student

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearings Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division — s. B.i.3(b) of Code — academic dishonesty — knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination, namely a Scantron sheet that the Student submitted in a midterm examination —Student attended the hearing and was represented—Agreed Statement of Facts ("ASF")—finding of guilt — grade of zero in the course - suspension for just over 29 months – a notation on the transcript for 40 months or graduation, whichever date is later – report to Provost for publication with the Student's name withheld — Student's initial legal representative not permitted to give evidence at hearing — University's adjournment request in order to call reply evidence granted with terms to negate any potential prejudice to the Student — Student's production motion requesting University counsel's notes denied because notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege, but to ensure full disclosure of underlying facts within proposed reply witnesses' knowledge, University was ordered to review counsel notes and provide a summary of any additional facts not reflected in "Will Say" summaries already produced.

NOTE: This matter was appealed to the Discipline Appeals Board ("DAB"). In *A.M. v. University of Toronto* (Case No.: 1054, dated November 17, 2020), the DAB overturned the Trial Division's decision in terms of which specific charge the Student was found guilty of and substituted a conviction on the first charge.

The Student was charged under ss. B.i.1(a) and B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* ("Code") on the basis that a) he knowingly falsified, circulated or made use of a forged academic record, namely a Scantron sheet that he submitted in a midterm examination; and b) he knowingly obtained unauthorized assistance in connection with that midterm examination. Alternatively, he was charged under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination.

For the examination in question, two different versions of the exam were distributed (version A and version B) to reduce the potential for cheating. The Student received a version B exam but misrepresented on his Scranton form that he had received a version A exam.

The Panel delivered reasons for mid-hearing motions and evidentiary issues orally. First, the Student sought to call his initial legal representative to provide evidence regarding his observations of the distribution of answers across the exams that were completed for the mid-term. The Panel did not permit the Student to call his initial legal representative as a witness. Instead, he was allowed to address the representative's proposed observations and arguments as part of the closing submissions. Second, after the Student completed his evidence and the defence rested its case, the University requested an adjournment to call reply evidence. The Panel granted the adjournment on terms. It explained that while it was reasonable to argue that the University could have called the TAs as witnesses during their case in chief given their involvement in the events in question, the Student had chosen to provide his explanation for the first time during his testimony. It acknowledged that it was the Student's right to do so, but that fairness dictated that the University be given an opportunity to call reply evidence. To negate any potential prejudice, the Panel imposed the following terms: a) The University was instructed not to discuss the evidence at the hearing with the potential reply witnesses; b) Any reply evidence was strictly limited to true reply, that is, it had to be in response to evidence that was raised for the first time in the Student's testimony; c) The delay due to the adjournment was brief as all parties and counsel were accommodating and able to find a date within one week to resume the proceeding; and d) The Student was given the opportunity to

participate in the resumed hearing via videoconference. Since he had already testified, there was no impact on the quality of the evidence as a result of this accommodation. Finally, the Panel denied the Student's motion seeking production of University counsel's notes of interviews conducted with the reply witnesses in between the hearing dates. The Panel highlighted the general principle that notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege. The underlying facts are not subject to privilege; however, the notes themselves ordinarily will be. That applies even in a case such as this one where the University acknowledged that the discussions with the TAs in between the hearing dates were the first time that the potential witnesses were interviewed. To ensure that the Student had full disclosure of the underlying facts within the proposed reply witnesses' knowledge, the University was ordered to review the counsel notes and to provide a summary of any additional facts that were not reflected in the "Will Say" summaries that had already been produced even if the additional facts were not evidence that the University intended to lead.

The Panel found the Student guilty of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with the midterm examination, contrary to section B.i.3(b) of the Code. However, it was not convinced that the Student had cheated in the manner alleged by the University because there was no direct evidence showing that he had copied off another student at the exam. Furthermore, the Panel accepted the University's submission that it did not have to prove exactly how the Student cheated in order to establish that an academic offence was committed.

In determining the sanctions, the Panel considered the following factors: the Student's prior offence; his submission concerning his return to the University to complete his studies; the concern regarding the possibility of the Student re-offending if he elected to immediately pursue graduate studies after graduation; the length of time that had passed between when the offence was committed and when the matter was brought to a hearing. The Panel also noted that it is expected that the discipline process will typically be much shorter since students should not be subjected to the stigma, uncertainty and stress of being charged any longer than necessary.
The Panel imposed the following sanctions: a grade of zero in the course; a suspension for just over 29 months; a 40 month notation on the transcript or until the date of graduation, whichever date is later; and a report to the Provost for a publication with the Student's name withheld.

FILE: Case # 1054 (2020-2021)
DATE: November 17, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
August 18, 2020, via Zoom

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Professor Aarthi Ashok, Faculty Panel Member
Mr. Said Sidani, Student Panel Member

Appearances:
Ms. Tina Lie, for the Respondent, Appellant by Cross-Appeal, Paliare Roland Rosenberg Rothstein LLP
Mr. Sean Grouhi for the Appellant, Respondent by Cross-Appeal, Downtown Legal Services

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

DAB Decision

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals finding of guilty arguing Tribunal erred in allowing the University to call reply evidence – University cross-appeals acquittal of a charge under s. B.i.1(a) of the *Code* – *R. v. Krause*, [1986] 2 SCR 466 - *R. v. Sanderson*, 2017 ONCA 470 - it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student - in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, the Tribunal is not bound by the strict rules of evidence and there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case - no obligation on the University to prove the

contents of the Agreed Statement of Facts and it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to - as soon as the Tribunal found that the Student's conduct is an offence under s. B.i.1(a) of the Code, the offence under s. B.i.3(b) ceases to apply

The Student appeals the finding of the Tribunal on the basis that the standard of review is correctness and that the Tribunal erred in law by permitting the University to call reply evidence from two teaching assistants. Relying on the Supreme Court of Canada's decision in *R. v. Krause*, [1986] 2 SCR 466, the Student argued, among other things, that the University should have anticipated his evidence.

The University cross-appeals on the basis that the Tribunal erred in acquitting the Student of a charge under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code"), which makes it an offence to forge, alter or falsify a document required by the University and to make use of such forgery. This was the first of three charges that were subject of the hearing before the Trial Division. Alternatively, the University had also charged the Student under s. B.i.1(b) of the Code for knowingly obtaining unauthorized assistance in connection with a midterm examination ("second charge"), and under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation to obtain academic credit or other academic advantage of any kind in connection with a midterm examination ("third charge").

In dismissing the Student's appeal, the Board agreed that it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student. It also held that, in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, it noted that the Tribunal is not bound by the strict rules of evidence and highlighted that there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case.

Further, the Board held there was no obligation on the University to prove the contents of the Agreed Statement of Facts and that it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to. Relying on *R. v. Sanderson*, it stated that the principles that govern the calling of reply evidence should not be interpreted so rigidly that the University should call as part of its case evidence that addresses any possible issue that a student may raise and to address a position that is at odds with the facts to which the student appears to have agreed. The obligation is to lead evidence on the issues that are relevant to material issues in dispute or to a defence that they can or ought reasonably to anticipate. While recognizing that the Student may choose not to disclose his defence to the University, including by declining to deliver an opening, the Board also indicated that in this case, the decision not to do so meant that the University had no reason to suspect that the Student intended to depart from the facts to which he appeared to have agreed.

Ultimately, the Board concluded that it could not be said that the University ought reasonably to have anticipated the defence that the Student put forward in his evidence. According to the Board, the Tribunal's decision was both reasonable and correct. It would have come to the same result as the Tribunal without regard to the reply evidence.
In allowing the University's cross-appeal, the Board indicated that the issue it raises lies in the definition of the offence which the Tribunal found had been committed and that this offence can only be found in circumstances where the conduct in question is not an offence under any other section of the Code. The Tribunal had found the Student guilty of violating s. B.i.3 of the Code, which constitutes the third charge. To find the Student guilty under this section, the Tribunal was in effect determining that the conduct that was the subject of the charges was "not …otherwise described" in the Code. This implies that the first charge could not be established. According to the Board, it is not apparent that the Tribunal was alive to this issue because its reasons for decision contain no analysis of whether or why the first charge was not made out.

The Board considered that the facts found by the Tribunal made out the offence contained in the first charge. It agreed with the University that the Student should not also be convicted for the same conduct under the third charge and that as soon as it is found that the conduct is an offence under the section of the Code referenced in the first charge, the offence referenced in the third charge ceases to apply. Accordingly, the Board substituted a conviction under the first charge for the conviction found by the Tribunal.
Finally, the Board agreed that the substitution of a conviction under the first charge ought not to alter the sanctions imposed by the Tribunal.

Student's appeal dismissed. University's cross-appeal allowed.

s. B.ii.1(a) of *Code*: parties to an offence

Leading Cases:

- s. B.ii.1(a)(iv) bribery: **01-02-06**
- s. B.ii.1(a)(ii): aiding or assisting in the use or possession of an unauthorized aid **1102 (21-22), 1181 (21-22)**

DAB = Discipline Appeals Board decisions

S. B.II.1(A)(IV) BRIBERY

FILE: Case #01-02-06 (01-02)
DATE: April 24, 2002
PARTIES: University of Toronto v D.F.

Hearing Date(s):
April 2, 2002

Panel Members:
Sherry Liang, Co-Chair
Philip Berger, Faculty Member
Penny Schincariol, Student Member

Appearances:
D.F., the Student
Linda Rothstein, Assistant Discipline Counsel
Robert Centa, Assistant Discipline Counsel

In Attendance:
Ian McDonald, Associate Dean
Sherylin Biason
Heather Pagan

Trial Division - *B.ii.1(a)(iv)* and *s. B.i.3(b)* of *Code* – procurement - attempted bribery of course instructor – guilty plea – finding of guilt under *s. B.ii.1(a)(iv)* and not guilty under *s. B.i.3(b)* of the *Code* – prior academic offence – general deterrence not critical - conduct not at the farthest end of spectrum - leniency justified by extenuating facts – rehabilitation possible due to young age - five-year suspension; ten-year notation on the Student's transcript; and report to Provost - recommendation that guidance and counseling be sought during suspension

Student charged with two offences under *s. B.ii.1(a)(iv)* and one offence under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student attempted to bribe a course instructor in return for an increased course grade. The Student pleaded guilty to three charges. The Panel considered the email in which the alleged bribe was communicated and found the Student guilty of the two offences under *s. B.ii.1(a)(iv)* and not guilty under *s. B.i.3(b)* of the *Code* because the Student had been found guilty of academic misconduct under other sections. The Student had been sanctioned previously for a prior academic offence. The Panel found that general deterrence was not critical on the facts of the case because the type of conduct was likely rare. The Panel found the Student's conduct to be serious, although it did not place the conduct at the farthest end of the spectrum. The Panel found extenuating facts in the Student's favour to justify leniency. The Panel found that a five-year suspension along with a ten-year notation was substantial and that the ten-year notation would serve as a reminder and would reduce the likelihood of re-occurrence. The Panel found that given the Student's young age, there was potential for rehabilitation to a standard of academic conduct compatible with the University's expectations. The Panel imposed a five-year suspension; a ten-year notation on the Student's academic record and transcript; and that a report be issued to the Provost. The Panel recommended that the Student seek professional guidance and counseling during his suspension.

S. B.II.1(A)(II): AIDING AND ASSISTING

FILE: Case # 1102 (2021-2022)
DATE: November 5, 2021
PARTIES: University of Toronto v. T.J. ("the Student")

Hearing Date(s):
July 26, 2021, via Zoom

Panel Members:
Ms. Johanna Braden, Chair
Professor Ernest Lam, Faculty Panel Member
Ms. Parsa Mahmud, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Mr. Nick Di-Biase, Representative for the Student, Downtown Legal Services
The Student

Hearing Secretary:
Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

NOTE: The hearing in this matter preceded the Panel's hearing in the related matter of the *University of Toronto and A.K.* (Case No. 1181, November 5, 2021).

Trial Division – s. B.i.1(b) and B.ii.1(a)(ii) of the Code – unauthorized aid – Student knowingly aided or assisted in the use or possession of an unauthorized aid – Student knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in a final exam — Agreed Statement of Fact ("ASF") – Joint Book of Documents ("JBD") – Joint Submission on Penalty ("JSP") – although the Student may not have intended to aid other students, the Panel accepted that by posting exam questions and seeking input on how to answer them, the Student effectively aided and assisted other students in the course who subscribed to Chegg – finding of guilt – final grade of zero in the course; three-year suspension; four-year notation on transcript; and a report to the Provost for publication.

The Student was charged with two counts under s. B.i.1(b) and one count under s. B.ii.1(a)(ii) of the *Code of Behaviour and Academic Matters, 1995* (the "Code") for knowingly using or possessing an unauthorized aid or aids or obtaining unauthorized assistance in a final exam, and knowingly aiding and assisting other students in a course to use or possess an unauthorized aid or aids or obtain unauthorized assistance. In addition and the alternative, the Student was charged under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in connection with a final exam.

The Student attended the hearing with his representative. The Student and the University submitted an Agreed Statement of Fact ("ASF"). The Panel noted that the ASF outlined that the Student admitted to all the charges. At the hearing, the Student agreed that he understood the charges and the nature and effect of his plea. The evidence before the Panel was outlined in the ASF and the Joint Book of Documents ("JBD"). The ASF outlined that the Student had written the final exam in the course and submitted it within the allotted time. Soon after submission, the Professor who taught the course for which the exam was submitted searched the text of the exam online to ensure no students in the course had posted it online. The Professor discovered that nine out of the eleven exam questions had been posted on Chegg.com ("Chegg"). This search also uncovered that question 2 of the exam was answered by a Chegg user. When the Professor checked the exam, he noted that the Student and another student had submitted identical answers for question 2. The identical answers also matched the visible portion of the answer on Chegg. The ASF further outlined that the Student attended an initial meeting with the Dean's Designate at which time the meeting was adjourned to allow the Student to contact the Professor who taught the course. The Student attended a continuation of his meeting with the Dean's Designate at which time he admitted to accessing and receiving unauthorized assistance from Chegg with respect to question 2 of the exam. The Panel noted that the ASF furthered to indicate that at a later date the Student Conduct & Academic Integrity Officer requested that Chegg provide the solutions posted to the website for the exam, and to identify the users that posted, answered, and accessed the questions. Upon receipt of the data from Chegg, the Academic Integrity Officer forwarded this to the Professor who taught the course. An analysis of this data indicated that three students (including the Student) posted multiple questions to Chegg seeking answers. The Panel noted that the ASF indicated that in the Professor's view, it was highly unlikely that the similarities in the answers occurred by coincidence, given the length, level of detail, and unusual phrasing of the exam answers as well as the fact that many of them were wrong in the same

specific ways. The Panel was satisfied that the Student's admissions were voluntary, informed and unequivocal. Upon review of the evidence contained in the ASF and JBD, the Panel found that the Student used an unauthorized aid and obtained unauthorized assistance when he turned to Chegg for assistance with his final exam. Further, the Panel noted that although the Student may not have necessarily intended to aid other students, it accepted that by posting exam questions and seeking input on how to answer them, the Student effectively aided and assisted other students in the course who subscribed to Chegg. Accordingly, the Panel returned a finding of guilt with respect to the charges under ss. B.i.1(b) and B.ii.1(a)(ii) of the Code. Given this finding, the University withdrew the alternative charge.

In determining sanction, the Panel received, on consent of the parties, further evidence that the Student had previously admitted to academic misconduct on one prior occasion. The Student and the University submitted a Joint Submission on Penalty ("JSP"). The Panel noted that it should only depart from a JSP where the proposed sanction is so far outside the range of appropriate outcomes that it would bring the administration of justice into disrepute. The Panel considered the factors and principles relevant to sanction set out in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). The Panel noted that the Student attended the hearing and admitted to his wrongdoing, which shows some insight and remorse. Further, the Student has earned all his credits to graduate and improved his grades as he progressed in his courses. Balanced against these mitigating factors was the Student's prior act of plagiarism. The Panel further noted that by cheating on his exam, the Student undermined the grades-based system of evaluation and broke the honour code that is essential to online learning. Regarding the need to deter others from committing similar offences, the Panel noted that cheating on exams must always be denounced and deterred in order to protect the academic integrity of the University. It furthered by outlining that in today's online world, it is too easy for students to find new outlets for unauthorized assistance and students must understand that this kind of misconduct will have serious repercussions. In addition to the factors outlined in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) ("Mr. C. factors"), the Panel reviewed and considered the other cases of the Tribunal in similar circumstances. Upon review of the additional cases and consideration for the Mr. C. factors, the Panel noted that the JSP was squarely within the range of sanctions imposed in similar cases, it does not bring the administration of justice into disrepute and is not otherwise contrary to the public interest. The Panel imposed the following sanctions: final grade of zero in the course; three-year suspension; four-year notation on transcript; and a report to the Provost for publication.

FILE:	Case # 1181 (2021-2022)
DATE:	November 5, 2021
PARTIES:	University of Toronto v. A.K. ("the Student")

Hearing Date(s):
July 26, 2021, via Zoom

Panel Members:
Ms. Johanna Braden, Chair
Professor Ernest Lam, Faculty Panel Member
Ms. Parsa Mahmud, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Erica Berry, Representative for the Student, Downtown Legal Services
The Student

Hearing Secretary:
Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

NOTE: The hearing in this matter preceded the Panel's hearing in the related matter of the *University of Toronto and T.J.* (Case No. 1102, November 5, 2021).

Trial Division – s. B.i.1(b) and B.ii.1(a)(ii) of the Code – unauthorized aid – Student knowingly aided or assisted in the use or possession of an unauthorized aid – Student knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in a final exam – Agreed Statement of Fact ("ASF") – Joint Book of Documents ("JBD") – Joint Submission on Penalty ("JSP") – although the Student may not have intended to aid other students, the Panel accepted that by posting exam questions and seeking input on how to answer them, the Student effectively aided and assisted other students in the course who subscribed to Chegg – finding of guilt – final grade of zero in the course; three-year suspension; four-year notation on transcript; and a report to the Provost for publication.

The Student was charged with two counts under s. B.i.1(b) and one count under s. B.ii.1(a)(ii) of the *Code of Behaviour and Academic Matters, 1995* (the "Code") for knowingly using or possessing an unauthorized aid or aids or obtaining unauthorized assistance in a final exam, and knowingly aiding and assisting other students in a course to use or possess an unauthorized aid or aids or obtain unauthorized assistance. In addition and the alternative, the Student was charged under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in connection with a final exam.
The Student attended the hearing with his representative. The Student and the University submitted an Agreed Statement of Fact ("ASF"). The Panel noted that the ASF outlined that the Student admitted to all the charges. At the hearing, the Student agreed that he understood the charges and the nature and effect of his plea. The evidence before the Panel was outlined in the ASF and the Joint Book of Documents ("JBD"). The ASF outlined that the Student had written the final exam in the course and submitted it within the allotted time. Soon after submission, the Professor who taught the course for which the exam was submitted searched the text of the exam online to ensure no students in the course had posted it online. The Professor discovered that nine out of the eleven exam questions had been posted on Chegg.com ("Chegg"). The Panel noted that the ASF furthered to indicate that at a later date the Student Conduct & Academic Integrity Officer requested that Chegg provide the solutions posted to the website for the exam, and to identify the users that posted, answered, and accessed the questions. Upon receipt of the data from Chegg, the Academic Integrity Officer forwarded this to the Professor who taught the course. An analysis of this data indicated that three students (including the Student) posted multiple questions to Chegg seeking answers. The Panel noted that the ASF indicated that in the Professor's view, it was highly unlikely that the similarities in the answers occurred by coincidence, given the length, level of detail, and unusual phrasing of the exam answers as well as the fact that many of them were wrong in the same specific ways. In particular, in his view the answer given to question 2(a) was nonsensical in the same way as the answer given by another student. The Panel noted that the ASF furthered by outlining the Student's meeting with the Dean's Designate. At the meeting the Student admitted to obtaining unauthorized assistance from Chegg, posting exam questions on Chegg, and that he gave his Chegg password to many of his friends. Subsequent to the meeting, the Student sent an email to the Dean's Designate advising that although the Student did not remember copying from Chegg for a particular answer, it would be difficult to make a case in his favour and because of this, he confessed to the offence. The Panel was satisfied that the Student's admissions were voluntary, informed and unequivocal. Upon review of the evidence contained in the ASF and JBD, the Panel found that the Student used an unauthorized aid and obtained unauthorized assistance when he turned to Chegg for assistance with his final exam. Further, the Panel noted that <u>although the Student may not have necessarily intended to aid other students, it accepted that by posting exam questions and seeking input on how to answer them, the Student effectively aided and assisted other students in the course who subscribed to Chegg</u>. Accordingly, the Panel returned a finding of guilt with respect to the charges under ss.B.i.1(b) and B.ii.1(a)(ii) of the Code. Given this finding, the University withdrew the alternative charge.

In determining sanction, the Panel received, on consent of the parties, further evidence that the Student had previously admitted to academic misconduct on two prior occasions. The Student and the University submitted a Joint Submission on Penalty ("JSP"). The Panel noted that it should only depart from a JSP where the proposed sanction is so far outside the range of appropriate outcomes that it would bring the administration of justice into disrepute. The Panel considered the factors and principles relevant to sanction set out in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). The Panel noted that the Student attended the hearing and admitted to his wrongdoing which shows some insight and remorse. Further, the Student has earned all his credits to graduate and improved his grades as he progressed in his courses. Balanced against these mitigating factors was the Student's two prior acts of plagiarism. The Panel furthered by considering the likelihood of repetition where it noted that one seriously aggravating factor is that this is the Student's third offence, but the Panel is hopeful that this process brought home the message that dishonesty and academic misconduct is not a path to success. The Panel further noted that by cheating on his exam, the Student undermined the grades-based system of evaluation and broke the honour code that is essential to online learning. Regarding the need to deter others from committing similar offences, the Panel noted that cheating on exams must always be denounced and deterred in order to protect the academic integrity of the University. It furthered by outlining that in today's online world, it is too easy for students to find new outlets for unauthorized assistance and students must understand that this kind of misconduct will have serious repercussions. In addition to the factors outlined in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) ("Mr. C. factors"), the Panel reviewed and considered the other cases of the Tribunal in similar circumstances. Upon review of the additional cases and consideration for the Mr. C. factors, the Panel noted that the Student's two prior acts of misconduct make it difficult to compare to those submitted by the University. Nevertheless, the Panel accepted the JSP as it does not bring the administration of justice into disrepute and is not otherwise contrary to the public interest. The Panel imposed the following sanctions: final grade of zero in the course; three-year suspension; four-year notation on transcript; and a report to the Provost for publication.

SANCTIONS: suspensions

Leading Cases:

- suspension less than two years: **756 (14-15)**
- three-year suspension: **521 (08-09)**, **488 (07-08), 675 (13-14), 732 (13-14), 894 (16-17)**
- five-year suspension: **531 (08-09),**
- tailored suspension length / combined suspensions: **696 (13-14), 619 (10-11)**, **524 (08-09), 842 (15-16), 838 (15-16), 865 (16-17)**
- notation longer than suspension: **541 (07-08)**, **367 (05-06), 880 (17-18), 931 (17-18)**
- start date of suspension: **648 (13-14), 714 (13-14), 647 (12-13), 905 (17-18), 971 (18-19), 996 (18-19)**
- timing of suspension: **1047 (20-21)**

DAB = Discipline Appeals Board decisions

SUSPENSION LESS THAN TWO YEARS

FILE: Case #756 (14-15)
DATE: March 20, 2015
PARTIES: University of Toronto v M.G.

Hearing Date(s):
December 17, 2014

Panel Members:
Roslyn Tsao, Chair
Ernest Lam, Faculty Member
Simon Czajkowski, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Brian Harrington, Course Instructor
Eleanor Irwin, Dean's Designate, UTS
Wayne Dowler, Dean's Designate, UTS

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

Trial Division – *s. B.i.1(b), B.i.1(d)* and *B.i.3(b)* of the *Code* – student does not appear – unauthorized assistance – plagiarism not made out – no past misconduct – *Mr. C* factors used in penalty escalation from decanal to tribunal level – grade of zero in course; six-month suspension; two-year notation on transcript; report to Provost for publication

The Student was charged with two counts under *s. B.i.1(b)*, in the alternative, two charges under *s. B.i.1(d),* and, in the further alternative, two charges under *s. B.i.3(b)* of the *Code* in a computer programming course. The Student did not attend the hearing and brief adjournment was made. The Panel was satisfied that the Student had reasonable notice of the hearing and had been served, by mail, email, and phone call, in accordance with the Rules of Practice and Procedure of the University Tribunal and the hearing proceeded.

The University called the course instructor as a witness. He testified that in the course, partnership with another student was encouraged, but must be registered and dissolved with permission of the instructor. The students were also warned against and given guidelines on cheating. The Student's work on the first assignment submitted was measured as being 75% similar to another student's (L), though the two were not partners. As was his practice, the instructor emailed the Student to discuss the similarities and issue a warning, but the Student did not respond nor meet with the instructor. On a second assignment the Student's submission was suspiciously similar to an assignment submitted by another partnership which included L. The instructor recalled that he had denied a request for a partnership of three students, though he could not recall if it was the Student's request. The instructor emailed the three students and emailed the Department Chair's Designate indicating that two of the students had already been identified for similarities on the first assignment. The Student did not write the final exam but the other implicated students (L and Y) did.

The Dean's Designate became involved with L and the alleged misconduct of failing to register as a pair with the Student on the first assignment, and after forming a group of three students on the second assignment, not discarding that work. The Dean's Designate confirmed L's acceptance of misconduct and that it constituted an offence under *s. B.i.1(b)* of the *Code*. A different Dean's Designate became involved with Y who refused to admit guilt as the Student had done no work and Y and L had done all of the work for the second assignment in good faith. Y eventually admitted being part of a three-person group and received a light sanction.

The Panel found the Student guilty of obtaining unauthorized assistance on two assignments contrary to *s. B.i.1(b)* of the *Code*. The Panel did not find that the University established that the Student had committed plagiarism as that would require Y or L to testify that the Student had copied their original source material. The University withdrew the alternative charge.

The University sought a penalty of a grade of zero in the course, a two-year suspension, and a notation in the Student's academic record for two years. The Student had no prior record of academic misconduct and had not registered at the University since the Winter 2013 term. The Panel did not treat the case as a "plagiarism case" as the University had not

made out the requisite requirements for that charge and at most the Student did not register his partnership for the first assignment and collaborated with two other students instead of one. Additionally, the escalation in penalty between the Student and Y and L was his failure to participate in the process. The Panel referred to a case before the Discipline Appeals Board (DAB) that considered the escalation of penalty at the decanal level to the trial level. The DAB held that the *Mr. C* factors are what warrant an escalation in penalty, not whether or not the student triggers a hearing. The Panel then applied the *Mr. C* factors and assigned a grade of zero in the course, imposed a six-month suspension, ordered a notation on the Student's transcript for two years, and ordered that the case be reported to the Provost for publication.

THREE-YEAR SUSPENSION

FILE: Case #488 (07-08)
DATE: November 14, 2007
PARTIES: University of Toronto v S.B.

Hearing Date(s):
September 6, 2007

Panel Members:
Raj Anand, Chair
Bruno Magliocchetti, Faculty Member
Christopher Oates, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Steve Frankel, Counsel for the Student
S.B., the Student

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Mike Nicholson, Office of Academic Integrity

Trial Division - *s. B.i.1(d)* and *s. B.i.1(f)* of *Code* – plagiarism and concoction – plagiarized research paper containing concocted research source - similarities between research paper and internet websites – no correspondence between citations to print material and texts cited - guilty plea offered to resolve issue at decanal level – interview subject had memorized and read off website text - staffing issues contributed to delay in prosecuting charges – Student's explanations not credible – finding of guilt - two prior plagiarism offences - inadequate responses to charges - offence committed while notation from second offence still outstanding and after instructions on how to avoid repeating offence - gap in causation between responsibilities as parent of disabled children and commission of misconduct - four-and-a-half-year delay in prosecuting charges not significant for penalty - no significance attached to voluntary absence during time span of charges – see case of *Mr. S.* - penalty not back dated – see case of *Mr. S.* and case of *Mr. L.* – serious breach of trust evokes at least two-year suspension and three-year or longer suspension for repeat offences - University submission on penalty accepted – grade assignment of zero for course; three-year suspension – four-year notation on transcript or until graduation; and report to Provost

Student charged under *s. B.i.1(d)*, *s. B.i.1(f)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted a plagiarized research paper, portions of which were reproduced verbatim from unacknowledged internet sources, and which contained a personal interview which had been concocted as a source of research. The Student pleaded not guilty to the charges. The Student did not submit a required signed declaration attesting to his knowledge and compliance with plagiarism guidelines. The Panel considered the testimony of the course professor and found that there were extensive similarities between the Student's research paper and several internet websites, and that many citations to print material contained within the paper did not correspond with the actual texts cited. At a Dean's meeting, the Student originally denied any misconduct but offered to plead guilty if the University would agree to resolve the issue at the decanal level. The University argued that the extensive similarity between the internet source and the Student's paper established that the personal interview had been concocted. The Student testified that he had interviewed a Buddhist monk as part of his research and that the monk had memorized the internet source and then repeated the words to the Student during the interview. The Student also claimed that the monk had read text from a piece of paper which was taken from the internet. The Student claimed that he did not think it was necessary to submit the required signed declaration regarding plagiarism because it should have been obvious to the course professor that he had not plagiarized. The Student claimed that he had been prepared to plead guilty at a Dean's meeting because he perceived the Dean's Designate to be a holy man who would bless him through punishment and because he wanted to avoid the shame of going before the Tribunal. The Panel found that staffing issues may have contributed to the delay between the date that the offence was committed and the date of the Dean's meeting with the Student regarding the allegations. The Panel found that the Student's explanations for the similarities between the paper and internet sources were not credible and that the sources were concocted because the citations did not match up to the sources cited. The Panel found the Student guilty of the charges under *s. B.i.1(d)* and *s. B.i.1(f)*. The Student had committed two prior plagiarism offences. The Panel found that the Student provided inadequate responses to all previous and present charges against him and that apart from the Student's personal circumstances, there was no evidence in favour of his character. The Panel found that the offence was the third of the same kind, and was committed while the notation on the Student's transcript from the second offence was still outstanding and after he had received instructions on how to avoid repeating the offence. The Panel found that the offences went to the heart of the University's trust relationship and were

increasingly prevalent and more easily detected with the availability of the internet. The Panel found that there was a gap in causation between the Student's responsibilities as a parent of two disabled children and the commission of the dishonest acts as a student. There was no evidence of the impact of the Student's personal situation on the Student himself, or which tied his situation to a propensity for dishonest or irrational behaviour. The Panel found that the four-and-a-half-year delay in prosecuting the charges were not significant in terms of penalty. There was no evidence as to why the Student was not in class for a period of time. The Panel, as per the case of *Mr. S.* (August 24, 2007), attached no significance to the voluntary absence during the time span of the charges. There was no motion to dismiss the charges and no protest or warning of reliance on delay by the Student until the penalty phase of the hearing. The Panel considered the case of *Mr. S.* and the case of *Mr. L.* (August 13, 2007) and found that despite the charges pending against the Student for at least two years, the penalty should not be back dated. The Panel found that the University's credibility, academic mission and degrees could be harmed by the commission of plagiarism and concoction. The Panel found that Tribunal decisions should send the message that academic cheating would be met with signification sanctions. The Panel found that the University's submission on should be accepted. The Panel considered previous Tribunal cases and found that a serious breach of trust such as plagiarism and/or concoction should evoke a response of at least a two-year suspension for a first offence and a three year or longer suspension on a subsequent finding. The Panel considered the Student's academic status relative to graduation and found that no evidence was called regarding the academic consequences of different potential penalties. The Panel observed that greater assistance, in the form of an agreed chart or statement concerning the implications of penalties, would help the Tribunal. The Panel imposed a grade of zero in the course; a three-year suspension; a four-year notation on the Student's academic record and transcript (or until graduation, whichever was to occur first); and that a report be issued to the Provost.

FILE: Case #521 (08-09)
DATE: January 12, 2009
PARTIES: University of Toronto v M.H.H.

Hearing Date(s):
December 9, 2008

Panel Members:
Clifford Lax, Chair
Ron Smyth, Faculty Member
Melany Bleue, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Betty-Ann Campbell, Law Clerk to Ms. Harmer
Eleanor Irwin, Dean's Designate

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – course work in two courses – hearing not attended – reasonable notice of hearing – extent of plagiarism precluded possibility of error or lack of proper attribution – finding of guilt – three year suspension warranted due to finding of guilt on two counts of plagiarism – grade assignment of zero for two courses; three-year suspension; four-year notation on transcript or until graduation; and report to Provost

The Student was charged with two offences under *s. B.i.1(d)*, and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted two plagiarized essays in two courses. The Student did not attend the hearing. The Panel considered submissions with respect to the University's request to proceed in the absence of the Student and found that the Student received notice of the hearing, either via mail, email or courier, and that it was appropriate to proceed in the absence of the Student, without further notice of the proceeding. During the hearing the Student emailed the Judicial Affairs Officer indicating he would not be attending due to lack of notice. The Panel did not become aware of the email until after it had concluded its deliberations but found that the email confirmed that the Student had received notice of the hearing. With respect to the first essay, the Panel considered the testimony of the course professor and found that the extent of the plagiarism found in the essay precluded any possibility that it was a result of error or a lack of proper attribution and that the Student had made obvious use of another student's paper and submitted the other student's ideas and text as though they were his own. With respect to the second essay, the Panel considered the evidence from the course professor and found that the Student quoted from texts without using quotation marks to delineate the words of the source materials. The Panel found the Student guilty on the charged under *s. B.i.1(b)* of the *Code*. The University filed a Book of Authorities regarding sanctions in similar cases of plagiarism. The Panel considered the *University of Toronto v. S.B.* and *Re: University of Toronto v. A.K.* and found that a two year suspension was the usual threshold for a first time offence but that a three year suspension was warranted due to the Student having been found guilty of a second count of plagiarism. The Panel imposed a three-year suspension; a grade of zero in the two courses; a

four-year notation on the Student's academic record and transcript (or until graduation, whichever was to occur first); and that a report be issued to the Provost.

FILE: Case #675 (13-14)
DATE: April 23, 2014
PARTIES: University of Toronto v O.K.

Hearing Date(s):
March 4, 2014

Panel Members:
Sana Halwani, Chair
Joel Kirsh, Faculty Member
Jenna Jacobson, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Sylvia Schumacher, Lawyer for the Student

In Attendance:
The Student
David Walders, Acting Secretary, Governing Council Secretariat, Observer
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d) and s. B.i.3(b)* of the *Code* – plagiarism – adjournment to retain counsel granted – Agreed Statement of Facts – guilty plea –two prior offences – Undertaking to complete Academic Skills Workshops – Joint Submission on Penalty – grade of zero in the course; three-year suspension; four-year transcript notation; report to Provost for publication

The Trial Division of the Tribunal was convened to consider charges under *s. B.i.1(d)* and, in the alternative, *s. B.i.3(b)* of the Code laid against the Student. The Student appeared unrepresented and was granted an adjournment to retain counsel. A second Notice of Hearing was issued with new panel members. On the basis of a joint request by the Student and University, the original Chair ordered the matter could proceed before a new Panel as the original panel had not heard any evidence.

The Student pleaded guilty, the matter proceeded on the basis of an Agreed Statement of Facts and the University advised that if the Student's plea was accepted, the alternative charge would be withdrawn. The charges arose from an assignment the Student submitted in hardcopy and on Turnitin.com, an online plagiarism detector, which detected significant similarities between the Student's paper and online sources. The Professor met with the Student and referred the case to the Office of the Dean. The Student then attended a Dean's Designate meeting where she indicated she hadn't intentionally plagiarized and abstained from pleading. The matter was then forwarded to the Provost.

The Student's guilty plea was accepted, and the alternative charge was withdrawn. The Student had committed two previous plagiarism offences. She was given mark deduction penalties and a one-year transcript notation. The Student had also entered an Undertaking to complete eight Academic Skills Workshops and agreed she would be unable to graduate until their completion. The Undertaking formed the basis of the Joint Submission on Penalty which contemplated a three year suspension. The Panel considered cases of Undertaking, appreciating their value, but felt they are more appropriate at discovery of a first offence, not when the Student is facing suspension or expulsion. The Student spoke and expressed remorse. The high threshold for rejecting a Joint Submission on Penalty was not met and the Panel accepted the parties' submission.

The Panel found the Student guilty of plagiarism contrary to *s. B.i.1(d),* assigned a grade of zero in the course, imposed a three-year suspension from the date of the hearing, ordered a notation on the Student's transcript for four years or until graduation and ordered that the case be reported to the Provost for publication.

FILE: Case #732 (13-14)
DATE: March 11, 2014
PARTIES: University of Toronto v S.H.K.

Panel Members:
Roslyn Tsao, Chair
Charmaine Williams, Faculty Member
Lucy Chau, Student Member

Hearing Date(s):
February 20, 2014

Appearances:
Tina Lie, Assistant Discipline Counsel
The Student, via Skype

In Attendance:
Lucy Gaspini, Manager, Academic Integrity and Affairs, UTM
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of the *Code* – possession of an unauthorized aid– Student attended hearing via Skype – agreed statement of facts – finding of guilt – Joint Submission on Penalty – two prior sanctioned offences – mitigating mental health issues neither excuse nor justify conduct – cooperation throughout process and sincere remorse – final grade of zero; three-year suspension; notation on transcript until graduation; report to Provost for publication

The hearing was conducted via Skype as the Student resides in Taiwan. The Student had the opportunity to seek legal advice but declined representation. The Student and the University entered into an Agreed Statement of Facts (ASF) in which the Student admitted to committing the offence of knowingly using or possessing an unauthorized aid (notes) under *s. B.i.1(b)* during a quiz. The Student was also charged with an offence under *s. B.i.3(b)*, in the alternative, which was withdrawn. The Panel accepted the guilty plea.

The parties presented a Joint Submission on Penalty proposing a final grade of zero in the course, a suspension of three years, a notation on the Student's transcript until graduation and that the case be reported to the Provost for publication. The ASF contained relevant circumstances including that the Student had come to Canada from Taiwan seven years previously and that the Student had been sanctioned for academic misconduct on two prior occasions. The prior offences involved the possession of notes during an examination, for which the Student was received a grade of zero and a notation on her transcript for six months, and submitting an assignment prepared with unauthorized assistance, for which the Student received a zero on the assignment. The Student met with the Dean's Designate, pleading guilty to the offence at that time, and explained that she had suffered from anxiety and depression since she was a teenager, had been on medication and was isolated. The Student provided documents stating that she sought assistance from UTM Health and Counseling, had been hospitalized for suicidal ideation and depression and was diagnosed by a psychiatrist with Major Depressive Disorder. The Student left Canada earlier in the year, returning to Taiwan where she is looking for work, but intends to return to the University at the end of her suspension. The University would have sought a more serious penalty than a three year suspension but for the Student pleading guilty at the earliest opportunity and full cooperation during the process, the Student seeking and complying with medical treatment and the Student's expression of remorse. The University also submitted that "while the Student's depression and anxiety are relevant to the appropriate sanction, her medical condition nether excuses nor justifies her unacceptable conduct."

The Panel noted that the Student's mental health challenges were relevant to penalty for this Student. The Student was aware of her academic dishonesty and her mental health history is not a mitigating factor on the basis that her ability to know "right from wrong" was not impaired. The Panel accepted the joint submission and imposed a final grade of zero in the course, a suspension of three years from the day of the order, a notation on the Student's transcript until graduation and ordered that the case be reported to the Provost for publication. The Panel noted that had the Student not cooperated, provided insight into her personal circumstances and expressed sincere remorse, the Panel would have imposed a more serious penalty given the prior offences.

FILE:	Case # 894 (16 - 17)	Panel Members:
DATE:	May 31, 2017	Ms. Johanna Braden, Barrister and Solicitor, Chair
PARTIES:	University of Toronto v. J.W. ("the Student")	Professor Louis Florence, Faculty Panel Member Ms. Alexis Giannelia, Student Panel Member
Hearing Date(s):	April 3, 2017	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers Mr. Nathan Korneberg, Paralegal, Juslaw Legal Services
		In Attendance: Ms. Lucy Gaspini, Academic lntegrity & Affairs, Office of the Dean, University of Toronto Mississauga Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Office of the Appeals, Discipline, Faculty Grievances Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
		Not in Attendance: The Student

Trial Division – *s. B.i.1(a) of* the *Code* – forging or falsifying information in a petition for accommodation – purchase of forged medical certificates from third party – Student not present – Agreed Statement of Facts – Joint Submission on Penalty – prior offence – sanction – a final grade of zero in the two affected courses, a suspension from the University for three years and eight months, an order on the Student's record and transcript for five years, and a report to the Provost for publication

Student was charged with five charges of forging or falsifying information contained on a University Verification of Student lllness or lnjury Form, a Medical Absence Report, and in her petitions for academic accommodation contrary to *s. B.i.1(a)* of the *Code,* or in the alternative, two charges of academic dishonesty under *s. B.i.3(b)* of the Code. The Student did not attend the hearing, but had a representative attend. In an Agreed Statement of Facts, the Student admitted to committing the five charges that related to forging and falsifying information in her applications for academic accommodation. Based on these admissions, the Panel found the Student guilty of five counts of forging or falsifying information contrary to *s. B.i.1(a)* of the *Code.* The University withdrew the alternative charges of academic dishonesty. The charges related information contained in, and documents submitted in support of, the Student's petitions to have two of her final exams deferred. In each separate petition for accommodation, the Student purported to had visited a clinic and received advice from "Dr. John Winston" who had signed her Verification of Student Illness or Injury Forms and Medical Absence Reports submitted in support of her petitions. A later investigation turned up that Dr. Winston did not exist. In the Dean's Designate meeting, the Student admitted to purchasing the documentation that supported her petition from a third party.

The parties submitted a Joint Submission on Penalty (JSP) of a final grade of zero in the two affected courses, a suspension from the University for three years and eight months, an order on the Student's record and transcript for five years, and a report to the Provost for publication. The Student had been sanctioned for one prior academic offence. In deciding whether to accept the JSP, the Panel applied the factors set out in *University of Toronto and Mr. C* (Case No. 1976177-3, November 5, '1976) and reviewed other cases that involved similar circumstances. The Panel found in cases involving forgery or falsifying documents, students consistently received a final grade of zero for the affected course or courses and sanctions ranging from suspensions for as low as two years (for a first offence involving one forged medical certificate) and as high as five years. On the more stringent end, some cases involving egregious, sustained dishonesty warranted a recommendation of expulsion. The Panel found that the JSP was fair and within that range, ordering a final grade of zero in the two affected courses, a suspension from the University for three years and eight months, an order on the Student's record and transcript for five years, and a report to the Provost for publication.

FIVE-YEAR SUSPENSION

FILE: Case #531 (08-09)
DATE: April 20, 2009
PARTIES: University of Toronto v F.C.

Hearing Date(s):
information not available

Panel Members:
Rodica David, Chair
Bruno Magliocchetti, Faculty Member
Sam Liu, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Khalid Janmohamed, Assistant to Mr. Centa
Nick Shkordoff, Counsel for the Student, DLS
Charlotte Macdonald, Counsel for the Student, DLS
Daniel Saposnik, Counsel for the Student, DLS
John Britton, Dean's Designate
F.C., the Student

Trial Division – charges under *Code* – plagiarism, forgery of documents and impersonation – course work and final examinations – Agreed Statement of Facts – guilty plea – depression and pressure exerted by family – cultural background made it difficult to seek help from University services – each case depends on its own facts – see *Appendix "C"* to *Code* – circumstances mitigated against recommending expulsion – grade assignment of zero for two courses; five-year suspension; ten-year notation on transcript; and report to Provost – ten-year suspension would have been imposed had authority to do so existed

Student charged under the *Code*. The charges related to two courses in which the Student was alleged to have submitted two plagiarized essays, submitted an examination booklet under a false name in one examination, and had another person sit in for him while giving a false name on another examination. The Student pleaded guilty to the charges. The parties filed a Joint Book of Documents and an Agreed Statement of Facts. On the basis of the Agreed Statement of Facts and Joint Document Brief, the Panel accepted the Student's plea on the charges. The Panel considered the Student's evidence on sanction and found that depression coupled with the pressure exerted upon him by his parents accounted for his decision to pursue the route that resulted in the charges. The Student could have dropped the course when he had an opportunity and desire to do so but was pressured by his mother to continue. The Panel found that it was possible that the Student's cultural background made it difficult for him to seek help from University services. The Panel considered *Appendix "C"* to the *Code*, and found that each case must depend on its own facts. The Panel considered case authorities presented by both parties and found that the facts of the case of *Mr. P.M.* most closely resembled the case. The Panel found that while the Student's conduct was egregious and deserved a serious sanction, the circumstances mitigated against recommending expulsion. The Panel imposed a grade of zero in the two courses; a five-year suspension; a ten-year notation on the Student's academic record and transcript; and that a reported be issued to the Provost. The Panel stated that it would have imposed a ten-year suspension had it the authority to do so.

TAILORED SUSPENSION LENGTH / COMBINED SUSPENSIONS

FILE: Case #524 (08-09)
DATE: May 1, 2009
PARTIES: University of Toronto v the Student

Hearing Date(s):
February 2, 2009

Panel Members:
Lisa Brownstone, Chair
Richard B. Day, Faculty Member
Mil' Sadek Ali, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Kristi Gourlay, Manager, Office of Academic Integrity
Steve Frankel, Counsel for the Student
The Student

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – course work copied from internet – Agreed Statement of Facts – guilty plea – proposed suspension concurrent with previous suspension imposed by Division –third academic offence – mitigating factors that Student pleaded guilty and cooperated with process – Joint Submission on Penalty accepted – grade assignment of zero for course; three-year seven-month suspension; five-year seven-month notation on transcript; and report to Provost

The Student was charged under s. *B.i.1(d)* and alternatively, under s. *B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly submitted a plagiarized essay in one course. The matter proceeded on an Agreed Statement of Facts. The Student admitted that almost all of the pages of the essay were taken directly from unacknowledged internet sources and he pleaded guilty to the charge under ss. *B.i.1(d)*. On the basis of the Agreed Statement of Facts, the Panel accepted the plea. The parties submitted an Agreed Statement of Facts & Joint Submission on Penalty. The Student has previously been sanctioned for committing two academic offences. The Student claimed that he was affected by his father's illness. The Panel observed that if it accepted the Joint Submission on Penalty, part of the Student's suspension would run concurrently with the suspension imposed at the Divisional level, resulting in a combined 4-year and 4-month suspension. The Panel considered the aggravating fact that the offence was the Student's third involving academic dishonesty and the mitigating facts that there was an admission, a guilty plea and co-operation by the Student, and found that the agreed-upon sanction was within an appropriate range of sanction in the circumstances. The Panel imposed a final grade of zero in the course; a three-year, seven-month suspension; a five-year, seven-month notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #619 (10-11)
DATE: February 7, 2012 (Guilt)
June 20, 2012 (Sanction)
PARTIES: University of Toronto v O.S.

Hearing Date(s):
November 30, 2011 (Guilt)
May 9, 2012 (Sanction)

Panel Members:
Roslyn M. Tsao, Chair
Graeme Hirst, Faculty Member
Vy Nguyen, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Danny Kastner, Associate Counsel to Ms. Harmer
Edward F. Hung, Counsel for the Student
Kathrin Herzhoff, Teaching Assistant
Jennifer Tackett, Course Instructor
John Browne, Dean's Designate
O.S., the Student

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Amanda Guo, Law Clerk to Mr. Hung
Christopher Lang, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – altered a scantron answer sheet submitted for re-grading of mid-term – Student's explanation was implausible and no other source to attribute the change made – finding of guilt – Panel viewed the misconduct as a lapse in judgment – Student could have taken steps to acknowledge her error in judgment – Specific deterrence goal had been met since Student indicated acceptance and respect of the Panel's findings – not a case for general deterrence – Panel not bound by precedents to impose a minimum two-year suspension for this type of offence – pleading not guilty is not an aggravating factor in and of itself – grade assignment of zero for course; four-month suspension with an adjusted start date; three-year notation on transcript; report to Provost

Student charged under *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student altered an answer on her scantron answer sheet and submitted it for re-grading during a review session. The Student denied the allegations. After considering the evidence submitted by both parties, the Panel concluded that the Student's explanation was suspect and the change made to the scantron could not be attributed to a source other than the Student herself. Only the TA, the course instructor, and the Student had the opportunity to alter the scantron but only student had both the opportunity and the motive. The Panel found the Student guilty under *s. B.i.1(a)*. The Panel, in considering penalty, viewed the Student's misconduct not just as a deliberate act of academic dishonesty but also as an inexplicable lapse in judgment by the Student. The Student had attempted to reverse her actions by sending an email to her TA, cancelling her request to re-grade the exam. The Panel stated, however, that the Student could have taken steps to acknowledge her error in judgment when the allegations were brought to her attention. The Panel stated the objective of specific deterrence had been achieved as the Student had indicated her acceptance and respect of its findings. As for general deterrence, the Panel agreed with the University that it was a secondary concern in this case. Regarding the appropriate term of suspension, the Panel stated that it had discretion to consider the Student's personal circumstances and was not bound by precedents to impose a minimum two year suspension for this type of offence. Finally, the Panel stated that while pleading guilty may be a mitigating factor, pleading not guilty by itself is not an aggravating factor. The Panel imposed a grade assignment of zero in the course; a four month suspension with an adjusted start date to allow the Student to finish her exchange program; a three-year notation on the Student's transcript; and a report be issued to the Provost.

FILE: Case #696 (13-14)
DATE: September 12, 2013
PARTIES: University of Toronto v S.M.

Hearing Date(s):
August 19, 2013

Panel Members:
Dena Varah, Chair
Joel Kirsh, Faculty Member
Saneea Tanvir, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Amber Neumann, Counsel for the Student, DLS

In Attendance:
S.M, the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – submitted forged medical certificates in support of three petitions for academic accommodation – Agreed Statement of Facts – guilty plea – Joint Submission on Penalty – offences were very serious – Student was cooperative throughout the process – suspension less than five years recommended in order to avoid a suspension that would have been greater than five years in effect – Joint Submission on Penalty accepted – grade assignment of zero for three courses; suspension just under five years; five-year notation on transcript; report to Provost for publication

Student charged with three offences under *s. B.i.1(a)* and, in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to an allegation that the Student had knowingly forged or falsified three Student Medical Certificates in support of three different petitions for academic accommodation. The Student pleaded guilty and the matter proceeded by way of an Agreed Statement of Facts. The Panel accepted the Student's guilty plea and the University withdrew the alternative charge. The parties presented a Joint Submission on Penalty. The offences were very serious

and involved repeated acts of dishonesty. The Student was cooperative throughout the process. There was evidence that the Student had a significant learning disability. The Student did not rely on her learning disability to avoid responsibility and the Panel accepted it as a mitigating factor. The suspension proposed in the joint submission was slightly less than the five year-suspension imposed in similar cases. The shorter suspension was recommended because the Student had met all requirements for graduation and would be eligible to graduate immediately following suspension. If the suspension were for a full five years, it would delay graduation and the practical effect of the penalty would be a suspension lasting more than five years. The Panel accepted the joint submission and imposed a final grade of zero in three courses, a suspension just under five-years, a five-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

FILE:	Case #842 (15-16)	Panel Members:
DATE:	April 21, 2016	Roslyn M. Tsao, Chair
PARTIES:	University of Toronto v N.D.	Pascal Van Lieshout, Faculty Member
		David Kleinman, Student Member
Hearing Date:		
April 6, 2016		Appearances:
		Lily Harmer, Assistant Discipline Counsel
		Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
		Bernice Iarocci, Instructor of the Course
		In Attendance:
		Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – Student's improvement on the Essay was so remarkable as to conclude that another person wrote the Essay – hearing not attended – reasonable notice of hearing provided as per the *Rules of Practice and Procedure* – finding on evidence – finding on guilt – aggravating factor of not participating in the discipline process at any stage – University's submission on penalty not fully accepted – Panel noted that commencing the 2-year suspension consecutive to the Student's unrelated academic suspension would be tantamount to an unwarranted expulsion, but noted that doing so in like cases would not be categorically inappropriate – grade assignment of zero in the Course; 2-year suspension, beginning after the completion of two years of the Student's 3-year academic suspension; notation on the Student's academic record and transcript from the date of the Order to a date which is two years after the date on which the Student re-enrols in the University following her suspension; case reported to Provost for publication

Student charged under *s. B.i.1(d)*, *s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly represented as her own ideas the work of another in the Essay, and that she knowingly obtained unauthorized assistance in connection with the Essay. The Student was not present at the hearing. The Panel took into account evidence that the Student had logged into her ROSI account and therefore concluded that even though the Student was subject to an academic suspension by the time notice of the allegations were sent to her, she was aware of the allegations and reasonable notice of the hearing was provided pursuant to Paragraph 9(c) of the *Rules of Practice and Procedure*.

Student found guilty of plagiarism and unauthorized aid. The University then withdrew the alternative charge of academic dishonesty. The Panel took into account the level of change from the Student's prior performance to the Essay, noting that it was not merely an improvement to the grammar and punctuation that could be observed; it was a wholesale development of advanced conceptual analysis and expression skills. The Panel concluded that the change was so remarkable as to find that it was more likely than not that another person, other than the Student, wrote the Essay. The Panel considered the Student's choice to ignore communications from the Office of Academic Integrity and to not participate in the discipline process to be an aggravating factor. The Panel did not fully accept the University's submission on penalty, noting that the practical effect of commencing a 2-year suspension consecutive to the Student's unrelated 3-year academic suspension (for a total of 5 consecutive years) would be tantamount to expulsion. The Panel clarified that a consecutive suspension in other like situations may be appropriate; it is a matter of discretion for the Tribunal hearing the matter. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension,

beginning after the completion of two years of the Student's three year academic suspension; a notation on the Student's academic record and transcript from the date of the Order to a date which is two years after the date on which the Student re-enrols in the University following her suspension; and that the case be reported to the Provost for publication.

FILE: Case #838 (15-16)
DATE: April 26, 2016
PARTIES: University of Toronto v J.E.

Hearing Date:
March 28, 2016

Panel Members:
John A. Keefe, Chair
Graeme Hirst, Faculty Member
Sean McGowan, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Mr. J.E., the Student
David Pond, Instructor of the Course

In Attendance:
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga

Trial Division – *s. B.i.1(d)* – plagiarism – Student submitted two essays with significant elements of plagiarism – guilty plea – finding on evidence – finding on guilt – aggravating factor of plagiarism allegations being known to the Student before the second Essay was submitted – two charges treated as a single offence with the penalties running concurrently – grade assignment of zero in the Course; 2-year and 5-month suspension; 4-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged with two offences under *s. B.i.1(d)* and, in the alternative, two offences under *s. B.i.1(b)* and two offences under *s. B.i.3(b)*. The charges related to allegations that the Student submitted two separate Essays with significant elements of plagiarism, portions of which were reproduced verbatim from internet sources, and which sometimes contained reference to the internet source without the proper quotations or footnoting. The Student pleaded guilty to both plagiarism charges. The University then withdrew the four alternative charges. The Panel took into account the fact that the Student attended the hearing, that he had no prior offences, and that though the plagiarism was extensive, there was some independent thought in the essays and some attempt to reference the sources of the information. The Panel noted that the main aggravating factor was that the second plagiarized Essay was submitted after the allegations of plagiarism concerning the first essay had already been raised, but not finally disposed of. In reviewing the cases submitted, the Panel noted that the range of penalties for a first offence of plagiarism was two to three years. The Panel contemplated whether the case was on the high or low end of the plagiarism spectrum, settling on a penalty in the mid-range of sanctions for a first-time offender on a charge of plagiarism. The Panel noted that the penalties were to run concurrently for both charges (i.e. the charges were treated as a single offence). The Panel imposed a grade assignment of zero in the Course; a 2-year and 5-month suspension; a 4-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE:	Case # 865 (16 - 17)	Panel Members:
DATE:	February 22, 2017	Ms. Johanna Braden, Barrister and Solicitor, Chair
PARTIES:	University of Toronto v. S.M. ("the Student")	Professor Richard Day, Faculty Panel Member Ms. Alexis Giannelia, Student Panel Member
Hearing Date(s):	November 17,2016	Appearances: Ms. Lilly Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
		In Attendance: Mr. Christopher Lang, Director, Office of the Appeals, Discipline and Faculty Grievances Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, Office of the Dean, University of Toronto, Mississauga Mr, Sean Lourim, Technology Assistant, Office of the Governing Council
		Not in Attendance: The Student

Trial Division – *s. B.i.1(b)* and *s. B.i.3(d)* of the *Code* – unauthorized aids on exam – illegal notes – Student not present – affidavits served – concurrent and consecutive penalties – Student already suspended for a low grade-point-average at the time of the hearing – grade of zero in course; suspension of two years; notation on transcript for three years; report to Provost for publication – one year overlap between existing academic suspension and penalty imposed at hearing

Student charged with possession of an unauthorized aid under *s. B.i.1(b)*, and in the alternative, an academic dishonesty under *s. B.i.3(b)* of the Code. The Student did not attend the hearing but the Panel was satisfied that the Student had reasonable notice of the hearing and had been served several affidavits in accordance with the Rules of Practice and Procedure of the University Tribunal. The Panel proceeded in accordance with the University Tribunal Rules of Practice and Procedure.

The charges related to the Student's possession of unauthorized notes during an exam. The Student had been advised in the course materials and when she signed in for the exam that memory aids were not allowed during the exam. At the end of the exam, an invigilator noticed that the Student had typewritten and handwritten notes in her possession. After being confronted about her notes at the time of the exam, the Student gave inconsistent accounts to her instructor and at the Dean's designate meeting as to whether and how she had used these notes. Based on the evidence of the instructor and the exam invigilators, the Panel unanimously ruled that the Student had violated *s. B.i.1(b)* of the *Code* and the University withdrew the alternative charge.

The Panel accepted the University's submission on penalty of a grade of zero in the course, a suspension of two years, a notation on the Student's transcript for three years, and a report to the Provost for publication. At issue was when these penalties would take effect because, at the time of the hearing, the Student was already a year and a half into a three-year academic suspension for a low grade-point-average. To determine if the penalty should run consecutively or concurrently with the Student's ongoing suspension, the Panel took into consideration that giving or receiving of unauthorized aid generally results in a suspension of at least two to three years. Even though this was the Student's first offence, it was a deliberate and calculated attempt to gain a benefit that she was not entitled to. The Tribunal sought to impose a sanction that would be meaningful to the Student and also have some practical impact on her ability to attend the University, but was concerned that a sanction that would effectively keep the Student from attending the University for two years on top of her academic suspension would be overly punitive. Accordingly, the Panel ordered a one year overlap between the Student's in-progress academic suspension and the additional sanctions imposed for her use of an unauthorized aid at the hearing. One year of the suspension and transcript notation took effect concurrently with the suspension that was in-progress.

NOTATION LONGER THAN SUSPENSION

FILE: Case #367 (05-06)
DATE: August 24, 2005
PARTIES: University of Toronto v M.M.

Hearing Date(s):
August 11, 2005

Panel Members:
Melanie L. Aitken, Co-Chair
Ikuko Komuro-Lee, Faculty Member
Joan Saary, Student Member

Appearances:
Christopher Burr, Counsel for the Student
Lily Harmer, Assistant Discipline Counsel

Trial Division - *s. B.i.1(d)* and *s. B.i.1(f)* of *Code* – plagiarism and concoction – essay - guilty plea – Agreed Statement of Facts – Joint Submission on Penalty - two prior academic offences – proposed sanction within range of previous decisions - nature of offence and Student's prior misconduct accounted for – extension of notation on transcript beyond graduation not justified - Joint Submission on Penalty accepted with modification – grade assignment of zero for course; three-year suspension – five-year notation on transcript, or until graduation – and report to Provost

Student charged under *s. B.i.1(d)* and *s. B.i.1(f)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted an essay, portions of which she did not write and/or properly cite, and in which some or all of the citations and references were concocted. The Student pleaded guilty to the charges under *s. B.i.1(d)* and *s. B.i.1(f)* of the *Code*. The parties submitted an Agreed Statement of Facts. The Panel considered the Agreed Statement of Facts and the submissions of the parties and accepted the Student's plea. The parties submitted an Agreed Summary of Facts with respect to the sanction. The Student had two prior convictions for plagiarism. The Panel found that it was significant that the recommendations as to sanction were joint and that the Student cooperated with the University and pleaded guilty to the charges. The Panel found that the proposed sanction was within the range of sentences previously imposed in similar cases and that it properly accounted for the gravity and nature of the offence, particularly in light of the Student's prior academic misconduct. The Panel accepted the Joint Recommendation on Sentence subject to one modification. The Panel found that extending the five-year notation on the Student's academic record beyond graduation, should the Student do so within five years, was not justified. The Panel found that while the University had an interest in being able to access the information in the notation for a period of five years, irrespective of a matriculation, to further the interest of protection, there was not enough to be gained by way of deterrence or reformation to justify it. The Panel imposed a grade of zero in the course; a three-year suspension; a five-year notation on the Student's academic record and transcript, or until graduation; and that a report be issued to the Provost.

FILE: Case #541 (07-08)
DATE: April 18, 2008
PARTIES: University of Toronto v K.N.

Hearing Date(s):
April 16, 2008

Panel Members:
Andrew Pinto, Chair
Ikuko Komuro-Lee, Faculty Member
Sujata Pokhrel, Student Member

Appearances:
Danny Kastner, Assistant Discipline Counsel
Lily Harmer, Assistant Discipline Counsel
Lucy Gaspini, Manager, Academic Integrity and Affairs

Trial Division – *s. B.i.1(c)* and *s. B.i.1(b)* – impersonation – impersonator paid to write term test – hearing not attended - Agreed Statement of Facts – guilty plea – Joint Submission on Penalty - expulsion recommended for impersonation – see *Code* - deference shown to joint submission – Joint Submission on Penalty accepted - grade assignment of zero for course; five-year suspension; seven-year notation on transcript or until graduation; and report to Provost

Student charged under *s. B.i.1(c)*, *B.i.1.(b)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student paid an individual to impersonate him and write a term test as if he were the Student. The Student did not attend the hearing. The Panel considered the *Notice of Hearing* and the Student's declaration, in which he attested to his permanent residency outside of Canada and requested that the Tribunal accept the Agreed Statement of Facts and

Joint Submission on Penalty in lieu of his attendance. The Panel permitted the hearing to proceed in the Student's absence. The Student admitted his guilt. Based on the Agreed Statement of Facts, the Panel found the Student guilty of the charge under *s. B.i.1(c)* of the *Code*. The Panel was informed that it was customary for the period of notation on the Student's transcript to exceed the expiration of the suspension because it serves as a reminder to the Student to comply with standards of academic integrity upon his return to the University and it serves as an advisory to University officials, in the event that the Student commits further offences after resuming his academic career. The University noted that the proposed sanction included a notation caveat that would safeguard the Student's reputation after graduation. The Panel accepted the Joint Submission on Penalty. The Panel noted that while the Provost's guidelines on sanction recommend expulsion for impersonation, deference was to be shown to joint submissions. The Panel imposed a grade of zero in the course; a five-year suspension; a seven year notation on the Student's academic record and transcript (or until graduation, whichever was to occur first); and that a report be issued to the Provost.

FILE: Case # 881 (2016 - 2017)
DATE: May 30, 2017
PARTIES: University of Toronto v. A.K. ("the Student")

Hearing Date(s): March 21, 2017

Panel Members:
Mr. Michael Hines, Barrister and Solicitor, Chair
Dr. Joel Kirsh, Faculty Panel Member, Faculty of Medicine
Ms. Yusra Qazi, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Tina Saban, Law Student for the Student, Downtown Legal Services

In Attendance:
The Student
Ms. Lucy Gaspini, Manager Academic Integrity, Office of the Dean, University of Toronto - Mississauga
Mr. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, IT Assistant, Office of the Governing Council

Trial Division - *s. B.i.1(b)* - unauthorized aids – incorporating portions of an earlier assignment into a later assignment – possession of a cellular telephone during an exam – prior offence – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – notation longer than suspension – final grade of zero in the affected courses, suspension of three years, transcript notation for four years, and report to the provost.

The Panel accepted the Student's guilty plea to two charges of academic dishonesty contrary to *s. B.i.3(b)* of the *Code*. The charges related to two separate incidents. First, the Student submitted an assignment that contained work from a previous assignment for which he had already received course credit. Second, the Student had a cell phone in his possession during a final exam. The matter proceeded by way of agreed statement of facts and a joint book of documents. Upon acceptance of the Student's guilty plea by the Panel, the University withdrew the alternative charges that had been laid under *s. B.i.1(e)* and *s. B.i.3(b)* of the *Code*.

The parties submitted a Joint Submission on Penalty (JSP) proposing: (a) a final grade of zero in the affected courses; (b) suspension from the University for three years; (c) a notation of the sanction on the Student's academic record and transcript for four years; and (d) that the matter be reported to the Provost for publication. The Panel accepted all of the JSP sanctions without difficulty, except for the four-year notation on the Student's transcript. The Panel debated its sufficiency as compared to the imposition of a notation until graduation in light of the need to consider the likelihood of recurrence in determining the reasonableness of a sanction. The Student had already been disciplined for one instance of unauthorized assistance before the incidents giving rise to the charges, so the Panel's concern was that when the notation came off the Student's record he may re-engage in further academic misconduct. At the same time, if the Student chose not to return to the University after his suspension then a notation on his transcript would effectively become permanent – a sanction that is typically reserved for more egregious conduct than the charges in this case. Ultimately, this concern did not outweigh the institutional value in accepting JSPs. The Panel accepted the JSP, ordering a final grade of zero in the affected courses; suspension from the University for three years; a notation of the sanction on the Student's academic record and transcript for four years; and that the matter be reported to the Provost for publication.

FILE: Case # 880 (17 - 18)
DATE: September 12, 2017
PARTIES: University of Toronto v. L.L. ("the Student")

Hearing Date(s): June 23, 2017

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair
Professor Kathi Wilson, Faculty Panel Member
Ms. Amanda Nash, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
Mr. Robert Sniderman, Law Student, Downtown Legal Services, for the Student

In Attendance:
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances, University of Toronto
Mr. Sean Lou rim, Technology Assistant, Office of the Governing Council
Professor Eleanor Irwin, Dean's Designate, University of Toronto Scarborough
Professor Wanda Restivo, Dean's Designate, University of Toronto Scarborough

Not in Attendance:
The Student

Trial Division - *ss. B.i.1(b), B.i.1(d)* of *Code* – plagiarism and unauthorized aid – student plagiarised parts of paper in one course and obtained unauthorized assistance for paper in another course – student not in attendance – agreed statement of facts – guilty plea – joint submission on penalty – submission accepted with modification to ensure notation on transcript not permanent – zero on courses, three year suspension, notation on transcript for four years or until graduation, publication of the decision with the name of the Student withheld

The Student was charged with plagiarism and obtaining unauthorized assistance under *ss. B.i.1(b)* and *B.i.1(d)* of the *Code*, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*, in relation to a July 2016 paper, and charged with the same three offences in relation to a January 2017 paper in another course. In the July 2016 paper the Student used unattributed verbatim text from various sources, and in the January 2017 paper the Student obtained unauthorized assistance with respect to content, style, and language.

The Student did not attend the hearing but, together with the University, submitted an agreed statement of facts and a joint submission on penalty. The Student pled guilty to plagiarism with respect to the July 2016 paper and unauthorized assistance with respect to the January 2017 paper, and the University withdrew the other charges.

The joint submission on penalty was that the Student should be suspended until April 30, 2020, receive a grade of zero in the two courses, and have a notation placed on their transcript until graduation. The Tribunal found that most of this submission was within the acceptable range of penalties for the relevant offences, considering that the Student had one prior plagiarism offence, but was concerned that if the Student decided not to graduate the notation on their record would be permanent. As a permanent notation on the transcript was not the parties' intention, they agreed to instead recommend that the notation expire on the earlier of the Student's graduation or April 30, 2021. Thus the joint submission was accepted with this modification, and the Tribunal ordered that the decision be published with the name of the Student withheld.

FILE:	Case #931 (2017 - 2018)
DATE:	October 27, 2017
PARTIES:	University of Toronto v. C.W. ("the Student")
Hearing Date(s):	July 28, 2017

Panel Members:
Ms. Amanda Heale, Chair
Professor Pascal van Lieshout, Faculty Panel Member Ms. Alanis Ortiz Espinoza, Student Panel Member

Appearances:
Mr. Robert Centa, Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

In Attendance:
Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, UTM
Ms. Alexandra Di Blasio, Academic Integrity Assistant, UTM
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, IT Support, Office of the Governing Council
Mr. Douglas Harrison, Tribunal Co-Chair, Observer

Not in Attendance:
The Student

Trial Division - *s. B.i.1(d)* – plagiarism – unattributed sources from the internet in an essay – student not present – two prior offences – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – start date – consecutive penalties – notation longer than suspension – final grade of zero in the affected course, suspension of three years, transcript notation for four years, and report to the provost

The Student was charged with plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative one charge of academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code*. The charges related to an essay that the Student had written that contained text from the website Wikipedia that the Student had copied verbatim and expressed as her own ideas. At the Dean's designate meeting, the Student admitted to submitting the plagiarized essay . The matter proceeded by way of an Agreed Statement of Facts, Joint Book of Documents and a Joint Submission on Penalty (JSP). Upon acceptance of the Student's guilty plea in relation to the plagiarism charge, the University withdrew the alternative charge that had been laid under s. B.i.3(b) of the *Code*.

The parties submitted a Joint Submission on Penalty (JSP) proposing: (a) a final grade of zero in the affected course; (b) suspension from the University for three years; (c) a notation of the sanction on the Student's academic record and transcript for four years; and (d) that the matter be reported to the Provost for publication. The JSP proposed that the 3 year suspension commence immediately following the conclusion of the 12 month suspension being served by the Student for a previous academic misconduct offence. The Panel took into consideration the seriousness of the offence and the fact that the Student had previously been sanctioned for obtaining an academic advantage over other students and for unauthorized assistance and plagiarism. The plagiarism offence was admitted by the Student only three months prior to the conduct that gave rise to the charge in this case. Mitigating factors were that the Student had cooperated in the process and entered into the ASF and JSP, thereby showing insight and remorse. The Panel accepted the JSP including the University's submission that sentences not overlap when they both arise from academic misconduct., and ordered a final grade of zero in the affected course; suspension from the University for three years to start after the current suspension expired; a notation of the sanction on the Student's academic record and transcript for four years; and that the matter be reported to the Provost for publication.

START DATE

FILE: Case #648 (13-14)
DATE: November 12, 2013
PARTIES: University of Toronto v C.E.

Hearing Date(s):
April 9, 2013
May 27, 2013
June 26, 2013

Panel Members:
Michael Hines, Chair
Joel Kirsh, Faculty Member
Peter Qiang, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Glenn Stuart, Barrister and Solicitor
Justin Bumgardner, Course Instructor
Miriam Avadisian, a student
Ivan Ampuero, Campus Police
Charles Helewa, Campus Police
Catherine Seguin, Lecturer
Maeve Chandler, a student
The Student's brother
The Student's mother

In Attendance:
C.E., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of the *Code* – unauthorized aid – Student brought completed Mid-Term Exam Booklet into final exam -- Student took materials seized by professor and fled – inability to determine whether materials were aids or not attributable to actions of the Student; Student must therefore provide credible, cogent evidence to support his contention – post-offence conduct more consistent with guilty mind than honest panic – finding of guilt – first offence – extraordinary post-offence conduct and deliberate deception is an aggravating factor – positive reference letters given little weight because authors were unaware of alleged misconduct – evidence of personal tragedy does not mitigate when used to support factual innocence rather than contextualize guilty conduct – grade assignment of zero in the course; three-year suspension; four-year notation on transcript; report to Provost for publication -- suspension and transcript notation deemed to begin on final day of hearing rather than date of issuance because decision issuance delayed for reasons beyond Student's control

Student charged with one offence under *s. B.i.1(b)* and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to an allegation that the Student knowingly used or possessed an unauthorized aid in the exam hall during a final exam. Specifically, the Student was alleged to have brought a completed Mid-Term Exam Booklet from the same course into the final exam. The Student claimed that the Mid-Term Booklet he possessed was from an unrelated course and therefore was not an aid for the purposes of *s. B.i.1(b)*. Both the Mid-Term Exam Booklet and the Final Exam Booklet were seized by the professor during the exam after a brief struggle with the Student. The professor gave the seized materials to the Chief Presiding Officer in the exam hall. Before the exam was finished, the Student grabbed the materials that had been seized and ran from the exam hall. Campus police were contacted and met with the Student for an interview two days later. During the interview, the Student informed the interviewing officer that he had 'stashed' the materials at the bottom of a staircase in the same building in which the exam had been written. The materials were recovered. The Mid-Term Exam Booklet that was found alongside the Final Exam Booklet was from an unrelated course. However, the professor testified that the completed Mid-Term Exam Booklet he had seized from the Student was from the same course. When shown the unrelated Mid-Term Exam Booklet found by the staircase, the Chief Presiding Officer denied that it was the Mid-Term Exam Booklet that had been handed to her by the professor during the exam. The Panel observed that the inability to definitively answer whether the Mid-Term Exam Booklet was related or unrelated was entirely attributable to the actions of the Student. The Panel noted that, while that fact did not relieve the University from the ultimate burden of proof, it obliged the Student to provide credible, cogent evidence to demonstrate how the facts are best explained by his contention that the Mid-Term Exam Booklet in question was from an unrelated course. The Panel found no reason to disbelieve the evidence of the professor that he observed the Mid-

Term Exam Booklet was from the same course. The Panel found inconsistencies in the evidence of the Student, and concluded that the Student's behaviour in seizing the exam and fleeing was more consistent with a guilty mind than with an honest student whose panic was nevertheless so extreme as to rob him of any vestige of rationality. The Panel concluded that the Student was guilty of the offence under *s. B.i.1(b)*.
The Student had no prior disciplinary record and provided two letters of reference which spoke highly of him. The Panel noted that the authors of the letters appeared to be unaware of the conduct in question and consequently attribute little weight to these references. The Panel treated the Student's extraordinary conduct after his materials were seized by the professor, and the protracted and deliberate course of deception he engaged in afterwards, as aggravating factors. The Panel acknowledged the series of personal tragedies experience by the Student in the months preceding the events in question. However, the Panel concluded that these tragedies could not be used as mitigating factors because the Student relied on them in attempt to provide an innocent explanation for his conduct which the Panel rejected. The tragedies did not explain or mitigate the fact found by the Panel that the Student had attempted to mislead the Tribunal. The Panel found that the Student was unlikely to repeat this type of offence and that it was not therefore necessary to prevent his return to the University altogether. The Panel imposed a final grade of zero in the course, a three-year suspension, a four-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication. The Panel noted that for reasons beyond the Student's control, it had taken more than four months for the Decision to be issued. The Panel therefore directed that both the suspension and the transcript notation be deemed to have commenced on the final day of the hearing, rather than the date of issuance.

FILE: Case #714 (13-14)
DATE: October 11, 2013
PARTIES: University of Toronto v N.R.

Hearing Date(s):
September 13, 2013

Panel Members:
John Keefe, Chair
Wayne Enright, Faculty Member
Saneea Tanvir, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Jeff Marshman, Counsel for the Student, DLS
N.R, the Student

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code* – forged documents and forged academic records– email sent to four professors containing false information and forged academic records – emails containing fraudulent information are not forged documents – Agreed Statement of Facts – guilty plea accepted for charges under *s. B.i.3(a)* but rejected for charges under *s. B.i.1(a)* – modified guilty plea to charges under *s. B.i.3(b)* accepted – Joint Submission on Penalty – first offence – Student admitted guilt early and cooperated throughout – Student had only one credit remaining to graduate – Student expressed genuine remorse at hearing – transcript forgery among the most serious offences – misconduct involved considerable planning and deliberation – Joint Submission on Penalty accepted – suspension and notation deemed to have commenced the date the Joint Submission on Penalty was signed by the Student to avoid unintended increase in severity of sanction – five-year suspension; seven-year notation; report to Provost for publication

Student charged with four offences under *s. B.i.1(a)*, four offences under *s. B.i.3(a)* and in the alternative, four offences under *s. B.i.3(b)*. The charges related to four separate emails sent by the Student to four separate professors on the same date, each of which allegedly contained false or falsified information. The Student pleaded guilty to the charges under *s. B.i.1(a)* and *s. B.i.3(a)* and the matter proceeded by way of an Agreed Statement of Facts. The emails were sent to request each professor act as her graduate supervisor. Each email contained the same statement that the Student had been granted conditional acceptance to the Pharmacology and Toxicology Graduate Program at the University. At the time, the Student had not been accepted to the Graduate Program. The Student had been advised that her application would be placed on hold pending receipt of her final grades. A forged academic transcript was also attached to each email. The

Panel expressed concern with respect to whether the emails could be properly characterized as forged, altered or falsified documents for the purposes of *s. B.i.1(a)*. The Panel observed that although the information contained in the emails was fraudulent, the emails themselves were not falsified. After deliberation, the University and the Student agreed to amend the Agreed Statement of Facts so that the student would plead guilty to four offences under *s. B.i.3(b)* in relation to the emails instead of four forgery offences under *s. B.i.1(a).* The Student would also plead guilty to the four offences under *s. B.i.3(a)* in relation to the academic transcripts as anticipated. The Panel accepted the revised guilty plea and the University withdrew the four charges under *s. B.i.1(a)*. The parties presented a Joint Submission on Penalty. The Student was in her final year at the University and had only one credit remaining in order to graduate. The Student acknowledged guilt at the earliest possible opportunity and cooperated throughout the disciplinary process. She expressed genuine remorse at the hearing. The Student had no prior record of academic misconduct. Transcript forgery is at the most serious end of the range of sanctions. Considerable planning and deliberation went into the falsified academic record in this case. The alteration of marks was not insignificant. Falsification of records strikes at the heart of the honesty and integrity which is at the core of the academic experience and evaluation. The Panel accepted the joint submission, noting that in the absence of the mitigating factors, the sanction could very well have been expulsion. The Panel imposed a five-year suspension, a seven-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication. The Panel observed that if the suspension took effect from the day of the hearing, the Student would in fact be suspended for more than five years because the Tribunal was sitting shortly after the commencement of the Winter term. Accordingly, the Panel, with the consent of the parties, amended the Joint Submission on Penalty to provide that the suspension and transcript notation would commence on August 26, 2013, which was the date of the Student's signature on the Joint Submission on Penalty.

FILE: Case #647 (12-13)
DATE: October 30, 2012
PARTIES: University of Toronto v A.K.

Hearing Date(s):
May 22, 2012
June 5, 2012
June 7, 2012
June 18, 2012

Panel Members:
John A. Keefe, Chair
Gabriel D'Eleuterio, Faculty Member
Vy Nguyen, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Sierra Robart, Counsel for the Student, DLS
Ab Gehani, Manager, Client Services
Sheryl Stevenson, Writing Specialist
Kevin Lo, Managing Director, Froese Forensics

In Attendance:
A.K., the Student
Eleanor Irwin, Dean's Designate
Betty-Ann Campbell, Law Clerk to Ms. Harmer
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – allegations that Student submitted a purchased essay – Student claimed that the essay was her original work and submitted electronic files and notes to corroborate her claim – involvement of a person named "Bryan" – metadata analysis revealed Bryan as author of the document – Panel accepted the expert testimony that the only way to explain was if the document was created on Bryan's computer – Panel found Student's notes were her own and corroborated her claim to an extent – Panel concluded that Student gave her notes to Bryan who put them into an essay form – finding of guilt – Panel was not convinced Student purchased the essay – not appropriate to backdate commencement of the suspension unless in close proximity to the date of the hearing – Panel backdated the suspension to commence on a date that would allow Student to resume her studies in the summer term – two-year suspension appropriate for first time plagiarism offenders – Panel would have imposed a far more severe penalty had it found the Student purchased the essay – penalty should meet the need for general deterrence

without unduly punishing Student – grade assignment of zero for course; two-year suspension; three-year notation on transcript or until graduation, whichever is earlier; report to Provost

Student charged under *s. B.i.1(d)* of the *Code*. The charges related to allegations that the Student submitted a purchased essay. An originality report by turnitin.com of the Student's essay showed a similarity index of 81%, meaning that 81% of the words in her essay matched a paper submitted by a student at York University. The Student claimed that the essay was her original work. To corroborate her claim, she submitted the electronic files of her essay and handwritten notes she claimed to have written while preparing for the essay. The Student also claimed that she sent her essay to a person named Bryan to receive assistance but was told he could not help with her essay. The issue at the hearings was whether the University could prove on a balance of probabilities that the essay was not the Student's original work. The metadata analysis of the file showed the author as Bryan and the company as ZAS. Bryan was known by the University as a disbarred lawyer who assisted students in writing papers. The Panel accepted the expert testimony that the only way the metadata on the Word document could show Bryan as the author and ZAS as the company would be if the document was created on Bryan's computer. With regards to the notes, the Panel found that the Student prepared them during the course and that they showed that she had real input into the ideas and content of the essay. Based on the above evidence, the Panel concluded that the Student took notes and gave them to Bryan who took the words and ideas from the notes and put them into an essay form which the Student submitted as her own work. Consequently, the Panel concluded that the essay was prepared at least in part by Bryan and found the Student guilty under *s. B.i.1(d)*. However, the Panel was not convinced that the Student purchased the essay from Bryan. With regards to the proposed penalty, the Panel rejected the Student's submission that the suspension should commence on the date of the offence or the date of the notice of hearing. It was not appropriate to backdate the commencement of the suspension unless it was in close proximity to the date of the hearing. However, the Panel stated that it was appropriate for the suspension to commence on a date that would allow the Student to resume her studies in the summer term of 2014. Accordingly, the Panel backdated the commencement to May 1, 2012. In considering the penalty, the Panel noted that had it found that the Student purchased her essay, it would have imposed a far more severe penalty. The Panel found that a two-year suspension was appropriate for first offenders found guilty of plagiarism. The Panel noted that there was little likelihood of repetition as the Student completed all her courses necessary to graduate. The Panel found that there were no extenuating circumstances and emphasized the need for general deterrence without avoiding a penalty that unduly punishes the Student. The Panel imposed a grade assignment of zero for the course; a two-year suspension; a three-year notation on the transcript or until graduation, whichever was to occur first; and a report be issued to the Provost.

FILE:	Case #905 (2017 - 2018)	Appearances:
DATE:	November 1, 2017	Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
PARTIES:	University of Toronto v. S.B. ("the Student")	Mr. Robert Sniderman, Student's legal representative, Law Student, Downtown Legal Services
Hearing Date(s):	August 2, 2017	The Student
Panel Members:		In Attendance:
Mr. Andrew Pinto, Barrister and Solicitor, Chair		Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances
Professor Louis Florence, Faculty Panel Member		Mr. Brian Alexic, Technology Assistant, Office of the Governing Council
Mr. Chad Jankowski, Student Panel Member		Mr. Nader Hasan, Tribunal Co-Chair (Observer)
		Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies

Trial Division - *s. B.i.3(a)* – forged academic record – Student had completed degree requirements – no prior offence - Agreed Statement of Facts – Joint Submission on Penalty – start date delayed for two months to allow student to transition his research and not disadvantage other students on his research team - suspension of five years, transcript notation for seven years, and report to the provost.

The Student was charged with two charges of forging an academic record contrary to s. B.i.3(a) of the *Code,* or in the alternative academic misconduct not otherwise described contrary to s. B.i.3(b) of the *Code.* The charges related to a

forged academic record and a resume reporting a false GPA that the student had submitted in support of his application for a scholarship. The parties submitted an Agreed Statement of Facts and a Joint Submission on Penalty (JSP). The Panel accepted the Student's guilty plea on the first two charges, the University withdrew the alternative charges.

In deciding whether to accept the JSP, the Panel referred to *University of Toronto and M.A.* (DAB Case No. 837, December 22, 2016), which provides that "the parties ought to expect that a hearing panel will impose that [jointly submitted] sentence, unless to do so would be fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable". In this case, the Student had no prior offences, and had demonstrated remorse by admitting guilt, submitting a letter of apology, and participating fully in the academic discipline process. The Student had fulfilled all the requirements of his degree so the likelihood of another offence was low. The proposed two-month delay in the start of the suspension was to permit the Student to transition his research work in order not to disadvantage other members of his research team and the incoming students.

The Panel noted similar facts here to the case *University of Toronto v S. D.* (Case No. 406, May 1, 2007), where the Student received a three-year suspension for one charge of forgery. Given that there were two charges in the present case, the Panel found that the JSP proposed by the parties was reasonable, and ordered a suspension from the University for five years with a delayed start date to allow the Student to transition their research to colleagues; a notation of the sanction on his academic record and transcript for seven years from the day the Tribunal makes its order; and a report to the Provost for publication with the Student's name withheld.

FILE: Case #971 (2018-19)
DATE: November 28, 2019
PARTIES: University of Toronto v. M.A. ("the Student")

Hearing Date(s): September 19, 2018

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Ken Derry, Faculty Panel Member
Mr. Bradley Au, Student Panel Member

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel for University, Paliare Roland Barristers

Hearing Secretary:
Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

Trial Division - s. B.i.3(f) – concocted sources in an essay – student did not attend hearing – notice provided through email - first offence – Tribunal can consider concurrent charges in the alternative – reliance on Professor's expertise in determining whether sources are relevant – suspension backdated to recognize delay not attributable to the Student - grade of zero in the course, two-year suspension, notation on transcript for three years, and report to the Provost with the Student's name withheld.

The Student was charged with three charges related to an essay that had been submitted for course credit: (1) attributing the expressions of the ideas of another as their own work contrary to s.B.i.1(d) of the Code; (2) unauthorized assistance contrary to s. B.i.1(b) of the Code; (3) concocting sources, contrary to s. B.i.1(f) of the Code; or in the alternative, academic dishonesty not otherwise described contrary to s. B.i.3(b) of the Code.

The Student did not attend the hearing. The Tribunal found that notice of the hearing had been effected on the Student on the basis of affidavit evidence that numerous emails had been sent to the Student's ROSI email account, and that the account had been accessed since notice had first been sent via email. The Tribunal found that the hearing could proceed in the Student's absence.

While the University advanced the charges on a concurrent basis, the Tribunal found that it was open to them to consider the charges in the alternative as they related to a single essay. The Tribunal found that the evidence supported a finding of concoction on the basis of examples advanced by the professor that showed that, in many cases, the sources cited were clearly not on point (even to the non-expert Tribunal) and were included to provide a "patina of academic rigour" to the essay. The Tribunal found the Student not guilty on charges 1 and 2 relating to "plagiarism" and "use of unauthorized aid". Upon the Tribunal's finding of guilt on charge 3, the University withdrew the alternative charge of academic dishonesty not otherwise specified.

In determining the appropriate penalty, the Tribunal considered the *Mr. C.* factors (Case No. 1976/77-3, November 5, 1976). The Student had no prior discipline history but had only earned 19 credits in his four years at the University and last attended in the Fall 2016 Term, so rehabilitation was of minor importance given that the Student was inactive. The Tribunal accepted that it was important that the sanction would allow the Student to return to the University should he choose to resume his studies. The Tribunal accepted the University's proposed penalty, awarding: (a) a final grade of zero in the Course; (b) a suspension from the University for two years starting back from January 1, 2018 (to account for delay that is not attributable to the Student); (c) a notation of the sanction on his academic record and transcript for three years; and (d) that the case be reported to the Provost for publication of a notice of the decision with the name of the Student withheld.

FILE:	Case # 996 (18-19)	Panel Members: Ms. Roslyn M. Tsao, Chair Prof. Kimberly Widger, Faculty Panel Member Ms. Julie Farmer, Student Panel Member
DATE:	May 7, 2019	
PARTIES:	University of Toronto v. N.H.	
Hearing Date:	April 18, 2019	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Rosenberg Rothstein LLP Mr. Chew Chang, Paralegal, for the Student
		In Attendance: Ms. Jennifer Dent, Associate Director, Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(d) of *Code* – plagiarism – Student submitted a purchased essay for course credit – Agreed Statement of Facts – guilty plea – Joint Submission on Penalty – request for back-dated suspension granted because Student did not contribute to delay in resolving charges and has not taken further courses pending resolution of charges – students caught submitting purchased essay should receive sanction on serious end of spectrum to deter others – no prior offence – early admission of guilt - grade of zero; five-year suspension to commence one year prior to date of hearing; corresponding notation on Student's academic record.

The Student was charged with two counts of academic misconduct under the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he purchased an essay online and submitted it as his own work for course credit. Specifically, the Student was charged with plagiarism under s. B.i.1(d) of the *Code,* as well academic dishonesty under s. Bi.3(b) of the *Code*.

The Student attended the hearing with an agent. The parties submitted an Agreed Statement of Facts (ASF) wherein the Student admitted to knowingly committing the offence of plagiarism by submitting an essay as if it was his own work, knowing that he had purchased it from a third party. The Student had previously admitted to this plagiarism during a meeting with his Dean's Designate, where he also expressed a desire to apologize to the professor. Based on the ASF and a review of the relevant documents, the Panel found the Student guilty of plagiarism under s. B.i.1(d) of the *Code*. The University withdrew the remaining charge.

The Parties submitted a Joint Submission on Penalty (JSP) in support of a five-year suspension from the University commencing on a date one year prior to the hearing. The Panel accepted the JSP and, in particular, the parties' recommendation that the suspension be back-dated by one year. The Panel's decision to back-date the suspension was based on the following undisputed facts: (1) the Student had not taken any further courses at the University pending resolution of the charges, and (2) the Student had not contributed to the delay in resolving the charges, but apparently sought to have the charges resolved as early as possible.

In evaluating the JSP, the Panel considered the need for general deterrence, noting that the nature of the offence and detriment to the University were significant because this type of plagiarism is sometimes difficult to identify. The Panel further stated that when a student is caught, the sanction should be on the serious end of the spectrum to deter others. The Panel also considered the need for specific deterrence, but found that this was of lower concern because the Student had no prior history of academic misconduct at the University and because he admitted guilt early in the process, explaining that he had a heavier course load pressure at the time. Finally, the Panel stated that the requested penalty was in the

appropriate range of sanctions in these circumstances and noted that there was a very high threshold for departing from a JSP requiring the Panel to find that the acceptance of the JSP would be contrary to the public interest and bring the administration of justice into disrepute.

The Panel imposed the following sanctions: a final grade assignment of zero in the course; a five-year suspension from the University commencing approximately one year prior to the date of the hearing; and a corresponding notation on the Student's academic record and transcript for a five-year period or until his graduation from the University, whichever occurs first.

TIMING OF SUSPENSION

FILE: Case # 1047 (2020-2021)
DATE: July 21, 2020
PARTIES: University of Toronto v. M.S.D. ("the Student")

Hearing Date(s):
June 24, 2020

Panel Members:
Ms. Cynthia B. Kuehl, Chair
Professor Richard B. Day, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Mr. Eunwoo Lee, Student's Representative, Downtown Legal Services

Hearing Secretary:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

NOTE: Reasons for the decision on finding are reported as *University of Toronto v. M.S.D.* (Case 1047, November 2019).

Trial Division – s. B.i.l(b) of *Code* – unauthorized aid – Student knew or ought to have reasonably known that he possessed an unauthorized aid sheet in connection with a final examination – penalty hearing – unusual seven-month delay between the finding and the penalty hearing was due partly to Covid-19 pandemic - threshold to reject a joint submission had not been met given the very unusual circumstances of the global pandemic, the implications on the Student's life and the presence of mitigating factors - the extraordinary circumstances of the pandemic resulted in acceptance of the JSP that results in a suspension, which, while intended to be three years, in practical effect was substantially less - Agreed Statement of Facts ("ASF") – Joint Submission on Penalty ("JSP") - grade assignment of zero in the course - suspension from the University from the date the Panel made its order until August 30, 2022 - four-year notation on the transcript - report to Provost for publication with the Student's name withheld.

In a decision dated November 18, 2019, the Panel found the Student guilty of one charge under the *Code of Behaviour on Academic Matters, 1995* (the "Code"), namely that he knew or ought to have reasonably known that he possessed an unauthorized aid sheet in connection with a final examination, contrary to s. B.i.l(b) of the Code.

On June 24, 2020, the Panel reconvened to determine the appropriate sanction in light of this finding (the "penalty hearing"). The Panel explained the unusual seven-month delay between the finding and the penalty hearing. The delay was partly due to the unanticipated and unavoidable Covid-19 pandemic. The Panel granted adjournments so the Student could seek representation and to allow his new representative to prepare for the penalty hearing. The parties' Agreed Statement of Facts ("ASF") included details of two prior academic offences by the Student (i.e. plagiarism and possession of an unauthorized aid during a final examination) and supplemented the Student's evidence. The Student also submitted an affidavit. The parties made joint submissions on penalty.

The Panel was mindful that a Joint Submission on Penalty ("JSP") ought not to be disturbed unless to do so would bring the administration of justice into disrepute or be contrary to the values of the University. It also added that the threshold to reject a joint submission had not been met given the very unusual circumstances of the global pandemic, the implications on the Student's life and the presence of mitigating factors. It also noted that the extraordinary circumstances of the pandemic resulted in its acceptance of the JSP that results in a suspension, which, while intended to be three years, in practical effect was substantially less.

The Panel imposed the following sanctions: grade assignment of zero in the course; a suspension of just over 26 months; a four-year notation on the transcript; report to Provost for publication with the Student's name withheld.

SANCTION: recommendation of expulsion, degree recall, degree suspension

Leading Cases:

- expulsion: **523 (08-09)**, **513 (06-07)(DAB)**, **833 (15-16)**, **858 (16-17)**, **862 (16-17)**, **856 (16-17)**, **848 (16-17)**, **870 (16-17)**, **837 (16-17)(DAB)**, **709 (17-18)**, **901 (17-18)**, **913 (17-18)**, **1142 (21-22)**
- degree recall: **468 (07-08)**, **822 (15-16)**, **709 (17-18)**, **916 (17-18)**
- degree suspension: **967 (17-18)**

DAB = Discipline Appeals Board decisions

EXPULSION

FILE: Case #03-04-02 (Case #513) (03-04)
DATE: April 16, 2004
PARTIES: University of Toronto v N.P.

Hearing Date(s):
January 28, 2003
February 4, 2004
March 31, 2004

Panel Members:
Michael Hines, Chair
Arthur Silver, Faculty Member
Cynthia Wesley-Esquimaux, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Gleb Bazon, Counsel for the Student, DLS
Betty-Ann Campbell, Law Clerk to Ms. Harmer
Paul Holmes, Judicial Affairs Officer
N.P. the Student

NOTE: Overturned on appeal.

Trial Division – *s. B.i.1(a)* of *Code* – forged documents and false information – Student submitted forged documents and provided false information in support of two separate requests to write a make-up test in two separate courses – Agreed Statement of Facts – guilty plea – Student's actions were egregious and reprehensible in the extreme – inconsistent with core values of University – grade assignment of zero in two courses; recommendation that the Student be expelled; report to Provost for publication

The Student was charged with five offences under *s. B.i.1(a)* and, alternatively, five offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted forged documents and provided false information in support of two separate requests to write a make-up test in two separate courses. Neither the Student nor counsel for the Student attended on the first day of the hearing, January 28, 2003. The Panel heard evidence concerning the efforts undertaken by the University to serve the Student with notice. Shortly before the hearing, the University learned that there was a possibility that the Student no longer resided in Canada, The Panel adjourned to allow the University time to make further efforts to locate the Student. The hearing reconvened on February 4, 2004. The Student and his counsel were present. The Student pleaded guilty to the charges and the Panel was provided with an Agreed Statement of Facts. The Panel accepted the guilty plea and the matter was adjourned to March 31, 2004 for the penalty phase of the hearing. At the penalty phase of the hearing, the Panel expressed significant doubts regarding the Student's testimony and noted that he was evidently a skillful liar. The Panel characterized his actions as egregious and reprehensible in the extreme, involving as they did repeated lies to his professors and numerous forged documents. The Panel dismissed the Student's claim to have become a changed person as the result of the birth of his son. The Panel noted that the Student did not appear to recognize the impact his behaviour can have on professors, other students, and the integrity of the University. The Panel was not persuaded that the fact that he was very close to obtaining a degree and would likely have difficulty securing a place in another university was relevant. The Panel observed that a degree from a University is more than a certificate of academic achievement and that the University cannot turn a blind eye in cases where the character of a student is demonstrated to be fundamentally inconsistent with the University's core values. The Panel imposed a mark of zero in two courses, recommended that the Student be expelled from the University, and ordered that a report be issued to the Provost for publication.

FILE: Case #513 (06-07)
DATE: August 21, 2006
PARTIES: University of Toronto v N.P.

Hearing Date(s):
June 21, 2005

Panel Members:
Janet E. Minor, Co-chair
John Browne, Faculty Member
Francoise Ko, Student Member
Jorge Sousa, Student Member

Appearances:
Lily Harmer, Counsel for the Respondent
N.P., the Student

DAB Decision

Discipline Appeal Board – Student appeal from finding of guilt – appeal from recommendation of expulsion – motion for the admission of new evidence – evidence not relevant or probative to consideration of penalty - see Provision *E.8* – previous expulsion decisions involved changing of grade or misrepresentation of achievement - dishonesty would have permitted a second chance at writing tests and marks obtained would still be based on performance - severe personal stress - genuine remorse and apology - appeal allowed - mark of zero imposed in two courses; five-year suspension commencing on decision date of University Tribunal; report to Provost

Appeal by the Student from a Tribunal decision in which the Student was found guilty of ten offences related to allegations that the Student submitted forged documents and provided false information in order to gain permission to write a final test and a term exam in two separate courses, contrary to *s. B.i.1(a)* and *s. B.i.3(b)* of the *Code*. The Student appealed the penalty potion of the decision respecting the recommendation of expulsion. The Student brought a motion for the admission of new evidence related to communication between the University and the Student directed towards responding to an affidavit filed at the Tribunal hearing. The Board considered Provision *E.8* under the *Code* and the findings by the Hearing Panel and found that the proposed evidence was not relevant or probative to its consideration of penalty and it did not admit the proposed further evidence. The Panel considered previous Tribunal decisions in which students had been expelled, and found that the cases involved the changing of a grade or misrepresentation of achievement by misrepresenting grades or a transcript in order to rely on a higher mark or grades than had actually been received. The Board found that the Student's dishonesty stopped short of conduct which would have permitted him to rely on misrepresentation of his achievements, but rather the dishonesty would have permitted him to have a second chance at writing two tests and the marks obtained would still have been based on his performance. The Board found that the Student was under severe personal stress during most of the period in which the conduct occurred and accepted that his remorse and apology were genuine. The Panel allowed the Student's appeal and ordered that the Student receive a mark of zero in the two courses; a five-year suspension, commencing on the date that the University Tribunal rendered its decision; and that a report be issued to the Provost.

FILE: Case #523 (08-09)
DATE: January 14, 2009
PARTIES: University of Toronto v A.K.

Hearing Date(s):
November 11, 2008

Panel Members:
Andrew Pinto, Chair
Marc Lewis, Faculty Member
Elena Kuzmin, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Associate to Mr. Centa
Isaac Tang, Counsel for the Student, DLS
Donald Dewees, Dean's Designate
A.K., the Student

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – Academic Bridging Program application form and documents for post–admission transfer credits – Agreed Statement of Facts – guilty plea – language in application not understood and degree at foreign university not completed – financial, health and child–care challenges – fraudulent documentation purchased – mitigating factors undermined by two separate occurrences of misconduct – finding of guilt – no material distinction for purposes of sanction between those directly perpetrating a fraud and those who contract out fraudulent activity to third party – aggravating factor that fraud had commercial aspect – academic status relative to graduation – nearness of completion of degree relevant but not determinative factor in sanction – see *The University of Toronto v. Student,* Case No. 499 – no evidence that illness provided sufficient nexus to misconduct – tentative conclusions of medical evidence minimized mitigating effect – insufficient evidence of nexus between adverse circumstances and impugned conduct – see *University of Toronto v. Student*, Case No. 440 (2006-2007) – recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; permanent notation on academic record; and report to Provost

The Student was charged with four offences under *s. B.i.1(a)* and, alternatively, two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student falsified an application form submitted to the Academic Bridging Program at Woodsworth College, which failed to disclose that she had previously attended a post-secondary institution; and allegations that she knowingly submitted a forged transcript and course descriptions from a foreign university in support of her request for post-admission transfer credits. The Student pleaded guilty to the charges under *s. B.i.1(a)* of

the *Code*. The matter proceeded based upon an Agreed Statement of Facts. The Student admitted to paying an individual in Turkey to forge the documents. The Panel accepted the Student's guilty plea to the charges under *s. B.i.1(a)* of the *Code*. At the onset of the Student's evidence, a Book of Documents (Penalty Phase) was provided for the first time to the University and the Panel. The Student claimed that she did not list her post-secondary attendance at the foreign university in the application form because at the time she did not understand the proper meaning of "abroad" and because she did not complete her degree at the university. The Student claimed that she had faced financial, health and child-care challenges since immigrating to Canada. She supported her claim of illness with letters from an endocrinologist and a psychological consultant. The Student claimed that a friend in Turkey had arranged for an individual to help her obtain her Transcript from the foreign university. The Student claimed that in desperation she agreed to purchase the fraudulent documentation from the individual. The Student claimed that with the exception of a cover letter, she did not know what false documentation had been sent to the University. The Panel observed that the Student's misconduct occurred during two different time periods and found that it undermined the Student's claim that her circumstances were relevant mitigating factors. The Panel found that the Student's claim that she misunderstood the meaning of "abroad" was contradicted by her understanding of the term in other parts of the application. The Student's claim that she did not list her studies at the foreign university because she did not complete her degree was undermined by the fact that the application provided for applicants to distinguish between post-secondary degrees sought and those actually conferred and because the Student indicated that she was employed in London around the time that she was actually enrolled at the foreign university. With respect to the forged documents, the Panel found that a material distinction should not be made in sanction between a student who directly perpetrated a fraud and one who contracted out the fraudulent activity to a third party and claimed ignorance. The Panel observed that the Student did not disclose her misconduct at the first opportunity or early in the discipline process. The Panel found that the commercial aspect of the fraud was an aggravating factor that supported expulsion because it related to the professionalization of the academic forgery business. The Panel considered *The University of Toronto v. Student,* Case No. 499 (2008-2009), and found that the nearness to completion of a degree was a relevant but not determinative factor in respect to sanction. The Panel stated that it advocated an approach that neither penalized nor rewarded a student in terms of sanction for the nearness to completion of a degree and that a better approach was for the Tribunal to have greater information on the consequences of the proposed sanction. The Panel found that the endocrinologist's letter provided little evidence that the Student's illness manifested in a way that would have impaired her judgment or provide a sufficient nexus to her misconduct. The Panel stated that the tentative conclusions of the psychological consultant's report minimized the reliance it placed on it as evidence of mitigation in respect of the Student's psychological frame of mind. The Panel stated that it was unable to have a greater appreciation of any mitigating factors without additional evidence about the Student's character or the challenges she faced. The Panel considered the Student's claim that she would be forced to return to Turkey if she was expelled and found that the outcome was based on a mix of personal and other factors that were not disclosed. The Panel considered *University of Toronto v. Student*, Case No. 440 (2006-2007), and found that while the Student appeared to be remorseful for her conduct and was unlikely to repeat the offence, there was insufficient evidence of a nexus between the adverse circumstances faced by the Student and her impugned conduct to impose a sanction other than expulsion. The Panel recommended to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; that a permanent notation of the expulsion be recorded on her academic record and transcript; and that a report be issued to the Provost.

FILE: Case #833 (15-16)
DATE: April 27, 2016
PARTIES: University of Toronto v S.R.

Hearing Date:
March 8, 2016

Panel Members:
Johanna Braden, Chair
Michael Evans, Faculty Member
Adam Wheeler, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland Barristers
Laura Ferlito, Office of the Registrar, University of Toronto Mississauga

In Attendance:
Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga
Tracey Gameiro, Office of Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a)* – forged academic record – Student submitted falsified letter of enrolment to employer – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – not necessary to prove Student's purpose in circulating forged record for finding of guilt – prior offence of academic dishonesty and lack of mitigating factors warranted a recommendation of expulsion – University submission on penalty accepted – 5-year suspension; recommendation of expulsion; case reported to Provost

Student charged under *s. B.i.3(a)* of the *Code*. The charge related to allegations that the Student knowingly forged, altered, or falsified a Letter purported to be from the Registrar's Office in order to represent that she was enrolled as a full-time student and had completed three years of studies when in fact this was not the case, and that the Student circulated this falsified Letter to her employer. The Student was not present at the hearing. The Panel concluded that the efforts made to contact the Student by email and courier were reasonable pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* and the University Tribunal Rules of Practice and Procedure. The Panel ordered that the hearing proceed in the Student's absence.

Student found guilty of the forged academic record charge. The Panel took into account evidence that clearly established that the Letter was false. The Panel noted that though the evidence about the purpose for which the Letter was forged and circulated was unclear and the Panel could therefore not conclude that the Letter was submitted in support of an employment application, the essential elements of the forged academic record were proven on a balance of probabilities. In determining the appropriate sanction, the Panel took into account as an aggravating factor that during the time period supposedly confirmed by the letter, the Student was not enrolled at the University and was in fact suspended because of admitted academic dishonesty charges. The Panel emphasized that this made the likelihood of repetition high. The Panel also noted that the falsification of the Letter was deliberate and careful, showing calculated dishonesty. Additionally, the Panel noted there was detriment to the University as the Student misrepresented her academic status to an outside party which undermines the public's perception of the integrity of the University's academic records. The Panel further noted that the need to deter others from committing similar offences was high because confirmation of enrolment letters are sent to third parties and are therefore hard for the University to police. The Panel concluded that a 5-year suspension would not be a sufficient sanction given the Student's prior academic offence and lack of evidence of mitigating circumstances. The Panel imposed a 5-year suspension; a recommendation of expulsion, and that the case be reported to the Provost for publication.

FILE: Case #858 (16-17)
DATE: August 12, 2016
PARTIES: University of Toronto v A.D.S.

Hearing Date(s):
July 12, 2016

Panel Members:
William C. McDowell, Chair
Ernest Lam, Faculty Member
Sean McGowan, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Lucy Gaspini, Manager, Academic Integrity & Affairs, UTM
Prof. Divya Maharajh, Instructor of the Course

In Attendance:
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Sean Lourim, Client Support Technologist, University of Toronto

Trial Division – *s. B.i.1(f)* and *s. B.i.1(a)* of the *Code* – concoction and forged documents – Student concocted references to sources in a research report – Student falsified the document outlining his sanction to reflect a lesser penalty – Student attached the falsified document to his appeal documents – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – 5-year suspension; recommendation of expulsion; case reported to Provost for publication

Student charged under *s. B.i.1(f)* and *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student concocted references to one or more sources in a research report, and that when offered a proposed sanction for the concoction, the Student knowingly altered or falsified the sanction letter to reduce the suggested penalty in his appeal of the sanction. The Student was not present at the hearing. The Panel heard evidence that the Student had accessed his ROSI account. The Panel found that reasonable notice of the hearing had been provided in accordance with the *Code*, and the hearing continued in the absence of the Student.

Student found guilty with respect to both charges. The Panel accepted evidence that the sources referenced in the Student's report did not exist, and evidence that the University sanction document had been altered by the Student. The Panel emphasized the severity of the allegations, noting its astonishment that in the process of exercising his right to appeal his concoction sanction the Student would falsify the very document under consideration by the Vice Provost. The Panel concluded that its sanction for the Student should reflect the abhorrence of the Tribunal for this kind of misconduct, and should seek to deter other students from contemplating any sort of alternation of University documents. The Panel imposed a 5-year suspension; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FILE: Case #862 (16-17)
DATE: August 23, 2016
PARTIES: University of Toronto v Z.Z.

Hearing Date(s):
July 14, 2016

Panel Members:
Paul Schabas, Chair
Chris Koenig-Woodyward, Faculty Member
Sue Mazzatto, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
Thomas Kierstead, Instructor of the Course
Kristi Gourlay, Manager, Office of Academic Integrity

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – Student plagiarized and obtained unauthorized assistance for two essays in the Course – though the Panel made no explicit finding that the second essay was purchased, the evidence clearly showed that it was a custom written essay not written by the Student, and it was therefore reasonable to infer that it was purchased – finding on evidence – finding on guilt – grade assignment of zero in the Course; recommendation of expulsion; permanent notation of the expulsion on the Student's academic record if the recommendation is accepted; 5-year suspension and notation on the Student's academic record and transcript pending the Governing Council's decision on expulsion; case reported to Provost for publication

Student charged with two offences under *s. B.i.1(d),* two offences under *s. B.i.1(b)* and, in the alternative, two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted two essays for the Course containing many elements of plagiarism and unauthorized aid. The Student was not present at the hearing. The Panel found that reasonable notice of the hearing had been provided, and the hearing continued in the absence of the Student.

The Student was found guilty of the plagiarism charges under *s. B.i.1(d)*. The Panel accepted evidence regarding the improper citations, unattributed sources, and the disparity between the level of English between the two essays and between the essays and the Student's in class work. The second essay appeared to be purchased from a commercial provider of essays given the level of professionalism in which it was written. The Panel concluded that, on a balance of probabilities the essays were not the work of the Student. Having found the student guilty of plagiarism, the Panel did not make findings on the charges under *s. B.i.1(b)* and *s. B.i.3(b)*.

Though the Panel made no explicit finding that the second essay was purchased, the evidence clearly showed that it was a custom written essay not written by the Student, and it was therefore reasonable to infer that it was purchased. The Panel therefore concluded that it was appropriate to consider the jurisprudence on purchased essays in this case. The Panel noted that the purchase of essays is among the most serious of offences that can be committed in a University

setting, and that the sanction is generally expulsion. There mitigating factors to suggest a lesser penalty; the Student was already aware of concerns with the academic integrity of his first essay when the second essay was handed in, and the Student was aware of this discipline process but chose not to engage. The Panel imposed a grade assignment of zero in the Course; a recommendation of expulsion; a permanent notation of the expulsion on the Student's academic record if the recommendation is accepted; a 5-year suspension and notation on the Student's academic record and transcript pending the Governing Council's decision on expulsion; and that the case be reported to the Provost for publication.

FILE:	Case #856 (16-17)	Panel Members:
DATE:	October 6, 2016	Mr. Paul Morrison, Chair
PARTIES:	University of Toronto v. T.C. ("the Student")	Professor Dionne Aleman, Faculty Panel Member Ms. Sue Mazzatto, Student Panel Member
Hearing Date(s):	July 6, 2016	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Faculty of Arts and Science Ms. Brenda Thrush, Faculty Registrar, Leslie Dan Faculty of Pharmacy
		In Attendance: Ms. Krista Osbourne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a) and B.i.3(b)* of the *Code* – forged academic records – circulated forged academic records in application for employment – hearing not attended – reasonable notice of hearing - prior academic offences – falsifying pharmaceutical degree raises significant concerns with respect to the safety of the public - University obligation to uphold and maintain the integrity of its academic degrees and degree-granting process – recommendation that the Student be expelled; immediate suspension from the University for a period of up to five years pending expulsion; permanent notation on academic record.

The Student was charged with two offences under the *Code.* The charges related to alleged representations that were made by the Student in a cover letter and resume that were submitted to Safeway Food and Drug ("Safeway") for employment as a Pharmacist (the "Application"). Though the Student had not completed any degree program at the University of Toronto, the Application falsely claimed that she had graduated with an Honours Bachelor of Science in Human Biology and Physical Anthropology from the University and was a candidate in the Doctor of Pharmacy program at the University.

The Student denied the allegations with respect to falsifying her academic record at the meeting with the Dean's Designate. Upon further investigation after that meeting, the University found that the student had previously been under academic suspension for plagiarism and had also previously been suspended by the University for failure to maintain a 1.5GPA. Neither the Student nor counsel for the Student attended the hearing. The Panel was satisfied that appropriate efforts to effect service on the Student had been made and that the provisions of the Tribunal's Rules of Practice and Procedure had been satisfied.

The Panel concluded that the Student forged and falsified her academic record. Upon the entering of a finding of guilt with respect to *s. B.i.3(a)* of the *Code,* counsel for the University withdrew the charge in relation to *s. B.i.3(b).* The Panel considered the aggravating facts that the student had previously been suspended by the University for failure to maintain a 1.5 GPA and that that she had also previously admitted to plagiarism and had been warned, in writing, that a second offence would be dealt with more severely. The Panel found that the offense of falsification of one's academic record for advantage to the Student is a most serious offense and one that, absent sufficient mitigating circumstances, would call for a recommendation of expulsion. In this case, there were also significant concerns with respect to the safety of the public as a result of a falsified degree in pharmacy. The Panel held that the University has an obligation to uphold and maintain the integrity of its academic degrees and its Degree-granting process. The Panel accepted the University's submission on penalty and imposed a penalty of immediate suspension from the University for a period of up to five

years; recommended that the Student be expelled; and that a permanent notation be placed on the Student's academic record and transcript.

FILE:	Case #848 (16-17)	Panel Members: Mr. John A. Keefe, Barrister and Solicitor, Chair Professor Gabriele D'Eluterio, Faculty Member Ms. Alice Zhu, Student Panel Member
DATE:	November 2, 2016	
PARTIES:	University of Toronto v. D.H. ("the Student")	
Hearing Date(s):	March 16, 2016 and August 9, 2016	Appearances: Ms. Tina Lie, Assistant Discipline Counsel, Palaire Roland Barristers Mr. Glenroy Bastien, Counsel for The Student Professor John Britton, Dean's Designate, Office of Student Academic Integrity (March 16, 2016) Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science (In Attendance: Mr. Christopher Lang, Director, Appeals, Discipline, and Faculty Grievances (March 16, 2016) Krista Osbourne, Administrative Assistant, Appeals, Discipline, and Faculty Grievances (August 9, 2016) The Student

Note: Appeal dismissed.

Trial Division – *s. B.i.3(a)* and *s.B.ii.2* of *Code* – forged academic records and intent to commit an offence - student ordered transcripts after disciplinary sanction was imposed but before notation was made on transcript for the purpose of employment, immigration, and professional licensing – Agreed Statement of Facts – guilty plea – third offence – prior convictions included falsification of academic record and academic dishonesty – deliberate offence – contested hearing on sanction - Agreed Statement of Facts on Penalty – University submission on Penalty accepted – recommendation that Student be expelled per *s. C.ii.(b)(i)* of the *Code,* interim notation until Governing Council makes decision on expulsion, and report issued to Provost

The Student was charged with two offences for attempting to circulate falsified academic records pursuant to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* or alternatively, three charges under *s. B.i.3(b), s. B.ii.2 and B.i.3(a)* of the *Code.* The charges related to the Student's attempt to order transcripts and obtain letters of good standing from the University once he had learned that he had been suspended for three years, but before the notation had been recorded on his record in the University system. The Panel convened for an initial hearing and then a subsequent sanction hearing. At the initial hearing, the matter proceeded based upon an Agreed Statement of Facts. The Student pled guilty to the charges under *s. B.i.3(a)* and *s. B.ii.2* of the *Code.* Upon the Panel's finding of guilt on the two charges relating to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* the University withdrew the remaining charges.

The sanction hearing proceeded by way of Agreed Statement of Facts on Penalty which indicated that the Student had been guilty of two prior academic offences. The Student's first offence was academic dishonesty relating to an incident where he altered and re-submitted a test to be re-graded. He pled guilty and was sanctioned to a zero on the test and resulting reduction in his course mark, as well as a notation on his academic transcript for two years. The Student's second academic offence was for forging or otherwise falsifying his academic record. Those charges related to an application for employment where the Student submitted a transcript that omitted the notation of academic dishonesty from the prior year. The Panel considered the Student's mitigating circumstance of mental health issues and sanctioned the Student to a suspension for a period of up to three years; a notation on the Student's academic record for four years; and a report to the Provost. The reasons for that decision were available on May 19, 2015. Although the normal practice was to immediately record the Panel's decision on the Repository of Student Information (ROSI), out of a concern for the Student's mental health, the Panel also postponed making the notation the Student's record until after the Student had the opportunity to read the decision with counsellors present, on June 1, 2015.

On June 2, 2015, the Student ordered ten transcripts, knowing the sanction had not yet been implemented on ROSI. On June 3, 2015, he requested that Woodsworth College provide letters on his behalf to Canada Immigration, CPA Ontario, and "To Whom It May Concern" stating that he was a student in good standing at the University and that he was expected to graduate in the Summer of 2017. The Student knew that the transcripts that he had ordered online and the letters that he had requested did not reflect his academic record and he admitted that he intended to make use of them.

The Panel found that the Student's actions were not spontaneous, but deliberate, since they took place over a three-day period. The Panel found that it was particularly troubling that the Student took advantage of the Panel's sympathetic treatment because of the Student's fragile emotional state, but then took immediate steps to obtain transcripts that he knew were false. Aggravating considerations were that the charge of falsification of an academic record is a very serious offence, this was the Student's third offence, and it occurred immediately after he received a three-year suspension for his second offence. The Panel considered mitigating circumstances that there was an Agreed Statement of Facts and an Agreed Statement of Facts on Penalty, that the Student admitted guilt at a very early stage, he attended the hearing, and that the Student was suffering from severe mental distress at the time the offence was committed. The Panel found that there was a pattern of dishonest conduct and prior convictions, and recommended that the Student be expelled, an interim notation until Governing Council makes decision on expulsion, and that the case be reported to the Provost.

FILE: Case #870 (16 - 17)
DATE: October 31, 2016
PARTIES: University of Toronto v. J.O. ("the Student")

Hearing Date(s): September 22, 2016

Panel Members:
Paul Michell, Barrister & Solicitor, Chair
Dr. Chris Koening-Woodyard, Faculty Panel Member
Sean McGowan, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University
Professor Luc De Nil, Dean's Designate, Vice-Dean, Students and Dean's Designate for Academic Integrity, School of Graduate Studies
Mr. Victor Kim, Law Student, Downtown Legal Services, for the Student

In Attendance:
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
The Student
Mr. John Darmondy, Recording Technologist, Live Media
Ms. Vicki Vokas, Manager, Portfolio Services

Trial Division - *s. B.i.1(a)* and *s. B.i.1(d)* of *Code* – forged documents – plagiarism - forged reference letter in scholarship application – unattributed ideas in assignment – Agreed Statement of Facts - guilty plea – consideration of Mr. C. factors relevant to expulsion - second chance principle - premeditated calculating deliberate and intentional acts - final grade of zero in the two courses where the Student submitted the plagiarized assignments; recommendation that the Student be expelled; suspension pending expulsion; permanent notation on transcript; report to Provost

Student charged with one count of forgery under *s. B.i.1(a)* of the *Code* and two counts of plagiarism under *s. B.i.1(d)* of the *Code* as well as four alternative charges of academic dishonesty and unauthorized assistance under *s. B.i.1(b)* and *s.B.i.3(b)* of the *Code*. The hearing proceeded by an Agreed Statement of Facts wherein the student admitted to forging a reference letter in a scholarship application, as well as to plagiarising assignments that she had submitted for course credit in two different courses. The Student was present at the hearing. The Student pled guilty to one charge of forgery and two plagiarism charges. Upon the Panel finding the Student guilty of these charges, the University withdrew four charges that had been made in the alternative.

The student testified at the penalty phase of the hearing, which focussed on whether an expulsion was an appropriate penalty. The Panel looked to the principles and factors described in *University of Toronto and Mr. C.* (November 5,

1976/77-3). The Student was of generally good character – a professional, single mother of four children in her 30s who had been working as a nurse for ten years prior to starting her graduate studies at the University. She had expressed remorse for her actions and concerns about their effect on her professional standing. She also pled guilty, which saved the University time and expense. These were the Student's first offences at the University, however the Student had forged the reference letter within a month of starting her program and she used the same forged reference letter five months afterwards, which undermined the Student's assertion that she was acting rashly. The Panel took into account a number of aggravating factors; namely, that both forgery and plagiarism are very serious offences; that the plagiarism here was intentional, extensive, and deliberate; that the Student had derived financial gain by being awarded a $10,000 scholarship that she had used the forged reference letter to apply for; at the same time, she deprived another student from being awarded that scholarship on a legitimate basis. She offered to return the money, but had not taken any steps to actually do so in the months since the forgery had been uncovered. The Panel also weighed the detriment to the University and the need to deter others from committing the same offence. The Panel acknowledged extenuating circumstances surrounding the commission of the offence including the Student's difficult upbringing, family responsibilities, financial hardships, and health issues to be mitigating circumstances to varying degrees.

The Panel considered other cases where recommendation for expulsion had been made and found that forgery was a most serious academic offence, and usually warranted expulsion except in circumstances where there is a Joint Submission on Penalty or significant mitigating factors which were not present here. The Panel held the "second chance" principle did not apply on these facts given the seriousness of the offences, their detriment to the University, and need for general and specific deterrence. The Panel found that the commission of two other serious academic offences on top of forgery weighed in favor of expulsion in this case.

The Panel imposed a recommendation to the President that the Student be expelled, a grade of zero in the courses where the student had submitted the plagiarized assignments, immediate suspension for a period of five years with a corresponding notation on the Student's record pending expulsion, a permanent notion of the sanction on the Student's transcript, and a report to the Provost.

FILE:	Case #837 (16 - 17)	Panel Members:
DATE:	December 22, 2016	Mr. Ronald Slaght, Chair
PARTIES:	University of Toronto v. M.A. ("the Student")	Professor Elizabeth Peter, Faculty Panel Member Professor Allan Kaplan, Faculty Panel Member Ms. Jiawen Wang, Student Panel Member
Hearing Date(s):	December 13, 2016	Appearances: Mr. Robert Centa, Counsel for the University
		In Attendance: Mr. David Dewees, Dean's Designate

DAB Decision

NOTE: See the Tribunal case summary for detailed facts

Discipline Appeal Board – University appeal from sanction – Joint Submission on Penalty accepted - reasonableness of Joint Submission on Penalty – definition of "public interest" in university context – standards of unreasonableness and unconscionability – objective standard of reasonableness - policy benefits of Joint Submissions of Penalty - where an agreement to never reapply to the University is negotiated in a Joint Submission on Penalty when an expulsion is otherwise appropriate, it should be accompanied by a permanent notation on the student's transcript to alert other institutions of misconduct — Appeal allowed

Appeal by the University from a Tribunal decision not to accept the parties' Joint Submission on Penalty (JSP). The Student pled guilty to two charges of impersonation. The matter proceeded by an Agreed Statement of Facts and a JSP. Included in the JSP was a penalty of a permanent notation on the Student's transcript coupled with an agreement that the Student never reapply to the University. The Panel accepted all the sanctions in the JSP, including the agreement that the Student not reapply to the University, except it replaced the permanent notation on the Student's transcript with a

lesser penalty of a five-year notation on the Student's transcript. The University appealed and sought a permanent notation on the Student's transcript as agreed to in the JSP.

The Board allowed the appeal and ordered a permanent notation on the transcript per the JSP. In so doing, they followed the test set out in the Board decision, *The University of Toronto v S.F.* (2014, DAB Case # 690). The Board found the parties should be able to expect the Panel to uphold a JSP unless it is fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable after considering all the relevant circumstances. The Board elaborated that a JSP is against the public interest of the University if it is offensive to the values and behaviours that members of the University community are expected to uphold. Examples of these values may be found in the preamble of the *Code.* The Board adopted the standard of unreasonableness or unconscionable sentencing agreements set out by Moldaver J in the Supreme Court of Canada decision *R v Anthony Cook*, (2016 SCC 43) where sentencing agreements are unconscionable if they are "so unhinged from the circumstances of the offence" that their acceptance would lead a reasonable observer to believe that the proper functioning of the justice system had broken down.

The Board further cited the policy reasons for deference to negotiated sentences from the *Cook* decision which states that sentencing agreements are both commonplace and vitally important to the justice system at large. The Board found that JSPs promote certainty in circumstances where an accused has given up their right to a hearing in exchange for a guilty plea and a negotiated sentence, acceptable to all. Time and resources are thus conserved, furthering the greater interests of fairness and efficiency. The Board found that the Panel erred by concentrating on its own subjective view on the reasonableness of the penalty, and not that of the greater community interests.
Finally, the Board found that the Panel did not consider the actual circumstances surrounding the JSP, namely, that both parties gained advantages in the negotiated sanction. The Student admitted to three serious offences (though only charged and pled guilty for two of them) which justified a sanction of an expulsion had the Student not agreed that she would never reapply to the University. In making this agreement not to reapply which was not recorded on her transcript, the University obtained the benefit of the effect of an expulsion, at the same time, the Student avoided having a permanent notation of an expulsion on her transcript. If the notation was limited to five years, there would be nothing flagging the Student's serious academic misconduct at the University should she choose to apply for admission to other institutions after five years. Finally, the parties were represented by counsel throughout the process. Taken together, the Board found that the JSP was reasonable in the circumstances and ought to have been accepted by the Panel.

Appeal allowed.

FILE:	Case #709 (17 - 18)	Panel Members:
DATE:	July 10, 2017	Mr. Bernard Fishbein, Chair
PARTIES:	University of Toronto v. C.S. ("the Student")	Professor Ann Tourangeau, Faculty Panel Member Ms. Susan Mazzatto, Student Panel Member
Hearing Date(s):	June 20, 2017	Appearances: Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers Ms. Maryan Shahid, Summer Student, Paliare Roland Barristers Ms. Carol Shirtliff-Hinds, Shirtliff-Hinds Law Office, Counsel for the Student (for adjournment request only) Mr. Vincent Rocheleau, Articling Student, Shirtliff-Hinds Law Office (for adjournment request only) Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies In Attendance: Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances ("ADFG") Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, ADFG Mr. Sean Lourim, Office of the Governing Council, IT Specialist Ms. Nora Gillespie, Senior Legal Counsel, Office of the Vice-President and Provost, University of Toronto Not in Attendance The Student

NOTE: Upheld on appeal.

Trial Division – plagiarism – *Section B.i.1(d)* of the *Code* – request for adjournment – anxiety attack – mental health issues– requirement of medical corroboration – jurisdiction over graduates – student not present – revocation of degree – deliberate delay – purpose of expulsion where student already graduated – final grade of zero in the affected course, degree recall and cancellation, permanent notation on transcript, removal of thesis from library, recommendation of expulsion, publication of decision with name withheld

The Student was charged with one charge of plagiarism contrary to *s. B.i.1(d)* of the *Code,* or in the alternative one charge of academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to events that occurred in 1996, when the Student's Ed.D. dissertation was submitted with at least 67 passages of text, including some passages that were several pages long, that had been copied from unattributed sources. The issue came to light in 2013, over ten years after the Student had been granted his degree. At a meeting with the Dean's Designate, The Student admitted to copying the passages in his dissertation from unattributed sources.

Since 2013 when the charges were first laid, there had been a number of interlocutory decisions and adjournments that delayed this hearing. The Student. did not attend the hearing, but had a representative request for a further adjournment on his behalf because he was experiencing mental health issues, specifically, he had an anxiety attack the previous day. The Panel declined to adjourn the hearing because: (1) unsubstantiated mental health issues did not meet the standard to grant an adjournment of "actual disability or incapacity to participate" in the proceedings; (2) the Student had failed to make mention of any health-related issues in the Divisional Court proceedings that had occurred days earlier, which raised the inference that the Student did not intend to travel from Chicago to Toronto for the hearing; and (3) the Panel was not advised that the Student was hospitalized or under immediate medical supervision due to an acute crisis. Given the protracted history of the proceedings, the Panel inferred that the Student was aware of the need for medical evidence

to corroborate his application for adjournment. In the absence of any medical evidence, the Panel declined the Student's application for an adjournment. The hearing proceeded without the Student or his representative present.

The Panel found that in the Student's dissertation there was clear evidence of plagiarism in the sheer number and extent of non-attributed sources had been used repeatedly and had been altered and changed in an attempt to hide their real sources. Upon the Panel finding the Student to be guilty of plagiarism, the University withdrew the alternative charge of academic dishonesty.

The Panel found that the Student had committed a serious form of plagiarism, both in terms of sheer volume and in terms of tailoring unattributed sources to fit the Student's thesis while concealing the original sources. Though the Student had admitted to plagiarism at the Dean's Designate meeting, the University's view was that the Student had deliberately delayed the disciplinary process in the subsequent years. While the Panel acknowledged that the Student had the right to make the University establish its case, the Student's conduct throughout the disciplinary process led the Panel to infer a lack of remorse, a lack of appreciation of the gravity of the offence committed, or any other mitigating circumstances.

The Panel imposed a final grade of zero in the affected course, that the Student's Ed.D. degree be cancelled and recalled, that the cancellation be permanently noted on the Student's academic transcript, that the University remove the Student's thesis from any library, and that the decision be published with the name of the Student withheld. Due to the severity of the Student's academic misconduct, the majority of the Tribunal (Co-Chair dissenting) also recommended that the Student be expelled in order to make it clear that any future academic engagement of the Student at the University was prohibited.

FILE: Case # 901 (17-18)
DATE: September 6, 2017
PARTIES: University of Toronto v. D.K. ("the Student")

Hearing Date(s): June 20, 2017 and July 18, 2017

Panel Members:
Mr. R.S.M. Woods, Barrister and Solicitor, Chair
Professor Faye Mishna, Faculty Panel Member
Ms. Alexis Giannelia, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Olando Vinton, Elita Chambers, Counsel for the Student

In Attendance:
The Student (June 20, 2017 and July 18, 2017)
Ms. Chelsea Laidlaw, Assistant to Mr. Olando Vinton, Elita Chambers (June 20, 2017 and July 18, 2017)
Professor Roberta Fulthorpe, University of Toronto Scarborough (June 20, 2017)
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies (June 20, 2017 and July 18, 2017)
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances (June 20 and July 18, 2017)

NOTE: Under Appeal

Trial Division - *s. B.i.1(d)* - plagiarism – graduate student – copying work from unattributed sources in a series of essays – copying work from others in an application for a scholarship from a third party – marital problems and health issues insufficient extenuating circumstances – English language proficiency not an excuse for plagiarism – no prior misconduct – final grade of zero in the affected courses, immediate suspension for a period of five years pending expulsion, recommendation of expulsion, permanent transcript notation, and report to the provost.

The Student was charged with three counts of plagiarism contrary to *s. B.i.1(d)* of the *Code,* or in the alternative, one count of academic misconduct not otherwise described contrary to *s. B.i.3(b)* of the *Code.* The charges related to two essays and a research statement in an application for a scholarship that contained significant portions of text that were the ideas or work of another person that the Student had represented as her own ideas. The Panel found the Student guilty of the three charges of plagiarism contrary to *s. B.i.1(d)* of the *Code.* Upon the Panel's finding of guilty on the plagiarism charges, the University withdrew the alternative charge of academic dishonesty.

In determining the appropriate penalty, the Panel applied the factors described in *University of Toronto v N. A* (Case No.: 661, February 29, 2012): (i) the character of the person charged; (ii) the likelihood of a repetition of the offence; (iii) the nature of the offence committed; (iv) any extenuating circumstances surrounding commission of the offence; (v) the detriment to the University occasioned by the offence; and (vi) the need to deter others from committing a similar offence. The Student had no prior record, but the Panel found that the plagiarism was too significant and too pervasive in the Student's work to merit anything other than the most serious sanction available. The Panel emphasized it was particularly egregious that the Student was a graduate student who had used the work of others three times. The plagiarism in the application for the scholarship was a particularly aggravating circumstance as the Student was putting forward as her own a project being undertaken by another student in the same lab as she had been working. The Panel did not find any extenuating circumstances in the Student's personal circumstances, specifically, her marital problems, lack of proficiency in the English language, or medical issues. The Panel was troubled by the Student's comment that she would not be in this situation if someone had noticed her plagiarism earlier. On the last two factors, the Student's actions reflected poorly on the University, as the plagiarism was on an application for funding for a scholarship from a third party.

The Panel referred to several decisions that held that an immediate suspension and a recommendation to the President of the University that the student be expelled is the appropriate penalty where there are multiple incidents of plagiarism by a graduate student, when the improper conduct relates to obtaining some financial benefit, potentially deprives another student of some benefit, or reflects poorly on the University as a whole (*The University of Toronto v. O.G.* (Case No.: 587, April 14, 2010); *The University of Toronto v. D.D.* (Case No.: 593, September 3, 2010) and *The University of Toronto v. K. K.* (Case No.: November 3, 2009)). The Panel ordered a final grade of zero in the affected courses; immediate suspension from the University for five years pending expulsion; a recommendation of that the Student be expelled; a permanent notation of the sanction on the Student's academic record and transcript; and that the matter be reported to the Provost for publication.

FILE: Case # 913 (2017-2018)
DATE: January 15, 2018
PARTIES: University of Toronto v. A.P. ("the Student")

Hearing Date(s): October 16, 2017

Panel Members:
Mr. Paul Michell, Chair
Professor Dionne Aleman, Faculty Panel Member
Mr. Ramz Aziz, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Dr. Kristi Gourlay, Manager and Academic Integrity Officer, Office of Student Academic Integrity, University of Toronto
Mr. Jackson Foreman, Law Student, Downtown Legal Services, for the Student

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

Trial Division – s. B.i.3(a) of the *Code* - falsifying an academic record – student provided a forged degree certificate to a prospective employer – student's LinkedIn profile claimed to have degrees that had not been granted by the University – application for employment containing false information – Agreed Statement of Facts – no prior offence – appropriate penalty where a student commits a number of serious offences and cooperates with the discipline process – dissenting panel member - recommendation of expulsion, suspension for a period of up to 5 years, corresponding notation on the Student's transcript, and report to the Provost with the Student's name withheld.

The Student was charged with two counts of forging or falsifying an academic record contrary to s. B.i.3(a) of the *Code*; and one count of engaging in academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code*. The charges related to the Student claiming that she had graduated with an Honours Bachelor of Science from the University in an application that she submitted to a prospective employer, a false degree certificate she had submitted to a

prospective employer, and in maintaining a public LinkedIn Profile in which she claimed to have a Doctor of Philosophy degree and an Honours Bachelor of Science degree granted by the University. The matter proceeded by an Agreed Statement of Facts (ASF) in which the Student pled guilty to the first two charges. Upon the Panel's acceptance of the Student's guilty pleas, the University withdrew the third charge of academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code*.

The Panel considered the Student's argument that the penalty of expulsion should be reserved for cases where there is a combination of a serious offence and a failure to cooperate with the discipline process because to do otherwise would remove the incentive for students to cooperate. The Panel rejected this argument and held that the Student's willingness to cooperate with the Provost, admit guilt, attend the hearing, agree to a statement of facts, or give evidence of mitigating circumstances do count for something: but they must be weighed and evaluated in the context of the other factors to determine the appropriate sanction. The effect they will have necessarily varies with the circumstances, as a Student's cooperation is just one of *Mr. C.* [Case No. 1976/77-3; Nov. 5, 1976] factors to consider. The Panel noted that the penalty of expulsion has been imposed in a number of cases where students had cooperated with the process and shown remorse (e.g. *M.K.* [Case No. 491, November 5, 2008] where the mitigating circumstances were insufficient to outweigh the other *Mr. C.* factors; and *A.L.* [Case No. 590; August 10, 2010] at para. 18 where the penalty of expulsion was seen as consistent with other forgery cases). Where a penalty other than expulsion has been handed down in forgery cases, it has been where there has been a Joint Submission on Penalty or where a student has already received a degree (e.g. *S.D.* [Case 13 No. 406; May 1, 2007]).

The Panel then applied the *Mr. C.* factors to the Student's circumstances: (1) The offences committed in this case were serious, and that the forgery of a degree, in particular, is a most serious offence; (2) The offences were deliberate, which generally justify expulsion (*C.A.* [Case No. 828; April 11, 2016] at para. 19); (3) the offences show the most serious lack of academic and personal integrity, and forgery in particular is often difficult to detect, which make general deterrence a factor to weigh heavily in favour of expulsion; (4) The offences cause harm to the reputation of the University and undermine the trust the employers have in the University, and other students who obtain legitimate degrees who must compete with those who falsely claim to hold degrees, which adds further weight in favour of expulsion; (5) Though the Student had admitted guilt, she tended to deflect responsibility for her actions during cross examination as well her letter to the prospective employer in which she admitted to lying about her qualifications failed to mention the forged degree certificate, so the mitigating weight is limited; (6) for specific deterrence, or the likelihood of reoffending, though these were the Student's first offence, they were calculated; (7) the Panel found that the extenuating circumstances of supporting her family of four siblings after her father had a heart attack, the long commute, and the Student's remorse to be extenuating circumstances but were given little weight given that it was apparent that the Student had not fully appreciated the extent of her misconduct through her actions in the hearing. After weighing all of these factors, the majority of the Panel conceded that if there had only been one offence, a lesser penalty may have been appropriate but given the seriousness of the conduct here, the first three factors outweighed the mitigating factors and a penalty of expulsion was appropriate. The Panel ordered: (a)a recommendation that the Student be expelled from the University; (b) a suspension from the University for up to five years from the date of the order, and that a corresponding notation be placed on her transcript; and (c) that that case be reported to the Provost for publication.

Dissent: The Student Panel Member dissented on the decision as to penalty and would have awarded a five-year suspension instead of an expulsion. The Student Panel Member reached this outcome because he accorded a different weight to the mitigating factors in the majority's *Mr. C.* analysis. In particular, he found that a five-year suspension carried with it sufficient stigma to achieve general deterrence while at the same time, it would incentivize other students to cooperate with the discipline process. The Student Panel Member found that the Student's circumstances were at the extreme end of extenuating circumstances a student can experience: a family tragedy, the disruption of her education, unexpected financial responsibility, and a misrepresentation to fulfill said responsibility - notably one that she could not easily rectify without harm to her loved ones. With more weight is allotted to the extenuating circumstances, the dissenting member of the Panel ordered a five-year suspension.

FILE: Case # 1142 (2021-2022)
DATE: January 19, 2022
PARTIES: University of Toronto v. U.M. ("the Student")

Hearing Date(s):
October 21, 2021, via Zoom

Panel Members:
Ms. Joelle Ruskin, Chair
Dr. Ian Crandall, Faculty Panel Member
Mr. Branden Cave, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.3(a) of Code – forged and falsified record – Student knowingly forged or falsified an academic record uttered, circulated or made use of such forged, altered or falsified record, namely a document which purported to be an unofficial academic history from the University of Toronto – Student did not attend the hearing – Rules 9(c), 13, 16, and 17 of the University Tribunal's *Rules of Practice and Procedure* – Panel was satisfied the hearing could proceed in the Student's absence – the unofficial academic history provided to a prospective employer was altered, forged or falsified – finding of guilt – forgery of an academic record is one of the most serious offences a student can commit – the expressions of remorse made by the Student in his emails to counsel for the University do not describe any extenuating circumstances faced by the Student at the time of the offence – Statements made by the Student do not mitigate the premeditated and egregious conduct of circulating a false academic record – immediate suspension from the University for a period of up to five years; a recommendation that the Student be expelled, as per s. C.ii(b)(i) of Code; and a report to the Provost for publication.

The Student was charged under s. B.i.3(a) of the *Code of Behaviour on Academic Matters*, 1995 (the "Code") on the basis that the Student 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 which purported to be the Student's unofficial academic history from the University of Toronto.

The Student did not attend the hearing and counsel for the University provided the Panel with an email chain which confirmed that the Student was aware of the hearing but was not able to attend. The Student further confirmed that they were waiving their right to attend the hearing and agreed that the Tribunal should proceed in their absence. The Panel noted that the Student had also previously communicated via email with counsel for the University to advise that they would not be at the hearing. Based on the evidence, and considering rules 9(c), 13, 16, and 17 of the University Tribunal's *Rules of Practice and Procedure*, the Panel was satisfied that the Student was served with the charge and the Notice of Electronic Hearing, and ordered that the hearing proceed in the absence of the Student.

The Panel received affidavit evidence of a Student Success Representative in the Office of the Registrar (the "Representative"). The Representative's affidavit outlined that she received a call from a Pre-Employment Screening Coordinator with BMO Financial Group ("BMO") seeking to confirm the authenticity of a transcript of academic record provided by the Student as part of a job application (the "Purported Transcript"). Upon review of the Purported Transcript, the Representative she determined the Purported Transcript had been falsified. The Panel noted that the requirement that the Student act "knowingly" is made out if the Student ought reasonably to have known that the academic record in question had been forged, altered or falsified. The Panel determined that the evidence clearly established that the Purported Transcript provided by the Student to BMO was false. Furthermore, the Panel found that it was more likely than not that the Student was responsible for circulating and making use of the forged record since there was evidence that the Student had provided it to BMO. Based on the foregoing, the Panel found the Student 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.i.3(a) of the Code.

In determining sanction, the Panel noted that the Code confirms that in the case of forgery or falsification of an academic record, the Provost will ask the Tribunal to recommend expulsion. The Panel further noted that it is required to consider the factors outlined in the *University of Toronto v. Mr. C* (Case No. 1976/77-3, November 5, 1976). The Panel noted that the Student did not meaningfully participate in the academic discipline process or in this proceeding nor did the Student sign an Agreed Statement of Facts when given the opportunity. The Panel considered the Student's prior sanction as an aggravating factor in determining the appropriate penalty. The Panel noted that even if it was to accept as admissible, the expressions of remorse made by the Student in his emails to counsel for the University, those statements do not describe

any extenuating circumstances faced by the Student at the time of the commission of the offence. Furthermore, those statements do not mitigate what the Tribunal considers to be premeditated and egregious conduct of the Student in circulating a false academic record as part of a job application. In reviewing the case law provided by counsel for the University, the Panel observed that these cases establish that forgery of an academic record is one of the most serious offences a student can commit. Based on the foregoing and all of the circumstances, the Panel concluded that it was appropriate to make a recommendation for expulsion. The Panel imposed the following sanctions: immediate suspension from the University for a period of up to five years; a recommendation that the Student be expelled, as per s. C.ii(b)(i) of Code; and a report to the Provost for publication.

DEGREE RECALL

FILE: Case #468 (07-08)
DATE: information not available
PARTIES: University of Toronto v N.L.

Hearing Date(s):
March 22, 2007

Panel Members:
Rodica David, Chair
Carolyn Pitchik, Faculty Member
Sharon Walker, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Jayne Lee, Counsel for the Student
N.L., the Student

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity

Trial Division - *s. B.i.3(a)* of *Code* – forged academic records - altered transcript twice submitted to Ontario Universities' Application Centre – guilty plea - two separate acts of forgery – age and occupation not extenuating circumstances – excuse for conduct not accepted – no expression of remorse – Joint Submission on Penalty accepted - recommendation that the Student's degree be cancelled and recalled, as per *s. C .ii.(b)(j)(i)* of *Code*; permanent notation on transcript; and report to Provost - jurisdiction for the restoration of a degree that had been cancelled, recalled or suspended – see *s. 48* of *the University of Toronto Act of 1947* - no specific regulations or directions for implementation of restoration - seriousness of conduct should be taken into account in any application made for reinstatement of degree – no jurisdiction to make recommendation that significant time need expire before Student could succeed in application for restoration of degree

The Student was charged with two offences under *s. B.i.3(a)* and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student twice submitted an altered University Transcript of Consolidated Academic Record to the Ontario Universities' Application Centre in support of an application to medical school. The Student pleaded guilty to the charges under *s. B.i.3(a)* of the *Code*. The parties submitted an Agreed Statement of Facts. The Panel accepted the guilty plea. The parties submitted a Joint Submission on Penalty. The Panel considered that the Student increased his marks by way of an additional forgery indicating higher marks when the marks that were originally forged were not high enough to gain admission into medical school. The Panel found the Student's conduct more egregious because he engaged in two separate deliberate acts of forgery a period of time apart from one another. The Panel found that the facts that the Student was 27 years old and had worked in a Laundromat for a number of years did not create any type of extenuating circumstances. The Panel did not accept the Student's excuse that the two forgeries occurred "on the spur of the moment." No evidence as to whether the Student had been subjected to any other disciplinary proceedings was adduced. The Panel found that the case was more serious than in the case of *the University of Toronto v.* (case blacked out) because there were two acts of forgery and no expressions of remorse. The Panel accepted the Joint Submission on Sanction and imposed a recommendation to Governing Council, further to *s. C .ii.(b)(j)(i)* of the *Code*, that the Student's degree be cancelled and recalled; a permanent notation on the Student's academic record and transcript; and that a report be issued to the Provost. The Panel stated that it desired its reasons be considered if the Student where to make an application for reinstatement of his degree. The Panel observed that *s. 48* of *the University of Toronto Act of 1947* conferred jurisdiction for the restoration of a degree that had been cancelled, recalled or suspended and that there were no specific regulations or directions as to the procedure for the implementation of such a restoration. The Panel stated that the seriousness of the Student's conduct should be taken into account in any future application that the Student might ever make for reinstatement of his degree. The Panel stated that if it had been given additional jurisdiction, it would have recommended that a significant amount of time would have to expire before the Student could succeed in any application for restoration of his degree.

FILE: Case #822 (15-16)
DATE: March 22, 2016
PARTIES: University of Toronto v C.L.

Hearing Date:
January 21, 2016

Panel Members:
Johanna Braden, Chair
Michael Evans, Faculty Member
Jenna Jacobson, Student Member

Appearances:

Robert Centa, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland Barristers

In Attendance:
Donald Dewees, Dean's Designate
Tracey Gameiro, Office of Appeals, Discipline and Faculty Grievances
Krista Osbourne, Office of Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a) Code* – forged academic record – Student falsified her transcript from another university in an application for admission to the Faculty of Arts and Science and her application for on-admission transfer credit – Student gained admission to her Major program on the basis of a forged course – hearing not attended – reasonable notice of hearing provided; Student acknowledged that the hearing would proceed in her absence – Agreed Statement of Facts – finding on Agreed Statement of Facts – finding on guilt – University submission on penalty accepted – Student graduated before the forgery came to light, making cancellation of credits and degree recall the only relevant sanctions – cancellation of the forged 1.50 transfer credits; permanent notation of the offence on the Student's academic record and transcript; case reported to Provost for publication; recommendation of degree recall

Student was charged under *s. B.i.3(a)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly submitted a forged, altered, and/or falsified document that she represented to be her official transcript from another university in support of her application for admission into the Faculty of Arts and Science and for on-admission transfer credit. The Student was not present at the hearing. The Student acknowledged in writing that she had received reasonable notice of the hearing, and requested that the Tribunal proceed in her absence.

Student was found guilty with respect to the forged academic record charge. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel accepted the parties' Agreed Statement of Facts. The Student admitted to knowingly forging her transcript, whereby she changed the final grade in one course, added four courses that she did not complete, and excluded nine courses which she had either completed or which were in progress. The Panel noted that the document had been falsified in several significant ways such that the Student knew or must have known about the falsifications. The Student received 1.0 extra transfer credits based on the Forged Transcript. The extra transfer credit was the basis of the Student's admission to her Major program, for which she was not otherwise eligible.

A complicating factor in this case was that the Student had already graduated from the University. Accordingly, sanctions that might otherwise be available (suspension and/or a recommendation of expulsion) were not relevant. Since the Student had graduated and could not be expelled, cancellation of the credits and a recommendation that her degree be cancelled and recalled was the most appropriate order. The Panel took into account that the Student admitted her misconduct and took some responsibility, but noted that but for the report of a third party, the Student's misconduct would never have come to light. The Panel also considered the nature of the offence committed to be a significant aggravating factor; the deliberate, careful and detailed falsification of the Student's transcript shows calculated dishonesty. The Panel also emphasized the serious risk to the integrity of the University given the Student's possession of a degree from the University which she obtained in part through false pretenses. The Panel imposed a cancellation of the forged 1.50 transfer credits; a permanent notation of the offence on the Student's academic record and transcript; that the case be reported to the Provost for publication; and a recommendation of degree recall.

FILE:	Case #709 (17 - 18)	Panel Members:
DATE:	July 10, 2017	Mr. Bernard Fishbein, Chair
PARTIES:	University of Toronto v. C.S. ("the Student")	Professor Ann Tourangeau, Faculty Panel Member Ms. Susan Mazzatto, Student Panel Member
Hearing Date(s):	June 20, 2017	Appearances: Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers Ms. Maryan Shahid, Summer Student, Paliare Roland Barristers Ms. Carol Shirtliff-Hinds, Shirtliff-Hinds Law Office, Counsel for the Student (for adjournment request only) Mr. Vincent Rocheleau, Articling Student, Shirtliff-Hinds Law Office (for adjournment request only) Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies In Attendance: Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances ("ADFG") Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, ADFG Mr. Sean Lourim, Office of the Governing Council, IT Specialist Ms. Nora Gillespie, Senior Legal Counsel, Office of the Vice-President and Provost, University of Toronto Not in Attendance The Student

NOTE: Upheld on appeal.

Trial Division – plagiarism – *Section B.i.1(d)* of the *Code* – request for adjournment – anxiety attack – mental health issues– requirement of medical corroboration – jurisdiction over graduates – student not present – revocation of degree – deliberate delay – purpose of expulsion where student already graduated – final grade of zero in the affected course, degree recall and cancellation, permanent notation on transcript, removal of thesis from library, recommendation of expulsion, publication of decision with name withheld

the Student was charged with one charge of plagiarism contrary to *s. B.i.1(d)* of the *Code,* or in the alternative one charge of academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to events that occurred in 1996, when the Student's Ed.D. dissertation was submitted with at least 67 passages of text, including some passages that were several pages long, that had been copied from unattributed sources. The issue came to light in 2013, over ten years after the Student had been granted his degree. At a meeting with the Dean's Designate, the Student admitted to copying the passages in his dissertation from unattributed sources.

Since 2013 when the charges were first laid, there had been a number of interlocutory decisions and adjournments that delayed this hearing. The Student. did not attend the hearing, but had a representative request for a further adjournment on his behalf because he was experiencing mental health issues, specifically, he had an anxiety attack the previous day. The Panel declined to adjourn the hearing because: (1) unsubstantiated mental health issues did not meet the standard to grant an adjournment of "actual disability or incapacity to participate" in the proceedings; (2) the Student had failed to make mention of any health-related issues in the Divisional Court proceedings that had occurred days earlier, which raised the inference that the Student did not intend to travel from Chicago to Toronto for the hearing; and (3) the Panel was not advised that the Student was hospitalized or under immediate medical supervision due to an acute crisis. Given the protracted history of the proceedings, the Panel inferred that the Student was aware of the need for medical evidence

to corroborate his application for adjournment. In the absence of any medical evidence, the Panel declined the Student's application for an adjournment. The hearing proceeded without the Student or his representative present.

The Panel found that in the Student's dissertation there was clear evidence of plagiarism in the sheer number and extent of non-attributed sources had been used repeatedly and had been altered and changed in an attempt to hide their real sources. Upon the Panel finding the Student to be guilty of plagiarism, the University withdrew the alternative charge of academic dishonesty.

The Panel found that the Student had committed a serious form of plagiarism, both in terms of sheer volume and in terms of tailoring unattributed sources to fit the Student's thesis while concealing the original sources. Though the Student had admitted to plagiarism at the Dean's Designate meeting, the University's view was that the Student had deliberately delayed the disciplinary process in the subsequent years. While the Panel acknowledged that the Student had the right to make the University establish its case, the Student's conduct throughout the disciplinary process led the Panel to infer a lack of remorse, a lack of appreciation of the gravity of the offence committed, or any other mitigating circumstances.

The Panel imposed a final grade of zero in the affected course, that the Student's Ed.D. degree be cancelled and recalled, that the cancellation be permanently noted on the Student's academic transcript, that the University remove Dr.'S thesis from any library, and that the decision be published with the name of the Student withheld. Due to the severity of the Student's academic misconduct, the majority of the Tribunal (Co-Chair dissenting) also recommended that the Student be expelled in order to make it clear that any future academic engagement of the Student at the University was prohibited.

FILE:	Case #916 (2017 - 2018)
DATE:	March 12, 2018
PARTIES:	University of Toronto v. M.S. ("the Student")
Hearing Date(s):	December 15, 2017

Panel Members:
Ms. Cheryl Woodin, Chair
Professor Pascal van Lieshout, Faculty Panel Member
Ms. Natasha Ramkissoon, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University, Palaire Roland Barristers

In Attendance:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies
Mr. Brian Alexic, IT Support, Office of the Governing Council

Not in Attendance:
The Student
Ms. Julia Wilkes, Counsel to the Student, Wardle Daley Bernstein Bieber LLP

Trial Division - s. B.i.1 (d) – plagiarism – graduate student - passages in a dissertation copied from unattributed source – hearing not attended – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – no prior offences – undertaking – joint submission should not be rejected unless its acceptance would bring the administration of justice into disrepute – final grade of zero in the course; degree recall; permanent notation of the sanction be recorded on academic record and transcript; and that the decision be reported to the Provost for publication with the Student's name withheld

The Student was charged with one charge plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative, one charge of unauthorized assistance contrary to s. B.i.1(b) of the *Code;* or in the further alternative, one charge of academic misconduct not otherwise described contrary to s.B.i.3(b) of the *Code.* The charges related to the Student's dissertation, which contained several passages that had been copied verbatim or nearly verbatim from works of another scholar. The plagiarism came to light after the Student had graduated and approached that scholar to supervise his postdoctoral project. The Student and his counsel consented to the hearing proceeding in their absence. The matter proceeded by way of agreed statement of facts (ASF) and a joint book of documents. Portions of the ASF were removed from the decision at the request of the Student on the basis that they summarize information relating to the Student's medical circumstances which need not be published. The Student pled guilty to the first charge of plagiarism contrary to s.

B.i.1(d) of the *Code*. Upon the Panel accepting the Student's guilty plea to the first charge, the University withdrew the alternative charges.

The parties submitted a Joint Submission on Penalty (JSP) requesting: (a) final grade of zero in the course; (b) that the degree be cancelled and recalled; (c) the sanction be permanently recorded on academic record and transcript; and (d) that the decision be reported to the Provost for publication with the Student's name withheld. The JSP was accompanied by an undertaking that the Student not enrol in, or apply for admission to, any program or course at the University until the Fall 2020 term or later. The Student also undertook to return his degree certificate to the University and consented to the removal of his thesis from the University library and any affiliated organizations or databases. In deciding whether to accept the JSP, the Panel considered the plagiarism within its broader context. Mitigating factors included that it was the Student's first offence, he had cooperated throughout the discipline process, and that the plagiarism was committed while the Student's dissertation was on an expedited timeline. Aggravating factors included that the Student had been confronted about he attribution problems prior to submitting his dissertation, the seriousness of the offence, and the fact that it had occurred in the context of a dissertation thesis, which has significant visibility. Further, the Student intended the thesis to form the basis for a book, where it would have had even greater prominence and visibility as a representation of the University's academic quality. The Panel found that the threshold for departing from a JSP had not been met in this case (*The University of Toronto and M.A.* (Case No. 837, December 22, 2016). The Panel accepted the parties' JSP and ordered:(a) final grade of zero in the course; (b) that the Student's degree be cancelled and recalled; (c) a permanent notation of the sanction be recorded on the Student's academic record and transcript; and (d) that the decision be reported to the Provost for publication with the Student's name withheld.

DEGREE SUSPENSION

FILE:	Case # 967 (2017 - 2018)	Appearances:
DATE:	June 6, 2018	Ms. Lily Harmer, Assistant Discipline Counsel for University, Paliare Roland Barristers
PARTIES:	University of Toronto v. Y.W. ("the Student")	The Student
Hearing Date(s):	April 3, 2018	In Attendance: Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies
Panel Members:		Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances
Ms. Roslyn M. Tsao, Chair		
Professor Graeme Hirst, Faculty Panel Member		
Mr. Eric Bryce, Student Panel Member		

Trial Division - s. B.ii.1(a)ii – aiding or assisting another person to commit an offence under s. B.i.1(b) of the *Code* – misconduct by teaching assistant – teaching assistant completing assignments for a student enrolled in the course – penalties for misconduct after a degree has been conferred – degree suspension - agreed statement of facts – guilty plea – joint submission on penalty – recommendation of suspension of the degree for three years, transcript notation for four years, and a report to the Provost for publication

The Student had recently obtained his Master of Arts degree from the University and was working as a teaching assistant. The charges related to his providing unauthorized assistance to a student enrolled in the course by writing the majority of her assignments in the course. The matter proceeded by way of an agreed statement of facts (ASF), a guilty plea and a joint submission of penalty (JSP). The Student pled guilty to three of the charges which related to aiding or assisting another person contrary to Section B.ii.l(a)(ii) to obtain unauthorized assistance contrary to Section B.i.l(b) of the *Code*. The University withdrew the other four charges.

The Parties' JSP requested: (1) that the Student's degree be suspended for a period of three years; (2) that the sanction be recorded for a period of four years on the Student's academic record and transcript; and (3) that the case be reported to the Provost with the Student's name withheld. The Panel noted that there is a very high threshold for departing from a JSP; that the Panel would need to find that its acceptance would be contrary to the public interest and bring the administration of justice into disrepute. The Panel was referred to other cases which showed that the penalties available to impose on a student who has graduated are more limited than for a current student but the more serious sanction of revocation of the Student's degree was not appropriate given that it was a first offence, that the Student had admitted guilt early in the process and acknowledged his misconduct. The Panel found the JSP was reasonable in these circumstances and ordered: (1) that the Student's degree be suspended for a period of three years; (2) that the sanction be recorded for a period of four years on the Student's academic record and transcript; and (3) that the case be reported to the Provost with the Student's name withheld.

PROCEDURAL ISSUES

Leading Cases:

▪ motions:	**651 (11-12), 810 (16-17), 1054 (19-20)**
▪ adjournments:	**798 (15-16), 786 (15-16), 709 (17-18), 709 (17-18)(DAB), 1054 (19-20)**
▪ costs requested:	**579 (09-10), 441 (06-07)**
▪ joint hearing for co-accused:	**00-01-02, 734 (14-15), 735 (14-15)**
▪ admissibility of evidence:	**684 (12-13) 684 (13-14)(DAB), 00-01-01, 805 (15-16), 883 (16-17), 719 (17-18)(DAB), 1026 (19-20), 1054 (19-20), 1054 (20-21) (DAB)**
▪ examination (cross/direct):	**672 (12-13), 684 (12-13),**
▪ jurisdiction**:**	**736 (14-15), 841 (17-18)(DAB), 911 (17-18), 942 (18-19)**
▪ clerical errors	**922 (16-17)**
▪ notice:	**993 (19-20)**
▪ onus:	**948 (19-20)**
▪ credibility:	**948 (19-20), 1047 (19-20)**
▪ procedural fairness	**1107 (21-22) (DAB)**
▪ reply evidence:	**1054 (20-21) (DAB)**
▪ timing of notice:	**1000 (18-19)**

DAB = Discipline Appeals Board decisions

MOTIONS

FILE: Case #651 (11-12)
DATE: April 10, 2012
PARTIES: University of Toronto v O.O.

Hearing Date(s):
April 10, 2012

Panel Members:
William McDowell, Chair
Annette Sanger, Faculty Member
Shakir Rahim, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
O.O., the Student

In Attendance:
Lucy Gaspini, Manager, Academic Integrity and Affairs
Jason Marin, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – passages from essay taken verbatim from internet sources – Agreed Statement of Facts – guilty plea – finding of guilt – Joint Submission on Penalty – Undertaking to complete writing workshops – prior academic offences of similar nature – Panel acknowledged that a joint submission should not be rejected unless its acceptance would bring the administration of justice into disrepute – Panel accepted Joint Submission with reluctance – timing of Undertaking – suspicious unsettled facts – better to address academic deficiencies before and not after repeated academic offences – serious nature of the offence and harm to the university – grade assignment of zero for course; three-year suspension; report to Provost – Panel rejected the Student's motion for a ban on publication

Student charged under *s. B.i.1(d)* of the *Code*. The charges related to allegations that the Student submitted an essay containing passages taken verbatim or nearly verbatim from internet sources. The parties submitted an Agreed Statement of Facts. The Student pleaded guilty to the charges, and the Panel found the Student guilty under *s. B.i.1(d)*. The parties also agreed on a proposed penalty: a grade assignment of zero in the course and a three-year suspension. As part of the resolution, the Student signed an Undertaking which required the Student to take workshops at the university's writing centre. Before the current offence, the Student had committed two similar plagiarism offences. In considering whether to accept the joint submission, the Panel acknowledged that a joint submission should not be rejected unless it is contrary to the public interest in that the proposed penalty would bring the administration of justice into disrepute. The Panel stated that it accepted the joint submission with reluctance. The reasons for reluctance were as follows. First, the Panel considered it unfortunate that the Undertaking was offered after the Student's third offence and not his first offence. Second, the Panel remained suspicious of some of the facts agreed by the parties. Because of the University's half-way position in which it accepted reports submitted by the Student while stating that it did not accept the truth of all the facts submitted, the Panel was asked to accept the Student's "exquisite bad luck in relation to motor vehicle accidents, coupled with a poorly supported medical/psychiatric explanation." The Panel stated that this way of proceeding runs the risk of confusing the Panel. Third, the Panel also stated that it agreed with the view regarding undertakings expressed in *Y.K.* (Case No. 631), that the student's academic should be addressed before, and not as a result of academic offences. Finally, the Panel stressed the harm that the offence of plagiarism brings to the university and stated that a penalty of expulsion would not have been out of line for the Student. As according to the joint submission, the Panel imposed a grade assignment of zero in the course; a three-year suspension; and a report be issued to the Provost. The Panel rejected the Student's motion for a ban on publication as the question of publication was settled in the joint submission; the Panel found it abhorrent that the Student said because his family donated to the university, there should be a ban on publication.

FILE: Case #810 - Motion, Decision (16 - 17)
DATE: June 29, 2017
PARTIES: University of Toronto v. B.S. ("the Student")

Hearing Date(s): May 30, 2017

Panel Members:
M s. Lisa Brownstone, Barrister and Solicitor, Chair

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers

Ms. Lauren Pearce, Counsel, Paliare Roland Barristers
Professor Eleanor Irwin, Dean's Designate, University of Toronto Scarborough

In Attendance:
Mr. Sean Lourim, IT Support, Office of the Governing Council
Ms. Tracey Gameiro, Associate Director, Office of Appeals Discipline and Faculty Grievances ("ADFG")

Not in Attendance:
The Student

Appeal Division – *s. E.7(a)* of the Code – motion to dismiss Student's appeal as frivolous, vexatious , or without foundation – Student did not comply with Directions, respond to communications, or meet any time-lines – Student did not respond to motion or offer any reasonable explanation – this constituted vexatious proceedings – motion allowed, appeal dismissed

The Student appealed a finding of guilt of several offences. The University brought a motion under *s. E.7(a)* of the Code to dismiss the appeal for being frivolous, vexatious, or without foundation. The motion was allowed. While the Student had the stated intention to pursue the appeal, their actions belied that intention. The Student failed to comply with Tribunal directions, to respond to communications, and to meet set timelines. The Student took almost no steps to move the matter forward in a timely way, showed blatant disregard for the process and the efforts of the Provost's counsel and ADFG, and commenced two separate proceedings against a reporting service and a witness. The Tribunal concluded that the Student had conducted the proceedings in a vexatious manner and so dismissed the appeal.

FILE: Case # 1054 (2019-2020)
DATE: January 31, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
November 13 and 20, 2019, and January 15, 2020

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair Professor Julian Lowman, Faculty Panel Member Ms. Karen Chen, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg, Rothstein LLP
Ms. Hanna Yakymova, Downtown Legal Services, Representative for the Student

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearings Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division — s. B.i.3(b) of Code — academic dishonesty — knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination, namely a Scantron sheet that the Student submitted in a midterm examination —Student attended the hearing and was represented—Agreed Statement of Facts ("ASF")—finding of guilt — grade of zero in the course - suspension for just over 29 months – a notation on the transcript for 40 months or graduation, whichever date is later – report to Provost for publication with the Student's name withheld — Student's initial legal representative not permitted to give evidence at hearing — University's adjournment request in order to call reply evidence granted with terms to negate any potential prejudice to the Student — Student's production motion requesting University counsel's notes denied because notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege, but to ensure full disclosure of underlying facts within proposed reply witnesses' knowledge, University was ordered to review counsel notes and provide a summary of any additional facts not reflected in "Will Say" summaries already produced.

NOTE: This matter was appealed to the Discipline Appeals Board ("DAB"). In *A.M. v. University of Toronto* (Case No.: 1054, dated November 17, 2020), the DAB overturned the Trial Division's decision in terms of which specific charge the Student was found guilty of and substituted a conviction on the first charge.

The Student was charged under ss. B.i.1(a) and B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* ("Code") on the basis that a) he knowingly falsified, circulated or made use of a forged academic record, namely a Scantron sheet that he submitted in a midterm examination; and b) he knowingly obtained unauthorized assistance in connection with that midterm examination. Alternatively, he was charged under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination.

For the examination in question, two different versions of the exam were distributed (version A and version B) to reduce the potential for cheating. The Student received a version B exam but misrepresented on his Scranton form that he had received a version A exam.

The Panel delivered reasons for mid-hearing motions and evidentiary issues orally. First, the Student sought to call his initial legal representative to provide evidence regarding his observations of the distribution of answers across the exams that were completed for the mid-term. The Panel did not permit the Student to call his initial legal representative as a witness. Instead, he was allowed to address the representative's proposed observations and arguments as part of the closing submissions. Second, after the Student completed his evidence and the defence rested its case, the University requested an adjournment to call reply evidence. The Panel granted the adjournment on terms. It explained that while it was reasonable to argue that the University could have called the TAs as witnesses during their case in chief given their involvement in the events in question, the Student had chosen to provide his explanation for the first time during his testimony. It acknowledged that it was the Student's right to do so, but that fairness dictated that the University be given an opportunity to call reply evidence. To negate any potential prejudice, the Panel imposed the following terms: a) The University was instructed not to discuss the evidence at the hearing with the potential reply witnesses; b) Any reply evidence was strictly limited to true reply, that is, it had to be in response to evidence that was raised for the first time in the Student's testimony; c) The delay due to the adjournment was brief as all parties and counsel were accommodating and able to find a date within one week to resume the proceeding; and d) The Student was given the opportunity to participate in the resumed hearing via videoconference. Since he had already testified, there was no impact on the quality of the evidence as a result of this accommodation. Finally, the Panel denied the Student's motion seeking production of University counsel's notes of interviews conducted with the reply witnesses in between the hearing dates. The Panel highlighted the general principle that notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege. The underlying facts are not subject to privilege; however, the notes themselves ordinarily will be. That applies even in a case such as this one where the University acknowledged that the discussions with the TAs in between the hearing dates were the first time that the potential witnesses were interviewed. To ensure that the Student had full disclosure of the underlying facts within the proposed reply witnesses' knowledge, the University was ordered to review the counsel notes and to provide a summary of any additional facts that were not reflected in the "Will Say" summaries that had already been produced even if the additional facts were not evidence that the University intended to lead.

The Panel found the Student guilty of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with the midterm examination, contrary to section B.i.3(b) of the Code. However, it was not convinced that the Student had cheated in the manner alleged by the University because there was no direct evidence showing that he had copied off another student at the exam. Furthermore, the Panel accepted the University's submission that it did not have to prove exactly how the Student cheated in order to establish that an academic offence was committed.

In determining the sanctions, the Panel considered the following factors: the Student's prior offence; his submission concerning his return to the University to complete his studies; the concern regarding the possibility of the Student re-offending if he elected to immediately pursue graduate studies after graduation; the length of time that had passed between when the offence was committed and when the matter was brought to a hearing. The Panel also noted that it is expected that the discipline process will typically be much shorter since students should not be subjected to the stigma, uncertainty and stress of being charged any longer than necessary.
The Panel imposed the following sanctions: a grade of zero in the course; a suspension for just over 29 months; a 40 month notation on the transcript or until the date of graduation, whichever date is later; and a report to the Provost for a publication with the Student's name withheld.

FILE: Case # 1100 (2021-2022)
DATE: February 8, 2022
PARTIES: University of Toronto v. R.S. ("the Student")

Motion Date(s):
June 8, 2021, via Zoom with written submissions June and September 2021

Panel Members:
Mr. Paul Michell, Associate Chair

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare, Roland, Rosenburg, Rothstein LLP

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appealed the sanction imposed by the Trial Division – Student took no steps to advance his appeal – Provost moved to dismiss the appeal summarily and without formal hearing – ss. C.II(a)(7), C.II(a)(11), E.7(a), and E.8 of the *Code of Behaviour on Academic Matters, 1995* ("Code") – s.7(a) of Appendix A of the Discipline Appeals Board's *Terms of Reference* ("Terms") – Tribunal's *Rules of Practice and Procedure* ("Rules") – ss. 3, 4.2.1(1), and 4.6 of the *Statutory Powers Procedures Act* ("SPPA") – the Code does not grant a single member of the Board jurisdiction to hear and decided a motion to dismiss an appeal summarily without formal hearing – s. C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA – the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA – the Code and the Terms create a legitimate expectation in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 that the Tribunal will conduct a hearing – an appeal to the Discipline Appeals Board ("Board") falls within s. 3 of the SPPA – s. 4.2.1(1) of the SPPA applies to this motion – there is no statutory requirement that appeals (or this motion) be heard by a panel of more than one person – a motion in writing is sufficient to dismiss an appeal summarily – a single member of the Board, if designated, can dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation –s. 4.6 of the SPPA does not apply to this motion nor does it affect the Associate Chair's jurisdiction to hear and decide this motion – proposed grounds of appeal do not identify any errors in the Trial Division's decision – Student did not lead any evidence at the trial as he failed to appear – Student would need leave to submit evidence at the appeal hearing – *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal – no realistic prospect that a motion to admit new evidence would be granted – Student cannot establish an evidentiary basis for his appeal – appeal is frivolous and without foundation – a party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal – without genuine intent to appeal, an appeal is viewed as vexatious – appeal dismissed

The Student appealed the sanction imposed by the Tribunal's Trial Division to the Discipline Appeals Board ("Board") but took no steps to advance his appeal and did not respond to any inquiries. The Provost moved to have the Board dismiss the appeal summarily and without formal hearing. The Associate Chair noted that the Provost's motion raises two questions concerning appeals to the Board. First, what is the scope of the Board's jurisdiction to dismiss an appeal summarily and without formal hearing, where the appeal is frivolous, vexatious or without foundation? Second, does a single member of the Board have the jurisdiction to hear and decide such a motion?

The Associate Chair outlined that section E.7(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code") expressly confers jurisdiction to a three-member panel of the Board to dismiss an appeal summarily and without formal hearing in appropriate circumstances. Furthermore, section 7(a) of Appendix A of the Board's *Terms of Reference* ("Terms") contains a substantially identical provision. The Associate Chair noted that the issue in this motion is whether he may exercise this power alone. The Code, the Terms, and to the extent they apply, the Tribunal's *Rules of Practice and Procedure* ("Rules"), are silent on this question. The Associate Chair noted that the Code does not define the term "Discipline Appeals Board" and the Provost argued that the division of responsibilities between the chair of a panel of the Tribunal and the other members

of a panel also applied by analogy to panels of the Board hearing appeals from decisions of the Tribunal. The Provost further suggested that to dismiss an appeal summarily is, in some cases, a "question of law" that can be determined by the chair alone. The Associate Chair was not persuaded by this submission because the Code specifies a division of responsibilities for deciding different types of questions as between chairs and other members of a panel of the Tribunal. However, it does specify that a chair of a panel can decide questions of law without a full panel. Furthermore, the Associate Chair noted that this motion does not raise a question of law alone. The Associate Chair found that the Code itself does not grant a single member of the Board the jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing.

The Associate Chair considered whether another source of law could provide some guidance on whether a single member of the Board has jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing. Due to the lack of clarity on whether the *Statutory Powers Procedure Act* ("SPPA") applies to appeals to the Board from decisions of the Tribunal, the Associate Chair sought additional submissions from the parties on this issue. The Provost provided additional submissions; the Student did not respond. The Provost submitted that the SPPA applies to appeals to the Board from decisions of the Tribunal, and that subsection 4.2.1(1) of the SPPA applies. The Associate Chair noted that he agreed with both of these submissions. The Associate Chair outlined that the basis for these submissions was that the Code in section C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA, and section C.II(a)11 of the Code defines "Tribunal" to mean both the trial and the appeal divisions of the Tribunal, which includes the Board. The Associate Chair noted that the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA, whose application normally arises by operation of section 3 of the SPPA, not simply because a tribunal chooses to make the SPPA apply to it. The effect of the Tribunal's use of the "conform" language in the Code and the Terms is to create a legitimate expectation on the part of the parties before the Tribunal in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at paras. 26 and 29, and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 at para.68, that the Tribunal will conduct a hearing. The Associate Chair further noted that an appeal to the Board falls within section 3 of the SPPA, because the SPPA applies to a proceeding by the tribunal where the tribunal is required, otherwise by law, to hold or afford the parties an opportunity for a hearing before making a decision. The Associate Chair outlined that subsection 4.2.1(1) of the SPPA applies to this motion because, by designating him to respond to the Provost's request for a proceeding management conference, the Senior Chair assigned him to hear and decide any motions that might reasonably arise from it. Furthermore, the *University of Toronto Act, 1971,* as amended by 1978, Chapter 88, contains no requirement that appeals to the Board be heard by a panel of more than one person, nor does any other statute (including the University of Toronto Act, l947, as amended, to the extent it may still be in force). Therefore, there is no "statutory requirement" that appeals (or this motion) be heard by a panel of more than one person.

The Code and the Terms specify that the Board only has the power to dismiss an appeal summarily and without formal hearing when it determines that an appeal is frivolous, vexatious or without foundation. The Associate Chair noted that a similar dismissal power is set out in section 4.6 of the SPPA, but this dismissal power differs from the Board's dismissal power in a critical way. The Associated Chair outlined that the Code and the Terms address the issue of dismissal of an appeal summarily and without formal hearing, where section 4.6 of the SPPA permits dismissal without a hearing. The Associate Chair noted that neither the Code nor the Terms define a "formal hearing," or distinguish it from other types of hearings. In the Associate Chair's view, the Code and the Terms contemplate that in appropriate cases an appeal may be dismissed summarily without an oral hearing, not that no hearing is required at all. A motion in writing is sufficient. Therefore, the Code and the Terms permit the Board, and where a designation has been made, a single member to dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation. Furthermore, the Code and the Terms contemplate that the Board's ability to dismiss appeals summarily in appropriate circumstances means that it may do so by way of something less than a full formal hearing. The Associate Chair found that because the Code and the Terms do not purport to empower the Board to dismiss an appeal summarily without a hearing, section 4.6 of the SPPA is not triggered, and does not apply to this motion. Therefore, the Associate Chair's jurisdiction to hear and decide the motion is unaffected by section 4.6 of the SPPA. Accordingly, the Associate Chair found that he had jurisdiction to hear and decide the Provost's motion.

Regarding the Provost's motion to dismiss the appeal, the Associate Chair agreed that the appeal was frivolous, vexatious or without foundation but for different reasons than those contemplated by the Provost in their submissions. The Associate Chair noted that appeals from sanction need not be limited to a question of law alone. However, the Student's proposed grounds of appeal did not identify any errors. Instead, the Student claimed that due to the challenges caused by the Covid-19 pandemic and the resulting "new education model" that followed, it was difficult for him to adapt in a short period of time. The Associate Chair further noted that there was no basis for this claim in the evidence that was before the Tribunal. Therefore, the Student would need to seek leave to admit new evidence to provide a basis for his proposed appeal. The Student had not done so. Section E.8 of the Code and para. 8 of Appendix A of the Terms provide that the Board may allow the introduction of further evidence on appeal which was not available or was not adduced at the trial in

exceptional circumstances. The Associate Chair relied on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) which outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal that they otherwise could have led before the Tribunal. Therefore, even if the Student had brought a motion to admit new evidence, there would have been no realistic prospect that it would be granted. Furthermore, since there would be no realistic prospect that the Student could establish an evidentiary basis for his appeal, it would fail.

Based on the foregoing, the Associate Chair found that the appeal was frivolous and without foundation. The Associate Chair also concluded that the appeal was vexatious because the only reasonable inference to be drawn from the Student's failure to take steps to advance his appeal is that he no longer had a genuine intention to appeal. A party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal. Absent a continuing genuine intention to appeal, an appeal must be viewed as vexatious. Appeal dismissed.

ADJOURNMENTS

FILE: Case #798 (15-16)
DATE: March 1, 2016
PARTIES: University of Toronto v S.J.

Hearing Date:
December 8, 2015

Panel Members:
Andrew Pinto, Chair
Kathi Wilson, Faculty Member
Yusra Qazi, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland Barristers
John Carter, Dean's Designate, Academic Integrity, Faculty of Applied Science and Engineering
Neeraj Sood, Course Teaching Assistant
Piero Triverio, Assistant Professor, Faculty of Applied Science and Engineering
Jaro Pristupa, Director, Information Technology

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Obsourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d), s. B.i.1(c), and s. B.i.1(b)* of the *Code* – plagiarism, impersonation, and unauthorized aid – Student plagiarized computer code for an assignment from an online software repository – Student used other University students' computer accounts to send an email impersonating the Course professor in an attempt to obtain the examination – Student copied from his lab partner during the final examination – hearing not attended – reasonable notice of hearing provided – mere reference to medical reasons to explain missing the hearing did not constitute a request for adjournment – finding on evidence – finding on guilt – no prior offences – three offences committed within a short amount of time considered to be three first-time offences – Student's statement that he was depressed and anxious was not sufficient to be considered as a mitigating factor – aggravating factors of lack of remorse and the severity of the student's deception – grade assignment of zero in both courses; 5-year suspension or a suspension until the Governing Council's decision on expulsion; corresponding notation on the Student's academic record and transcript; recommendation of expulsion; case reported to Provost for publication

Student charged with one offence under *s. B.i.1(d),* three offences under *s. B.i.1(b),* one offence under *s. B.ii.2*, one offence under *s. B.i.1(c)* and, in the alternative to those charges, three offences under *s. B.i.3(b)* and one offence under *s. B.i.1(d).* The charges related to separate allegations that the Student committed plagiarism with respect to an Assignment in one Course, that the Student attempted to obtain an advance copy of the final examination in another Course by personating a professor of the Course via email, and that the Student used unauthorized assistance in the final examination in the second Course by copying from another student during the examination. The Panel noted that the Student had no prior offences, and that the acts happened within a reasonably short amount of time (2 months) such that they should be considered three first-time offences. The Student was not present at the hearing. The Panel concluded that the Student had reasonable notice of the hearing via email, and the Student's lawyer acknowledged that the Student knew the hearing would proceed in his absence. The Panel held that the lawyer's reference to "medical reasons" as a reason for the Student's absence did not constitute a request for an adjournment.

Student was found guilty of the plagiarism charge, the impersonation charge, and the unauthorized aid charge. The other charges against the Student were withdrawn. The Panel accepted the evidence of the University's witnesses, who described how the Student copied directly from a publicly available software repository for the Assignment, how the Student obtained the login information of three other University of Toronto students and sent an email to a professor as if coming from the Course Professor's email but really coming from another student's account, and how the Student copied from his lab partner's examination. The Panel noted that the Student had gone to extraordinary lengths to commit academic misconduct. The circumstances surrounding the phishing email were particularly egregious because of

the considerable planning, deliberation, and deception involved, including the identity theft of three university students' userIDs and passwords and the personation of a professor. The Student showed no remorse when confronted with the charges; accordingly, a more severe sanction was required here than would be had the Student pleaded guilty and expressed remorse. The Student's statement that he was depressed and anxious, without more, did not rise to the level of sufficiency required for the Panel to consider it a mitigating circumstance. The Panel imposed a grade assignment of zero in both courses; a 5-year suspension or a suspension until the Governing Council's decision on expulsion; a corresponding notation on the Student's academic record and transcript; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FILE: Cases #786 (15-16)
DATE: March 24, 2016
PARTIES: University of Toronto v S.H.L.

Hearing Date(s):
December 4, 2015
January 15, 2016

Panel Members:
Sana Halwani, Chair
Chris Koenig-Woodyward, Faculty Member
Alice Zhu, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Tegan O'Brien, Counsel for Mr. S.J.P.
Lawrence Veregin, Counsel for Mr. S.J.P.
Rabiya Mansoor, Counsel for Mr. S.J.P.
Steve Joordens, Professor of the Course
Ada Le, Invigilator for the Final Exam in the Course
Ainsley Lawson, Undergraduate Course Coordinator, Department of Psychology & Neuroscience
Wayne Dowler, Dean's Designate, University of Toronto Scarborough
Emily Dies, Law Student, University of Toronto Faculty of Law
Kinson Leung, Invigilator for the Final Exam in the Course

In Attendance:
Hayley Ossip, Articling Student, Gilbert's LLP
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Tracey Gameiro, Observer
Nisha Panchal, Observer, Student Conduct & Academic Integrity Officer
Mr. S.J.P., the suspected collaborator
Mr. S.H.L., the Student

Trial Division – *s. B.i.1(b), s. B.i.1(a), s. B.i.3(b)* of the *Code* – unauthorized aid, forged documents, and academic dishonesty – obtained an unauthorized aid for a final exam while on a bathroom break – destroyed the aid after it was discovered – denied having the aid – initial hearing not attended – Student claimed he was ill and, though skeptical, the Panel accepted this and adjourned the initial hearing – later hearings attended – finding on evidence – not necessary to determine how the Student obtained the unauthorized aid – non-expert statistical evidence not accepted – finding on guilt – grade assignment of zero in the Course; 2-year suspension; 3-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(b), s. B.i.1(a),* and *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly used or possessed an unauthorized aid in connection with a final exam, that the Student obtained the unauthorized aid while he went on a bathroom break during the Exam, and that the Student subsequently forcefully took and destroyed the unauthorized aid after it was seized by the Exam invigilators.

Student was not present for the initial hearing date. Reasonable notice of the hearing was provided. The Student claimed that he had become too ill to attend the hearing, and contacted the Office of Appeals, Discipline, and Faculty Grievances in the early hours of the scheduled hearing date. The initial hearing was adjourned, with reluctance, because though the evidence with respect to the Student's illness warranted skepticism, the evidence was essentially uncontradicted. The Student was present at the subsequent hearings.

The Panel emphasized the onus of proof set out in the *Code*, noting that to prove the charges against the Student, the University must satisfy on a balance of probabilities standard, with clear and cogent evidence, that the Student used an unauthorized aid to assist him in the exam and then destroyed the unauthorized aid. For the purposes of the Student's charges, it was not necessary for the Panel to determine how or where the Student obtained the cheat sheet.

Taking into account the evidence supporting the existence or absence of the unauthorized aid, the Panel accepted the evidence of the invigilators and determined that even without the physical cheat sheet being in evidence, the University had provided ample evidence to meet its burden of proving the existence of the cheat sheet. The Panel placed no weight on the statistical evidence that compared the Student's exam answers to those of the suspected supplier of the unauthorized aid because of the lack of expert evidence provided as well as the general difficulties associated with statistical evidence.

Student was found guilty of all three charges. The Panel took into account that the Student was a first time offender. The Panel also took into account several aggravating factors; namely, that the Student destroyed the evidence rather than dealing with the repercussions of being caught cheating, the serious nature of the offence, and the Student's lack of remorse throughout the proceeding and failure to accept responsibility. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension; a 3-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE:	Case #709 (17 - 18)
DATE:	July 10, 2017
PARTIES:	University of Toronto v. C.S. ("the Student")
Hearing Date(s):	June 20, 2017

Panel Members:
Mr. Bernard Fishbein, Chair
Professor Ann Tourangeau, Faculty Panel Member
Ms. Susan Mazzatto, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Maryan Shahid, Summer Student, Paliare Roland Barristers
Ms. Carol Shirtliff-Hinds, Shirtliff-Hinds Law Office, Counsel for the Student (for adjournment request only)
Mr. Vincent Rocheleau, Articling Student, Shirtliff-Hinds Law Office (for adjournment request only)
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies

In Attendance:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances ("ADFG")
Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, ADFG
Mr. Sean Lourim, Office of the Governing Council, IT Specialist
Ms. Nora Gillespie, Senior Legal Counsel, Office of the Vice-President and Provost, University of Toronto

Not in Attendance
The Student

NOTE: Upheld on appeal.

Trial Division – plagiarism – *Section B.i.1(d)* of the *Code* – request for adjournment – anxiety attack – mental health issues– requirement of medical corroboration – jurisdiction over graduates – student not present – revocation of degree – deliberate delay – purpose of expulsion where student already graduated – final grade of zero in the affected course, degree recall and cancellation, permanent notation on transcript, removal of thesis from library, recommendation of expulsion, publication of decision with name withheld

The Student was charged with one charge of plagiarism contrary to *s. B.i.1(d)* of the *Code,* or in the alternative one charge of academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to events that occurred in 1996, when the Student's Ed.D. dissertation was submitted with at least 67 passages of text, including some passages that were several pages long, that had been copied from unattributed sources. The issue came to light in 2013, over ten years after the Student had been granted his degree. At a meeting with the Dean's Designate, the Student admitted to copying the passages in his dissertation from unattributed sources.

Since 2013 when the charges were first laid, there had been a number of interlocutory decisions and adjournments that delayed this hearing. The Student. did not attend the hearing, but had a representative request for a further adjournment on his behalf because he was experiencing mental health issues, specifically, he had an anxiety attack the previous day. The Panel declined to adjourn the hearing because: (1) unsubstantiated mental health issues did not meet the standard to grant an adjournment of "actual disability or incapacity to participate" in the proceedings; (2) the Student had failed to make mention of any health-related issues in the Divisional Court proceedings that had occurred days earlier, which raised the inference that the Student did not intend to travel from Chicago to Toronto for the hearing; and (3) the Panel was not advised that the Student was hospitalized or under immediate medical supervision due to an acute crisis. Given the protracted history of the proceedings, the Panel inferred that the Student was aware of the need for medical evidence to corroborate his application for adjournment. In the absence of any medical evidence, the Panel declined the Student's application for an adjournment. The hearing proceeded without the Student or his representative present.

The Panel found that in the Student's dissertation there was clear evidence of plagiarism in the sheer number and extent of non-attributed sources had been used repeatedly and had been altered and changed in an attempt to hide their real sources. Upon the Panel finding the Student to be guilty of plagiarism, the University withdrew the alternative charge of academic dishonesty.

The Panel found that the Student had committed a serious form of plagiarism, both in terms of sheer volume and in terms of tailoring unattributed sources to fit the Student's thesis while concealing the original sources. Though the Student had admitted to plagiarism at the Dean's Designate meeting, the University's view was that the Student had deliberately delayed the disciplinary process in the subsequent years. While the Panel acknowledged that the Student had the right to make the University establish its case, the Student's conduct throughout the disciplinary process led the Panel to infer a lack of remorse, a lack of appreciation of the gravity of the offence committed, or any other mitigating circumstances.

The Panel imposed a final grade of zero in the affected course, that the Student's Ed.D. degree be cancelled and recalled, that the cancellation be permanently noted on the Student's academic transcript, that the University remove Dr.'S thesis from any library, and that the decision be published with the name of the Student withheld. Due to the severity of the Student's academic misconduct, the majority of the Tribunal (Co-Chair dissenting) also recommended that the Student be expelled in order to make it clear that any future academic engagement of the Student at the University was prohibited.

Appeal

FILE:	Case #709 (17 - 18)(DAB)	Panel Members:
DATE:	February 2, 2018	Ms. Patricia D.S. Jackson, Chair
PARTIES:	University of Toronto v. C.S. ("the Student.")	Professor Allan Kaplan, Faculty Panel Member Ms. Wendy Wang, Student Panel Member Ms. Alena Zelinka, Student Panel Member
Hearing Date(s):	November 2, 2017	Appearances: Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers Mr. Darryl Singer, Counsel for the Student Ms. Nadia Condotta, Counsel for the Student
		In Attendance: Ms. Tina Lie, Affiant
		Not in Attendance The Student

Discipline Appeal Board – plagiarism – Section B.i.1(d) of the *Code* – requirement of medical corroboration in request for adjournment – student not present – notice – deliberate delay – procedural fairness – factors to consider in denying a request for adjournment – appeal dismissed – final grade of zero in the affected course, degree recall and cancellation, permanent notation on transcript, removal of thesis from library, recommendation of expulsion, publication of decision with name withheld

DAB Decision

Note: See Tribunal case summary for detailed facts

Appeal by the Student. from a Tribunal decision in which the Student was found guilty of one count of plagiarism contrary to s. B.i.3(d) of the *Code* and sentenced to a final grade of zero in the affected course, degree recall and cancellation, permanent notation on his transcript, removal of his thesis from the library, a recommendation of expulsion and that the case be published with the Student's name withheld. The Student appealed on the grounds that the Tribunal's decision not to grant the Student's request for adjournment and proceeding with the hearing in his absence was a breach of procedural fairness; that his counsel's withdrawal denied him a fair opportunity to make submissions at the hearing; and that procedural fairness required that the Tribunal Panel adjourn before its determination of penalty.

The Board referred to its broad powers to review a Tribunal decision as found in section E.7 of the *Code,* and noted that particular deference ought to be given to a Tribunal's decisions concerning the conduct of a hearing and whether or not to grant a request for an adjournment. The Board stated that justice and procedural fairness can only be said to be infringed where the Panel exercised its discretion in an unreasonable or non-judicious fashion.

The Board was referred to the case *The Law Society of Upper Canada vs. Igbinosun*, (2009 ONCA 484 at para. 37) which provided that factors that supported the denial of an adjournment include: a lack of compliance with prior court orders, previous adjournments that have been granted to the applicant, previous peremptory hearing dates, the desirability of having the matter decided and a finding that the applicant is seeking to manipulate the system by orchestrating delay. Factors in favour of granting of an adjournment include: the fact that the consequences of the hearing are serious, that the applicant would be prejudiced if the request were not granted, and a finding that the applicant was honestly seeking to exercise his right to counsel and had been represented in the proceedings up until the time of the adjournment request. In weighing these factors, the timeliness of the request, the applicant's reasons for being unable to proceed on the scheduled date and the length of the requested adjournment should also be considered. The Board found that all of the factors in favour of a denial of an adjournment existed in this case and the factors that might have allowed for the granting of an adjournment had in fact led to multiple adjournments in the proceedings prior to the hearing.

The Student had six prior notices of hearing that warned him "if the panel finds you guilty, it will then be asked to determine an appropriate penalty", a warning that was reinforced in decisions on his multiple requests for adjournments. The Board referred to Rule 17 of the *Rules of Practice and Procedure* which provide that a person who does not attend a hearing of which they have had notice is not entitled to further notice of different stages of the proceeding. There could be no basis for a suggestion of non-disclosure to the Student as the University did not call additional evidence at the hearing. Further, the Student had been advised on several occasions that his general assertions of a "mental health issue" were not a sufficient basis upon which to grant an adjournment and he had failed to provide evidence of a medical condition that prevented him from participating in the proceedings.

The Board found that the Tribunal's decision to recommend the cancellation and recall of the Student's degree was reasonable and appropriate, and that character evidence and letters of support could not reasonably be expected to make a difference to this sanction. Appeal dismissed.

FILE: Case # 1054 (2019-2020)
DATE: January 31, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
November 13 and 20, 2019, and January 15, 2020

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair Professor Julian Lowman, Faculty Panel Member Ms. Karen Chen, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg, Rothstein LLP
Ms. Hanna Yakymova, Downtown Legal Services, Representative for the Student

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearings Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division — s. B.i.3(b) of Code — academic dishonesty — knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination, namely a Scantron sheet that the Student submitted in a midterm examination —Student attended the hearing and was represented—Agreed Statement of Facts ("ASF")—finding of guilt — grade of zero in the course - suspension for just over 29 months – a notation on the transcript for 40 months or graduation, whichever date is later – report to Provost for publication with the Student's name withheld — Student's initial legal representative not permitted to give evidence at hearing — University's adjournment request in order to call reply evidence granted with terms to negate any potential prejudice to the Student — Student's production motion requesting University counsel's notes denied because notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege, but to ensure full disclosure of underlying facts within proposed reply witnesses' knowledge, University was ordered to review counsel notes and provide a summary of any additional facts not reflected in "Will Say" summaries already produced.

NOTE: This matter was appealed to the Discipline Appeals Board ("DAB"). In *A.M. v. University of Toronto* (Case No.: 1054, dated November 17, 2020), the DAB overturned the Trial Division's decision in terms of which specific charge the Student was found guilty of and substituted a conviction on the first charge.

The Student was charged under ss. B.i.1(a) and B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* ("Code") on the basis that a) he knowingly falsified, circulated or made use of a forged academic record, namely a Scantron sheet that he submitted in a midterm examination; and b) he knowingly obtained unauthorized assistance in connection with that midterm examination. Alternatively, he was charged under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination.

For the examination in question, two different versions of the exam were distributed (version A and version B) to reduce the potential for cheating. The Student received a version B exam but misrepresented on his Scranton form that he had received a version A exam.

The Panel delivered reasons for mid-hearing motions and evidentiary issues orally. First, the Student sought to call his initial legal representative to provide evidence regarding his observations of the distribution of answers across the exams that were completed for the mid-term. The Panel did not permit the Student to call his initial legal representative as a witness. Instead, he was allowed to address the representative's proposed observations and arguments as part of the closing submissions. Second, after the Student completed his evidence and the defence rested its case, the University requested an adjournment to call reply evidence. The Panel granted the adjournment on terms. It explained that while it was reasonable to argue that the University could have called the TAs as witnesses during their case in chief given their involvement in the events in question, the Student had chosen to provide his explanation for the first time during his testimony. It acknowledged that it was the Student's right to do so, but that fairness dictated that the University be given an opportunity to call reply evidence. To negate any potential prejudice, the Panel imposed the following terms: a) The University was instructed not to discuss the evidence at the hearing with the potential reply witnesses; b) Any reply

evidence was strictly limited to true reply, that is, it had to be in response to evidence that was raised for the first time in the Student's testimony; c) The delay due to the adjournment was brief as all parties and counsel were accommodating and able to find a date within one week to resume the proceeding; and d) The Student was given the opportunity to participate in the resumed hearing via videoconference. Since he had already testified, there was no impact on the quality of the evidence as a result of this accommodation. Finally, the Panel denied the Student's motion seeking production of University counsel's notes of interviews conducted with the reply witnesses in between the hearing dates. The Panel highlighted the general principle that notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege. The underlying facts are not subject to privilege; however, the notes themselves ordinarily will be. That applies even in a case such as this one where the University acknowledged that the discussions with the TAs in between the hearing dates were the first time that the potential witnesses were interviewed. To ensure that the Student had full disclosure of the underlying facts within the proposed reply witnesses' knowledge, the University was ordered to review the counsel notes and to provide a summary of any additional facts that were not reflected in the "Will Say" summaries that had already been produced even if the additional facts were not evidence that the University intended to lead.

The Panel found the Student guilty of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with the midterm examination, contrary to section B.i.3(b) of the Code. However, it was not convinced that the Student had cheated in the manner alleged by the University because there was no direct evidence showing that he had copied off another student at the exam. Furthermore, the Panel accepted the University's submission that it did not have to prove exactly how the Student cheated in order to establish that an academic offence was committed.

In determining the sanctions, the Panel considered the following factors: the Student's prior offence; his submission concerning his return to the University to complete his studies; the concern regarding the possibility of the Student re-offending if he elected to immediately pursue graduate studies after graduation; the length of time that had passed between when the offence was committed and when the matter was brought to a hearing. The Panel also noted that it is expected that the discipline process will typically be much shorter since students should not be subjected to the stigma, uncertainty and stress of being charged any longer than necessary.
The Panel imposed the following sanctions: a grade of zero in the course; a suspension for just over 29 months; a 40 month notation on the transcript or until the date of graduation, whichever date is later; and a report to the Provost for a publication with the Student's name withheld.

COSTS REQUESTED

FILE: Case #00-01-02 (00-01)
DATE: April 25, 2001
PARTIES: University of Toronto v R.D. and K.U.

Hearing Date(s):
February 28, 2001
March 7, 2001
March 14, 2001
April 17, 2001
April 25, 2001
June 5, 2001

Panel Members:
C. Anthony Keith, Senior Chair
Roland J. Le Huenen, Faculty Member
Paul Macerollo, Student Member

Appearances:
Maurice Vaturi, Counsel for K.U.
Yvonne D. Fiamengo, Counsel for R.D.
Linda R. Rothstein, Discipline Counsel
Lily Harmer, Assistant Discipline Counsel
Siobhan Brady, Invigilator
Mazda Jenab, Invigilator
James B. Campbell, Faculty
Lilian U. Thompson, Faculty
Betty I. Roots, Emeritus Faculty
Rebecca Spagnolo, Chief Presiding Officer, Examination
Tanya Wood, Chief Presiding Officer, Examination
R.D., the Student
K.U., the Student

Trial Division - *s. B.i.1(b)*, *s. B.ii.1(a)*, *s. B.ii2* of *Code* – unauthorized aid - joint hearing – inappropriate communications during two final examinations – objection to joint hearing – no consent to joint hearing - power to determine Tribunal practices and procedures subject to provisions of *Code* – see *s. C.ii.(a).7* of *Code* – consent requirements of *Statutory Powers Procedure Act* not applicable – see *ss. 9.1(1)* of *Statutory Powers Procedure Act* – single proceeding because same evidence tendered - exigencies relating to University community - application for separate proceedings dismissed - circumstantial evidence - onus of proof on University not discharged - motion for costs not awarded - University not reckless malicious or unreasonable

Two Student's charged with identical offences under *s. B.i.1(b)*, *s. B.ii.1(a)*, *s. B.ii2*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Students engaged in inappropriate communications during the final examinations of two courses, in an attempt to cheat or obtain unauthorized assistance. Student U., with the support of Student D., raised an objection to hearing the charges in a joint hearing, on the grounds that he did not consent to a joint hearing and that to combine the proceedings or hear them jointly would be prejudicial. The Panel considered *s. C.ii.(a).22* of the *Code* and found that it was the Chair's function to rule individually on the issue. The Chair considered *s. C.ii.(a).7* of the *Code*, the *Statutory Powers Procedure Act*, and whether the matter was two proceedings or one proceeding involving charges against different people. The Chair found that the power of the Tribunal to hear and dispose of charges included the power to determine its practice and procedure subject to the provisions of the *Code* and that the consent requirements in *ss. 9.1(1)* of the *Statutory Powers Procedure Act* did not apply if another act or regulation that applied to the proceedings allowed the Tribunal to combine them or hear them at the same time without consent. The Chair found that while not free from doubt, it was his view that the matter was a proceeding involving two accused against whom identical charges had been laid because the same evidence was to be tendered with respect to the charges against both of the Students. The Chair found that while the Tribunal was an administrative tribunal, it had to be mindful of the exigencies that related to the University community. The Chair found that the matter should be heard as one proceeding and dismissed the application for separate proceedings. The Panel considered the evidence, including the oral testimony and the written exhibits and the submissions of counsel, and found that the University's evidence was circumstantial and that the onus of proof on the University had not been discharged. The Senior Chair did not exercise his discretion under *ss. C.ii.(a).17(b)* of the *Code* to grant the Students' motion for costs because he found that the University did not act recklessly nor maliciously in laying the charges and it did not act unreasonably in bringing forward the evidence that it did.

FILE: Case #441 (06-07)
DATE: information not available

Panel Members:
Laura Trachuk, Chair

PARTIES: University of Toronto v the Student

Hearing Date(s):
May 31, 2006
August 15, 2006

Stéphane Mechoulan, Faculty Member
Indra Muthu, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Earl S. Heiber, Counsel for the Student
The Student

Trial Division - *s. B.i.3(a)* of *Code* – forged academic records - falsified academic records submitted to mislead faculty members into supporting dental school application – adjournment with conditions attached - Agreed Statement of Facts – guilty plea – proposed penalty reflected nature of offences and sent deterrence message – Joint Submission on Penalty accepted - recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; five-year suspension pending expulsion decision; and report to Provost - cost of external disbursements requested – see case of *Mr. K* and *s. C.II.a.17(b)* of *Code* - costs awarded - Student ordered to pay costs no later than six months from hearing date

Student charged with two offences under *s. B.i.3(a)*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student twice submitted falsified academic records, including presenting a false transcript to a professor, in an effort to mislead faculty members into supporting his application to dental school. In response to a request by the Student for an adjournment, the Panel noted the difficulties the Student had presented to the University in its efforts to arrive at a hearing date, and granted the request with conditions attached. The parties submitted an Agreed Statement of Facts. The Student pleaded guilty to the charges. The Panel accepted the guilty plea. The parties submitted a Joint Submission on Penalty. The Panel considered past decisions of the Tribunal in similar cases. The Student agreed with the University regarding the seriousness of the offences, acknowledged the offences, accepted the consequences and noted that he was appearing before the Tribunal to take responsibility for his actions. The Panel found that the proposed penalty appropriately reflected the serious nature of the offences and appropriately sent the message that the University took such matters seriously. The Panel accepted the Joint Submission on Penalty and imposed a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled; a five-year suspension pending the expulsion decision; and that a report be issued to the Provost. The University requested that the Panel award the cost of external disbursements incurred in its efforts to contact the Student and set a hearing date. The Panel considered the nature of the University's efforts, the Tribunal's decision in the case of *Mr. K*, *s. C.II.a.17(b)* of the *Code* and the Student's request that, if costs were awarded, he be allowed six months to remit payment. The Panel ordered that the Student pay the costs requested no later than six months from the date of the hearing.

FILE: Case #516 (08-09)
DATE: April 22, 2009
PARTIES: University of Toronto v. Mr. A.B.

Hearing Date(s):
information not available

Panel Members:
Julie Hannaford, Chair
Marc Lewis, Faculty Member
Alex Kenjeev, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Kristi Gourlay, Manager, Office of Academic Integrity
Max Shapiro, Counsel for the Student, DLS
A.B., the Student

Trial Division – *s. B.i.1(d)* and *ss. B.i.1(a)* of *Code* – plagiarism and forged documents – course work, Medical Certificate and *Accessibility Services* Note – guilty plea to charges under *s. B.i.1(d)* – charges under *s.B.i.1(a)* denied – third party implicated – explanation of events not supported by evidence – finding of guilt – penalty hearings not attended – high likelihood of repetition of offence and little prospect of rehabilitation – no insight or remorse – grade assignment of zero for course; recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; and report to Provost – submissions on costs requested – jurisdiction to award costs – see *s. C.II.(a)17(b)* of the *Code* – awarding of costs not appropriate in case

The Student was charged with two offences under *s. B.i.1(d)*, and two offences under of *s. B.i.1(a)* and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to alleged acts of plagiarism contained in two subsequent essays submitted for

the same assignment in one course, and the alleged acts of forging or altering a University Medical Certificate and a letter purportedly from the University *Accessibility Services*, both of which were submitted with the first essay. The Student pleaded guilty to the charges under *s. B.i.1(d)* of the *Code*. The Tribunal heard evidence in respect to the remaining charges under *s. B.i.1(a)* and *B.i.3(b)* of the *Code*. The Student did not dispute that the two versions of the essay were plagiarized. The Panel found that the Student's account of the events had changed over the course of the hearing but that the Student's proposition was that a third party had altered and submitted the Student's first essay along with a letter from the University's *Accessibility Services* and created a false Medical Certificate, both of which were designed to extend the time for delivery of a paper by the Student. When meeting with the course professor to discuss concerns about the first essay, the Student submitted a second version of the essay which he said should have been originally submitted. After the meeting, the Student submitted a third version of the essay via email, which the Student claimed was the essay that he had intended to submit all along. The Panel found that the Student's explanation of the events was not supported by the analysis of the USB key on which the paper was composed or by the computer logs at the University library where the Student claimed the paper was composed. The analysis of the USB key demonstrated that the first and second essays underwent significant alterations in order to disguise the existence of plagiarism and that the third essay was not created until after the Student's meeting with the course professor. The Panel found that the Student submitted plagiarized work, altered an *Accessibility Services* Note and a Medical Certificate, repeatedly denied doing the acts and implicated other innocent individuals in the acts. The Panel found that the Student was guilty of all the offences for which he was charged. The Student did not attend either of the two penalty hearing scheduled to accommodate him. In reaching its decision, the Panel focused on the fact that there were four acts which gave rise to the conviction, that the four acts all occurred within a short timeframe, that the second plagiarized essay was submitted at a meeting held to discuss plagiarism concerns and that the four acts were part of a pattern. The Panel observed that the intertwined use and abuse of the *Accessibility Services* by the Student, together with the repeated plagiarism, played a significant role in its consideration of the likelihood of a repetition of an offence by the Student. The Panel observed that when a Student engages in both plagiarism and a misuse of the University policy related to accommodation of students, and when, in addition, the student in defense implicates another student, the need for deterrence becomes important. The Panel found that the Student demonstrated no insight or remorse for the charges he was found, or for which he had pleaded, guilty. The Panel found that there was a high likelihood that the Student would repeat the offence and that there was little to no prospect of rehabilitation. The Panel imposed a grade assignment of zero in the course; a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; and that a report be issued to the Provost. Submissions as to costs were requested by a member of the Panel. In its submissions on costs, the University submitted that, as per *s. C.II.(a)17(b)* of the *Code*, the Panel has jurisdiction to award costs and that the Panel had exercised that jurisdiction recently, but that in the circumstances of the case the University did not request the Panel to do so. The Panel agreed with the University that the awarding of costs was not appropriate in the case.

FILE: Case #579 (09-10)
DATE: November 15, 2010
PARTIES: University of Toronto v X.P.Z.

Hearing Date(s):
May 7, 2010

Panel Members:
Julie Hannaford, Chair
Louis Florence, Faculty Member
Sadek Ali, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Betty-Ann Campbell, Law Clerk to Mr. Centa
Gregory Ko, Assistant Discipline Counsel
Kante Easley, Couse Instructor
Y.Z., a student

In Attedance:
Tamara Jones, Academic Integrity Officer

Trial Division – *s. B.I.1(b)* of *Code* – unauthorized assistance – collaborated with another student – identical answers – hearing not attended by Student– reasonable notice of hearing provided – personal service of Notice of Hearing – finding on evidence of guilt –prior academic offences – submission on costs requested by the Panel – *s. C.II.(a)17(b)* of the *Code* – see *University of Toronto v. P.J. (2006)(Case #441)* – see *Mr. K (Case 1990/00; April 20, 1992)* – significant expense in attempting to serve Student with notice – incremental costs directly associated with Student's failure to participate in the hearing process – costs awarded – required

payment before registration – grade assignment of zero for course; five-year suspension; notation on transcript until graduation; and cost order

Student charged with an offence under *s. B.I.1(b)* of the *Code*. The Tribunal convened without the Student present. The Panel heard about the efforts made to contact the Student, and the numerous modes of communications engaged to give the Student notice of the charges and of the pending proceedings. The Panel determined the Student should be regarded as having been served and having had notice of the proceedings. The charge related to the allegation that the Student submitted an assignment worth ten percent of a final grade that contained nearly identical answers to those submitted by another student in the class. The other student admitted he and the accused collaborated in formulating the answers to the questions in the assignment. The Panel found the Student guilty of the offence. The Panel imposed a final grade of zero in the Course, a five-year suspension, and a notation of the academic misconduct on the Student's academic record until graduation. The Panel asked the University to make submissions regarding costs, specifically, whether costs should be awarded, and, if so, the appropriate amounts, and the terms and conditions of costs. The Panel noted the request for submissions on costs came from the Panel and not the University. The Panel reviewed *s. C.II.(a)17(b)* of the *Code* regarding matters of cost. The Panel noted the award of costs should relate to circumstances that would logically call for costs. The Panel held that when a party confounds the process of delivering a fair and transparent process for determination of a charge that consideration of costs sanctions should arise. The Panel further held that this was such an instance. The Panel noted they had had to convene twice to hear allegations of academic misconduct against the Student, who did not attend two hearings. The Panel noted the 2006 case of *University of Toronto v. P.D.* (Case #441) in which the Tribunal ordered a student to pay costs incurred to locate and serve the student. The Panel then noted the cost the University had expended to locate the Student on two occasions. The Panel noted the two scales of costs that exist in cost awards, partial indemnity and substantial indemnity. The Panel noted that fairness and proportionality suggest that a punitive award of substantial or even full indemnity should be reserved for cases where there has been egregious and extraordinary behaviour, in line with the case of *Mr. K* (Case 1990/00; April 20, 1992), which held that substantial indemnity be reserved for cases where there has been reprehensible, scandalous, or outrageous conduct by a party. The Panel held that the Student pay incremental costs associated with his failure to participate in the hearing process calculated on a partial indemnity basis. The Panel held that the Student be required to pay these costs before registering again at the University.

FILE: Case #668 (11-12)
DATE: April 27, 2012
PARTIES: University of Toronto v P.H.

Hearing Date(s):
March 27, 2012

Panel Members:
Paul Schabas, Chair
Nick Cheng, Faculty Member
Amy Gullage, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Julia Wilkes, Articling Student
Sierra Robart, Counsel for the Student, DLS
Camille Labchuk, Counsel for the Student, DLS
Matthew MacKay, Course Instructor
Sinisa Colic, Teaching Assistant
P.H., the Student
Ali Afshar, a student
Armin Ayattolahi, a student

In Attendance:
John Carter, Dean's Designate
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aids – midterm contained answers allegedly copied from another student – some similarities between answers submitted by the two students – Student omitted intermediate steps – University only needs to prove the case on a balance of probabilities – evidence only circumstantial – test instructions regarding intermediate steps were ambiguous – charges not brought

promptly – testimony from classmates that they did not see Student looking at the other student's test – Provost failed to prove the charges on a balance of probabilities – <u>charges dismissed</u>

Student charged under *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student copied answers from another student during a midterm test. The Student sat next to the other student whom he allegedly copied his answers from. The invigilator testified that he saw the Student's mouth moving during the exam and told both students not to speak. He, as well as the course instructor, also testified that the two students were sitting closer to each other than other students in the room. When he was marking the exam, he noted similarities between the two tests and also noted that the Student's answers were lacking intermediate steps. The Student testified that he arrived with the other student and chose the first two available seats and that he did not speak to the other student during the test. He stated that he thought he listed all appropriate intermediate steps. The other student testified that he did not notice anything unusual during the test and that he had not started working on the test question under question when the invigilator warned both of them not to speak. Two of the Student's classmates who took the test in the same room also testified that they did not notice anything unusual during the test. The Panel stated that although the University need only prove its case on a balance of probabilities, it had failed to do so in this case. <u>The Panel found that there was no direct evidence that the Student cheated on the test – evidence was only circumstantial as no one saw the Student copying answers</u>. The Panel also found the test instruction ambiguous as it said to list "appropriate" intermediate steps. Also, the Panel criticized the University for bringing the charges late, two months after the test. Had the charges been brought promptly, the Student would have been easily able to rebut the charges with the scrap papers he used during the test. Taking all factors into account, the Panel dismissed the charges.

JOINT HEARING FOR CO-ACCUSED

FILE: Case #00-01-02 (00-01)
DATE: April 25, 2001
PARTIES: University of Toronto v R.D. and K.U.

Hearing Date(s):
February 28, 2001
March 7, 2001
March 14, 2001
April 17, 2001
April 25, 2001
June 5, 2001

Panel Members:
C. Anthony Keith, Senior Chair
Roland J. Le Huenen, Faculty Member
Paul Macerollo, Student Member

Appearances:
Maurice Vaturi, Counsel for K.U.
Yvonne D. Fiamengo, Counsel for R.D.
Linda R. Rothstein, Discipline Counsel
Lily Harmer, Assistant Discipline Counsel
Siobhan Brady, Invigilator
Mazda Jenab, Invigilator
James B. Campbell, Faculty
Lilian U. Thompson, Faculty
Betty I. Roots, Emeritus Faculty
Rebecca Spagnolo, Chief Presiding Officer, Examination
Tanya Wood, Chief Presiding Officer, Examination
R.D., the Student
K.U., the Student

Trial Division - *s. B.i.1(b)*, *s. B.ii.1(a)*, *s. B.ii2* of *Code* – unauthorized aid - joint hearing – inappropriate communications during two final examinations – objection to joint hearing – no consent to joint hearing - power to determine Tribunal practices and procedures subject to provisions of *Code* – see *s. C.ii.(a).7* of *Code* – consent requirements of *Statutory Powers Procedure Act* not applicable – see *ss. 9.1(1)* of *Statutory Powers Procedure Act* – single proceeding because same evidence tendered - exigencies relating to University community - application for separate proceedings dismissed - circumstantial evidence - onus of proof on University not discharged - motion for costs not awarded - University not reckless malicious or unreasonable

Two Student's charged with identical offences under *s. B.i.1(b)*, *s. B.ii.1(a)*, *s. B.ii2*, and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Students engaged in inappropriate communications during the final examinations of two courses, in an attempt to cheat or obtain unauthorized assistance. Student U., with the support of Student D., raised an objection to hearing the charges in a joint hearing, on the grounds that he did not consent to a joint hearing and that to combine the proceedings or hear them jointly would be prejudicial. The Panel considered *s. C.ii.(a).22* of the *Code* and found that it was the Chair's function to rule individually on the issue. The Chair considered *s. C.ii.(a).7* of the *Code*, the *Statutory Powers Procedure Act*, and whether the matter was two proceedings or one proceeding involving charges against different people. The Chair found that the power of the Tribunal to hear and dispose of charges included the power to determine its practice and procedure subject to the provisions of the *Code* and that the consent requirements in *ss. 9.1(1)* of the *Statutory Powers Procedure Act* did not apply if another act or regulation that applied to the proceedings allowed the Tribunal to combine them or hear them at the same time without consent. The Chair found that while not free from doubt, it was his view that the matter was a proceeding involving two accused against whom identical charges had been laid because the same evidence was to be tendered with respect to the charges against both of the Students. The Chair found that while the Tribunal was an administrative tribunal, it had to be mindful of the exigencies that related to the University community. The Chair found that the matter should be heard as one proceeding and dismissed the application for separate proceedings. The Panel considered the evidence, including the oral testimony and the written exhibits and the submissions of counsel, and found that the University's evidence was circumstantial and that the onus of proof on the University had not been discharged. The Senior Chair did not exercise his discretion under *ss. C.ii.(a).17(b)* of the *Code* to grant the Students' motion for costs because he found that the University did not act recklessly nor maliciously in laying the charges and it did not act unreasonably in bringing forward the evidence that it did.

FILE: Case #734 & 735
DATE: October 2, 2014
PARTIES: University of Toronto v Z.G., M.S.

Hearing Date(s):
July 18, 2014

Panel Members:
Bernard Fishbein, Chair
Kathi Wilson, Faculty Member
Michael Dick, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Samuel Greene, DLS, for the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Mircea Voda, Course Instructor
Yvette Ye, Undergraduate Counsellor

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Not in Attendance:
Student 1 (ZG)
Student 2 (MS)

Trial Division – *s. B.i.1(c), s. B.i.1(b), s. B.ii.1(a)(ii),* and *s. B.i.3(b)* of the *Code* – personation – unauthorized aid – Students not at hearing – related matters heard together - Dean's Designate meeting – Admission of Guilt – finding of guilt – second offence – grade of zero in the course in question for MS; recommendation of expulsion; five year suspension; academic record notation

The Panel first addressed whether to proceed in the Students' absence and whether to hear the matters together. Panel was satisfied that the Students had reasonable notice of the hearing and had been served, in accordance with the Rules of Practice and Procedure of the University Tribunal. The University did briefly make contact with each student. The Panel also ruled that the matters proceed together as the allegations involved the same parties, witnesses, evidence, and transaction. The Panel ruled there would be no unfairness, prejudice, or complication hearing them together.

The charges related to a quiz that ZG allegedly took for MS. ZG was charged with personating a student contrary to s. *B.i.1(c)* and, in the alternative, aiding to provide unauthorized assistance contrary to *s. B.i.1(a)(ii)* of the *Code*. MS was charged with having another person personate her contrary to *s. B.i.1(c)*, in the alternative, obtaining unauthorized assistance contrary to *s. B.i.1(b)*, in the further alternative, academic misconduct not otherwise described in the *Code* contrary to *s. B.i.3(b)* of the *Code*.

The University called the instructor of the course to testify. He testified that he was waiting for MS to hand in her paper on the day of the quiz and, while he noticed her at the start of the quiz, he did not see her at the end of the quiz. GZ handed in a quiz claiming to be MS and did not have his student ID. GZ then claimed he was handing in MS's quiz for her. The instructor recognized GZ as he had told MS not to sit near him on an earlier quiz as he suspected she was copying from him. The instructor compared the test handed in by GZ to an earlier test taken by MS and noticed different writing as well as notations that had not been taught in his class. The instructor was able to identify GZ who later enrolled in a class taught by the instructor.

A second witness was called who had taken notes during a meeting with MS and the Dean's Designate. MS initially denied having cheated but eventually signed a formal Admission of Guilt admitting her offence under s. *B.ii.1(a)(i)* of the *Code*.

The Panel found MS and GZ had violated *s. B.i.1(c)* of the *Code* and the University withdrew the alternative charge.

MS had a previous offence which had been settled at the departmental level. The University sought a recommendation of expulsion, a suspension of up to five years and, in MS's case, a grade of zero in the course.

The Panel then considered the penalty factors from the *Mr. C* case, namely the character of the Students, likelihood of repetition, nature of the offence, detriment to the University, and the need for deterrence. The Panel considered like

cases and found that expulsions have been ordered even for first time offenders and that when five-year suspensions were issued it was only in cases where remorse was expressed and the student participated in the process, not the scenario in this case.

The Panel recommended expulsion for both students, imposed a suspension of up to five years or until expulsion, whichever comes first, a notation be placed on their transcripts, and a grade of zero in the course in question for MS.

ADMISSIBILITY OF EVIDENCE

FILE:	Case #00-01-01 (00-01) **	Panel Members:
	Preliminary Hearing on Admissibility to	C. Anthony Keith, Senior Chair
	Case #00-01-02 (00-01)	
DATE:	March 16, 2001	
PARTIES:	University of Toronto v R.D and University of Toronto v K.U.	

Hearing Date(s):
information not available

Trial Division – preliminary hearing to *Case #00-01-02* – admissibility of evidence – similar responses in terms tests by co-accused – University request for ruling on admissibility in advance - similar fact evidence – incumbent upon Chair to make similar fact evidence determination and give ruling – see *Arp v. The Queen* and *s. 15* of the *Statutory Powers Procedure Act* - no qualifications or expertise enabling course professor to give opinion evidence - arbitrary comparators broke down on cross-examination - evidence adduced to confirm charges – no probative value to evidence - flawed analysis and comparisons in evidence – test of objective improbability of coincidence not satisfied and prejudice to accused outweighed probative value of evidence - see *Arp v. The Queen* - admission of disputed evidence prejudicial - evidence relating to the two term tests inadmissible in the hearing and disregarded by the Panel in disposing the charges

Disposition of Presiding Chair on a point of law, pursuant to *s. 22(a)* of the *Code*, which arose out of the hearing of charges in *Case #00-01-02*. The charges related to allegations that the two, co-accused Student's engaged in inappropriate communications during the final examinations of two courses, in an attempt to cheat or obtain unauthorized assistance. The Students objected to some of the University's evidence as not being properly admissible. The disputed evidence consisted of allegedly extraordinarily similar patterns of responses by the two accused in two tests in one of the courses at issue. No charges had been laid with respect to the Student's participation in the tests. The University asked for a ruling on the admissibility of the evidence in advance, and asserted that the information should be admitted as similar fact evidence. The Chair considered submission from counsel, the decision of the Supreme Court in *Arp v. The Queen*, (1998) 129 C.C.C. (3d) 321, and *s. 15* of the *Statutory Powers Procedure Act*, and found that it was incumbent upon him to make the determination identified in *Arp v. The Queen*, and give his ruling as to the evidence's admissibility. The Chair considered the alleged similar fact evidence and the course professor's testimony, and found that the course professor had no qualifications or expertise which would enable her to give opinion evidence as to similarity, probability or statistical analysis, and that the comparators which she had selected for her purposes were arbitrary, and the validity of which broke down on cross-examination. The Chair found that the evidence was adduced for the purpose of confirming that the accused committed the offences with which they were charged and that the evidence had little, to no, probative value. The analysis and comparisons in the evidence were significantly flawed, unreliable and demonstrated the intention of the course professor to find a basis for bolstering the suspicions of the final exam invigilator that the two accused had engaged in improper communication or cheating. The Chair found that there was no basis for finding that there was a degree of similarity between the alleged similar facts and the facts in issue in the hearing which would satisfy the test of objective improbability of coincidence laid down in *Arp v. The Queen*, or that their probative value significantly outweighed the prejudice to the accused. The Chair found that the admission of the disputed evidence would cause prejudice in that neither accused faced any charges with respect to the two term tests, and therefore evidence relating to those tests was irrelevant and, if admitted, would lead the Tribunal into areas of inquiry to which the accused had not been called upon to respond. The Chair directed that the evidence relating to the two term tests was inadmissible and would be disregarded by the Panel in disposing of the charges.

FILE:	Case #684 – Finding; Sanction (12-13)	Panel Members:
DATE:	June 11, 2013	Lisa Brownstone, Chair
PARTIES:	University of Toronto v C.M.	Pascal van Lieshout, Faculty Member
		Yingxiang Li, Student Member

Hearing Date(s):
February 20, 2013
May 2, 2013

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Assistant Discipline Counsel
C.M, the Student

Stewart Aitchison, Professor
Nick Carriere, Teaching Assistant
Alex Wong, Teaching Assistant
John Carter, Dean's Designate
Diane Kruger, Forensic Document Examiner

In Attendance:
Adam Goodman, to advise student, not on record (Feb. 20, 2013)
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

NOTE: Sanction overturned on appeal.

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – submitted another student's test as Student's own – Student's expert's report submitted minutes before trial unsigned and in draft form –Student could not cross examine University expert on the contents of Student's expert report where Student's expert did not attend hearing – Student retracted admission made at Dean's Meeting – Student did not sign anything at Dean's Meeting – Panel held retracted admission was of limited assistance because it was possible the Student did not genuinely intend to plead guilty – finding of guilt – evidence against Student was substantial and unambiguous – offence was serious – no mitigating factors – Student implicated professor and TA as having presented fabricated evidence – not an aggravating factor for the Student to criticize the system; students must be free to comment without fear – grade assignment of zero in the course; recommendation that the Student be expelled; suspension lasting five years or until Governing Council makes decision on expulsion; report to Provost for publication

Student charged with one offence under *s. B.i.1(a)*. Student was charged in the alternative with one offence under *s. B.i.3(a)* and in the further alternative, with one offence under *s. B.i.3(b)*. The charges related to an allegation that the Student advised the professor a test mark was erroneously recorded as a zero and altered and submitted to the professor another student's test claiming it to be the Student's own. The Student attended the hearing. The Student was accompanied at the hearing by the Student's former counsel who was not on the record but had come to provide the Student with advice.

Both the Student and the University had retained their own forensic document examiners. A week prior to the hearing, an order was made by a Proceedings Chair that University counsel was to deliver the University's expert report by February 13, 2013. The Proceedings Chair also held that if the Student's expert did not attend the hearing, the evidence of the Student's expert would not be admitted. The Student received a report from a forensic document examiner in Michigan on February 18, 2013. No arrangements were made to have the expert appear in person or by video conference. The Student delivered the report to University counsel, unsigned and in draft form, minutes before the hearing on February 20, 2013. The Student attempted to cross examine the University's expert on the contents of the report prepared by the Student's expert. University counsel objected and the Panel ruled that the Student could ask questions based on information learned from the report of his expert, but that the Student could not tender the report as evidence, nor refer to the report in cross-examination.

The Panel determined that the evidence that the Student did not write the test was substantial and unambiguous. The Panel found that the emails between the Student and the TA were sent from the Student, notwithstanding the Student's attempts to characterize these emails as abnormal. The Panel stated that the contents of the email the Student sent to the TA and the email the student provided to the professor, along with the Student's desire to keep the original test paper, all supported the University's allegations. The Panel accepted the evidence of the University's expert and concluded that there was no doubt that the Student's name and student number had been written over top of those of the original student's whose test had been altered. The Panel held that the admission made by the Student at the Dean's Meeting was of limited assistance. The Student had retracted the admission and the Panel agreed that it was possible that the Student had never meant to plead guilty and had only said "yes" to "get it over with." The Student had not signed any documents at the Dean's Meeting. The Panel concluded that the standard of proof set out in *F.H. v McDougall* was met and found the Student guilty of the offence alleged under *s. B.i.1(a)* of the Code.

The sanction phase of the hearing occurred on a separate day. At the sanction phase the Student sought to introduce a variety of documents relevant to liability. The Panel considered whether it was appropriate to reconsider liability at the sanction phase. The Panel observed the existence of a broad right of appeal wherein fresh evidence may sometimes be admitted. The Panel noted that the right of reconsideration is never explicitly addressed in either the Code or the Rules. The Panel also stated that it was unclear whether it had jurisdiction to reconsider liability at the sanction phase, after considering the *Statutory Powers and Procedure Act* and the Rules. The Panel concluded that even if it had this jurisdiction, it would not exercise its discretion to admit new materials relevant only to the issue of liability at this stage given the full hearing had already occurred, the Student had access to counsel at the hearing, and all the information the Student wished the Panel to consider had been available to the Student at the time of the initial hearing.

The Panel underscored the seriousness of the offence and noted that there was a high degree of planning and deliberation involved. The Panel observed that there was no evidence of mitigating factors and was concerned that the Student had implicated one of the TAs and the professor by suggesting they either fabricated or possessed "bogus" emails. The Panel disagreed, however, with the University's submission that it was an aggravating factor for the Student to suggest that there was a problem with "the system." The Panel concluded that this suggestion was not sufficient to call into question the University's integrity and students must be able to bring forward concerns about the systems in place without fear of those concerns being cast as aggravating factors. The Panel imposed a final grade of zero in the course, a recommendation that the Student be expelled from the University, a suspension of five years or until the Governing Council makes a decision on expulsion, whichever comes first, and ordered that the case be reported to the Provost for publication.

APPEAL

FILE: Case #684 (13-14)
DATE: June 3, 2014
PARTIES: University of Toronto v C.A.M.

Hearing Date(s):
December 3, 2013

Panel Members:
Patricia Jackson, Chair
Elizabeth Peter, Faculty Member
Beth Martin, Student Member
Michael Dick, Student Member

Appearances:
David Cousins, for the Appellant
Robert Centa, Assistant Discipline Counsel

In Attendance:
The Student

Appeal Division - *s. B.i.1(a) of the Code* – forged documents – submitted another student's test as Student's own – second offence – appeal on sanction, not finding – what Dean would have imposed is relevant for sanctioning purposes - "**systems error" evidence raised by student not an aggravating factor for the Student as students must be free to bring evidence without fear they will be cast as aggravating factors – fresh evidence on appeal - APPEAL ALLOWED – grade assignment of zero in the course; five-year suspension; permanent notation on transcript; report to Provost for publication**

Majority - Student convicted with one offence under *s. B.i.1(a)* and the Panel imposed a final grade of zero in the course, a recommendation that the Student be expelled from the University, a suspension of five years or until the Governing Council makes a decision on expulsion, whichever comes first, and ordered that the case be reported to the Provost for publication. The Student appeals the sentence imposed and asserts it was excessively harsh having regard to a number of personal factors, but did not appeal the conviction.

The conviction relates to the Student's second offence where the Student attempted to receive credit from a test written by another student. The Student admitted to the offence at the Dean's meeting but withdrew his admission when he found out the sanction. The Student was partially represented by counsel at the liability hearing. Ultimately, the original panel did not believe the Student's evidence and found him guilty. At the hearing on sanction the Student was no longer represented by counsel. The University agreed it was an aggravating factor for the Student to suggest in defence that there was a "system error" but the Panel disagreed and stated that one must be able to bring forward evidence without fear of reprisals.

On this appeal the Student sought to bring fresh evidence relating to academic, work, and of a personal and familial nature. The Panel considered *s. E.8* of the *Code*, the *Main* case and the test for admitting fresh evidence on an appeal. The test includes if the evidence was available, relevant, credible, was there a reasonable explanation for the failure to adduce it, and could reasonably been expected to have affected the initial decision. The Panel allowed the evidence to be brought but disqualified all of the evidence as irrelevant and would not have affected the decision below.

The Majority affirmed its jurisdiction to alter panel decisions under *s. E.4* of the *Code*. The Majority cited cases to modify a decision where there is an error of law or fact and when the sanction is inconsistent with other decisions. The Majority considered the factors in the *Mr. C* case and stated that the two substantial factors in this case were the seriousness of the offence and detriment to the University, both of which the Dean would have addressed with a mark of zero. The issue then was whether the remaining factors warranted an expulsion. The Majority concluded that the Student's conduct warranted an escalated penalty but that it did not warrant expulsion. The Majority allowed the appeal and imposed a final grade of zero in the course, a suspension of five years from the date from the order, a permanent notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

Dissent – Elizabeth Peter
The Dissent disagreed with the weight given to the decanal and tribunal level penalties and stated that little weight should be given to decanal decisions. Further, the Dissent felt that the Student's evidence was not an issue as all members of the Tribunal and Appeals Board believed it to be false. The Student's character was determined to be dishonest by the Tribunal and issues of credibility should attract deference. Taking into account the factors in the *Mr. C* case, the Student showed no remorse, committed a planned and deliberate offence and provided no extenuating circumstances to warrant a more lenient sanction. The Dissent would dismiss the appeal.

FILE: Case #805 (15-16)
DATE: August 10, 2015
PARTIES: University of Toronto v Y.C.

Hearing Date:
June 22, 2015

Panel Members:
Sarah Kraicer, Chair
Bruno Magliocchetti, Faculty Member
Alberta Tam, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Tegan O'Brien, Counsel for the Student, DLS
Nicole Wilkinson, Counsel for the Student, DLS
John Carter, Dean's Designate, Faculty of Applied Science and Engineering
Manfreddi Maggiore, Instructor of the Course
Luca Scardovi, Instructor of the Course

In Attendance:
Mr. Y.C., the Student
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Johanna Braden, Observer

Trial Division – *s. B.i.1(b)* of the *Code* – unauthorized aid and academic dishonesty – Student had unauthorized exam aids on his desk during the final examination – Student signed an Acknowledgement of Possession of Unauthorized Exam Aid(s), but this was not admitted as evidence of guilt because the Student may not have understood what he was admitting to – finding on evidence – finding on guilt – prior academic offence – University submission on penalty accepted – grade assignment of zero in the Course; 2-year suspension; the earlier of either a 3-year notation on the Student's academic record and transcript or a notation until his graduation from the University; case reported to Provost for publication

Student charged under *s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student possessed three unauthorized aids in the final exam of the Course; namely, lecture notes, the prior year's final exam, and solutions to a homework assignment. The Student signed an Acknowledgement of Possession of

Unauthorized Exam Aid(s) form after the examination had concluded, but as it was plausible that the Student did not understand at the time of signing that he was admitting to having committed an academic offence, the Tribunal did not rely on this form as evidence of an admission of guilt by the Student. The Student pleaded not guilty at the hearing.

Student was found guilty with respect to *s. B.i.1(b)* of the *Code*. To support the inference that he knowingly possessed the unauthorized aids, the Panel took into account that the Student acknowledged that he knew the applicable rules for permissible aids, that he admitted to bringing the documents into the examination, and that he could not have mistaken the unauthorized documents for a permissible study aid. The Student's explanation that illness and/or medication resulted in him not knowing that he possessed unauthorized aids on his desk was found to be implausible and not supported by any cogent evidence. An aggravating factor was the fact that this was the Student's second academic offence. The Panel noted that receiving a strong warning that future misconduct would be subject to severe penalties did not deter the Student from committing a second offence, and that therefore there was an increased likelihood of repetition. The Panel recognized that the sanctions typically imposed in cases of unauthorized aids would have a severe impact on the Student's ability to continue in his academic program, but it noted the seriousness of the offence and stated that reducing a penalty to cushion a student from a cumulative effect is not a principled reason for granting leniency. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension; the earlier of either a 3-year notation on the Student's academic record and transcript or a notation until his graduation from the University; and that the case be reported to the Provost for publication.

FILE: Case # 883 (16 - 17)
DATE: July 11, 2017
PARTIES: University of Toronto v. L.Y. ("the Student")

Hearing Date(s): May 9, 2017

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Louis Florence, Faculty Panel Member
Mr. Chad Jankowski, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for University, Paliare Roland Barristers
Ms. Emily Home, Student-at-law, Paliare Roland Barristers
Mr. Jonathan G.V. Hendricks, Counsel for the Student

In Attendance:
The Student (by Skype)
Ms. Kristy Gourlay, Manager, Manager and Academic Integrity Officer, Office of the Student Academic Integrity, Faculty of Arts and Science
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division – *s. B.i.1(a)* of *Code* – forged or falsified test – student forged a "missing sheet" from marked test – unusually high mark not evidence of misconduct – finding of guilt – zero on course, two year suspension, three year notation, publication of the decision with the name of the Student withheld

The Student was charged with one offence of forgery or falsification under *s. B.i.1(a)* of the *Code*, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*.

The Student submitted a test for re-marking including a forged "extra sheet" they claimed was missed in the first round of marking. The Student's mark on the question on this extra sheet was unusually high compared to their other marks on the test, but the Tribunal found this could not be considered evidence of misconduct. Poor performance elsewhere in a course or on a test cannot be used to boot-strap an allegation of misconduct. To do so would be unfair to students who improve their performance. The University was able to establish a chain of custody showing that the test had been looked at by 6-8 separate markers before being returned to the Student. The Tribunal found it unlikely that the extra

page had been missed by all of them yet was in the booklet when returned to the Student. Thus the Student was found guilty of forgery. The academic dishonesty charge was dismissed.

In determining the penalty, the Tribunal noted that the Student had displayed limited remorse and that this offence demonstrated conscious thought, though no previous record. The Student received a grade of zero in the course, a two year suspension, and a three year notation, and the decision was reported to be published with the name of the Student withheld.

FILE: Case # 719 (2017 - 2018)
DATE: February 20, 2018
PARTIES: University of Toronto v. W.K. ("the Student")

Hearing Date(s): December 12, 2017

Panel Members:
Ms. Lisa Brownstone, Barrister and Solicitor, Chair
Dr. Ramona Alaggia, Faculty Panel Member
Professor Elizabeth Peter, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Ms. Lisa Freeman, Courtyard Chambers, Counsel for the Student
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:
The Student
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts & Science
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline & Faculty Grievances
Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline & Faculty Grievances
Mr. Sean Lourim, IT Support, Office of the Governing Council

DAB Decision
NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Student appeal from sanction – request to set aside order of expulsion and impose a suspension - *s. B.i.1(a)* and *s. B.i.1(d)* of the *Code* – eight offences committed during a six month period - falsified personal statement in petition for academic accommodation – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – conduct during the hearing relevant in determining the Student's character as well as likelihood the Student would follow University rules in the future – Panel entitled to give little weight to medical evidence where author not available for cross-examination – appeal dismissed - assignment of zero in the affected courses; immediate five-year suspension pending expulsion; and report to Provost

Appeal by the Student from the sanction of expulsion that was ordered by the Tribunal after the Student pled guilty to committing eight counts of academic misconduct contrary to s. B.i.1(a) of the *Code* and s. B.i.1(d) of the *Code*. The Student argued that the errors of law committed by the Tribunal is that they had applied irrelevant considerations in determining the appropriate sanction and mis-apprehended the evidence. The Student requested that the sanction of expulsion be replaced with a five-year suspension.

The Board rejected the first ground of appeal, finding that the Panel had made limited and appropriate use of the Student's conduct at the hearing. The Student's conduct at the hearing was relevant to their character (a factor clearly

relevant to sanction) and also in the concern that the Student would not follow rules of the University if the relationship between the Student and the University were not severed. The Board dismissed the Student's second ground of appeal, the misapprehension of the evidence, because in the absence of the ability to cross examine the authors of the reports the underlying information provided to the authors of the reports could not be tested. The Board found that the Panel was entitled to admit the medical reports submitted by the Student but then place little weight on their contents because the Student did not call the authors of the report to testify so cross-examination on their contents did not take place. Though the Board found that there were no errors in law committed by the Panel, even if they were wrong in this respect, the errors in law alleged by the Student would have been to minor too warrant granting a new hearing.

The Board refused the Student's alternative argument that his unique circumstances (diagnoses of learning disability, anxiety and depression) warrant an expansive reading of the Board's powers to substitute a different penalty on compassionate grounds. The Board's three reasons for dismissing this argument were: (1) at the time of the offences, the only contemporaneous medical evidence showed that the Student was seeing physicians for other, non-mental health related illnesses; (2) the only mental health expert who did treat the Student testified that there was no nexus between the Student's learning disabilities that would cause him to commit the offences; and (3) the earlier cases to which the Student referred as precedents for a lesser penalty did not involve the number and severity of offences as those that the Student admitted to committing in this case. The Panel's sanction of a grade of zero in each of the affected courses; an order that the Student be immediately suspended from the University for up to 5 years pending an order of expulsion; and an order that the case be reported to the Provost for publication with the Student's name withheld were upheld.

Appeal dismissed.

FILE:	Case # 1026 (2019-2020)	Panel Members:
DATE:	October 17, 2019	Ms. Johanna Braden, Chair
PARTIES:	University of Toronto v. Y.L.	Professor Michael Evans, Faculty Member Ms. Alena Zelinka, Student Member
HEARING DATE:	July 19, 2019	Appearances: Ms. Lauren Pearce, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
		Hearing Secretary: Ms. Jennifer Dent, Associate Director, Office of Appeals, Discipline and Faculty Grievances
		Not in Attendance: The Student

Trial Division – s. B.i.1(a) of Code – forgery of academic record – Student knowingly forged Illness Form in support of petitions for deferral of unwritten final examinations in two courses at University – Student did not attend hearing – reasonable notice of hearing provided – University Tribunal's *Rules of Practice and Procedure* ("Rules") – Rules 72 and 74 – Tribunal granted leave to the University permitting the introduction of an affidavit because the affidavit contained information that was potentially significant to the merits of the hearing – the University had made reasonable steps to obtain the information earlier, but had been unable to do so – and the Student was not present to assert any prejudice – finding of guilt – prior offence of plagiarism indicative of likelihood of repetition – deliberate and careful falsification - no extenuating circumstances as Student declined to participate in hearing – falsified medical documentation undermines University's system of accommodation - need for general deterrence significant concern - final grade of zero in affected courses; three-year suspension; four-year notation on transcript; and a report to the Provost for publication

The Student was charged with academic misconduct under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he knowingly forged, altered, or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of a forged or falsified document, namely, a University of Toronto Verification of Student Illness or Injury Form (the "Illness Form"). The Student submitted the Illness Form in support of his petitions for a first deferral of an unwritten final examination in respect of two courses. In the alternative, the Student was charged under s. B.i.3(b) of the Code on the basis that he knowingly engaged in a form of cheating, academic dishonesty, or

misconduct, fraud, or misrepresentation, in order to obtain academic credit or other academic advantage of any kind, in connection with the submitted Illness Forms.

Neither the Student nor a legal representative of the Student appeared at the hearing. The Panel noted that the *Policy on Official Correspondence with Students* makes it clear that a student is responsible for maintaining a current and valid University-issued email account. Students are also expected to monitor and retrieve their email on a frequent and consistent basis. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges and the notice of hearing. The Panel noted that there was evidence that the Student had accessed his email account after service of the charges and notice of hearing. The Panel was satisfied that the Student had been given reasonable notice of the hearing in compliance with the notice requirements of ss. 6 and 7 of the *Statutory Powers Procedure Act* (the "Act") and Rules 9 and 17 of the University Tribunal's *Rules of Practice and Procedure* ("Rules"). The Panel therefore determined it would proceed to hear the case on its merits in the absence of the Student.

The University requested leave to introduce an affidavit served on the Student four days before the hearing. The Panel noted that Rule 72 requires that affidavits proposed to be tendered in evidence at a hearing are to be disclosed at least 10 days before the hearing; however, Rule 74 provides that the Tribunal may grant leave to introduce evidence that does not comply with Rule 72. The affidavit in question included evidence of a response from a doctor potentially involved with the Illness Form submitted by the Student to the University. The Tribunal granted leave to the University permitting introduction of this affidavit because the affidavit contained information that was potentially significant to the merits of the hearing; the University had made reasonable steps to obtain the information earlier, but had been unable to do so; and the Student was not present to assert any prejudice.

The Student was registered at the University of Toronto Scarborough at all material times. In April 2018, the Student submitted two petitions for a first deferral of an unwritten examination, supported by an Illness Form. The Assistant Registrar of Petitions at the University gave evidence of her concerns about the Illness Form submitted by the Student: the doctor's purported signature and registration number were hard to decipher, and a call to the phone number on the form was connected to the hospital's Patient Accounts department. The Panel also heard evidence from an Academic Integrity Assistant at the University who investigated the authenticity of the Illness Form and confirmed with the hospital that there was no patient registered there matching the Student's name. Finally, the Panel noted the affidavit of a legal assistant at the Assistant Discipline Counsel's firm who had faxed the three doctors whose registration numbers matched the three possible versions of the scribbled number on the Illness Form. All three doctors eventually responded that they had no record of ever seeing a patient with any of three variations of the Student's name.

The Tribunal found the Student guilty of the charge. Given this finding, the University withdrew the alternative charge.

The Panel noted that the Student had previously admitted to plagiarizing an assignment, and that it was possible that the Student might again resort to dishonesty to avoid his academic obligations. The falsification in this case was deliberate and careful and could not have occurred by accident or neglect. Without the Student's participation, there was no evidence of extenuating circumstances for the Tribunal to consider. The Panel also noted that falsified medical documentation undermines the University's system of accommodation, and overburdens the staff charged with reviewing student petitions. The Panel stated that the need for general deterrence is a significant concern as forgery can be difficult to detect.

The Panel found from its review of previous cases involving falsified medical notes and petition documents that a two-year suspension is the threshold sanction, as a general rule. In light of the Student's prior admitted act of plagiarism, and in the absence of any mitigating evidence the Student might have otherwise provided, the Tribunal found that the sanctions requested by the University were fair, proportional and appropriate.

The Tribunal imposed the following sanctions: final grade of zero in affected courses; three-year suspension; four-year notation on transcript; and a report to the Provost for publication.

FILE: Case # 1054 (2019-2020)
DATE: January 31, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
November 13 and 20, 2019, and January 15, 2020

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg, Rothstein LLP
Ms. Hanna Yakymova, Downtown Legal Services, Representative for the Student

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair Professor Julian Lowman, Faculty Panel Member Ms. Karen Chen, Student Panel Member

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearings Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division — s. B.i.3(b) of Code — academic dishonesty — knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination, namely a Scantron sheet that the Student submitted in a midterm examination —Student attended the hearing and was represented—Agreed Statement of Facts ("ASF")—finding of guilt — grade of zero in the course - suspension for just over 29 months – a notation on the transcript for 40 months or graduation, whichever date is later – report to Provost for publication with the Student's name withheld — Student's initial legal representative not permitted to give evidence at hearing — University's adjournment request in order to call reply evidence granted with terms to negate any potential prejudice to the Student — Student's production motion requesting University counsel's notes denied because notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege, but to ensure full disclosure of underlying facts within proposed reply witnesses' knowledge, University was ordered to review counsel notes and provide a summary of any additional facts not reflected in "Will Say" summaries already produced.

NOTE: This matter was appealed to the Discipline Appeals Board ("DAB"). In *A.M. v. University of Toronto* (Case No.: 1054, dated November 17, 2020), the DAB overturned the Trial Division's decision in terms of which specific charge the Student was found guilty of and substituted a conviction on the first charge.

The Student was charged under ss. B.i.1(a) and B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* ("Code") on the basis that a) he knowingly falsified, circulated or made use of a forged academic record, namely a Scantron sheet that he submitted in a midterm examination; and b) he knowingly obtained unauthorized assistance in connection with that midterm examination. Alternatively, he was charged under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with a midterm examination.

For the examination in question, two different versions of the exam were distributed (version A and version B) to reduce the potential for cheating. The Student received a version B exam but misrepresented on his Scranton form that he had received a version A exam.

The Panel delivered reasons for mid-hearing motions and evidentiary issues orally. First, the Student sought to call his initial legal representative to provide evidence regarding his observations of the distribution of answers across the exams that were completed for the mid-term. The Panel did not permit the Student to call his initial legal representative as a witness. Instead, he was allowed to address the representative's proposed observations and arguments as part of the closing submissions. Second, after the Student completed his evidence and the defence rested its case, the University requested an adjournment to call reply evidence. The Panel granted the adjournment on terms. It explained that while it was reasonable to argue that the University could have called the TAs as witnesses during their case in chief given their involvement in the events in question, the Student had chosen to provide his explanation for the first time during his testimony. It acknowledged that it was the Student's right to do so, but that fairness dictated that the University be given an opportunity to call reply evidence. To negate any potential prejudice, the Panel imposed the following terms: a) The University was instructed not to discuss the evidence at the hearing with the potential reply witnesses; b) Any reply evidence was strictly limited to true reply, that is, it had to be in response to evidence that was raised for the first time in the Student's testimony; c) The delay due to the adjournment was brief as all parties and counsel were accommodating and able to find a date within one week to resume the proceeding; and d) The Student was given the opportunity to participate in the resumed hearing via videoconference. Since he had already testified, there was no impact on the quality of the evidence as a result of this accommodation. Finally, the Panel denied the Student's motion seeking production of University counsel's notes of interviews conducted with the reply witnesses in between the hearing dates. The Panel highlighted the general principle that notes prepared by counsel of interviews conducted in preparation for a hearing are subject to litigation privilege. The underlying facts are not subject to privilege; however, the notes themselves ordinarily will be. That applies even in a case such as this one where the University acknowledged that the discussions with the TAs in between the hearing dates were the first time that the potential witnesses were interviewed. To ensure that the Student had full disclosure of the underlying facts within the proposed reply witnesses'

knowledge, the University was ordered to review the counsel notes and to provide a summary of any additional facts that were not reflected in the "Will Say" summaries that had already been produced even if the additional facts were not evidence that the University intended to lead.

The Panel found the Student guilty of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in connection with the midterm examination, contrary to section B.i.3(b) of the Code. However, it was not convinced that the Student had cheated in the manner alleged by the University because there was no direct evidence showing that he had copied off another student at the exam. Furthermore, the Panel accepted the University's submission that it did not have to prove exactly how the Student cheated in order to establish that an academic offence was committed.

In determining the sanctions, the Panel considered the following factors: the Student's prior offence; his submission concerning his return to the University to complete his studies; the concern regarding the possibility of the Student re-offending if he elected to immediately pursue graduate studies after graduation; the length of time that had passed between when the offence was committed and when the matter was brought to a hearing. The Panel also noted that it is expected that the discipline process will typically be much shorter since students should not be subjected to the stigma, uncertainty and stress of being charged any longer than necessary.
The Panel imposed the following sanctions: a grade of zero in the course; a suspension for just over 29 months; a 40 month notation on the transcript or until the date of graduation, whichever date is later; and a report to the Provost for a publication with the Student's name withheld.

FILE: Case # 1155 (2021-2022)
DATE: July 26, 2021
PARTIES: University of Toronto v. Y.W. ("the Student")

Hearing Date(s):
May 5, 2021, via Zoom

Panel Members:
Mr. Simon Clements, Chair
Professor Lynne Howarth, Faculty Panel Member
Ms. Shirley Deng, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Sonia Patel, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(a) of the Code – altered or falsified document – Student knowingly altered or falsified a document or evidence required by the University, namely Verification of Student Illness of Injury Form ("VOI") – Student knowingly circulated or made use of such VOI in support of petition requests for late withdrawal from five courses – Student did not attend hearing – reasonable notice of hearing provided – Rules 9, 17, 64 and 65 of the *Tribunal Rules of Practice and Procedure* ("Rules") – University's *Policy on Official Correspondence with Students* – pursuant to s. C.i(a)6 of the Code, the Student was given the Dean's Warning which warns the Student that any admissions or statements made during the meeting can be used or received in evidence against the Student in the hearing – Panel accepted the admissions of the Student as evidence in the hearing – finding of guilt – *University of Toronto v. X.T.* (Case No. 1080, September 29, 2020) – a final grade of zero in the five courses; a two-year suspension; a three-year notation on the transcript; and a report to the Provost for publication.

The Student was charged under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") with two counts of knowingly altering or falsifying a document or evidence required by the University or uttering, circulating or making

use of the altered or falsified document, namely a VOI, which the Student submitted in support of his petition requests for a late withdrawal in five courses. In the alternative, the Student was charged under s. B.i.3(b) of the Code on the basis that the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage.

Neither the Student nor a legal representative of the Student appeared at the hearing. The Panel waited fifteen minutes after the hearing was scheduled to commence to allow for the Student to appear, but the Student did not appear. The University's *Policy on Official Correspondence with Students* provides that students are responsible for maintaining a current and valid postal address and email account in ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis. Rule 9(c) of the University Tribunal's *Rules of Practice and Procedure* ("Rules") provides that service can be effected via email to the student's email address in ROSI. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges and notice of electronic hearing. The Student was subsequently provided an opportunity to provide submissions in relation to the request of the Provost of the University for the hearing to proceed electronically. The Student did not respond to this request and the hearing was ordered to proceed electronically. Counsel for the University provided further evidence that the Student's email account had been accessed after the charges and the email correspondence from the Tribunal seeking submission on the format of the hearing. The charges, notice, and the submissions request went unanswered. The Panel found that reasonable notice of the hearing had been provided to the Student in accordance with the Rules, therefore the Panel ordered that the hearing proceed in the Student's absence in accordance with Rule 17 of the Rules.

Regarding the charges laid under s. B.i.1(a) of the Code, the Panel examined the affidavit evidence of the Assistant Registrar of Academic Standards & Petitions in the Office of the Registrar at the University of Toronto Mississauga ("UTM"). The Assistant Registrar's evidence explained that their office facilitates student requests to withdraw from courses past the deadline. The Assistant Registrar affidavit further advised that the Student submitted a petition for late withdrawal without academic penalty for five courses in the 2019-2020 academic year. The VOI submitted by the Student purported to be signed by a physician at Centenary Hospital in Scarborough which supported his claims of depression and noted that the Student required increased rest and a reduced workload. The Student attached the same VOI to his request for a refund of his Winter 2020 fees. It was the Assistant Registrar evidence that the Registrar's Office contacted Centenary Hospital to confirm if the doctor identified on the VOI has completed and signed the document. The doctor informed the Health Information Management office of Centenary Hospital that he had not filled out the VOI and that none of the writing on the VOI, including the signature, belonged to him. Centenary Hospital relayed this information to the Registrar's Office. The Panel also received affidavit evidence of the Manager of Academic Integrity & Affairs at the Academic Integrity Unit in the Office of the Dean at UTM ("Manager"). The Panel had an opportunity to ask questions of the Manager as she was present at the Dean's meetings and took minutes. The minutes were not attached to the Manager's affidavit but were obtained by Counsel and provided to the Panel during the hearing. These minutes were admitted into evidence pursuant to rules 64 and 65 of the Rules. Once the Panel had an opportunity to review the minutes, they found that the contents of the Manager's affidavit and the minutes were consistent. The Panel noted that, pursuant to the Manager's evidence, at the commencement of the meeting, pursuant to s. C.i(a)6 of the Code, the Student was given the Dean's Warning which warns the Student that any admissions or statements made during the meeting can be used or received in evidence against the Student in the hearing. In accordance with this, the Panel accepted the admissions of the Student as evidence in the hearing. The Panel noted that at the hearing the Student explained that he had lost both of his grandparents the previous year and that this had a significant impact on him. The Student further explained that he had not seen a doctor but knew he needed documentation from a physician so a friend of his offered to have someone fill out a VOI for him.
The Student accepted the friend's offer and submitted a forged VOI in support of his petition for late withdrawal. Based on the evidence, including the Student's admission, the Panel found that the Student was guilty of two counts of knowingly using a falsified document contrary to s. B.i.1(a) of the Code. Due to the Panel's finding, the University withdrew the alternative charge.

In determining sanction, the Panel considered the principles and factors relevant to sanction discussed in *University of Toronto and Mr. C.* ("Mr. C. factors") and determined that it was important to consider the serious nature of the offence, the detriment to the University occasioned by the offence and the need to deter others from committing similar offences. The Panel agreed with the decision in *University of Toronto v. X.T.* (Case No. 1080, September 29, 2020) with respect to the aforementioned factors. The Panel in that case noted that forgery is a serious offence, especially given the deliberate nature of the offence; that it undermines the integrity of those charged with providing the medical notes, as well as the University's procedure for assessing and granting accommodations to its students; and that

the University and Tribunal must send a strong message to other students that such misconduct is considered a serious offence. The Panel further noted that since the Student did not participate at any stage of the hearing process there is no evidence before the Panel of good character, likelihood of repetition of the offence, or mitigating or extenuating circumstances. The Panel did consider the fact that the Student admitted to the offence and was cooperative with the discipline process up to the Dean's Meeting but this, in the view of the Panel, did not amount to an exceptional circumstance which would cause it to deviate from the recommended sanctions provided in the Code, nor from the sanctions imposed in similar cases. The Panel imposed the following sanctions: a final grade of zero in the five courses; a two-year suspension; a three-year notation on the transcript; and a report to the Provost for publication.

FILE: Case # 1054 (2020-2021)
DATE: November 17, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
August 18, 2020, via Zoom

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Professor Aarthi Ashok, Faculty Panel Member
Mr. Said Sidani, Student Panel Member

Appearances:
Ms. Tina Lie, for the Respondent, Appellant by Cross-Appeal, Paliare Roland Rosenberg Rothstein LLP
Mr. Sean Grouhi for the Appellant, Respondent by Cross-Appeal, Downtown Legal Services

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

DAB Decision

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals finding of guilty arguing Tribunal erred in allowing the University to call reply evidence – University cross-appeals acquittal of a charge under s. B.i.1(a) of the *Code* – *R. v. Krause*, [1986] 2 SCR 466 - *R. v. Sanderson*, 2017 ONCA 470 - it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student - in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, the Tribunal is not bound by the strict rules of evidence and there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case - no obligation on the University to prove the contents of the Agreed Statement of Facts and it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to - as soon as the Tribunal found that the Student's conduct is an offence under s. B.i.1(a) of the Code, the offence under s. B.i.3(b) ceases to apply

The Student appeals the finding of the Tribunal on the basis that the standard of review is correctness and that the Tribunal erred in law by permitting the University to call reply evidence from two teaching assistants. Relying on the Supreme Court of Canada's decision in *R. v. Krause*, [1986] 2 SCR 466, the Student argued, among other things, that the University should have anticipated his evidence.

The University cross-appeals on the basis that the Tribunal erred in acquitting the Student of a charge under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code"), which makes it an offence to forge, alter or falsify a document required by the University and to make use of such forgery. This was the first of three charges that were subject of the hearing before the Trial Division. Alternatively, the University had also charged the Student under s. B.i.1(b) of the Code for knowingly obtaining unauthorized assistance in connection with a midterm examination ("second charge"), and under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation to obtain academic credit or other academic advantage of any kind in connection with a midterm examination ("third charge").

In dismissing the Student's appeal, the Board agreed that it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student. It also held that, in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, it noted that the Tribunal is not bound by the strict rules of evidence and highlighted that there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case.

Further, the Board held there was no obligation on the University to prove the contents of the Agreed Statement of Facts and that it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to. Relying on *R. v. Sanderson*, it stated that the principles that govern the calling of reply evidence should not be interpreted so rigidly that the University should call as part of its case evidence that addresses any possible issue that a student may raise and to address a position that is at odds with the facts to which the student appears to have agreed. The obligation is to lead evidence on the issues that are relevant to material issues in dispute or to a defence that they can or ought reasonably to anticipate. While recognizing that the Student may choose not to disclose his defence to the University, including by declining to deliver an opening, the Board also indicated that in this case, the decision not to do so meant that the University had no reason to suspect that the Student intended to depart from the facts to which he appeared to have agreed.

Ultimately, the Board concluded that it could not be said that the University ought reasonably to have anticipated the defence that the Student put forward in his evidence. According to the Board, the Tribunal's decision was both reasonable and correct. It would have come to the same result as the Tribunal without regard to the reply evidence.
In allowing the University's cross-appeal, the Board indicated that the issue it raises lies in the definition of the offence which the Tribunal found had been committed and that this offence can only be found in circumstances where the conduct in question is not an offence under any other section of the Code. The Tribunal had found the Student guilty of violating s. B.i.3 of the Code, which constitutes the third charge. To find the Student guilty under this section, the Tribunal was in effect determining that the conduct that was the subject of the charges was "not …otherwise described" in the Code. This implies that the first charge could not be established. According to the Board, it is not apparent that the Tribunal was alive to this issue because its reasons for decision contain no analysis of whether or why the first charge was not made out.

The Board considered that the facts found by the Tribunal made out the offence contained in the first charge. It agreed with the University that the Student should not also be convicted for the same conduct under the third charge and that as soon as it is found that the conduct is an offence under the section of the Code referenced in the first charge, the offence referenced in the third charge ceases to apply. Accordingly, the Board substituted a conviction under the first charge for the conviction found by the Tribunal.
Finally, the Board agreed that the substitution of a conviction under the first charge ought not to alter the sanctions imposed by the Tribunal.

Student's appeal dismissed. University's cross-appeal allowed.

EXAMINATION (CROSS / DIRECT)

FILE: Case #684 – Finding; Sanction (12-13)
DATE: June 11, 2013
PARTIES: University of Toronto v C.M.

Hearing Date(s):
February 20, 2013
May 2, 2013

Panel Members:
Lisa Brownstone, Chair
Pascal van Lieshout, Faculty Member
Yingxiang Li, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Assistant Discipline Counsel
C.M, the Student
Stewart Aitchison, Professor
Nick Carriere, Teaching Assistant
Alex Wong, Teaching Assistant
John Carter, Dean's Designate
Diane Kruger, Forensic Document Examiner

In Attendance:
Adam Goodman, to advise student, not on record (Feb. 20, 2013)
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

NOTE: Sanction overturned on appeal.

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – submitted another student's test as Student's own – Student's expert's report submitted minutes before trial unsigned and in draft form –Student could not cross examine University expert on the contents of Student's expert report where Student's expert did not attend hearing – Student retracted admission made at Dean's Meeting – Student did not sign anything at Dean's Meeting – Panel held retracted admission was of limited assistance because it was possible the Student did not genuinely intend to plead guilty – finding of guilt – evidence against Student was substantial and unambiguous – offence was serious – no mitigating factors – Student implicated professor and TA as having presented fabricated evidence – not an aggravating factor for the Student to criticize the system; students must be free to comment without fear – grade assignment of zero in the course; recommendation that the Student be expelled; suspension lasting five years or until Governing Council makes decision on expulsion; report to Provost for publication

Student charged with one offence under *s. B.i.1(a)*. Student was charged in the alternative with one offence under *s. B.i.3(a)* and in the further alternative, with one offence under *s. B.i.3(b)*. The charges related to an allegation that the Student advised the professor a test mark was erroneously recorded as a zero and altered and submitted to the professor another student's test claiming it to be the Student's own. The Student attended the hearing. The Student was accompanied at the hearing by the Student's former counsel who was not on the record but had come to provide the Student with advice.

Both the Student and the University had retained their own forensic document examiners. A week prior to the hearing, an order was made by a Proceedings Chair that University counsel was to deliver the University's expert report by February 13, 2013. The Proceedings Chair also held that if the Student's expert did not attend the hearing, the evidence of the Student's expert would not be admitted. The Student received a report from a forensic document examiner in Michigan on February 18, 2013. No arrangements were made to have the expert appear in person or by video conference. The Student delivered the report to University counsel, unsigned and in draft form, minutes before the hearing on February 20, 2013. The Student attempted to cross examine the University's expert on the contents of the report prepared by the Student's expert. University counsel objected and the Panel ruled that the Student could ask questions based on information learned from the report of his expert, but that the Student could not tender the report as evidence, nor refer to the report in cross-examination.

The Panel determined that the evidence that the Student did not write the test was substantial and unambiguous. The Panel found that the emails between the Student and the TA were sent from the Student, notwithstanding the Student's

attempts to characterize these emails as abnormal. The Panel stated that the contents of the email the Student sent to the TA and the email the student provided to the professor, along with the Student's desire to keep the original test paper, all supported the University's allegations. The Panel accepted the evidence of the University's expert and concluded that there was no doubt that the Student's name and student number had been written over top of those of the original student's whose test had been altered. The Panel held that the admission made by the Student at the Dean's Meeting was of limited assistance. The Student had retracted the admission and the Panel agreed that it was possible that the Student had never meant to plead guilty and had only said "yes" to "get it over with." The Student had not signed any documents at the Dean's Meeting. The Panel concluded that the standard of proof set out in *F.H. v McDougall* was met and found the Student guilty of the offence alleged under *s. B.i.1(a)* of the Code.

The sanction phase of the hearing occurred on a separate day. At the sanction phase the Student sought to introduce a variety of documents relevant to liability. The Panel considered whether it was appropriate to reconsider liability at the sanction phase. The Panel observed the existence of a broad right of appeal wherein fresh evidence may sometimes be admitted. The Panel noted that the right of reconsideration is never explicitly addressed in either the Code or the Rules. The Panel also stated that it was unclear whether it had jurisdiction to reconsider liability at the sanction phase, after considering the *Statutory Powers and Procedure Act* and the Rules. The Panel concluded that even if it had this jurisdiction, it would not exercise its discretion to admit new materials relevant only to the issue of liability at this stage given the full hearing had already occurred, the Student had access to counsel at the hearing, and all the information the Student wished the Panel to consider had been available to the Student at the time of the initial hearing.
The Panel underscored the seriousness of the offence and noted that there was a high degree of planning and deliberation involved. The Panel observed that there was no evidence of mitigating factors and was concerned that the Student had implicated one of the TAs and the professor by suggesting they either fabricated or possessed "bogus" emails. The Panel disagreed, however, with the University's submission that it was an aggravating factor for the Student to suggest that there was a problem with "the system." The Panel concluded that this suggestion was not sufficient to call into question the University's integrity and students must be able to bring forward concerns about the systems in place without fear of those concerns being cast as aggravating factors. The Panel imposed a final grade of zero in the course, a recommendation that the Student be expelled from the University, a suspension of five years or until the Governing Council makes a decision on expulsion, whichever comes first, and ordered that the case be reported to the Provost for publication.

FILE: Case #672 (12-13)
DATE: June 24, 2013
PARTIES: University of Toronto v J.K.

Hearing Date(s):
November 27, 2012

Panel Members:
William McDowell, Chair
Pascal van Lieshout, Faculty Member
Peter Qiang, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
John Britton, Dean's Designate
Lilach Gilady, Professor
Rebecca Sanders, Teaching Assistant
James McKee, Teaching Assistant
Matthew Walls, Teaching Assistant
Michael Nicholson, Associate Registrar

In Attendance:
J.K., the Student
Kristi Gourlay, Manager, Office of Academic Integrity
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(a)* of the *Code* – forged documents and purchased course work – requests for academic accommodation based on false information – Student admitted guilt – University counsel permitted to lead witnesses during examination in the absence of an Agreed Statement of Facts – first offence but Student had been warned previously of consequences of academic misconduct – grade assignment of zero in three courses; recommendation that the Student be expelled; five-year suspension

Student charged with two offences under *s. B.i.1(d)* and two offences under *s. B.i.1(a)*. The Student had admitted guilt but an Agreed Statement of Facts had not been prepared. As a result counsel for the University was granted permission to lead her witnesses during a brief examination period. The charges under *s. B.i.1(d)* related to allegations that the Student purchased two essays for submission as his own. The Student paid an individual to make substantial changes to a paper he wrote and convert his ideas, expressed in Korean, into English. The Student paid the same individual to write another paper for him in its entirety. The charges under *s. B.i.1(a)* related to an allegation that the Student submitted forged correspondence in support of a petition for a deferred exam in two courses. The Student had suffered a head injury for which he had received academic accommodation in previous years. The Student continued to rely on this historical injury in his requests for academic accommodation, noting each time that the injury had occurred only "a month ago." The Student had been warned about the consequences of academic misconduct previously, although he was not found guilty of any prior offence. The Panel imposed a final grade of zero in three courses, a recommendation that the Student be expelled from the University, and a five-year suspension.[2]

JURISDICTION

FILE: Case #736 (14-15)
DATE: February 19, 2015
PARTIES: University of Toronto v S.M.

Hearing Date(s):
January 9, 2014

Panel Members:
Julie Rosenthal, Chair
Charmaine Williams, Faculty Member
Ching (Lucy) Chau, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Adam Goodman, Counsel for the Student
The Student

In Attendance:
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Luc De Nil, Dean's Designate

Trial Division – *s. B.i.1(f)* and *s. B.i.3(b)* of the *Code* – concocted sources and material – Masters' thesis – ASF – Student admitted of his own volition – jurisdiction to hear matter given student not enrolled – JSP – grade of zero in course; recommendation that Master's degree be canceled and recalled; permanent notation on transcript; report to Provost for publication

Student charged with an offence under *s. B.i.1(f)*, and in the alternative, an offence under *s. B.i.3(b)* of the *Code*. The charges related to fabrication of materials and sources in a thesis paper. The parties entered into an Agreed Statement of Facts (ASF) which included a guilty plea to both charges. The University agreed that if a conviction is entered on the first charge the alternative charge is withdrawn. The salient facts included that the Student submitted a Masters' thesis which was subsequently published in a peer-reviewed journal. A month later the Student advised the Dean's Designate much of the data in the thesis was fabricated and the journal was therefore contacted to request the article be withdrawn. The Student also emailed the associate Chair of the Department of Physiology describing his thesis and admitting he had overwritten some cited files to avoid detection.

The Panel considered its jurisdiction as the Student was no longer enrolled in the University, concluding it had jurisdiction as per section *B.i.4* of the Code, as the Student would have been sanctioned had the offence been discovered while he was still enrolled. The Panel found that the Student violated s. *B.i.1(f)* of the Code and did not consider the second charge.

The parties submitted a Joint Submission on Penalty (JSP) proposing a sanction including a recommendation that the University cancel and recall the Student's Master's degree, a grade of NCR in the course in question, a permanent notation on the Student's transcript, and that the case be reported to the Provost for publication.

The Panel considered a number of cases including cases dealing with principles in establishing penalty and cases of a similar nature. The Panel noted that it will only depart from a JSP where its acceptance would bring the administration

of justice into disrepute and that this was not such a case. The Panel noted the severity of the offence but also that without this admission the entire matter may have gone undetected and that the Student cooperated and expressed deep remorse.

The Panel imposed a penalty including a grade of NCR in the course in question, recommendation that the Student's Master's degree be canceled and recalled, a permanent notation on the Student's transcript, and that the case be reported to the Provost for publication.

FILE: Case #841 (2017 - 2018)
DATE: October 31, 2017
PARTIES: University of Toronto v. L.S. ("the Student")

Hearing Date(s): October 16, 2017

Panel Members:
Mr. Ronald G. Slaght, Chair
Professor Elizabeth Peter, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member
Ms. Alena Zelinka, Student Panel Member

Appearances:
Ms. Tina Lie, Counsel for the Appellant, the University of Toronto
Mr. Robert Sniderman, Counsel for the Respondent, the Student

In Attendance:
The Student
Ms. Lucy Gaspini, Manager, Academic Success & Integrity, Office of the Dean, UTM
Ms. Alexandra Di Blasio, Academic Integrity Assistant, UTM

DAB Decision.

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Provost appeal – request to order a new hearing on the charges - *s. B.i.1(b)* – *s. B.i.1(d)* – *s. B.i.3(b)* – plagiarism – similar ideas in essays exchanged in University incentivized peer-review exercise – Board need grant little deference given its very broad powers except on matters relating to credibility and the Tribunal's approach to the assessment of evidence – Appeal dismissed

Appeal by the Provost from a Tribunal decision in which the majority of the Tribunal acquitted the Student of charges of plagiarism contrary to *s. B.i.1(b), s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The Provost asked the Appeals Board to set the decision aside because the Tribunal erred by considering the evidence in a piecemeal fashion and not as a whole, that there were fundamental mischaracterizations of the evidence, and that the Tribunal had held the Provost to a higher standard of proof.

The Board began by noting that it had very broad powers to review errors of law and significant errors of fact and that it need not show deference to the Tribunal's decisions. However, over the years, the Board has recognized that deference is owed on findings of credibility as well, that the Board should not substitute the decision it would have made on the evidence, for that of the panel below.

The Board found that there were no significant errors in fact finding or in law in the manner in which the Tribunal approached the assessment of the evidence. The Tribunal's approach in analyzing the evidence mirrored the way the evidence and argument were presented by the Provost during the hearing. The Board further noted that it was unlikely that approaching the evidence as a whole, as opposed to analyzing individual similarities between the two essays, would have caused the Tribunal to reach a different result on whether or not the Student committed the offence of plagiarism.

The Board further found that the Tribunal's reference to the Provost's reliance on circumstantial evidence was not a reflection of applying a different standard of proof to the Provost's case, rather that it was common practice to describe the nature of the evidence at some point in the course of giving reasons as circumstantial in order to serves as a reminder that the burden of proof rests on the Provost in these cases and that the standard is to meet a reasonable level of clear cogent evidence. In this case there was no direct evidence (i.e. the texts that were under consideration, testimony from other students involved in the peer review process), so a decision would have to result from inferences from the evidence.

The Provost's final ground of appeal involved the Tribunal's assessment of the credibility of one of the witnesses, an argument that the Board rejected because they were in no position to substitute their own views for the Tribunal's with regards to assessing credibility or the relative weight to be given to the evidence of witnesses. It was open to the Tribunal to assess that witness's evidence in the overall context of the case, which it did in the present case. Appeal dismissed.

FILE: Case #911 (2017 - 2018)
DATE: November 2, 2017
PARTIES: University of Toronto v. Y.S. ("the Student")

Hearing Date(s): August 3, 2017

Panel Members:
Mr. Shaun Laubman, Lawyer, Chair
Professor Richard B. Day, Faculty Panel Member
Ms. Sophie Barnett, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:
Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances, University of Toronto
Mr. David Jones, Technology Assistant, Information Commons
Professor Esme Fuller-Thomson, Factor-Inwentash, Faculty of Social Work
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies

Not in Attendance:
The Student

Trial Division - *s. B.i.1(d)* – plagiarism – Ph.D. Student who failed to properly cite sources – student not present – reasonable notice provided with proof that email had been accessed and courier package signed for by someone with same first initial and last name – jurisdiction – work submitted in capacity as a research assistant and not for course credit – prior offence – student ought to have known her citations amounted to plagiarism - notation longer than suspension – suspension of three years, transcript notation for three years, and report to the provost.

The Student was charged with plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative one charge of unauthorized assistance contrary to s. B.i.1(b) of the *Code*, or in the further alternative, one charge of academic misconduct not otherwise described contrary to s. B.i.3(b) of the *Code.* The charges related to written work that the Student had produced as a research assistant which included insufficient citations. Specifically, the Student had failed to put quotation marks around text to show that it was directly copied and she often failed to cite the primary sources for the material but instead cited the secondary sources that had been cited in the primary source.

The Panel found that reasonable notice of the proceeding had been given to the Student and that the hearing could proceed in the Student's absence based on evidence that a courier package that included the Charges and Notice of Hearing was sent to the Student's address in Israel and signed for by a person with the same first initial and last name as the Student. As well, the University established that the Student's email account was accessed recently, after numerous emails regarding the Charges and the Hearing had been sent by the University to that email account.

The Panel addressed two jurisdictional issues: (1) whether the Panel had jurisdiction over the Student when she was employed as a research assistant; and (2) whether the *Code* applied to work prepared as a research assistant for a faculty member. With regards to the first issue, the Panel referred to the case *University of Toronto v. A.A.* (Case No. 528, January 14, 2009) and found that the Panel had jurisdiction over the Student's conduct as a research assistant because being a student at the University is a status, and that being a research assistant requires that status of being a student. As a student, she was bound by her obligations to the university community, including the commitment to academic integrity contained in the *Code.* As for the second issue, the Panel acknowledged that it was not a typical case where the *Code* was being applied to an assignment or an exam but that the relevant provisions of the *Code* include language that it can apply

to "any other form of academic work" and that the work performed as a research assistant fit within that broad definition.

Though there was some evidence that the Student may not have understood what she submitted constituted plagiarism, the Panel found that even if the Student did not actually know that she was committing the offence of plagiarism, as a Ph.D. student, she ought to have known that her citation style was deficient. Upon the Panel finding the Student guilty of plagiarism, the University withdrew the alternative charges.

In determining a sanction, the Panel referred to the *Mr. C* (Case No.: 1976/77-3, November 5, 1976) factors, particularly: (1) that the plagiarism in this case was less serious than instances when no source at all is referenced; (2) the Student apologized for her actions and admitted that she was perhaps not qualified to continue in the Ph.D. program; (3) the Student had a prior offence and was warned about the consequences being more serious for a second offence; (4) the plagiarism in this case would have directly affected the Professor had it not been identified – an aggravating factor that is muted by the idea that this was a first draft and further editing and checking of the work by the Professor was expected; and (5) the Student withdrew from the Ph.D. program, which would remain on her academic permanently and make her chances of re-offending low. That the Student was a "strong student" was not a factor in the Panel's decision. Taken together, the Panel found that the lack of intention to deceive on the part of the Student coupled with the seriousness of the offence of plagiarism warranted a penalty of a suspension for two years from the University; a notation on the Student's transcript and record for three years; and a report to the Provost.

FILE: Case # 942 (2018-19)
DATE: August 30, 2018
PARTIES: University of Toronto v. A.A.("the Student")

Hearing Date(s): May 25, 2018

Panel Members:
Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Michael Evans, Faculty Panel Member
Ms. Sherice Robertson, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Professor Luc De Nil, Vice-Dean, Students, School of Graduate Studies, University of Toronto
Mr. Philip Norton, Counsel to the Student, Norton Barristers
The Student

In Attendance:
Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances
Mr. Brian Alexic, Technology Assistant, Office of the Governing Council

Trial Division - s. B.i.3(a) – forging or falsifying an academic record – forged transcript – forged correspondence from the University – misrepresentations on resume – misrepresentations on LinkedIn profile – student had already graduated from the University with two degrees – agreed statement of facts – guilty plea – jurisdiction – no jurisdiction to punish offences committed after a student has graduated – joint submission on penalty – cancellation of one degree, five year suspension of second degree, permanent notation on transcript, report to the provost with the Student's name withheld.

The Student was charged with twelve charges of forging or falsifying an academic record contrary to s.B.i.3(a) of the *Code,* or in the alternative twelve charges of academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code.* The charges related to information that the Student had uploaded to a career database maintained by the Rotman School of Business for students in its program. The Student falsified and then uploaded: preliminary grade reports, academic records, correspondence purporting to be sent on behalf of the Dean conferring awards to the Student, as well as a resume that reported this false information (inflated GPA, awards that the Student had not been awarded). The forgery was uncovered when a prospective employer contacted the school to verify the Student's information. Afterwards, the University uncovered that the Student had misrepresented his grades and awards in 42 different job applications. The Student admitted guilt at the first Dean's meeting and expressed remorse. He pled guilty to seven charges. Five charges were withdrawn because counsel agreed that the Tribunal lacked jurisdiction over misrepresentations that had been made after the Student had graduated.

The joint submission on penalty (JSP) recommended that the Tribunal make an order that it: (a) cancel and recall the Student's MBA degree; (b) suspend the Student's B.ASc degree for a period of five years; (c) that it make a permanent notation of the sanctions on the Student's record and transcript; and (d) a report to the Provost with the Student's name withheld. The Tribunal applied the *Mc. C.* factors, finding that mitigating factors were that the Student admitted guilt, expressed remorse, cooperated with the process and had no prior offences. The aggravating factors were the seriousness of the offences, the deliberate and repeated nature of the offences committed, the chance that the Student would commit the same offences again, as well as the impact that the Student's misrepresentations had on other students who would have been competing for the same jobs. The Tribunal found that the JSP was harsh but fair – that it reflected that the Student had earned his credits, at the same time having the degrees cancelled and suspended would limit his job prospects significantly. Tribunal accepted the JSP, and made an order recommending that: (a) the Student's MBA degree be cancelled and recalled; (b) the Student's B.ASc degree be suspended for a period of five years; (c) a permanent notation of the sanctions be placed on the Student's record and transcript; and (d) a report to the Provost with the Student's name withheld.

FILE: Case # 1100 (2021-2022)
DATE: February 8, 2022
PARTIES: University of Toronto v. R.S. ("the Student")

Motion Date(s):
June 8, 2021, via Zoom with written submissions June and September 2021

Panel Members:
Mr. Paul Michell, Associate Chair

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare, Roland, Rosenburg, Rothstein LLP

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appealed the sanction imposed by the Trial Division – Student took no steps to advance his appeal – Provost moved to dismiss the appeal summarily and without formal hearing – ss. C.II(a)(7), C.II(a)(11), E.7(a), and E.8 of the *Code of Behaviour on Academic Matters, 1995* ("Code") – s.7(a) of Appendix A of the Discipline Appeals Board's *Terms of Reference* ("Terms") – Tribunal's *Rules of Practice and Procedure* ("Rules") – ss. 3, 4.2.1(1), and 4.6 of the *Statutory Powers Procedures Act* ("SPPA") – the Code does not grant a single member of the Board jurisdiction to hear and decided a motion to dismiss an appeal summarily without formal hearing – s. C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA – the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA – the Code and the Terms create a legitimate expectation in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 that the Tribunal will conduct a hearing – an appeal to the Discipline Appeals Board ("Board") falls within s. 3 of the SPPA – s. 4.2.1(1) of the SPPA applies to this motion – there is no statutory requirement that appeals (or this motion) be heard by a panel of more than one person – a motion in writing is sufficient to dismiss an appeal summarily – a single member of the Board, if designated, can dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation –s. 4.6 of the SPPA does not apply to this motion nor does it affect the Associate Chair's jurisdiction to hear and decide this motion – proposed grounds of appeal do not identify any errors in the Trial Division's decision – Student did not lead any evidence at the trial as he failed to appear – Student would need leave to submit evidence at the appeal hearing – *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal – no realistic prospect that a motion to admit new evidence would be granted – Student cannot establish an evidentiary basis for his appeal – appeal is frivolous and without

foundation – a party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal – without genuine intent to appeal, an appeal is viewed as vexatious – appeal dismissed

The Student appealed the sanction imposed by the Tribunal's Trial Division to the Discipline Appeals Board ("Board") but took no steps to advance his appeal and did not respond to any inquiries. The Provost moved to have the Board dismiss the appeal summarily and without formal hearing. The Associate Chair noted that the Provost's motion raises two questions concerning appeals to the Board. First, what is the scope of the Board's jurisdiction to dismiss an appeal summarily and without formal hearing, where the appeal is frivolous, vexatious or without foundation? Second, does a single member of the Board have the jurisdiction to hear and decide such a motion?

The Associate Chair outlined that section E.7(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code") expressly confers jurisdiction to a three-member panel of the Board to dismiss an appeal summarily and without formal hearing in appropriate circumstances. Furthermore, section 7(a) of Appendix A of the Board's *Terms of Reference* ("Terms") contains a substantially identical provision. The Associate Chair noted that the issue in this motion is whether he may exercise this power alone. The Code, the Terms, and to the extent they apply, the Tribunal's *Rules of Practice and Procedure* ("Rules"), are silent on this question. The Associate Chair noted that the Code does not define the term "Discipline Appeals Board" and the Provost argued that the division of responsibilities between the chair of a panel of the Tribunal and the other members of a panel also applied by analogy to panels of the Board hearing appeals from decisions of the Tribunal. The Provost further suggested that to dismiss an appeal summarily is, in some cases, a "question of law" that can be determined by the chair alone. The Associate Chair was not persuaded by this submission because the Code specifies a division of responsibilities for deciding different types of questions as between chairs and other members of a panel of the Tribunal. However, it does specify that a chair of a panel can decide questions of law without a full panel. Furthermore, the Associate Chair noted that this motion does not raise a question of law alone. The Associate Chair found that the Code itself does not grant a single member of the Board the jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing.

The Associate Chair considered whether another source of law could provide some guidance on whether a single member of the Board has jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing. Due to the lack of clarity on whether the *Statutory Powers Procedure Act* ("SPPA") applies to appeals to the Board from decisions of the Tribunal, the Associate Chair sought additional submissions from the parties on this issue. The Provost provided additional submissions; the Student did not respond. The Provost submitted that the SPPA applies to appeals to the Board from decisions of the Tribunal, and that subsection 4.2.1(1) of the SPPA applies. The Associate Chair noted that he agreed with both of these submissions. The Associate Chair outlined that the basis for these submissions was that the Code in section C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA, and section C.II(a)11 of the Code defines "Tribunal" to mean both the trial and the appeal divisions of the Tribunal, which includes the Board. The Associate Chair noted that the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA, whose application normally arises by operation of section 3 of the SPPA, not simply because a tribunal chooses to make the SPPA apply to it. The effect of the Tribunal's use of the "conform" language in the Code and the Terms is to create a legitimate expectation on the part of the parties before the Tribunal in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at paras. 26 and 29, and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 at para.68, that the Tribunal will conduct a hearing. The Associate Chair further noted that an appeal to the Board falls within section 3 of the SPPA, because the SPPA applies to a proceeding by the tribunal where the tribunal is required, otherwise by law, to hold or afford the parties an opportunity for a hearing before making a decision. The Associate Chair outlined that subsection 4.2.1(1) of the SPPA applies to this motion because, by designating him to respond to the Provost's request for a proceeding management conference, the Senior Chair assigned him to hear and decide any motions that might reasonably arise from it. Furthermore, the *University of Toronto Act, 1971*, as amended by 1978, Chapter 88, contains no requirement that appeals to the Board be heard by a panel of more than one person, nor does any other statute (including the University of Toronto Act, l947, as amended, to the extent it may still be in force). Therefore, there is no "statutory requirement" that appeals (or this motion) be heard by a panel of more than one person.

The Code and the Terms specify that the Board only has the power to dismiss an appeal summarily and without formal hearing when it determines that an appeal is frivolous, vexatious or without foundation. The Associate Chair noted that a similar dismissal power is set out in section 4.6 of the SPPA, but this dismissal power differs from the Board's dismissal power in a critical way. The Associated Chair outlined that the Code and the Terms address the issue of dismissal of an appeal summarily and without formal hearing, where section 4.6 of the SPPA permits dismissal without a hearing. The Associate Chair noted that neither the Code nor the Terms define a "formal hearing," or distinguish it from other types of hearings. In the Associate Chair's view, the Code and the Terms contemplate that in appropriate cases an appeal may be dismissed summarily without an oral hearing, not that no hearing is required at all. A motion in writing is sufficient. Therefore, the Code and the Terms permit the Board, and where a designation has been made, a single member to dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without

foundation. Furthermore, the Code and the Terms contemplate that the Board's ability to dismiss appeals summarily in appropriate circumstances means that it may do so by way of something less than a full formal hearing. The Associate Chair found that because the Code and the Terms do not purport to empower the Board to dismiss an appeal summarily without a hearing, section 4.6 of the SPPA is not triggered, and does not apply to this motion. Therefore, the Associate Chair's jurisdiction to hear and decide the motion is unaffected by section 4.6 of the SPPA. Accordingly, the Associate Chair found that he had jurisdiction to hear and decide the Provost's motion.

Regarding the Provost's motion to dismiss the appeal, the Associate Chair agreed that the appeal was frivolous, vexatious or without foundation but for different reasons than those contemplated by the Provost in their submissions. The Associate Chair noted that appeals from sanction need not be limited to a question of law alone. However, the Student's proposed grounds of appeal did not identify any errors. Instead, the Student claimed that due to the challenges caused by the Covid-19 pandemic and the resulting "new education model" that followed, it was difficult for him to adapt in a short period of time. The Associate Chair further noted that there was no basis for this claim in the evidence that was before the Tribunal. Therefore, the Student would need to seek leave to admit new evidence to provide a basis for his proposed appeal. The Student had not done so. Section E.8 of the Code and para. 8 of Appendix A of the Terms provide that the Board may allow the introduction of further evidence on appeal which was not available or was not adduced at the trial in exceptional circumstances. The Associate Chair relied on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) which outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal that they otherwise could have led before the Tribunal. Therefore, even if the Student had brought a motion to admit new evidence, there would have been no realistic prospect that it would be granted. Furthermore, since there would be no realistic prospect that the Student could establish an evidentiary basis for his appeal, it would fail.

Based on the foregoing, the Associate Chair found that the appeal was frivolous and without foundation. The Associate Chair also concluded that the appeal was vexatious because the only reasonable inference to be drawn from the Student's failure to take steps to advance his appeal is that he no longer had a genuine intention to appeal. A party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal. Absent a continuing genuine intention to appeal, an appeal must be viewed as vexatious. Appeal dismissed.

FILE:	Case # 1262 (2022-2023)	Panel Member:	
DATE:	August 29, 2022	Ms. Lisa Brownstone, Associate Chair	
PARTIES:	University of Toronto v. G.L. ("the Student")	Appearances:	
		Mr. Robert Centa, Assistant Discipline Counsel,	
Hearing Date(s):		Paliare Roland Rosenberg Rothstein LLP	
March 14, 2022, via Zoom with written submissions in May 2022		Not in Attendance:	
		The Student	
		Hearing Secretary:	
		Ms. Carmelle Salomon-Labbé, Associate Director,	
		Office of Appeals, Discipline and Faculty Grievances	

NOTE: See the Tribunal case summary for detailed facts

Discipline Appeals Board – Student appealed on the basis that they were not in attendance at the trial and were not represented at the trial hearing – Provost seeks an order dismissing the appeal summarily and without a formal hearing because it is frivolous, vexatious or without foundation – sections C.ii.(a)7, C.ii.(a).11, and E.7(a) of the *Code of Behaviour on Academic Matters* ("Code") – section 4.2.1(1) of the *Statutory Powers Procedure Act* ("SPPA") – the procedures of the Tribunal shall conform to the requirements of the SPPA – there are two divisions of the Tribunal; (a) Trial and (b) Appeal – the University has determined that SPPA procedures are to apply to hearings and appeals before its Tribunal, and that by including section C.ii.(a)7 in the Code, they have advised their students of such an application – courts have long distinguished between procedural and substantive matters in this regard and have been willing to intervene on procedural matters (*Re Polten and Governing Council of University of Toronto (1976),* 8 O.R. (2d) 749 (Divisional Court); 1975 CanLII 709*)* – section 4.2.1(1) of the SPPA applies, and Associate Chair may hear the motion as a panel of one person – an appeal can be classified as frivolous or vexatious if the student takes no steps to move the appeal forward and fails to engage with the process or comply with Directions – the Student's failure to communicate and engage in the process to advance the appeal renders the appeal vexatious – the Student's own statements indicated that they used external aids in an assignment, which violated the assignment's requirements to do the work independently – the appeal is frivolous, vexatious or without foundation – motion granted – appeal dismissed summarily and without formal hearing

The Student appealed the University Tribunal's Trial Division decision on the basis that they were not in attendance and were not represented at the hearing. After submitting their Notice of Appeal, the Student engaged in very sporadic communication with Assistant Discipline Counsel and the Tribunal's administrative office. The Associate Chair noted that two Directions were issued to ensure that the appeal proceeded in a timely fashion. The Student did not respond nor did they act as required in accordance with the Directions. In accordance with the second Direction, the Provost moved for dismissal of the appeal. The Student was afforded an opportunity to respond the Provost's motion in writing. The Student did not respond.

The Associate Chair outlined that there were two issues. The first issue was whether the Tribunal, as a single member, has jurisdiction to entertain the Provost's motion. The second issue was whether the Student's appeal should be dismissed on the grounds that it is frivolous, vexatious, or without foundation.

With respect to the first issue, the Associate Chair agreed with the conclusion of the appeal motion in *University of Toronto and R.S.* (Case No. 1100, February 8, 2022) ("*R.S.*") that the Tribunal has jurisdiction to hear this appeal, sitting as a single member. Specifically, the *Statutory Powers Procedure Act*, R.S.O 1992, c. 22 ("SPPA") applies to appeals before the Discipline Appeals Board ("Board") from decisions of the Tribunal's Trial Division, and section 4.2.1(1) of the SPPA, permits a

single member of the Board to decide a motion. The Associate Chair noted that historically university discipline tribunals were arguably not the sort of tribunals to which the SPPA would directly apply since the relationship between a student and a university has been characterized as contractual as opposed to statutory. However, the courts have long distinguished between procedural and substantive matters in this regard and have been willing to intervene on procedural matters (*Re Polten and Governing Council of University of Toronto (1976)*, 8 O.R. (2d) 749 (Divisional Court); 1975 CanLII 709*)*. The Associate Chair further noted that the University has codified the relationship between the student and the University, when it comes to academic matters, in the *Code of Behaviour on Academic Matters* issued by the University's Governing Council ("Code"). Section C.ii.(a).7 of the Code provides that the procedures of the Tribunal shall conform to the requirements of the SPPA. Section C.ii.(a).11 of the Code provides that there are two divisions of the Tribunal: (a) Trial and (b) Appeal. Therefore, the Associate Chair found that the University has determined that SPPA procedures are to apply to hearings and appeals before its Tribunal, and that by including section C.ii.(a)7 in the Code, it has advised its students of such an application. The Associate Chair did not view the fact that the University had chosen to use the language "conform" rather than "apply" to be a material distinction and was confident that the language distinction between "conform" and "apply" would not aid the University should it attempt not to comply with the SPPA. In considering section 4.2.1(1) of the SPPA, the Associate Chair noted that this section provides that the chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person. The Associate Chair agreed with the observation in *R.S.* that there is no statutory provision contrary to section 4.2.1(1) of the SPPA, and, therefore, concluded that section 4.2.1(1) of the SPPA applies, and they may hear the motion as a panel of one person.

Having decided that they have jurisdiction to hear this appeal as a single member, the Associate Chair considered the second issue, namely, whether the appeal is frivolous, vexatious or without foundation. The Associate Chair noted that section E.7(a) of the Code gives the Board the power to dismiss an appeal summarily and without formal hearing if the appeal is frivolous, vexatious or without foundation. An appeal can be classified as frivolous or vexatious if the student takes no steps to move the appeal forward and fails to engage with the process or comply with Directions. The Associate Chair further noted that the failure to engage in the process or to be responsive to the Tribunal's, ADFG's, or counsel's attempts to move the matter forward can render the appeal frivolous or vexatious. Whether an appeal is without foundation is concerned with the merits of the appeal, and while it can be difficult to opine on the merits of an appeal in the absence of the full participation of the student, there are circumstances, such as this one, where such a determination can be made. The Student engaged in a pattern of non-responsiveness and failure to engage with the process and while the Student's subjective desire to appeal may exist, that is insufficient to overcome the frivolous and vexatious nature of the Student's conduct in failing to pursue the appeal. In determining whether the appeal was with or without foundation, the Associate Chair noted that the Student's own statements in an email to the ADFG Office indicated that the Student improperly used external aids in the assignment. The Student outlined that they received assistance from their brother and not Chegg.com, therefore, even if the Student were permitted to advance their version of events, they acknowledged that they violated the assignment's requirements to do the work independently.

The Student's appeal was frivolous, vexatious, or without foundation. Motion granted. Appeal dismissed summarily and without formal hearing.

CLERICAL ERRORS

FILE: Case # 922 (16 - 17)
DATE: August 1, 2017
PARTIES: University of Toronto v. Y.Z. ("the Student")

Hearing Date(s): May 10, 2017

Panel Members:
Mr. Christopher Wirth, Barrister and Solicitor, Chair
Professor Ato Quayson, Faculty Panel Member
Mr. Andrey Lapin, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:
Professor Eleanor Irwin, Dean's Designate, University of Toronto Scarborough
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not in Attendance:
The Student

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism– student copied unattributed text verbatim for paper – student did not attend hearing – University provided proper notice of hearing – finding of guilt – zero in the course, two year suspension, three year notation, publication of the decision with the name of the Student withheld – *s. 21.1* of the *SPPA* – course identified in charges incorrect – Tribunal accepted this as clerical error and that Student was not prejudiced, amended the course

The Student was charged with plagiarism under *s. B.i.1(d)* of the *Code*, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to a paper that featured several lengthy passages identical to text found online, without any attribution.

The Student did not attend the hearing. The Tribunal found that the University had discharged its obligation to provide the Student proper notice of the hearing. The Tribunal found the Student guilty of the plagiarism charge and the University then withdrew the academic dishonesty charge. The Student received a grade of zero in the course, a two year suspension, and a three year notation, and publication of the decision with the name of the Student withheld. In determining the penalty, the Tribunal noted that this was a first offence.

The course referred to in the charges differed from that referred to in the evidence, and the Tribunal sought submissions on this issue. The Tribunal concluded that this was a clerical error, and that the course as stated in the evidence was correct. The Tribunal was satisfied that the Student had not been prejudiced in any way by this error as they were aware of the course in question. As such, it exercised its discretion under *s. 21.1* of the *Statutory Powers and Procedure Act* to correct the error in the charges.

NOTICE

FILE:	Case # 993 (19-20)	Panel Members: Ms. Cheryl Woodin, Chair Professor Kenneth Derry, Faculty Panel Member Mr. Andrew Opper, Student Panel Member
DATE:	July 4, 2019	
PARTIES:	University of Toronto v. K.Q.	
HEARING DATE:	March 27, 2019	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP Not in Attendance: The Student Hearing Secretary: Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances

Trial Division – interim decision to continue hearing of charges in absence of student - s. B.i.3(a) of *Code* – forgery of academic record – Student charged with knowingly forging, circulating or making use of a document purporting to be a degree certificate in the Student's name from the University – charges arose when third party requested verification by University of authenticity of degree certificate - Student did not attend first hearing date – first hearing date adjourned to permit University to provide additional evidence of service of notice of hearing upon student - onus of proof on University to demonstrate reasonable notice of hearing provided – obligation on students to maintain and update contact information on ROSI – reasonable notice of hearing provided - under ss. 6 and 7 of the *Statutory Powers Procedure Act* ("Act") and Rule 17 of the *Rules of Practice and Procedure* ("Rules") – hearing to proceed in Student's absence without further notice to Student

NOTE: The reasons for the finding can be found in *Q.K.* Case No.: 993, dated November 1, 2019.

The Student was charged with academic misconduct under s. B.i.3(a) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he knowingly forged, circulated or made use of a forged academic record, namely, a degree certificate dated June 18, 2008, in the Student's name, purporting to grant him an Honours Bachelor of Science degree from the University. The charges arose following a request to the University from the Canadian Consulate in Shanghai, China, to verify the authenticity of the degree certificate submitted to it by the Student.

Neither the Student nor a legal representative of the Student appeared at the hearing. The hearing was adjourned to permit the University to provide additional evidence and make supplementary submissions regarding steps taken to provide the Student with notice of the hearing.

The Panel noted that the onus of proof is on the University to demonstrate that it has provided the Student with reasonable notice of the hearing. In this case, the notice of hearing was sent to the Student in accordance with the requirements of section C.ii.(a)(4) of the Code and Rules 9(c) and 14 of the Tribunal's *Rules of Practice and Procedure* (the "Rules"). The Panel noted that in accordance with the University's *Policy on Official Correspondence with Students,* students enrolled at the University are required to maintain current contact information in the ROSI system and to update that information if it changes. Under Rule 9 of the *Rule*s, a notice of hearing may be served on a student by sending a copy by courier to the student's mailing address in ROSI or by emailing a copy to the student's email address in ROSI. The University complied with this rule in this case. In addition, the University attempted to communicate with the Student using a "Gmail" address that the Student had previously provided to the University. The Panel was also advised by the University that the Canadian Consulate in Shanghai had communicated to the Student that it needed to verify the degree with the University and that the Student then withdrew his request to the Consulate. The Student was therefore on notice of the Consulate's intention to communicate with the University regarding the degree the subject of the charges. Finally, the Tribunal noted that under ss. 6 and 7 of the *Statutory Powers Procedure Act* (the "Act") and Rule 17 of the Rules, where reasonable notice of an oral hearing has been given to a party in accordance with the Act or the Rules and the party does not attend, the Tribunal may proceed in the absence of that party and the party is not entitled to any further notice in the proceedings. Based on the totality of the attempts made to provide notice to the Student, the

Tribunal concluded that the Student was given reasonable notice of the hearing. It ordered that the hearing proceed in the Student's absence and without further notice to the Student.

ONUS

FILE:	Case # 948 (19-20)	Panel Members:
DATE:	August 23, 2019	Mr. Nader Hasan, Chair
PARTIES:	University of Toronto v. S.W. (the "Student")	Professor Pascal van Lieshout, Faculty Panel Member
		Ms. Yusra Qazi, Student Panel Member
HEARING DATES: July 17, 2018; August 30, 2018; February 25, 2019; February 28, 2019; March 21, 2019; April 23, 2019		Appearances: Ms. Lily Harmer and Ms. Lauren Pearce, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP Mr. Lorne Sabsay, Sabsay Lawyers, counsel for the Student
		Hearing Secretary: Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances (July 17, 2018; August 30, 2018; February 25, 2019; February 28, 2019; March 21, 2019; April 23, 2019) Ms. Jennifer Dent, Associate Director, Office of Appeals, Discipline and Faculty Grievances (February 25, 2019; February 28, 2019; March 21, 2019)
		Interpreter: Mr. Kau Kiang Woo, Mandarin Interpreter for the Student, accredited by the Ontario Ministry of Attorney General

Trial Division – s. B.i.3(a) of *Code* – falsified academic record – Student submitted falsified transcript in application for admission to University and course outlines in respect of courses she had never taken in support of application for transfer credits - University's evidentiary onus in cases of alleged forgery – enough to show Student had knowledge of forged documents and made use of them - University not required to prove each and every fact particularized - where offence has requirement of 'knowing', shall be deemed to have been committed if person ought reasonably to have known – knowledge is objective standard and University need not prove actual/subjective knowledge – *Vetrovec v The Queen* [1982] 1 S.C.R. 811 – **in assessing witness credibility Tribunal should scrutinize witness' evidence in light of what they said on previous occasions – evidence of imperfect witness in this case not sufficient on its own but was corroborated by significant circumstantial evidence - finding of guilt – sanction to be determined at later date**

NOTE: These reasons address the finding. Reasons for the decision on sanctions are reported in *University of Toronto and S.W.*, Case No. 948 (April 16, 2020)

The Student was charged with academic misconduct under the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that she knowingly forged or knowingly made use of two sets of forged documents, namely a Simon Fraser University ("SFU") transcript and various SFU course outlines. Specifically, the Student was charged with forgery under s. B.i.3(a) of the Code, and in the alternative, academic dishonesty under s. B.i.3(b) of the Code.

In April or May of 2015, the Student submitted an application to the University for admission as a transfer undergraduate student. In support of her application, the Student submitted an official transcript of an academic record from SFU bearing the Student's name. The Student was admitted to the University on the basis of her application and the supporting transcript. Following her admission to the University, the Student sought to obtain transfer credits for a number of courses reflected in the SFU transcript and submitted to the University five course outlines bearing course codes and information associated with courses offered by SFU. The Student conceded that she did not attend SFU and that the SFU transcript and course outlines were falsified (while the course outlines themselves were genuine, the Student was never enrolled in the courses described in the outlines). The Student argued in her defence that while it was never disputed that a fake

transcript and fake course outlines were submitted in her name, she should not bear any responsibility because both submissions were made without her knowledge. The University submitted that the Student was not a credible witness and that she had knowingly hired a third party to create a falsified SFU transcript and submit it to the University in support of her application for admission and her application for transfer credits.

The Panel noted that the Student's position depended in large part on a legal argument regarding the University's evidentiary onus in the proceedings. The Student asserted that the University was required to establish each and every fact as alleged in the particulars, and that if the University fell short on that onus, the Student would be entitled to an acquittal.

The Panel noted that under the Code, the University bears the onus of establishing on a balance of probabilities, relying on clear and convincing evidence, that the Student committed the academic offences as alleged. The Panel further noted that pursuant to the Code, wherever an offence is described on 'knowing', the offence shall likewise be deemed to have been committed if the person ought reasonably to have known (Code, section B). Knowledge, the Panel stated, is therefore an objective standard and the University need not prove actual or subjective knowledge. The University was required to demonstrate that it was more likely than not that the Student knowingly "forged, altered or falsified" and/or "did utter, circulate or make use of" the two falsified records in this case. The Code makes it an offence to merely "make use of" a forged or falsified record; accordingly, the Panel stated, to establish guilt the University had to prove that the Student knew or ought to have known that the documents used in support of her applications for admission and transfer credits were forged or falsified, and that she knowingly made use of them. The Panel rejected the Student's submission that the University was required to prove each and every fact particularized, as it is not legally tenable. The University provides the particulars to discharge its duty of fairness to inform the Student of the case to meet and because the Code requires that the Student be provided with particulars. The University must prove sufficient facts to substantiate the elements of the offence, but often the particulars go further than the bare elements of the offence. If the Panel were to accede to the Student's argument, it stated, it would create a perverse incentive for the University to disclose no more than absolutely necessary to discharge its onus under the Code.

The Panel noted that while much of the evidence in the case was undisputed, some witnesses told different versions of the same events (in particular, the Student and her former boyfriend, YL, who had anonymously reported the Student to the University). While it noted that there is no magic formula to assessing credibility, the Panel noted the guidance of the courts in this regard and stated that in assessing credibility, it should carefully scrutinize the witness' evidence before it in light of what they have said on prior occasions (*R. v. M.G.*, [1994] O.J. No. 2086 (C.A.), at para. 23). Therefore, in assessing credibility of the Student and YL, the Panel was aided by their prior testimony in a criminal proceeding, which overlapped factually with the issues in this particular matter. Portions of the criminal trial transcript were admitted for the truth of their contents in this proceeding and for the purpose of assessing witnesses' credibility. The transcripts relevance and their use were the subject to a prior ruling of the Panel (See *University of Toronto and S.W*, Case 948 – Interim Decision, December 21, 2018). The factual issues in this case turned on when the Student became aware of the forgeries. The Student testified that when requested to provide course outlines in respect of her SFU courses, she obtained a copy of the falsified SFU transcript and that she knew she had been admitted to the University and obtained transfer credits on the basis of a falsified transcript. The Student also knew that the University was seeking course outlines in respect of SFU courses that she had never taken in support of her application for transfer credits. The Student admitted to knowingly continuing to make use of the SFU transcript and accepting YL's offer to submit course outlines for classes she did not take from a university she never attended. The Panel was satisfied that these admissions alone were enough to find the Student guilty of the misconduct alleged. While the University relied on the direct evidence of YL in arguing that the Student knew of the forged documents and was a willing participant in submitting them, the Panel noted that YL was an imperfect witness for a number of reasons (he was complicit in the Student's misconduct and he had a motive to fabricate, due to the fact that the Student had made a formal complaint to the police that YL had sexually assaulted her). The Panel in this case, while acknowledging that YL had been acquitted at trial, noted that YL could be compared to a *Vetrovec* witness in this context, namely a witness whose credibility is compromised (*Vetrovec v The Queen* [1982] 1 S.C.R. 811). While noting that criminal law decisions such as *Vetrovec* are not binding on it, the Panel accepted that the principles articulated in it are instructive and that the trier of fact should be cautious in accepting testimony where a witness' credibility is compromised, unless that evidence is corroborated by independent evidence.

The Panel noted that YL's evidence was corroborated by significant circumstantial evidence which showed that, on a balance of probabilities, the Student knew or ought to have known that the records were falsified from the outset of her application to the University. This included the Student's poor academic performance at the university she had actually attended, University of British Columbia; the Student's contract with the agent hired to assist with her transfer application under which a significant fee was payable to the agent to prepare an application that hundreds of students complete on

their own every year; and the Student's inconsistencies in her evidence regarding the actual amount paid to this agent. While the Student's evidence was supported by her mother, the Panel stated that it was difficult to rely on the mother's evidence for a number of reasons including that the mother stated she was there as an advocate for her daughter, not as a witness, and that the mother denied there was anything wrong with making used of the forged documents. The Panel also heard evidence of meetings between the Student and the Registrar's office in which the Student admitted that she was referred to as a transfer student from SFU. The Panel was satisfied that cumulatively, the weight of the circumstantial evidence of the Student's knowledge of the forged documents from the time of her application to the University was significant, and corroborated YL's evidence. On a balance of probabilities, the Panel found that the Student did in fact know that the SFU transcript was a forgery at or around the time her transfer application was submitted to the University.

The Panel found the Student guilty of two counts of knowingly falsifying or making use of a forged record, contrary to section B.i.3(a) of the Code. The Panel decided to re-convene to consider the appropriate sanction at a later date.

CREDIBILITY

FILE:	Case # 948 (19-20)	Panel Members: Mr. Nader Hasan, Chair Professor Pascal van Lieshout, Faculty Panel Member Ms. Yusra Qazi, Student Panel Member
DATE:	August 23, 2019	
PARTIES:	University of Toronto v. S.W. (the "Student")	Appearances: Ms. Lily Harmer and Ms. Lauren Pearce, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP Mr. Lorne Sabsay, Sabsay Lawyers, counsel for the Student
HEARING DATES: July 17, 2018; August 30, 2018; February 25, 2019; February 28, 2019; March 21, 2019; April 23, 2019		Hearing Secretary: Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances (July 17, 2018; August 30, 2018; February 25, 2019; February 28, 2019; March 21, 2019; April 23, 2019) Ms. Jennifer Dent, Associate Director, Office of Appeals, Discipline and Faculty Grievances (February 25, 2019; February 28, 2019; March 21, 2019)
		Interpreter: Mr. Kau Kiang Woo, Mandarin Interpreter for the Student, accredited by the Ontario Ministry of Attorney General

Trial Division – s. B.i.3(a) of *Code* – falsified academic record – Student submitted falsified transcript in application for admission to University and course outlines in respect of courses she had never taken in support of application for transfer credits - University's evidentiary onus in cases of alleged forgery – enough to show Student had knowledge of forged documents and made use of them - University not required to prove each and every fact particularized - where offence has requirement of 'knowing', shall be deemed to have been committed if person ought reasonably to have known – knowledge is objective standard and University need not prove actual/subjective knowledge – *Vetrovec v The Queen* [1982] 1 S.C.R. 811 – **in assessing witness credibility Tribunal should scrutinize witness' evidence in light of what they said on previous occasions – evidence of imperfect witness in this case not sufficient on its own but was corroborated by significant circumstantial evidence - finding of guilt – sanction to be determined at later date**

NOTE: These reasons address the finding. Reasons for the decision on sanctions are reported in *University of Toronto and S.W.*, Case No. 948 (April 16, 2020)

The Student was charged with academic misconduct under the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that she knowingly forged or knowingly made use of two sets of forged documents, namely a Simon Fraser University ("SFU") transcript and various SFU course outlines. Specifically, the Student was charged with forgery under s. B.i.3(a) of the Code, and in the alternative, academic dishonesty under s. B.i.3(b) of the Code.

In April or May of 2015, the Student submitted an application to the University for admission as a transfer undergraduate student. In support of her application, the Student submitted an official transcript of an academic record from SFU bearing the Student's name. The Student was admitted to the University on the basis of her application and the supporting transcript. Following her admission to the University, the Student sought to obtain transfer credits for a number of courses reflected in the SFU transcript and submitted to the University five course outlines bearing course codes and information associated with courses offered by SFU. The Student conceded that she did not attend SFU and that the SFU transcript and course outlines were falsified (while the course outlines themselves were genuine, the Student was never enrolled in

the courses described in the outlines). The Student argued in her defence that while it was never disputed that a fake transcript and fake course outlines were submitted in her name, she should not bear any responsibility because both submissions were made without her knowledge. The University submitted that the Student was not a credible witness and that she had knowingly hired a third party to create a falsified SFU transcript and submit it to the University in support of her application for admission and her application for transfer credits.

The Panel noted that the Student's position depended in large part on a legal argument regarding the University's evidentiary onus in the proceedings. The Student asserted that the University was required to establish each and every fact as alleged in the particulars, and that if the University fell short on that onus, the Student would be entitled to an acquittal.

The Panel noted that under the Code, the University bears the onus of establishing on a balance of probabilities, relying on clear and convincing evidence, that the Student committed the academic offences as alleged. The Panel further noted that pursuant to the Code, wherever an offence is described on 'knowing', the offence shall likewise be deemed to have been committed if the person ought reasonably to have known (Code, section B). Knowledge, the Panel stated, is therefore an objective standard and the University need not prove actual or subjective knowledge. The University was required to demonstrate that it was more likely than not that the Student knowingly "forged, altered or falsified" and/or "did utter, circulate or make use of" the two falsified records in this case. The Code makes it an offence to merely "make use of" a forged or falsified record; accordingly, the Panel stated, to establish guilt the University had to prove that the Student knew or ought to have known that the documents used in support of her applications for admission and transfer credits were forged or falsified, and that she knowingly made use of them. The Panel rejected the Student's submission that the University was required to prove each and every fact particularized, as it is not legally tenable. The University provides the particulars to discharge its duty of fairness to inform the Student of the case to meet and because the Code requires that the Student be provided with particulars. The University must prove sufficient facts to substantiate the elements of the offence, but often the particulars go further than the bare elements of the offence. If the Panel were to accede to the Student's argument, it stated, it would create a perverse incentive for the University to disclose no more than absolutely necessary to discharge its onus under the Code.

The Panel noted that while much of the evidence in the case was undisputed, some witnesses told different versions of the same events (in particular, the Student and her former boyfriend, YL, who had anonymously reported the Student to the University). While it noted that there is no magic formula to assessing credibility, the Panel noted the guidance of the courts in this regard and stated that in assessing credibility, it should carefully scrutinize the witness' evidence before it in light of what they have said on prior occasions (*R. v. M.G.*, [1994] O.J. No. 2086 (C.A.), at para. 23). Therefore, in assessing credibility of the Student and YL, the Panel was aided by their prior testimony in a criminal proceeding, which overlapped factually with the issues in this particular matter. Portions of the criminal trial transcript were admitted for the truth of their contents in this proceeding and for the purpose of assessing witnesses' credibility. The transcripts relevance and their use were the subject to a prior ruling of the Panel (See *University of Toronto and S.W*, Case 948 – Interim Decision, December 21, 2018). The factual issues in this case turned on when the Student became aware of the forgeries. The Student testified that when requested to provide course outlines in respect of her SFU courses, she obtained a copy of the falsified SFU transcript and that she knew she had been admitted to the University and obtained transfer credits on the basis of a falsified transcript. The Student also knew that the University was seeking course outlines in respect of SFU courses that she had never taken in support of her application for transfer credits. The Student admitted to knowingly continuing to make use of the SFU transcript and accepting YL's offer to submit course outlines for classes she did not take from a university she never attended. The Panel was satisfied that these admissions alone were enough to find the Student guilty of the misconduct alleged. While the University relied on the direct evidence of YL in arguing that the Student knew of the forged documents and was a willing participant in submitting them, the Panel noted that YL was an imperfect witness for a number of reasons (he was complicit in the Student's misconduct and he had a motive to fabricate, due to the fact that the Student had made a formal complaint to the police that YL had sexually assaulted her). The Panel in this case, while acknowledging that YL had been acquitted at trial, noted that YL could be compared to a *Vetrovec* witness in this context, namely a witness whose credibility is compromised (*Vetrovec v The Queen* [1982] 1 S.C.R. 811). While noting that criminal law decisions such as *Vetrovec* are not binding on it, the Panel accepted that the principles articulated in it are instructive and that the trier of fact should be cautious in accepting testimony where a witness' credibility is compromised, unless that evidence is corroborated by independent evidence.

The Panel noted that YL's evidence was corroborated by significant circumstantial evidence which showed that, on a balance of probabilities, the Student knew or ought to have known that the records were falsified from the outset of her application to the University. This included the Student's poor academic performance at the university she had actually attended, University of British Columbia; the Student's contract with the agent hired to assist with her transfer application

under which a significant fee was payable to the agent to prepare an application that hundreds of students complete on their own every year; and the Student's inconsistencies in her evidence regarding the actual amount paid to this agent. While the Student's evidence was supported by her mother, the Panel stated that it was difficult to rely on the mother's evidence for a number of reasons including that the mother stated she was there as an advocate for her daughter, not as a witness, and that the mother denied there was anything wrong with making used of the forged documents. The Panel also heard evidence of meetings between the Student and the Registrar's office in which the Student admitted that she was referred to as a transfer student from SFU. The Panel was satisfied that cumulatively, the weight of the circumstantial evidence of the Student's knowledge of the forged documents from the time of her application to the University was significant, and corroborated YL's evidence. On a balance of probabilities, the Panel found that the Student did in fact know that the SFU transcript was a forgery at or around the time her transfer application was submitted to the University.

The Panel found the Student guilty of two counts of knowingly falsifying or making use of a forged record, contrary to section B.i.3(a) of the Code. The Panel decided to re-convene to consider the appropriate sanction at a later date.

FILE: Case # 1047 (2019-2020)
DATE: November 18, 2019
PARTIES: University of Toronto v. M.S.D. ("the Student")

Hearing Date(s):
October 21, 2019

Panel Members:
Ms. Cynthia B. Kuehl, Barrister & Solicitor, Chair
Professor Richard B. Day, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
The Student, self-represented

Hearing Secretary:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

NOTE: These reasons address the finding. Reasons for the decision on sanctions are reported as University of Toronto v. M.S.D. Case No. 1047 (July 21, 2020).

Trial division – s. B.i.l(b) of the *Code* – unauthorized aid - the Student knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in connection with a final examination – invigilator found unauthorized aid sheet on Student's carrel during final examination – diverging evidence from invigilator and student raised credibility issue – finding of guilt – the Student ought reasonably to have known that he possessed the unauthorized aid sheet – Panel considered several factors to assess credibility and preferred the invigilator's evidence over the Student's evidence – no obligation on the Student to prove that the unauthorized aid sheet was not his because onus always remains on the University to establish its case on a balance of probabilities - no finding as to whether the Student attempted to use or used the unauthorized aid sheet

The Student was charged under s. B.i.l (b) of the *Code of Behaviour on Academic Matters, 1995* ("Code") for knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance in connection with a final examination.

The Student's professor set a closed book examination for the final examination but allowed students to bring in a one double-sided aid sheet. To avoid micro-copying, the professor insisted that the aid sheet be prepared by the student individually. The parameters of what constituted a permissible aid sheet were communicated to the students, including the Student. To accommodate his medical issues, the Student was allowed additional time to write the examination and wrote it in a semi-private carrel. He was initially screened by an invigilator and confirmed in writing that he was not in possession of any other aids. At the end of the examination, the invigilator found on the Student's carrel a folded piece of paper, containing photocopies of previous problems and their solutions from the Student's course. This was an inappropriate aid sheet that would not have been allowed in the examination.

The Student was self-represented at this phase of the hearing. The invigilator and the Student gave diverging evidence regarding the aid sheet, which raised issues of credibility. In assessing their evidence, the Panel considered several factors. It found that the invigilator was experienced and who gave clear, convincing and logical evidence. It also noted that his evidence was supported by his contemporaneous notes. It further held that his actions were consistent with the

process and procedures expected of an invigilator for an examination. In considering the Student's evidence, the Panel noted the Student's own admission regarding his past mistakes and stated that it seemed highly unlikely that another student could have placed the unauthorized aid sheet in the carrel during the examination without detection. Ultimately, the Panel preferred the invigilator's evidence.

The Panel recognized that the Student does not have to prove that the unauthorized aid sheet was not his because the onus always remains on the University to establish its case on a balance of probabilities. While the Student denied that the unauthorized aid sheet was his, the Panel rejected the Student's version of events, including his allegation that the invigilator was dishonest in his evidence by saying he found the unauthorized aid sheet on his desk. The Panel found that the Student ought to have known that he possessed the unauthorized aid sheet.

The Panel found that the University had established the charge on a balance of probabilities, with clear and convincing evidence. The Panel made no finding as to whether the Student attempted to or used the unauthorized aid sheet during the examination.

PROCEDURAL FAIRNESS

FILE: Case # 1107 (2021-2022)
DATE: August 18, 2021
PARTIES: University of Toronto v. D.B. ("the Student")

Hearing Date(s):
July 21, 2021, via Zoom

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Allan Kaplan, Faculty Panel Member
Ms. Samantha Chang, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
The Student

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals on the basis that it was improper for the Trial Division to proceed in the Student's absence, that the University is required to establish that the Student received notice beyond a reasonable doubt, and that the sanction is unreasonable – request to set aside the finding of the Tribunal's Panel and order a new hearing – ss. B.i.1(d) and B.i.3(b) of the Code – plagiarism – the Student had reasonable notice of the charges and the hearing – the University has the onus to demonstrate that the Student had reasonable notice of the hearing on a balance of probabilities – once a Panel is satisfied that reasonable notice has been given to a student, the Panel has jurisdiction to proceed in the absence of the student – the Tribunal did not make any error in concluding that the University had discharged its onus to demonstrate that the Student had reasonable notice of the hearing and that they could proceed with the hearing in the Student's absence – the fairness standard relates to having reasonable notice of the adjudication and, thereby, having the opportunity to attend and be heard – the sanction ordered was appropriately consistent with penalties imposed in similar cases – appeal dismissed – Order of the Tribunal affirmed in its entirety

The Student appeals the finding of guilt and the sanction imposed by the Tribunal's Trial Division on the basis that (1) it was improper to proceed with the original hearing in the Student's absence; (2) the University is required to establish that the Student received notice of the hearing "beyond a reasonable doubt"; (3) the sanction imposed is unreasonable; and (4) the appropriate remedy on appeal is to set aside the Panel's Order and order a new hearing.

In dismissing the Student's appeal, the Board discussed the Student's grounds for appeal in three main issues. First, it was the Student's position that it was improper to proceed with the original hearing in the Student's absence and that the University is required to establish that he received notice of the hearing "beyond a reasonable doubt." In examining Rule 9(c) of the Tribunal's *Rules of Practice and Procedure*, the University's *Policy on Official Correspondence with Students* and the affidavits regarding service, the Board found that the Student had reasonable notice of the charges and the hearing. The Board found that the Tribunal did not make any error in concluding that the University had discharged its onus to demonstrate that the Student had reasonable notice of the hearing and that they could proceed with the hearing in the Student's absence. The Student argued that although he should have checked his University email more frequently, the onus is still on the University to prove, beyond a reasonable doubt, that he accessed or read the emails that were sent to him regarding the hearing. The Board rejected this argument. As correctly noted by the Panel, the onus is on the University to demonstrate that the Student had reasonable notice of the hearing on a balance of probabilities. Once the Panel was satisfied that reasonable notice had been given to the Student, the Panel had jurisdiction to proceed in the absence of the Student. The Board does not find any error in that finding. At the hearing, the Student referred to it being "unfair" that he was not present at the original hearing. The Board noted that "unfairness" is not the test for procedural fairness. The fairness standard relates to having reasonable notice of the adjudication and, thereby, having the opportunity to attend and be heard.

The second issue was whether the sanction imposed on the Student, if the finding of guilt was upheld, was unreasonable. Upon review of the Tribunal's reasons and the authorities provided to the Panel, the Board found that the sanction ordered was consistent with penalties imposed in similar cases. The Board noted that consistency and predictability are valid goals in encouraging general deterrence. Relying on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011(Appeal)) at paras. 61-64, the Board did not feel that this was a situation of "special circumstances" to grant the Student an opportunity to adduce fresh evidence when the Student had reasonable notice of the hearing and failed to attend. The Student advised the Board that he had withdrawn from his courses in Winter 2021 even though he filed an appeal which stayed the order pending the appeal decision. Seeing as the Student acted as if he was suspended from the University since the date of the Tribunal's Order, the Board felt it was appropriate to affirm the Order, including the commencement date of the suspension.

Lastly, the Student argued that the appropriate remedy on appeal is to set aside the Tribunal's Order and order a new hearing. The Board noted that given its finding that the Tribunal did not err in their decision, they dismissed the Student's request for a new hearing.

Appeal dismissed. Order of the Tribunal affirmed in its entirety.

REPLY EVIDENCE

FILE: Case # 1054 (2020-2021)
DATE: November 17, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
August 18, 2020, via Zoom

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Professor Aarthi Ashok, Faculty Panel Member
Mr. Said Sidani, Student Panel Member

Appearances:
Ms. Tina Lie, for the Respondent, Appellant by Cross-Appeal, Paliare Roland Rosenberg Rothstein LLP
Mr. Sean Grouhi for the Appellant, Respondent by Cross-Appeal, Downtown Legal Services

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

DAB Decision

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals finding of guilty arguing Tribunal erred in allowing the University to call reply evidence – University cross-appeals acquittal of a charge under s. B.i.1(a) of the *Code* – *R. v. Krause*, [1986] 2 SCR 466 - *R. v. Sanderson*, 2017 ONCA 470 - it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student - in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, the Tribunal is not bound by the strict rules of evidence and there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case - no obligation on the University to prove the contents of the Agreed Statement of Facts and it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to - as soon as the Tribunal found that the Student's conduct is an offence under s. B.i.1(a) of the Code, the offence under s. B.i.3(b) ceases to apply

The Student appeals the finding of the Tribunal on the basis that the standard of review is correctness and that the Tribunal erred in law by permitting the University to call reply evidence from two teaching assistants. Relying on the Supreme Court of Canada's decision in *R. v. Krause*, [1986] 2 SCR 466, the Student argued, among other things, that the University should have anticipated his evidence.

The University cross-appeals on the basis that the Tribunal erred in acquitting the Student of a charge under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code"), which makes it an offence to forge, alter or falsify a document required by the University and to make use of such forgery. This was the first of three charges that were subject of the hearing before the Trial Division. Alternatively, the University had also charged the Student under s. B.i.1(b) of the Code for knowingly obtaining unauthorized assistance in connection with a midterm examination ("second charge"), and under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation to obtain academic credit or other academic advantage of any kind in connection with a midterm examination ("third charge").

In dismissing the Student's appeal, the Board agreed that it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student. It also held that, in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, it noted that the Tribunal is not bound by the strict rules of evidence and highlighted that there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case.

Further, the Board held there was no obligation on the University to prove the contents of the Agreed Statement of Facts and that it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to. Relying on *R. v. Sanderson*, it stated that the principles that govern the calling of reply evidence should not

be interpreted so rigidly that the University should call as part of its case evidence that addresses any possible issue that a student may raise and to address a position that is at odds with the facts to which the student appears to have agreed. The obligation is to lead evidence on the issues that are relevant to material issues in dispute or to a defence that they can or ought reasonably to anticipate. While recognizing that the Student may choose not to disclose his defence to the University, including by declining to deliver an opening, the Board also indicated that in this case, the decision not to do so meant that the University had no reason to suspect that the Student intended to depart from the facts to which he appeared to have agreed.

Ultimately, the Board concluded that it could not be said that the University ought reasonably to have anticipated the defence that the Student put forward in his evidence. According to the Board, the Tribunal's decision was both reasonable and correct. It would have come to the same result as the Tribunal without regard to the reply evidence.
In allowing the University's cross-appeal, the Board indicated that the issue it raises lies in the definition of the offence which the Tribunal found had been committed and that this offence can only be found in circumstances where the conduct in question is not an offence under any other section of the Code. The Tribunal had found the Student guilty of violating s. B.i.3 of the Code, which constitutes the third charge. To find the Student guilty under this section, the Tribunal was in effect determining that the conduct that was the subject of the charges was "not …otherwise described" in the Code. This implies that the first charge could not be established. According to the Board, it is not apparent that the Tribunal was alive to this issue because its reasons for decision contain no analysis of whether or why the first charge was not made out.

The Board considered that the facts found by the Tribunal made out the offence contained in the first charge. It agreed with the University that the Student should not also be convicted for the same conduct under the third charge and that as soon as it is found that the conduct is an offence under the section of the Code referenced in the first charge, the offence referenced in the third charge ceases to apply. Accordingly, the Board substituted a conviction under the first charge for the conviction found by the Tribunal.
Finally, the Board agreed that the substitution of a conviction under the first charge ought not to alter the sanctions imposed by the Tribunal.

Student's appeal dismissed. University's cross-appeal allowed.

TIMING OF NOTICE

FILE: DATE: PARTIES:	Case # 1000 (18-19) April 10, 2019 University of Toronto v. L.E.	Panel Members: Ms. Sara Zborovski, Chair Professor Georges Farhat, Faculty Panel Member Ms. Daryna Kutsyna, Student Panel Member
HEARING DATES:	November 23, 2018 and January 11, 2019	Appearances: Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP In Attendance: Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(d) of *Code* – plagiarism – Student knowingly represented the work of another as her own and knowingly included the ideas and expressions of another without appropriate acknowledgement or citations in an essay submitted for academic credit – hearing adjourned to provide additional time for Student to respond to notice of hearing – service by both email and courier to address provided by Student in ROSI in Cairo, Egypt - Student did not attend either hearing – reasonable notice of hearing provided – finding of guilt – no mitigating factors – no engagement in the discipline process – no response by Student to considerable correspondence from the University – grade of zero; two year suspension from date of hearing; corresponding notation on Student's academic record for three year period from date of hearing; and publication by Provost of notice of decision and sanctions with the Student's name withheld.

The Student was charged with two counts of academic misconduct under the *Code of Behaviour on Academic Matters, 1995* (the "*Code*") on the basis that she knowingly committed plagiarism by submitting an essay for academic credit containing an idea and/or an expression of an idea and/or the work of another that she did not cite appropriately. Specifically, the Student was charged with plagiarism under s. B.i.1(d) of the *Code*, and in the alternative, academic dishonesty under s. B.i.3(b) of the *Code*.

Neither the Student nor a legal representative of the Student appeared on the first day of the hearing, November 23, 2018. The Panel heard evidence of the efforts taken by the University to serve the Student with notice, including service by email to the email address provided by the Student in ROSI and service by courier to the address in Cairo, Egypt, provided by the Student in ROSI. The Panel heard evidence that the Student had last logged into her University email account on September 17, 2018 (prior to the first attempts of the University to notify her of the charges). It also noted the short period of time between the service of the materials on the Student in Cairo (on November 15, 2018) and the first hearing date (November 23, 2018). The Panel adjourned to allow the Student additional time to respond to the notice of hearing. Neither the Student nor a legal representative of the Student appeared on the adjourned hearing date, January 11, 2019. The University advised the Panel of additional attempts to serve the Student with notice of the new hearing date, including service by delivery to the Student's address in Cairo, Egypt, which was received on December 1, 2018. Although it was confirmed to the Panel that the Student had neither accessed her University email account nor provided a forwarding email address in ROSI, the Panel was satisfied that the totality of attempts made to provide notice to the Student (and particularly given that the notice of hearing had been received at the Student's address in Cairo, Egypt) demonstrated that notice had been adequately provided to the Student in accordance with the requirements of the *Statutory Powers Procedure Act* and the *University Tribunal Rules of Practice and Procedure*. As such, the Panel decided to proceed with the hearing in the Student's absence.

The Panel heard evidence from the teaching assistant responsible for grading the Student's work, who explained that he had noticed quotation marks in odd places in the Student's essay and a wide variance in the quality of the language, with grammatical errors mixed in with the use of very sophisticated language. Upon carrying out an internet search for the phrases used by the Student in the essay, the teaching assistant discovered a number of websites containing similar and/or verbatim language. No citations were provided in the Student's essay to any of these websites. The Tribunal determined that the evidence clearly established that the essay submitted by the Student contained ideas that were not her own and that were not cited appropriately. The Tribunal found the Student guilty of plagiarism, contrary to s. B.i.1(d) of the *Code*.

In determining the appropriate sanction, the Panel noted the seriousness of the offence of plagiarism, stating that this offence strikes at the heart of the integrity of academic work and is widely understood to be an unacceptable form of cheating. The Tribunal noted that students at the University are made aware of this when they enrol and are reminded throughout their time at the University by their professors and instructors of the importance of integrity and the prohibition of any form of academic cheating including plagiarism. The Tribunal also noted that students are given significant guidance on how to specifically avoid plagiarism. In this case, the Student did not respond to considerable correspondence from the University on this issue, did not attend the hearing and as a result, there were no mitigating circumstances for consideration. The Tribunal imposed the following sanctions: a final grade of zero; a suspension from the University until January 11, 2021; and a notation of this sanction on the Student's academic record and transcript until January 11, 2022. The Tribunal also ordered that the case be reported to the Provost for publication of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

SUMMARY DISMISSAL: FRIVOLOUS, VEXATIOUS OR WITHOUT FOUNDATION

FILE: Case # 1100 (2021-2022)
DATE: February 8, 2022
PARTIES: University of Toronto v. R.S. ("the Student")

Motion Date(s):
June 8, 2021, via Zoom with written submissions June and September 2021

Panel Members:
Mr. Paul Michell, Associate Chair

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare, Roland, Rosenburg, Rothstein LLP

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appealed the sanction imposed by the Trial Division – Student took no steps to advance his appeal – Provost moved to dismiss the appeal summarily and without formal hearing – ss. C.II(a)(7), C.II(a)(11), E.7(a), and E.8 of the *Code of Behaviour on Academic Matters, 1995* ("Code") – s.7(a) of Appendix A of the Discipline Appeals Board's *Terms of Reference* ("Terms") – Tribunal's *Rules of Practice and Procedure* ("Rules") – ss. 3, 4.2.1(1), and 4.6 of the *Statutory Powers Procedures Act* ("SPPA") – the Code does not grant a single member of the Board jurisdiction to hear and decided a motion to dismiss an appeal summarily without formal hearing – s. C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA – the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA – the Code and the Terms create a legitimate expectation in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 that the Tribunal will conduct a hearing – an appeal to the Discipline Appeals Board ("Board") falls within s. 3 of the SPPA – s. 4.2.1(1) of the SPPA applies to this motion – there is no statutory requirement that appeals (or this motion) be heard by a panel of more than one person – a motion in writing is sufficient to dismiss an appeal summarily – a single member of the Board, if designated, can dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation –s. 4.6 of the SPPA does not apply to this motion nor does it affect the Associate Chair's jurisdiction to hear and decide this motion – proposed grounds of appeal do not identify any errors in the Trial Division's decision – Student did not lead any evidence at the trial as he failed to appear – Student would need leave to submit evidence at the appeal hearing – *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal – no realistic prospect that a motion to admit new evidence would be granted – Student cannot establish an evidentiary basis for his appeal – appeal is frivolous and without foundation – a party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal – without genuine intent to appeal, an appeal is viewed as vexatious – appeal dismissed

The Student appealed the sanction imposed by the Tribunal's Trial Division to the Discipline Appeals Board ("Board") but took no steps to advance his appeal and did not respond to any inquiries. The Provost moved to have the Board dismiss the appeal summarily and without formal hearing. The Associate Chair noted that the Provost's motion raises two questions concerning appeals to the Board. First, what is the scope of the Board's jurisdiction to dismiss an appeal summarily and without formal hearing, where the appeal is frivolous, vexatious or without foundation? Second, does a single member of the Board have the jurisdiction to hear and decide such a motion?

The Associate Chair outlined that section E.7(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code") expressly confers jurisdiction to a three-member panel of the Board to dismiss an appeal summarily and without formal hearing in appropriate circumstances. Furthermore, section 7(a) of Appendix A of the Board's *Terms of Reference* ("Terms") contains a substantially identical provision. The Associate Chair noted that the issue in this motion is whether he may exercise this

power alone. The Code, the Terms, and to the extent they apply, the Tribunal's *Rules of Practice and Procedure* ("Rules"), are silent on this question. The Associate Chair noted that the Code does not define the term "Discipline Appeals Board" and the Provost argued that the division of responsibilities between the chair of a panel of the Tribunal and the other members of a panel also applied by analogy to panels of the Board hearing appeals from decisions of the Tribunal. The Provost further suggested that to dismiss an appeal summarily is, in some cases, a "question of law" that can be determined by the chair alone. The Associate Chair was not persuaded by this submission because the Code specifies a division of responsibilities for deciding different types of questions as between chairs and other members of a panel of the Tribunal. However, it does specify that a chair of a panel can decide questions of law without a full panel. Furthermore, the Associate Chair noted that this motion does not raise a question of law alone. The Associate Chair found that the Code itself does not grant a single member of the Board the jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing.

The Associate Chair considered whether another source of law could provide some guidance on whether a single member of the Board has jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing. Due to the lack of clarity on whether the *Statutory Powers Procedure Act* ("SPPA") applies to appeals to the Board from decisions of the Tribunal, the Associate Chair sought additional submissions from the parties on this issue. The Provost provided additional submissions; the Student did not respond. The Provost submitted that the SPPA applies to appeals to the Board from decisions of the Tribunal, and that subsection 4.2.1(1) of the SPPA applies. The Associate Chair noted that he agreed with both of these submissions. The Associate Chair outlined that the basis for these submissions was that the Code in section C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA, and section C.II(a)11 of the Code defines "Tribunal" to mean both the trial and the appeal divisions of the Tribunal, which includes the Board. The Associate Chair noted that the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA, whose application normally arises by operation of section 3 of the SPPA, not simply because a tribunal chooses to make the SPPA apply to it. The effect of the Tribunal's use of the "conform" language in the Code and the Terms is to create a legitimate expectation on the part of the parties before the Tribunal in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at paras. 26 and 29, and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 at para.68, that the Tribunal will conduct a hearing. The Associate Chair further noted that an appeal to the Board falls within section 3 of the SPPA, because the SPPA applies to a proceeding by the tribunal where the tribunal is required, otherwise by law, to hold or afford the parties an opportunity for a hearing before making a decision. The Associate Chair outlined that subsection 4.2.1(1) of the SPPA applies to this motion because, by designating him to respond to the Provost's request for a proceeding management conference, the Senior Chair assigned him to hear and decide any motions that might reasonably arise from it. Furthermore, the *University of Toronto Act, 1971*, as amended by 1978, Chapter 88, contains no requirement that appeals to the Board be heard by a panel of more than one person, nor does any other statute (including the University of Toronto Act, 1947, as amended, to the extent it may still be in force). Therefore, there is no "statutory requirement" that appeals (or this motion) be heard by a panel of more than one person.

The Code and the Terms specify that the Board only has the power to dismiss an appeal summarily and without formal hearing when it determines that an appeal is frivolous, vexatious or without foundation. The Associate Chair noted that a similar dismissal power is set out in section 4.6 of the SPPA, but this dismissal power differs from the Board's dismissal power in a critical way. The Associated Chair outlined that the Code and the Terms address the issue of dismissal of an appeal summarily and without formal hearing, where section 4.6 of the SPPA permits dismissal without a hearing. The Associate Chair noted that neither the Code nor the Terms define a "formal hearing," or distinguish it from other types of hearings. In the Associate Chair's view, the Code and the Terms contemplate that in appropriate cases an appeal may be dismissed summarily without an oral hearing, not that no hearing is required at all. A motion in writing is sufficient. Therefore, the Code and the Terms permit the Board, and where a designation has been made, a single member to dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation. Furthermore, the Code and the Terms contemplate that the Board's ability to dismiss appeals summarily in appropriate circumstances means that it may do so by way of something less than a full formal hearing. The Associate Chair found that because the Code and the Terms do not purport to empower the Board to dismiss an appeal summarily without a hearing, section 4.6 of the SPPA is not triggered, and does not apply to this motion. Therefore, the Associate Chair's jurisdiction to hear and decide the motion is unaffected by section 4.6 of the SPPA. Accordingly, the Associate Chair found that he had jurisdiction to hear and decide the Provost's motion.

Regarding the Provost's motion to dismiss the appeal, the Associate Chair agreed that the appeal was frivolous, vexatious or without foundation but for different reasons than those contemplated by the Provost in their submissions. The Associate Chair noted that appeals from sanction need not be limited to a question of law alone. However, the Student's proposed grounds of appeal did not identify any errors. Instead, the Student claimed that due to the challenges caused by the Covid-19 pandemic and the resulting "new education model" that followed, it was difficult for him to adapt in a short period of time. The Associate Chair further noted that there was no basis for this claim in the evidence that was before

the Tribunal. Therefore, the Student would need to seek leave to admit new evidence to provide a basis for his proposed appeal. The Student had not done so. Section E.8 of the Code and para. 8 of Appendix A of the Terms provide that the Board may allow the introduction of further evidence on appeal which was not available or was not adduced at the trial in exceptional circumstances. The Associate Chair relied on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) which outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal that they otherwise could have led before the Tribunal. Therefore, even if the Student had brought a motion to admit new evidence, there would have been no realistic prospect that it would be granted. Furthermore, since there would be no realistic prospect that the Student could establish an evidentiary basis for his appeal, it would fail.

Based on the foregoing, the Associate Chair found that the appeal was frivolous and without foundation. The Associate Chair also concluded that the appeal was vexatious because the only reasonable inference to be drawn from the Student's failure to take steps to advance his appeal is that he no longer had a genuine intention to appeal. A party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal. Absent a continuing genuine intention to appeal, an appeal must be viewed as vexatious. Appeal dismissed.

FILE:	Case # 1262 (2022-2023)	Panel Member:	
DATE:	August 29, 2022	Ms. Lisa Brownstone, Associate Chair	
PARTIES:	University of Toronto v. G.L. ("the Student")	Appearances:	
		Mr. Robert Centa, Assistant Discipline Counsel,	
Hearing Date(s):		Paliare Roland Rosenberg Rothstein LLP	
March 14, 2022, via Zoom with written submissions in May 2022		Not in Attendance:	
		The Student	
		Hearing Secretary:	
		Ms. Carmelle Salomon-Labbé, Associate Director,	
		Office of Appeals, Discipline and Faculty Grievances	

NOTE: See the Tribunal case summary for detailed facts

Discipline Appeals Board – Student appealed on the basis that they were not in attendance at the trial and were not represented at the trial hearing – Provost seeks an order dismissing the appeal summarily and without a formal hearing because it is frivolous, vexatious or without foundation – sections C.ii.(a)7, C.ii.(a).11, and E.7(a) of the *Code of Behaviour on Academic Matters* ("Code") – section 4.2.1(1) of the *Statutory Powers Procedure Act* ("SPPA") – the procedures of the Tribunal shall conform to the requirements of the SPPA – there are two divisions of the Tribunal; (a) Trial and (b) Appeal – the University has determined that SPPA procedures are to apply to hearings and appeals before its Tribunal, and that by including section C.ii.(a)7 in the Code, they have advised their students of such an application – courts have long distinguished between procedural and substantive matters in this regard and have been willing to intervene on procedural matters (*Re Polten and Governing Council of University of Toronto (1976),* 8 O.R. (2d) 749 (Divisional Court); 1975 CanLII 709*)* – section 4.2.1(1) of the SPPA applies, and Associate Chair may hear the motion as a panel of one person – an appeal can be classified as frivolous or vexatious if the student takes no steps to move the appeal forward and fails to engage with the process or comply with Directions – the Student's failure to communicate and engage in the process to advance the appeal renders the appeal vexatious – the Student's own statements indicated that they used external aids in an assignment, which violated the assignment's requirements to do the work independently – the appeal is frivolous, vexatious or without foundation – motion granted – appeal dismissed summarily and without formal hearing

The Student appealed the University Tribunal's Trial Division decision on the basis that they were not in attendance and were not represented at the hearing. After submitting their Notice of Appeal, the Student engaged in very sporadic communication with Assistant Discipline Counsel and the Tribunal's administrative office. The Associate Chair noted that two Directions were issued to ensure that the appeal proceeded in a timely fashion. The Student did not respond nor did they act as required in accordance with the Directions. In accordance with the second Direction, the Provost moved for dismissal of the appeal. The Student was afforded an opportunity to respond the Provost's motion in writing. The Student did not respond.

The Associate Chair outlined that there were two issues. The first issue was whether the Tribunal, as a single member, has jurisdiction to entertain the Provost's motion. The second issue was whether the Student's appeal should be dismissed on the grounds that it is frivolous, vexatious, or without foundation.

With respect to the first issue, the Associate Chair agreed with the conclusion of the appeal motion in *University of Toronto and R.S.* (Case No. 1100, February 8, 2022) ("*R.S.*") that the Tribunal has jurisdiction to hear this appeal, sitting as a single member. Specifically, the *Statutory Powers Procedure Act*, R.S.O 1992, c. 22 ("SPPA") applies to appeals before the Discipline Appeals Board ("Board") from decisions of the Tribunal's Trial Division, and section 4.2.1(1) of the SPPA, permits a

single member of the Board to decide a motion. The Associate Chair noted that historically university discipline tribunals were arguably not the sort of tribunals to which the SPPA would directly apply since the relationship between a student and a university has been characterized as contractual as opposed to statutory. However, the courts have long distinguished between procedural and substantive matters in this regard and have been willing to intervene on procedural matters (*Re Polten and Governing Council of University of Toronto (1976)*, 8 O.R. (2d) 749 (Divisional Court); 1975 CanLII 709*)*. The Associate Chair further noted that the University has codified the relationship between the student and the University, when it comes to academic matters, in the *Code of Behaviour on Academic Matters* issued by the University's Governing Council ("Code"). Section C.ii.(a).7 of the Code provides that the procedures of the Tribunal shall conform to the requirements of the SPPA. Section C.ii.(a).11 of the Code provides that there are two divisions of the Tribunal: (a) Trial and (b) Appeal. Therefore, the Associate Chair found that the University has determined that SPPA procedures are to apply to hearings and appeals before its Tribunal, and that by including section C.ii.(a)7 in the Code, it has advised its students of such an application. The Associate Chair did not view the fact that the University had chosen to use the language "conform" rather than "apply" to be a material distinction and was confident that the language distinction between "conform" and "apply" would not aid the University should it attempt not to comply with the SPPA. In considering section 4.2.1(1) of the SPPA, the Associate Chair noted that this section provides that the chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person. The Associate Chair agreed with the observation in *R.S.* that there is no statutory provision contrary to section 4.2.1(1) of the SPPA, and, therefore, concluded that section 4.2.1(1) of the SPPA applies, and they may hear the motion as a panel of one person.

Having decided that they have jurisdiction to hear this appeal as a single member, the Associate Chair considered the second issue, namely, whether the appeal is frivolous, vexatious or without foundation. The Associate Chair noted that section E.7(a) of the Code gives the Board the power to dismiss an appeal summarily and without formal hearing if the appeal is frivolous, vexatious or without foundation. An appeal can be classified as frivolous or vexatious if the student takes no steps to move the appeal forward and fails to engage with the process or comply with Directions. The Associate Chair further noted that the failure to engage in the process or to be responsive to the Tribunal's, ADFG's, or counsel's attempts to move the matter forward can render the appeal frivolous or vexatious. Whether an appeal is without foundation is concerned with the merits of the appeal, and while it can be difficult to opine on the merits of an appeal in the absence of the full participation of the student, there are circumstances, such as this one, where such a determination can be made. The Student engaged in a pattern of non-responsiveness and failure to engage with the process and while the Student's subjective desire to appeal may exist, that is insufficient to overcome the frivolous and vexatious nature of the Student's conduct in failing to pursue the appeal. In determining whether the appeal was with or without foundation, the Associate Chair noted that the Student's own statements in an email to the ADFG Office indicated that the Student improperly used external aids in the assignment. The Student outlined that they received assistance from their brother and not Chegg.com, therefore, even if the Student were permitted to advance their version of events, they acknowledged that they violated the assignment's requirements to do the work independently.

The Student's appeal was frivolous, vexatious, or without foundation. Motion granted. Appeal dismissed summarily and without formal hearing.

OTHER

Leading Cases:

- "ought to have known": **635 (11-12), 588 (11-12), 546 (09-10), 499 (08-09), 605 (14-15), 638 (13-14), 697 (13-14), 811 (15-16)**
- sentencing principles: **648 (13-14), 542 (08-09), 690 (13-14), 746 (14-15), 789 (15-16), 809 (15-16), 808 (15-16), 813 (15-16), 821 (15-16), 819 (15-16), 793 (15-16), 783 (15-16), 800 (15-16), 798 (15-16), 805 (15-16), 811 (15-16), 786 (15-16), 817 (15-16), 816 (16-17),**
  810 (16-17), 858 (16-17), 818 (16-17), 837 (16-17), 837 (16-17)(DAB) 847 (16- 17), 835 (16-17), 854 (16-17), 848 (16-17),
  860 (16-17), 870 (16-17), 796 (16-17), 865 (16-17), 851 (16-17), 885 (16-17), 886 (16-17), 719 (16-17), 931 (17-18), 719 (17-18)(DAB), 1000 (18-19), 658 (12-13), 991 (20-21), 1077 (20-21) (DAB), 1137 (20-21)
- implication of third party: **522 (08-09), 684 (12-13),**
- timeliness of hearing: **01-02-01 (01-02) (DAB), 495 (08-09),**
- duplicative charges: **410 (07-08), 718 (15-16)(DAB)**
- hearing not attended: **540 (08-09), 479 (08-09), 588 (11-12), 829 (15-16), 828 (15-16), 856 (16-17), 856 (16-17)(DAB), 1107 (21-22) (DAB)**
- prior offence: **694/695/767 (14-15), 794 (15-16), 854 (16-17), 848 (16-17), 860 (16-17)**
- conduct informs intent: **738 (14-15)**
- burden of proof: **800 (15-16)**
- Undertakings: **651 (11-12), 631 (11-12), 571 (09-10), 675 (13-14), 923 (17-18), 959 (18-19)**
- academic record: definition and purpose: **1011 (19-20)**

DAB = Discipline Appeals Board decisions

"OUGHT TO HAVE KNOWN"

FILE: Case #499 (08-09)
DATE: October 6, 2008
PARTIES: University of Toronto v S.S.

Hearing Date(s):
November 26, 2007

Panel Members:
Raj Anand, Chair
Ikuko Komuro-Lee, Faculty Member
Christopher Oates, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Jodi Martin
Maurice Vaturi, Counsel for the Student
Ben Zaxks
S.S., the Student

Trial Division – s. *B.i.1(b)* of the *Code* – unauthorized aids – cell phone, cue cards and prior year's examination – unaware of possession of aids and ignorance of how to operate cell phone – invigilator instructions not heard – interpretation of rules – cell phone not defined as unauthorized aid – phrase "ought reasonably to have known" suggests subjective element – Student subjectively knew or ought reasonably to have known that the items were unauthorized aids and ought to have known that the unauthorized aids where in the Student's possession – finding of guilt – continuum of sanctions – see *s. C.ii.(b)* of the *Code* – academic status – no evidence aids used or benefited from – first allegation of academic offence – University not compelled to produce evidence of use and benefit in order to enforce rules and impose sanctions – stress and fatigue of preparing for and writing examinations not relevant mitigating factor – academic impact of sanctions is proper consideration – penalty sought by Student too lenient and penalty sought by University excessive for circumstances – grade assignment of zero in course; two-year notation on transcript; and report to Provost

The Student was charged under *s. B.i.1(b)*, and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to a final examination in which the Student was found to be in possession of a cell phone, cue cards containing text related to the examination, and a photocopy of a prior year's examination. The Student pleaded "Not Guilty" to both charges. The Student claimed that he was unaware that he had had aids in his jacket pocket and he was ignorant of how to correctly operate his cell phone, having believed that he had turned it off. The Student produced a doctor's report, dated two days after the exam, which stated that the Student was experiencing weakness, fatigue, dehydration and headache. The Student claimed that he felt nervous when he arrived to write the exam and that he did not hear any announcements or the exam invigilator asking him to remove his jacket. The Student claimed that he interpreted the rule that certain items were prohibited "at the desk" to mean "on the desk". The University claimed that the Student knew or ought reasonably to have known that the items found in his possession were unauthorized aids. The Student claimed that while cell phones were prohibited at the exam, the *Code* did not define a cell phone as an unauthorized aid. The Student claimed that the phrase "ought reasonably to have known" suggested a subjective element that implies the intent to do wrong. The Panel found the Student guilty of having committed an offence under *s. B.i.1(b)* of the *Code*. The Student subjectively knew or ought reasonably to have known that the cure cards, the previous year's exam and the cell phone (at least while on) were unauthorized aids and he ought to have known that he had those unauthorized aids in his possession during the exam. With respect to penalty, the University claimed that when a student wilfully disregards the rules, it jeopardizes trust and integrity. The Student submitted that the panel should impose sanctions on the more lenient end of the continuum provided by the *Code* at *s. C.ii.(b)*. The Panel considered the Student's registration vis-à-vis graduation and requested that the parties provide written submissions on the academic consequences of proposed penalties, addressing both fact and principle. The Panel found that the nature of the offence was at the less serious end of the spectrum of cases, and that there was no evidence that the Student used the cell phone or other aids to assist him in the examination, or that he benefited from their presence. The Panel found that the Student knew from his time at the University, the examinations he had previously written and the warning at the front of the examination in question, that the aids were unauthorized. Whether or not the Student turned his mind to the issue, he ought to have known that he was violating the rules. The Panel observed that the allegation of academic offence was the first against the Student and it found nothing to suggest that a repetition of the offence was likely. The Panel found that the University should not be compelled to produce evidence of actual use and benefit obtained from prohibited notes or similar items before it is able to enforce its rules and impose sanctions, and to disregard the principle that students must check unauthorized aids at the door before writing the exam would compromise the University's processes. The Panel found that stress and fatigue of preparing for and writing examinations was not a relevant mitigating or extenuating circumstance as it had affected

almost all students undergoing evaluation and it was inconceivable that the circumstances could justify a violation of the rules. The Panel found that the academic impact of the sanctions proposed by the respective parties was a proper consideration for the Tribunal for several reasons: the impact of the offence on the University's "public" and on the individual in question is a reflection of the twin factors of general and specific deterrence; there is judicial authority for the application of criminal law principles of sentencing in cases of professional or regulatory discipline; under both criminal and administrative law discipline principles, mitigating or extenuating circumstances are relevant; and the criminal and administrative law discipline principles are reflected in the body of Tribunal cases. The Panel observed that only through inquiry and assessment of the implications of its intended penalty can the Tribunal determine which side that evidence supports. The Panel considered precedent cases and found that the penalty sought by the Student was too lenient while the penalty sought by the University was excessive for the circumstances. The Panel imposed a mark of zero in the course; a two-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #546 (09-10)
DATE: May 31, 2010
PARTIES: University of Toronto v K.X.

Hearing Date(s):
May 4, 2010
May 10, 2010
May 20, 2010

Panel Members:
Michael Hines, Chair
Annette Sanger, Faculty Member
Mir Sadek Ali, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Camille Labchuk, Counsel for the Student, DLS (May 20, 2010)
Kristi Gourlay, Manager, Office of Academic Integrity
Tamara Jones, Academic Integrity Officer
Justin Fisher, Academic Integrity Officer
John Britton, Dean's Designate
Joshua Hjartarson, Instructor

In Attendance:
K.X., the Student
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of the *Code* – plagiarism – submitted essays containing plagiarized passages – plagiarism not deliberate – finding of guilt – Student ought to have known he was plagiarizing – presumptive two-year suspension for first offence plagiarism does not apply where deliberate plagiarism is neither admitted nor proven – cavalier attitude toward University rules off-setting personal mitigating circumstances – grade assignment of zero for the course; 18-month suspension; three-year notation on transcript or until graduation; report to Provost for publication.

Student charged with two offences under *s. B.i.1(d)* and, in the alternative, one offence under *s. B.i.3(b)1* of the *Code*. The charges related to allegations that the Student submitted two essays, extensive portions of which were copied from other works without attribution. The Student pleaded not guilty. The professors became concerned about plagiarism when a report generated by turnitin.com indicated there was extensive verbatim and nearly verbatim copying from uncited sources. The professors emailed the Student to arrange a meeting. The Student stated that he believed that he was contacted by his professors because his essay was substandard. The Student responded to the email two days later indicating that he had just submitted a second version of the same essay, along with a medical certificate explaining he had been ill. The second essay was substantially different from the first, but still contained extensive material copied from other sources without attribution. The Student testified that this was the first time he had been required to submit a social science essay requiring proper citation. The Student suggested that the University did not take adequate time to teach students what was expected in this regard. The Student noted that the syllabus stated that a failure to use proper citation would result in a substantial penalty in calculating the assigned grade. The Student claimed that he inferred this meant that, at worst, failure to properly cite sources would result in a reduced score for his essay, rather than prosecution under the *Code*. The Panel found that the submission of the second essay containing as much plagiarism as the first supported the Student's contention that he did not understand the rules. The Panel did not accept the University's

primary submission that the student knowingly engaged in deliberate wrongdoing. The Panel did accept, however, that the student ought to have known he was in violation of the *Code*. The Panel found the Student guilty of the charges under *s. B.i.1(d)*.

The University introduced in evidence a Letter of Reprimand dated April 29, 2008 that had been issued to the Student for taking a cell phone into a computer sciences exam. The Student testified that he was a single parent without a job; that he was working towards a degree so he could support himself and his son; and that he was only one course shy of completing his degree. The Student was willing to take a workshop on essay writing. The Student did not demonstrate an appreciation that he had committed plagiarism, nor did he indicate any remorse. The Panel noted that the presumptive two-year penalty for a first conviction on plagiarism should be modified in a case where deliberate plagiarism has neither been admitted to, nor established. The Panel stated that the potential mitigating force of the Student's personal circumstances was offset by his cavalier attitude toward the rules of the University. The Panel imposed an a grade of zero in the course, an 18-month suspension, a notation on the Student's transcript lasting three years or until graduation, and that the case be reported to the Provost for publication in the University newspaper.

FILE: Case #588 (11-12)
DATE: July 28, 2011
PARTIES: University of Toronto v. Mr. G.

Hearing Date(s):
June 20, 2011

Panel Members:
Roslyn M. Tsao, Chair
Markus Bussman, Faculty Member
Robert Chu, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Mohammad Mojahedi, Professor
Sean Hum, Professor
Konstantinos Sarris, Professor

In Attendance:
Jane Alderdice, Director, Quality Assessment and Governance
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(f)* of *Code* – concoction – thesis contained concocted statements – hearing not attended – Student requested adjournment but failed to provide information requested by the Tribunal – allowed matter to proceed in the absence of the Student – affidavits submitted and oral testimony given by the Student's thesis supervisor – University met the burden of proof – Student claimed "honest" and "unintentional" mistakes – Panel rejected the claim and stated that even if accepted, it cannot be a defence based on the extended definition of "knowingly" – finding of guilt – Student ought to have known that he was submitting concocted work for his thesis – deliberate concoction and a lack of appreciation about seriousness of misconduct – differentiated the case from *D.* (Case No. 406) – grade assignment of zero for course; recommendation that the degree be cancelled and recalled; permanent notation on transcript; and report to Provost

Student charged under *s. B.i.1(f)* of the *Code*. The charges related to allegations that the Student's thesis contained concocted statements which were essential to the integrity of his thesis. The Student did not attend the hearing. The hearing dates were adjourned twice to accommodate the Student. The Student requested adjournment for the third time but failed to provide the information requested by the Tribunal. As such, the Panel allowed the matter to proceed in the absence of the Student. The Student's thesis supervisor ("the Professor") as well as two other professors in the Department submitted affidavits and testified orally. The Panel found the Professor to be sincere and credible. Based on the testimony of the Professor, the Panel held that the University met the burden of proof for each of the four allegations of concoction that (1) the Student misrepresented that he used "series loading capacitors" in the design and construction of his transmission line (circuit boards), (2) the Student misrepresented that operational series loading elements were inserted into the line, (3) the Student's simulated and measured results were necessarily fabricated, and (4) the Student digitally altered a photograph included in his thesis. The Student claimed that any errors in his research were the results of honest and unintentional mistakes. The Panel rejected this claim because (1) the Student has demonstrated a pattern of first denying any misrepresentation and after being confronted with incontrovertible evidence, providing

very different explanations and finally suggesting that the results were theoretically good enough despite the errors; and (2) the facts of the case rules out the possibility of an unintentional mistake. Even if the claim of "honest" and "unintentional" mistakes was accepted by the Panel, it would not be a defence based on the extended definition of "knowingly" in the *Code*. Accordingly, the Panel found the Student guilty under *s. B.i.1(f)*. The Panel stated that the Student ought to have known, as a graduate student, that he was submitting concocted academic work for an M.A.Sc. thesis. In considering an appropriate sanction, the Panel stated that there was no evidence of extenuating circumstances and that there was deliberate concoction and a lack of appreciation about the seriousness of such academic misconduct. The Panel again noted the Student's pattern of behaviour. The Panel differentiated this case from *D.* (Case No. 406) in that this case did not involve a consideration of the Student's rehabilitation/reformation against the need for deterrence and protection of the public. The Panel imposed a grade of zero for the course; a recommendation to the Governing Council that it cancel and recall the M.A.Sc. awarded to the Student; a permanent notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #635 (11-12)
DATE: February 8, 2012
PARTIES: University of Toronto v T.S.

Hearing Date(s):
December 19, 2011

Panel Members:
Lisa Brownstone, Chair
Chris Koenig-Woodyard, Faculty Member
Susan Mazzatto, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
John Carter, Professor
Timothy Bender, Professor
Yury Lawryshyn, Professor

In Attendance:
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aids – possessed unauthorized notes during exams in two courses – hearing not attended – reasonable notice must include a warning – Student had engaged in correspondence from his University email address – reasonable notice provided – Student claimed that he felt that notes were allowed; he did not go to classes or read online announcements – students are responsible for ensuring compliance with course requirements; cannot claim ignorance as defence – Student ought reasonably to have known – finding of guilt – consideration of the facts and precedents – importance of general deterrence – grade assignment of zero for courses; three-year suspension; four-year notation on transcript; report to Provost

Student charged under *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student knowingly possessed unauthorized notes during a midterm test in one course and during a final exam in another course. In both instances, the Student claimed that he did not know that he was not allowed to have the notes. The Student did not attend the hearing. The Panel proceeded to consider whether reasonable notice had been provided. The Panel stated that the reasonable notice must include a warning to the Student that if he does not attend the hearing, the Tribunal may proceed in his absence and the Student will not be entitled to any further notice in the proceeding. In this case, the Student had been in correspondence with the University for a period of three months until two months before the hearing. The Student had responded to the Provost by email after the Provost sent emails advising the Student "If I do not hear back from you, I will ask the Governing Council to set this matter down for hearing in October or November" and again "As I have not heard back from you, the Provost will set this matter down for hearing." As such, the Panel held that reasonable notice had been provided, considering the University's clearly set policy of expecting students to regularly monitor and retrieve mail as well as the fact the Student was engaging in correspondence from his University email address about the hearing. The Panel next proceeded to consider whether the University had met the burden of proof in proving the charges. The Student's course instructor testified that he made online and in-class announcements as well as an announcement on the day of the exam regarding unauthorized aids. However, the Student claimed that he felt that that he was permitted to have his notes and thought that the instructor had said on the first day that the notes were permitted. He also stated that he did not go to classes or read online announcements. In response to the Student's claim, the Panel stated that the Student must take responsibility for becoming aware of and ensuring compliance with course requirements and that the Student cannot claim ignorance as a defence when he failed to comply with the rules. The Panel found that in both

instances, the Student ought reasonably to have known that the aids were not allowed as there were numerous warnings throughout. The Panel found the Student guilty under *s. B.i.1(b)*. The Panel considered the facts of the case and the precedents referred to by the University and found the proposed penalty to be appropriate. The Panel noted the importance of general deterrence. The Panel imposed a grade assignment of zero in both courses; a three-year suspension; a four-year notation on the Student's transcript; and a report be issued to the Provost.

FILE: Case #605 – Finding; Sanction (14-15)
DATE: December 8, 2014 and May 11, 2015
PARTIES: University of Toronto v N.B.

Hearing Date(s):
September 29, 2014
January 26, 2015

Panel Members:
Paul Schabas, Chair
Gabriele D'Eleuterio, Faculty Member
Christopher Tsui, Student Member

Appearances:

Lily Harmer, Assistant Discipline Counsel for the University
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Nathan Innocente, Teaching Assistant
Julie Waters, Academic Counsellor
Kathy Gruspier, Course Instructor

In Attendance:
Sinead Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

NOTE: Heard together with Case #624

Trial Division – *s. B.i.1(d), s. B.i.1(b)* and *s. B.i.3(b),* of the *Code* – plagiarism, unauthorized assistance – Student does not appear at hearing – substantially similar papers – identical bibliographies – knew or ought to have known – finding of guilt - *s. B.ii.1.(a)(ii)* – party to the offence - sanction – no prior offence – grade of zero; three year suspension; notation on transcript until earlier of graduation or four years; report to Provost for publication

Student charged with two offences under *s. B.i.1(d)*, three offences under *s. B.i.1(b)* and, in the alternative, three offences under *s. B.i.3(b)* of the *Code*. The charges included the improperly aiding and assisting with another student's essay without proper attribution and the Student's representation of another's ideas as her own in an essay and an annotated bibliography.

The Student did not appear at the specified time. The Panel waited for 15 minutes after which the doors were locked and a note was left with instructions on entering the building should she attend. The Provost's office had not heard from the Student since 2011 but had sent emails, a letter which was received by someone sharing the Student's last name, and left a voicemail with an answering machine identifying itself as the Student's.

The first charges arose from an assignment the Student submitted a year previously which was substantially similar to a paper that had been submitted during the current year. The second set related to an essay which had significant similarities to another student's in the course and had annotated bibliographies which were identical.
The instructor of one course testified that she required students to submit papers through turnitin.com, a plagiarism detection site. A current student's paper showed a 37% match to the Student's original paper. In addition to similar structure, the paper contained several identical spelling mistakes.

The Teaching Assistant of the second course testified that he had marked the bibliographies and noticed that the Student's bibliography cited the same 17 sources as one from the same year. There were strong similarities between the two papers and identical mistakes in the bibliographies.

An Academic Counsellor attended a Dean's Designate meeting with the Student and took notes. The Student did not admit guilt, the notes were not provided, and the Panel placed no weight on her testimony.
The Manager of Academic Integrity and Affairs at the University of Toronto Mississauga also gave evidence about the Dean's designate meeting and provided the Student's academic record.

The Panel found that the Student had collaborated with a classmate on the preponderance of the evidence. The Panel found that even if the Student did not appreciate that she had to work independently she ought to have known. The Panel also found that on the balance of probabilities the Student knew or ought to have known that her paper would be used improperly by the other student. The Panel found that, while the facts are different for the two different charges, the Student's active participation in the collaboration offence was of benefit to the other student and that the Student was party to the offence of plagiarism under *s. B.ii.1.(a)(ii)* of the *Code.*

The Panel found the Student was guilty of aiding in the commission of plagiarism, collaborating with another student, and representing as her own work that was prepared by both of them.

The Panel found the Student had committed two different counts of academic misconduct. The University sought a grade of zero for the Student in the course, a four-year suspension and a notation on the Student's transcript for five years.

The Panel agreed with the University that the starting point on sanction was 2 years and can increase or decrease depending on other factors. However, the cases of four-year suspensions that the University referred to involved prior incidents and the Panel found that to be a compelling factor which differentiated these cases.

The Panel imposed a penalty of a grade of zero in the course, a suspension of three years from September 1, 2014, a notation on the Student's academic record for the earlier of four years or graduation, and that the case be reported to the Provost for publication.

FILE: Case #638 – Finding (13-14) Sanction (14-15)
DATE: September 23, 2013 and December 30, 2014
PARTIES: University of Toronto v M.F.E.

Hearing Date(s):
March 28, 2013
May 6, 2013
May 22, 2013
June 12, 2013
January 21, 2014
August 14, 2014
September 11, 2014

Panel Members:
Michael Hines, Chair
Richard Day, Faculty Member
Eleni Patsakos, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Adam Goodman, Counsel for M.F.E.
Olivier Sorin, Invigilator
Tamara Powell, Invigilator
Christopher Yip, Course Instructor
Jason Grenier, Course Instructor
Mostafa Showraki, Psychiatrist
M.F.E., The Student

In Attendance:
John Carter, Dean's Designate, Faculty of Applied Sciences and Engineering
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b), s. B.i.1.(e)* and *s. B.i.3(b)* of the *Code* – unauthorized aid, credit already obtained, and academic dishonest - three counts in three different classes – medical accommodation – current accommodation unsuccessfully challenged – self plagiarism – altering evidence in an attempt to mislead – possession of an unauthorized aid during an exam – finding of guilt – knew or ought to have known – sanction

– prior academic offence – mitigating factor of impairing medical conditions – aggravating factor of previous offences and knowledge of student discipline system – grade assignment of zero in the courses affected by her offences; 2½-year suspension; 2½-year notation on the Student's academic record and transcript

Student charged under *s. B.i.1(b), s. B.i.1(e), s. B.i.3(b)* of the *Code*. The charges related to separate allegations that the Student knowingly possessed an unauthorized aid in a term test, that the Student submitted work for which credit had previously been obtained, and that the Student engaged in a form of academic dishonesty, misconduct, or fraud not otherwise described in order to obtain academic advantage by attempting to deceive the University through the alteration and falsification of documents submitted in her defence. The Student was present for the hearing and represented by counsel.

The Student suffered from certain medical conditions which afforded her some accommodation and led expert testimony regarding her condition. The Student hoped to expand on the accommodation she had received , however, as the evidence did not establish causation as a matter of probability, the Panel concluded it would be improper to do so and gave no weight to the testimony in reaching its decision.

The first charge arose from a group assignment in which the Student was assigned a portion of the work. The Student submitted material which was essentially verbatim to a project that she had submitted over a year earlier. The instructor had given explicit instruction regarding academic offences, required students to submit work through a plagiarism detection site and spoke on the issue in class. Additionally, all students were required to sign a "Declaration of Original Authorship" certifying that the students understand all definitions of academic offence including all forms of plagiarism. The Student did not deny reusing material, rather she claimed that she was unaware of the existence of self-plagiarism. The Panel concluded that it was her assumption that one cannot plagiarize oneself, not her condition, which led to her failure to internalize the warnings and found that she knowingly submitted work in violation of *s. B.i.(e)* of the *Code.*

The second charge arose from an email the instructor received from the Student notifying him that her assignment would be late. He noticed the email was forwarded from another email address. This and the wording of the email led him to believe that the assignment may have been authored by a different person (M). After meeting with the Dean's Designate and the instructor the Student attempted further deception, claiming she sent the email to herself and altering versions of the email to prove this claim. The instructor noticed several discrepancies leading him to disbelieve the Student. The Student testified and called evidence that M had been a tutor to the Student though she herself had created the material submitted in the email. The Student had not provided this information earlier as she did not think corroborative evidence was allowed earlier in the proceeding. The Student also confirmed she attempted to mislead the University. For those reasons the Panel found the Student guilty of academic dishonesty not otherwise described in the Code.

The final charge arose from an exam the Student took with accommodations entitling her to a semi-private writing space and certain time breaks. The Student took a washroom break during which two invigilators became suspicious of clicking noises coming from the washroom. This prompted them to check the Student's exam which was largely incomplete despite the exam being well underway. The Student returned after 22 minutes. The Student testified that she had taken a washroom break as she felt nauseous and while in the washroom had written notes on a pack of gum. She then used them on the exam. When approached by the invigilator, the Student asked him not to share the information with anyone. The instructor testified upon seeing the notes that they must have been written during the exam, and not prepared before, based on their structure. The Student claimed that while she knew she was in possession of an aid, she did not appreciate that it was unauthorized. However, based on her comments that she planned to "peek" at her notes to "sneak a look" the Panel found her guilty of knowingly possessing an unauthorized aid during an exam. The Panel concluded that even if the Student did not know she was in possession of an unauthorized aid, she ought reasonably to have known.

The sanction phase of the hearing occurred on a separate day.

With regard to the finding of guilt on the charge of submitting work for which credit had previously been obtained, the Panel concluded that although the Student's medical condition may well have contributed to her failure to follow the rule against seeking double credit, it did not prevent her from understanding that rule. Further, given that other offences were committed, this offence was factored into the imposition of a more serious sanction than would otherwise be given.

With regard to the finding of guilt with respect to the possession of an unauthorized aid, the Panel noted that the information was created by the Student herself, without resort to external assistance, while she was on a washroom break. The Panel concluded that given the specific previous experience of the Student with the student discipline system, the Student's medical conditions that might otherwise impair her ability to internalize rules forbidding self-produced exam aids, did not mitigate the sanction.

With regard to the finding of guilt of academic dishonesty, the Panel noted that this was the most significant of the Student's offences. This charge involved a determined, persistent effort to mislead the University regarding the facts of an investigation through deliberate, calculated efforts that, but for the determination of the Professor, would not have been revealed. Despite medical evidence as to the Student's impaired judgment, the Panel found that the Student's behaviour on this occasion reflected weaknesses in her integrity as a student.

Even taking the medical conditions into account, given the Student's prior experience with academic discipline, her failure to promptly admit her attempted deception demonstrated a troubling disregard for the standards of honesty and integrity expected of students of the University. The Panel also took into account the specific impact on the Student in light of her desire to resume her studies at the University at the graduate level. The Panel imposed a grade assignment of zero in the courses affected by her offences; a 2½-year suspension; and a 2½-year notation on the Student's academic record and transcript (or a 3½-year notation if the Student resumed her studies later than intended).

FILE: Case #697 – Finding; Sanction (13-14)
DATE: August 8, 2013 and January 17, 2014
PARTIES: University of Toronto v B.S.

Hearing Date(s):
July 12, 2013 and December 17, 2013

Panel Members:
Paul Schabas, Chair
Pascal van Lieshout, Faculty Member
Adam Found, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Michael Alexander, Lawyer for the Student (at Sanction only)
The Student
Betty-Ann Campbell, Law Clerk, Palaire Roland Barristers (at Finding only)
Serene Tan, Instructor (at Finding only)
Rana Nouri (at Finding (only)
Rohina Gul (at Finding only)

In Attendance:
Lucy Gaspini, Manager, Academic Integrity and Affairs, UTM
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *B.i.1(f)* – plagiarism –witnesses – first offence – ought reasonably to have known – finding of guilt – reference plagiarized, not concocted – differing penalty submissions – Student's submission of community service rejected - no binding appellate authority – sanction to reflect the seriousness of offence – no mitigating factors – aggravating factors – three-year suspension; grade of zero in the course; notation on the Student's transcript for three and a half years or until the Student graduates

Student charged with an offence under each of *s. B.i.1(d), B.i.1(f)* and *B.i.3(b)* of the *Code*. The charges related to allegations that the student had submitted a plagiarized essay and allegedly concocted a reference. The Student submitted a paper in a course at the University of Toronto Mississauga knowing that it contained verbatim passages from unreferenced sources and concocted references to conceal his plagiarism.

The syllabus contained a section on academic integrity and advised that assignments were to be submitted to www.turnitin.com, a plagiarism detection site. The assignment at issue had a remarkably high similarity index of 51%. Upon further investigation the instructor pinpointed three sources with an unacceptable degree of similarity to the Student's paper, with only the third source referenced in the footnotes.

The Panel found the Student guilty of the charge under *s. B.i.1(d)* of the *Code*, noting that while the term "knowingly" is used, that is deemed to have been met if "the person ought reasonably to have known" they were committing an offence. The evidence against him was strong, his explanations were unconvincing and the Panel found the Student guilty of deliberate plagiarism. The Panel found the evidence so convincing they would have also have found the Student knew he was plagiarizing. The Panel was not satisfied that the charge under *s. B.i.1(f)* of the *Code* was established. *S. B.i.1(f)* requires "concocting" a reference. While not condoning the Student's behaviour, the Panel did not find this an accurate charge for the Student's conduct as the footnote was plagiarized from a source that existed. It was not necessary to deal with the charge under *s. B.i.3(b*) of the *Code.*

In reasons for Decision on August 8, 2013, the Panel found the Student guilty of plagiarism.

The University submitted a penalty of a final grade of zero in the course, a suspension of three years from the date of the order, and a notation on the Student's academic record for four years. The University noted that the penalty is up to Panel discretion and there is no binding appellate authority.
The Student submitted a penalty of zero for the paper (worth 20% of the course grade), a one year suspension, and a notation on the Student's transcript until he graduates (expected two years). Additionally, the Student was prepared do a year of community service as a demonstration of remorse but proposed no plan and the Panel had no power to impose or oversee such a "sanction".

The Panel, recognizing that there is no formula dictating a specific sanction for a particular act, did note that a two year suspension is akin to a starting point for a first offender. Additionally some decisions state that a two year suspension is the appropriate "threshold" penalty for plagiarism (Case No. 509,488, and 521). While the Panel was not bound by any presumption of a two year suspension as a starting point it did recognize the importance of fairness and consistency. The Panel considered the case of *Mr. C* (Case No. 1976/77-3) which stated that the purposes of punishment are reformation, deterrence, and protection of the public, and set out a number of criteria in assessing punishment. The Panel considered the seriousness of the offence of plagiarism noting that it cannot be tolerated. Both the preamble to the *Code* and Section B of the *Code* assert this and instructors stress the importance of integrity and give guidance on how not to plagiarize. The seriousness of the offence meant that, absent mitigating factors, the sanction must reflect the harm caused and convey the seriousness of the misconduct to others. In this case the plagiarism was significant as virtually the whole paper was plagiarized knowingly and deliberately.

The Panel addressed the Student's submissions noting the importance of rehabilitation and that for a first offence of plagiarism a student is not generally given a life sentence. The Panel also noted that falling behind one's peers a result of suspended graduation may not be a disadvantage as economic circumstances are unpredictable and many students take a "gap year" during their studies. The Panel agreed with the University that there were no mitigating circumstances and the Student's conduct aggravated the matter. The penalty should be consistent with principles that have guided other panels. While many first offence plagiarism cases receive two year suspensions some receive lighter sentences when there are mitigating circumstances and others receive longer suspensions when aggravating factors are present.

The Panel imposed a three-year suspension from the date of the order, assigned a grade of zero in the course, and ordered a notation on the Student's transcript for three and a half years or until the Student graduates, whichever occurs first.

FILE: Case #811 (15-16)
DATE: December 8, 2015
PARTIES: University of Toronto v Y.L.

Hearing Date: September 29, 2015

Panel Members:
Sarah Kraicer, Chair
Joel Kirsh, Faculty Member
Simon Czajkowski, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Dylan Clark, Director of Contemporary Asian Studies
Pamela Klassen, Dean's Designate for Academic Integrity, Office of the Dean, Faculty of Arts and Science

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Johanna Braden, Observer

Trial Division – *s. B.i.1(d)* and *s. B.i.1(f)* of the *Code* – plagiarism and concoction – hearing not attended – reasonable notice of hearing provided pursuant to the *Statutory Powers Procedure Act* and the University Tribunal Rules of Practice and Procedure – finding on evidence – Student knew or ought to have known he was committing plagiarism given his years of academic experience – finding on guilt – two prior academic offences of plagiarism – acknowledgement of responsibility not considered a mitigating factor given previous warnings and academic discipline – aggravating factor of disregarding previous warnings – high likelihood of repeating the misconduct – more serious offences must receive more serious sanctions than lesser offences – grade assignment of zero in the Course; 3-year suspension; notation on the Student's academic record and transcript until his graduation from the University; case reported to Provost for publication

Student charged under *s. B.i.1(d), s. B.i.1(f)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly represented ideas from other sources as his own in the Essay for the Course and that the Student submitted the Essay for credit knowing that it contained references to sources that had been concocted. The Student was not present at the hearing. The Panel concluded that the efforts made to contact the Student by email were reasonable as per sections 6 and 7 of the *Statutory Powers Procedure Act* and Rule 17 of the University Tribunal Rules of Practice and Procedure. The Panel ordered that the hearing proceed in the Student's absence.

The Student was found guilty with respect to the plagiarism and concoction charges. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel took into account the fact that the Student had considerable experience with academic work at the University at the time he submitted the Essay, supporting the finding that he either knew or ought to have known that the Essay contained plagiarism and concocted references. The Panel also noted that the Student had committed two prior acts of plagiarism, the latter of which resulted in a meeting with the Dean's Designate only 3 days before the Student submitted the plagiarized Essay at issue in this case. Though the Student acknowledged that he committed the offences at a meeting with the Dean's Designate, the Panel did not consider this acknowledgment of responsibility to be a mitigating factor given his disregard for the two prior warnings he received. The Panel emphasised that the concoction of references exacerbates the seriousness of plagiarism because it adds a further element of dishonesty to the offence.

The Panel noted that the likelihood that the Student would repeat this misconduct was high, and stated that a significant penalty is warranted to achieve specific deterrence in these circumstances. The Panel did not accept the University's proposed penalty of a 3-year notation of the sanction on the Student's academic record, noting that 3 years was insufficient to reflect the Student's misconduct history, the likelihood that he would repeat the misconduct, and the need for specific deterrence. The Panel also noted that it would be inappropriate and misleading for this more serious offence to receive a notation period shorter than the notation for the earlier, less serious sanction. The Panel imposed a grade assignment of zero in the Course; a 3-year suspension; a notation on the Student's academic record and transcript until his graduation from the University; and that the case be reported to the Provost for publication.

SENTENCING PRINCIPLES

FILE: Case #648 (13-14)
DATE: November 12, 2013
PARTIES: University of Toronto v C.E.

Hearing Date(s):
April 9, 2013
May 27, 2013
June 26, 2013

Panel Members:
Michael Hines, Chair
Joel Kirsh, Faculty Member
Peter Qiang, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Glenn Stuart, Counsel for the Student
Justin Bumgardner, Lecturer (Course Professor)
Miriam Avadisian, a Student
Ivan Ampuero, Campus Police
Charles Helewa, Campus Police
Catherine Seguin, Lecturer
Maeve Chandler, a student
The Student's Brother
The Student's Mother

In Attendance:
C.E., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of the *Code* – unauthorized aid – Student brought completed Mid-Term Exam Booklet into final exam -- Student took materials seized by professor and fled – inability to determine whether materials were aids or not attributable to actions of the Student; Student must therefore provide credible, cogent evidence to support his contention – post-offence conduct more consistent with guilty mind than honest panic – finding of guilt – first offence – extraordinary post-offence conduct and deliberate deception is an aggravating factor – positive reference letters given little weight because authors were unaware of alleged misconduct – evidence of personal tragedy does not mitigate when used to support factual innocence rather than contextualize guilty conduct – grade assignment of zero in the course; three-year suspension; four-year notation on transcript; report to Provost for publication -- suspension and transcript notation deemed to begin on final day of hearing rather than date of issuance because decision issuance delayed for reasons beyond Student's control

Student charged with one offence under *s. B.i.1(b)* and in the alternative, one offence under *s. B.i.3(b)* of the Code. The charges related to an allegation that the Student knowingly used or possessed an unauthorized aid in the exam hall during a final exam. Specifically, the Student was alleged to have brought a completed Mid-Term Exam Booklet from the same course into the final exam. The Student claimed that the Mid-Term Booklet he possessed was from an unrelated course and therefore was not an aid for the purposes of *s. B.i.1(b)*. Both the Mid-Term Exam Booklet and the Final Exam Booklet were seized by the professor during the exam after a brief struggle with the Student. The professor gave the seized materials to the Chief Presiding Officer in the exam hall. Before the exam was finished, the Student grabbed the materials that had been seized and ran from the exam hall. Campus police were contacted and met with the Student for an interview two days later. During the interview, the Student informed the interviewing officer that he had 'stashed' the materials at the bottom of a staircase in the same building in which the exam had been written. The materials were recovered. The Mid-Term Exam Booklet that was found alongside the Final Exam Booklet was from an unrelated course. However, the professor testified that the completed Mid-Term Exam Booklet he had seized from the Student was from the same course. When shown the unrelated Mid-Term Exam Booklet found by the staircase, the Chief Presiding Officer denied that it was the Mid-Term Exam Booklet that had been handed to her by the professor during the exam. The Panel observed that the inability to definitively answer whether the Mid-Term Exam Booklet was related or unrelated was entirely attributable to the actions of the Student. The Panel noted that, while that fact did not relieve the University from the ultimate burden of proof, it obliged the Student to provide credible, cogent evidence to demonstrate how the facts are best explained by his contention that the Mid-Term Exam Booklet in question was from

an unrelated course. The Panel found no reason to disbelieve the evidence of the professor that he observed the Mid-Term Exam Booklet was from the same course. The Panel found inconsistencies in the evidence of the Student, and concluded that the Student's behaviour in seizing the exam and fleeing was more consistent with a guilty mind than with an honest student whose panic was nevertheless so extreme as to rob him of any vestige of rationality. The Panel concluded that the Student was guilty of the offence under *s. B.i.1(b)*.

The Student had no prior disciplinary record and provided two letters of reference which spoke highly of him. The Panel noted that the authors of the letters appeared to be unaware of the conduct in question and consequently attribute little weight to these references. The Panel treated the Student's extraordinary conduct after his materials were seized by the professor, and the protracted and deliberate course of deception he engaged in afterwards, as aggravating factors. The Panel acknowledged the series of personal tragedies experience by the Student in the months preceding the events in question. However, the Panel concluded that these tragedies could not be used as mitigating factors because the Student relied on them in attempt to provide an innocent explanation for his conduct which the Panel rejected. The tragedies did not explain or mitigate the fact found by the Panel that the Student had attempted to mislead the Tribunal. The Panel found that the Student was unlikely to repeat this type of offence and that it was not therefore necessary to prevent his return to the University altogether. The Panel imposed a final grade of zero in the course, a three-year suspension, a four-year notation on the Student's transcript, and ordered that the case be reported to the Provost for publication. The Panel noted that for reasons beyond the Student's control, it had taken more than four months for the Decision to be issued. The Panel therefore directed that both the suspension and the transcript notation be deemed to have commenced on the final day of the hearing, rather than the date of issuance.

FILE: Case #690 (13-14)
DATE: September 5, 2013
PARTIES: University of Toronto v S.F.

Hearing Date(s):
August 6, 2013

Panel Members:
Roslyn Tsao, Chair
Ato Quayson, Faculty Member
Jonathan Hsu, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel

In Attendance:
Kristi Gourlay, Manager, Office of Academic Integrity
Natalie Ramtahal, Manager, Appeals, Discipline and Faculty Grievances

NOTE: Sanction overturned on appeal.

Trial Division – *s. B.i.1(a)* of the *Code* - falsified course withdrawal petitions – Agreed Statement of Facts – 2 prior offences – admission of guilt – Joint Submission on Penalty rejected – grade of zero in 17 courses; recommendation of expulsion; five-year suspension; seven-year notation on transcript; report to Provost for publication

The Student was charged under *s. B.i.1(a)* of the *Code* with 22 charges relating to forging, altering, or falsifying of documents or evidence on 7 or 8 submissions for late withdrawal from courses in two academic years. The Student did not attend and the hearing proceeded by way of an Agreed Statement of Facts (ASF).

The ASF set out that in two separate years the Student submitted petitions seeking late withdrawal from 17 courses; 10 in the first year because of a dying grandfather in Sri Lanka and 7 in the second because he was neglectful, self-destructive, and "pretty spaced out". The second petition was denied and the Student submitted a third petition seeking the same relief as the second petition, this time on account of a grandmother's death and accompanied by a death certificate. The Student submitted personal statements and a newspaper death notice for his grandmother and responded to emails intended to further mislead the University. The Student admits that his petition forms contained false and misleading information in an attempt to obtain academic advantage.

The parties submitted a Joint Submission on Penalty (JSP) including a grade of a zero in the 17 courses, a suspension from the date of order for five years, a permanent notation be placed on his academic record, and that the case be

reported to the Provost for publication. The University stressed that the ASF and admission from the Student saves the time and effort of proving the allegations.

The Student had two prior incidents of plagiarism and provided no submissions regarding mitigation. The Panel noted that the Student had likely begun and completed a medical program since submitting his petitions. The Panel felt that the Student had disdain for the ethics of any academic institution, noting that after his first petition was accepted he submitted a second falsified one and his two counts of plagiarism. It shocked the conscience of the Panel that this behaviour could warrant anything less than expulsion. The University presented two similar cases in support of the JSP but the Panel distinguished them based on prior offence history, hearing attendance and mitigating factors.

The Panel rejected the JSP said the proposed penalty would bring the administration of justice into disrepute. It ordered a penalty of a grade of zero in the 17 courses, an immediate five-year suspension, a recommendation of expulsion, a notation placed on his academic record for 7 years, and that the case be reported to the Provost for publication.

Appeal

FILE: Case #690 (14-15)
DATE: October 20, 2014
PARTIES: University of Toronto v S.F.

Hearing Date(s):
October 7, 2014

Panel Members:
Ronald G. Slaght, Chair
Elizabeth Peter, Faculty Member
Jenna Jacobson, Student Member
Graeme Norval, Faculty Member

Appearances:
Robert Centa, Counsel for the University
Julia Willkes, Counsel for the Appellant

In Attendance:
The Appellant
John Britton, Dean's Designate

Appeal Division – Trial Panel rejected Joint Submission on Penalty – Appellant joined by Respondent – Discipline Appeal Board has power to modify trial level sanction – Trial Panel can accept or reject Joint Submission on Penalty- Joint Submission on Penalty can only be rejected where contrary to the public interest or brings the administration of justice into disrepute – DAB will not interfere with decisions found to be reasonable in all circumstances, even if other reasonable dispositions can be supported - APPEAL ALLOWED — JSP imposed - grade of zero in 17 courses; five-year suspension; seven-year notation on transcript; report to Provost for publication

Matter before the Discipline Appeals Board (DAB) on appeal from a penalty imposed by a Panel. The appellant was not at the Panel hearing but had negotiated an Agreed Statement of Facts (ASF) and a Joint Submission on Penalty (JSP) including a grade of a zero in the 17 courses, a suspension from the date of order for five years, and a permanent notation be placed on his academic record. The Panel added a recommendation that the Appellant be expelled from the University. The Appellant, joined by the Respondent Provost, argued that the Panel erred in its decision not to impose the JSP sanction. The appeal raised the question of when and under what circumstances a Panel may impose a penalty other than one agreed to in a JSP and if the original Panel was justified in rejecting the proposed sanction agreed to by both parties.

The DAB noted its broad appeal powers in *section E.7(c)* of the *Code*, which states: "The Discipline Appeal Board shall have the power … in any other case, to affirm, reverse, quash, vary or modify the verdict, penalty or sanction appealed from and substitute any verdict penalty or sanction that could have been given or imposed at trial." The DAB also recognized that while it has jurisdiction to do so, it will not interfere with decisions found to be reasonable in all circumstances, even if other reasonable dispositions can be supported.

An ASF set out that in two separate years the Appellant submitted petitions seeking late withdrawal from 17 courses; 10 in the first year and 7 in the second. The second petition was denied and the Appellant submitted a third petition seeking the same relief as the second petition, this time on account of a grandmother's death and accompanied by a death certificate. The Appellant submitted a Certificate of Death and a newspaper death notice for his grandmother. The

Appellant met with the Dean's Designate in July 2012 where he admitted to some falsifications in his submissions. In October 2012 the Appellant was formally charged with 22 counts of academic misconduct. In the ASF the Appellant admitted that much of his submissions were false and a further ASF revealed that the Appellant had been sanctioned for plagiarism on two prior occasions.

The DAB examined principles guiding when a JSP may be accepted or rejected. A Panel is not obliged or required to accept a JSP, however one may be rejected only when to give effect to the JSP would be contrary to the public interest or bring the administration of justice into disrepute. If it is to reject a JSP the Panel must clearly articulate why it is doing so. The Panel must assess a JSP against the backdrop of the values of the University, which may be found in the Preamble to the *Code* and in the shared expectations which members of the University abide by. The DAB cited a Law Society Appeal Panel decision which stated that only truly unreasonable or unconscionable joint submissions should be rejected.

The DAB allowed the appeal as the imposition of a five-year suspension, as opposed to a recommendation of expulsion, was not so fundamentally unreasonable to justify rejection of a JSP. The DAB noted the benefits joint submissions promote including early resolution, saving time and expense, and fostering trust and cooperation. The DAB also noted that the penalty in the JSP was so severe it could not in any way be said to "condone" the Appellant's conduct, and that the Appellant saved the University from a large evidentiary burden in his ASF and JSP." The DAB felt that the Panel did not decide if the JSP was reasonable, rather it determined that expulsion was an appropriate penalty and imposed it.

The DAB ordered the Panel's Order on penalty to be set aside and imposed the penalty provided in the JSP.

FILE: Case #746 (14-15)
DATE: January 14, 2015
PARTIES: University of Toronto v Y.W.

Hearing Date(s):
December 12, 2014

Panel Members:
Bernard Fishbein, Chair
Michael Saini, Faculty Member
Susan Mazzatto, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel

In Attendance:
Raymond Grinnell, Senior Lecturer
Nikki Alber, Graduate Student,
Wayne Dowler, Dean's Designate, UTS
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

Trial Division – *s. B.i.1(b)* and *s. B.i.3(d)* of the *Code* – unauthorized aids on exam – illegal calculator – illegal notes – Student not present – affidavits served – grade of zero in course; suspension of two years; notation on transcript for three years; report to Provost for publication – lesser penalty for unwarranted calculator might have been imposed but for the notes attached

Student charged with an offence under *s. B.i.1(b)*, and in the alternative, an offence under *s. B.i.3(b)* of the Code. The Student did not attend the hearing but the Panel was satisfied that the Student had reasonable notice of the hearing and had been served several affidavits in accordance with the Rules of Practice and Procedure of the University Tribunal. The Panel proceeded in accordance with the University Tribunal Rules of Practice and Procedure.
The charges related to possession of both a calculator with unauthorized functions, and notes during an exam. An invigilator testified that there was written and spoken instruction that certain calculators with special functions would not be permitted for use on the exam. She further checked every student's calculator and found that the Student had an illegal calculator with notes and formulas attached to the back and case of the calculator. The Student denied that the notes were for the course, had the calculator confiscated, and was permitted to write the exam.

The instructor for the course testified that certain calculators were illegal as they defeated the purpose of the exam. He reviewed the confiscated calculator's functions and demonstrated that it was one of the types that was banned from the exam. He also testified that the notes were blatantly for the course.

The University submitted that the Student had blatantly violated s. *B.i.1(b)* of the Code, knowingly using an illegal calculator and notes, and further had not participated in the proceedings. The University sought a penalty including a grade of zero in the course, a two year suspension from the date from the hearing, a notation on the Student's transcript for three years from the date of the hearing, and that the case be reported for publication.

The Panel unanimously ruled that the Student had violated *s. B.i.1(b)* of the *Code* and the University withdrew the alternative charge. Although it was a first offence, the Panel found no mitigating circumstances and that a two year suspension was the ordinary sanction in similar circumstances.

The Panel imposed the sanctions sought by the University but noted that a lesser sanction may have been imposed as the exam rules did not call for confiscation of calculators, but only that they be turned off. However, because of the extensive notes on the calculator, the Panel agreed with the University's proposed sanctions.

FILE: Case #789 (15-16)
DATE: October 9, 2015
PARTIES: University of Toronto v J.M.G.

Hearing Dates:
March 9, 2015
August 11, 2015

Panel Members:
Lisa Brownstone, Chair
Chris Koenig-Woodyard, Faculty Member
Adam Wheeler, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Tegan O'Brien, Counsel for the Student, Downtown Legal Services
Naomi Mares, Assistant Counsel for the Student, Downtown Legal Services

In Attendance:
Ms. J.M.G., the Student
Mr. G.V., the Student's father
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Sharice Annis, Observer, Downtown Legal Services
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d), s. B.i.1(a), and s. B.i.1(f)* of the *Code* – plagiarism, forged documents, and concoction – hearing adjourned for Student to obtain legal advice – Agreed Statement of Facts – guilty plea – finding on Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty – prior academic offence of plagiarism – aggravating factor of short timeframe between last academic offence and the current charges – Joint Submission on Penalty accepted – grade assignment of zero in both courses; 4-year suspension; the earlier of either a 5-year notation on the Student's academic record and transcript, or a notation until her graduation; case reported to Provost for publication

Student charged under s. B.i.1(d) and, in the alternative, *s. B.i.1(b)* of the Code, and under *s. B.i.1(a), s. B.i.1(f)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student engaged in academic misconduct in two courses. The first set of charges is in relation to allegations that the Student knowingly represented the ideas of another as her own work in an assignment. The second set of charges is in relation to allegations that the Student knowingly falsified a document that formed the data for an assignment in a separate course. The Student was present at the hearing. At the first hearing, the Student indicated that she wished to provide further information to the Panel that

was not present in the Agreed Statement of Facts. The Panel agreed to adjourn the matter so that the Student could seek representation or advice.

Student pleaded guilty with respect to the charge of plagiarism. The Panel accepted the Agreed Statement of Facts and found the Student guilty of the offence. The Student admitted to obtaining unauthorized assistance and committing plagiarism by submitting an assignment knowing it contained verbatim or nearly verbatim passages from an essay that was submitted by another student in the Course, and knowing that the assignment contained ideas or expressions of ideas which were not her own. The University then withdrew the alternative charge of unauthorized aid.

Student pleaded guilty with respect to the charges of forged documents and concoction. The Panel accepted the Agreed Statement of Facts and found the Student guilty of the offences. The Student admitted to forging the signature of her Teaching Assistant and to submitting a data sheet with fabricated data. The University then withdrew the alternative charge of academic dishonesty not otherwise described.

The Panel took into account as an aggravating factor that the Student had been charged with another plagiarism offence and warned of the serious consequences that would occur in the event of a repetition, especially given the very short timeframe between the offences. The Panel also took into account mitigating circumstances, including the Student's recent immigration status and the pressures in her household. The Panel accepted the Joint Submission on Penalty, noting that it was within the appropriate range of sanction taking into account the previous plagiarism misconduct. The Panel imposed a grade assignment of zero in both courses; a 4-year suspension; the earlier of either a 5-year notation on the Student's academic record and transcript, or a notation until her graduation; and that the case be reported to the Provost for publication.

FILE: Case #809 (15-16)
DATE: January 29, 2016
PARTIES: University of Toronto v Q.S.S.

Hearing Date:
November 26, 2015

Panel Members:
Johanna Braden, Chair
Michael Evans, Faculty Member
Jenna Jacobson, Student Member
Appearances:
Robert Centa, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland
John Britton, Professor Emeritus, Dean's Designate, Office of Student Academic Integrity, Faculty of Arts and Science
Kasha Visutskie, Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts and Science

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d), s. B.i.1(b)* of the *Code* – plagiarism – Student purchased coursework from a commercial provider of essays – hearing not attended – reasonable notice of hearing provided pursuant to the Statutory Powers Procedure Act and the University Tribunal Rules of Practice and Procedure – finding on evidence – finding on guilt – University submission on penalty accepted – commercial element puts offence at highest end of plagiarism spectrum - grade assignment of zero in the Course; 3-year suspension; 4-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under s. *B.i.1(d), s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted plagiarized coursework which he had purchased from a commercial provider of academic essays. The Student was not present at the hearing. The Panel concluded that the efforts made to contact the Student by email and courier were reasonable as per the Statutory Powers Procedure Act and the University Tribunal Rules of Practice and Procedure. The Panel ordered that the hearing proceed in the Student's absence.

Student was found guilty with respect to the plagiarism charge. The University then withdrew the unauthorized aid and academic dishonesty not otherwise described charges. The Panel took into account the fact that the Essay's document properties listed the initials of a commercial provider of essays as the author, that the writing style was inconsistent with the Student's previously submitted version and in-class examinations for the Course, and that the Student could not paraphrase the ideas or define words used in the revised Essay at a meeting with the Course Instructor as evidence that significant portions of the Essay were not written by the Student. The Panel noted that though plagiarism involving purchasing essays from commercial enterprises is at the highest end of the plagiarism spectrum in terms of seriousness, this case fell somewhere between the two ends of the spectrum given that the Student had no prior academic offences and that the entire essay may not have been purchased. The Panel imposed a grade assignment of zero in the Course; a 3-year suspension; a 4-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case #808 (15-16)
DATE: February 1, 2016
PARTIES: University of Toronto v L.M.

Hearing Date:
October 13, 2015

Panel Members:
Sana Halwani, Chair
Markus Bussmann, Faculty Member
Jeffery Couse, Student Member

Appearances:
Rob Centa, Assistant Discipline Counsel
Lauren Pearce, Articling Student, Paliare Roland
Tegan O'Brien, Counsel for the Student, Downtown Legal Services
Rabiya Mansoor, Counsel for the Student, Downtown Legal Services
Donald Dewees, Dean's Designate, Faculty of Arts and Science
Shelly Cornack, Registrar, University College
Linda Nauman, Associate Registrar, University College
Ms. L.M., the Student

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Patrick McNeill, Observer, Secretary, College of Electors, Assistant Secretary of the Governing Council

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – Student falsified bank statements purporting to show payment to the University – finding on evidence – finding on guilt – prior academic offence of unauthorized aid – mitigating factors did not outweigh the Student's deceitful actions – simply appearing at a hearing is not a mitigating factor - University submission on penalty accepted – 5-year suspension; recommendation of expulsion; case reported to Provost for publication

Student charged with two offences under *s. B.i.1(a)* and, in the alternative, an offence under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly forged, altered or falsified two documents provided to the University in support of her Application requesting grant assistance. The Panel took into account evidence supporting the inference that the Student's documents purporting to show payments made to the University and OSAP were forged or altered, including that the math on the Student's bank account statements did not add up, the writing in some of the entries was askew, the receipts for a single transaction differed, and the bank did not have any records of the purported payments.

Student was found guilty with respect to two counts of knowingly forging, altering or falsifying a document or evidence required by the University. The University then withdrew the alternative charge of academic dishonesty not otherwise

described. The Panel noted the Provost's recommendation of expulsion in cases of fraud attempts by students absent exceptional circumstances. The Panel took into account a number of aggravating factors, including that the Student had previously been found guilty of two charges associated with the use of an unauthorized aid during an exam, that the nature of the current offence was very serious, and that the Student's conduct prior to and throughout the proceeding was egregious and unremorseful. The Panel recognized a number of mitigating factors, including that the Student was experiencing significant financial hardship as an immigrant and single mother. However, the Panel emphasized that the mitigating factors did not outweigh the Student's deceitful actions prior to and during the proceeding. The Panel also noted that simply appearing at a hearing is not a mitigating factor; had the Student chosen to cooperate with the University, those actions might have acted as mitigating factors. The Panel accept the University's submissions on penalty and imposed a 5-year suspension; a recommendation that the Student be expelled; and that the case be reported to the Provost for publication.

FILE: Case #813 (15-16)
DATE: February 1, 2016
PARTIES: University of Toronto v J.W.K.

Hearing Date:
December 15, 2015

Panel Members:
Johanna Braden, Chair
Louis Florence, Faculty Member
Jeffery Couse, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel

In Attendance:
Emma Thacker, Associate Director, Graduate Affairs, School of Graduate Studies
Krista Osbourne, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(f)* of the *Code* – concoction – Student fabricated data and research results – hearing not attended – Student requested that the Tribunal proceed in his absence – Agreed Statement of Facts – guilty plea – finding on Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty accepted – consideration of Mr. C factors relevant to sanction - 5-year suspension; recommendation of expulsion; case reported to Provost for publication

Student charged with two offences under *s. B.i.1(f)* and, in the alternative, an offence under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly and repeatedly concocted data over a two-year period, that he presented this concocted data to his thesis supervisor and others, and that this concocted data was presented in a conference poster and a grant application. The Student was not present at the hearing. The Panel proceeded in the absence of the Student given that the Student had expressly admitted in writing that he had received reasonable notice of the hearing, and that the Student requested that the Tribunal proceed in his absence as he did not want to attend or participate further in the proceedings.

Student was found guilty with respect to both charges of concoction. The Panel accepted the Agreed Statement of Facts in which the Student admitted to the offences. In considering the Joint Submission on Penalty, the Panel considered the factors and principles relevant to sanction set out in the Mr. C case. The Panel emphasized that the serious nature of the offences committed was a significant aggravating factor, stating that deliberate, repeated concoction of data strikes at the very heart of academic integrity. The Panel also took into account the fact that the Student's misconduct affected the reputation of the University's innocent researchers who were listed as co-authors on the Student's research, as well as the damage to the integrity of the University as a whole. The Panel took the Student's admission of misconduct as a sign that he accepted some responsibility for his misconduct, and the Panel noted that the Student had successfully obtained one degree from the University prior to this misconduct. The Panel also took into account that the Student was challenged by personal issues and that this was the Student's first academic offence. The Panel accepted the Joint Submission on Penalty. The Panel imposed a 5-year suspension; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FILE: Case #821 (15-16)
DATE: April 28, 2016

Panel Members:
Roslyn Tsao, Chair

PARTIES: University of Toronto v T.I.

Hearing Date:
April 20, 2016

Michael Saini, Faculty Member
David Kleinman, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland Barristers
Michael Jones, Program Coordinator, Institute for Communication, Culture, Information & Technology
Rahul Sethi, Instructor of the Course
Catherine Seguin, Dean's Designate, University of Toronto Mississauga

In Attendance:
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of the *Code* – Student plagiarized from the internet for a take home quiz in one Course and for three assignments in another Course – hearing not attended – reasonable notice of hearing provided – finding on guilt – prior academic offence of plagiarism – aggravating factors – University submission on penalty accepted – grade assignment of zero in both Courses; 4-year suspension; 5-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged with four offences under *s. B.i.1(d)*, one offence under *s. B.i.1(b)* and, in the alternative, two offences under *s. B.i.3(b)* of the *Code*. The charges related to allegations from two separate courses; in the first, the Student was charged with plagiarism and obtaining unauthorized assistance in connection with a take home Quiz, and in the second, the Student was charged with plagiarism in connection with three separate Assignments. The Student was not present at the hearing. The Panel concluded that the efforts made to contact the Student by email were reasonable pursuant to Paragraph *9(c)* of the *Rules of Practice and Procedure*. The Panel ordered that the hearing proceed in the Student's absence.

Student was found guilty with respect to the four charges of plagiarism. The University then withdrew the unauthorized aid charge and the alternative academic dishonesty charges. The Student readily admitted to plagiarizing material from the internet for the Quiz and Assignments in a meeting with the Dean's designate. The Panel took into account the Student's admission of guilt and evidence from the Course Instructor as to the marked difference between the Student's rough drafts and final submitted assignments. The Panel also took into account a number of aggravating factors, including that the Student had participated and been sanctioned in the discipline process fewer than 4 months before these Charges were brought, that the Student was in her third year of studies, that the Charges relate to plagiarism over two courses and two terms and multiple assignments, that there were deliberate and deceitful acts undertaken by the Student in an attempt to hide the plagiarism from detection, and that the Student admitted her guilt but did not participate with counsel to create an Agreed Statement of Facts, which would have reduced the Tribunal's time and resources. The Panel accepted the University's submissions on sanction and imposed a grade assignment of zero in both Courses; a 4-year suspension; a 5-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case #819 (15-16)
DATE: June 8, 2016
PARTIES: University of Toronto v S.M.

Hearing Date:
May 10, 2016

Panel Members:
Jeffrey S. Leon, Chair
Louis Florence, Faculty Member
Lu Zhao, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Deepak Paradkar, Counsel for the Student

Naveen Batish, Counsel (Student-at-Law) for the Student
Martha Harris, Office of Student Academic Integrity, Faculty of Arts and Science

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Mr. S.M., the Student

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism and unauthorized aid – Student submitted an assignment with verbatim excerpts from another student's computer program – Agreed Statement of Facts – guilty plea – finding on Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty – prior academic offences on similar plagiarism and unauthorized aid charges – Joint Submission on Penalty accepted – though the Student had completed his degree requirements, the University will respond to serious misconduct, regardless of when it occurs in the student's academic career – grade assignment of zero in the Course; 3-year suspension; 4-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(d), s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student copied and used verbatim excerpts from another student's computer program in his assignment. The parties submitted an Agreed Statement of Facts and a Joint Submission on Penalty. The Student admitted that he located the other student's programs on a publicly accessible software program hosting service without the student's knowledge or permission. The Panel accepted the Student's guilty plea and found the student guilty of an academic offence of plagiarism and unauthorized aid. The Panel took into account the Student's prior charges of academic misconduct. The Panel emphasized that though the Student had already completed the course requirements for his degree at the time of the hearing, the University should still respond to serious misconduct. The effect of the proposed suspension would have a significant effect on the Student in that he would not receive his degree until after his suspension was over. While specific deterrence may be less of a factor in this case, the Panel expressed hope that as a graduate of the University the Student would henceforth conduct himself in an appropriate manner. The Panel accepted the Joint Submission on Penalty and imposed a grade assignment of zero in the Course; a 3-year suspension; a 4-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case #793 (15-16)
DATE: July 16, 2015
PARTIES: University of Toronto v X.F.W.

Hearing Date:
June 11, 2015

Panel Members:
Jeffrey S. Leon, Chair
Michael Evans, Faculty Member
Alice Zhu, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Marleen Rozemond, Professor of the Course

In Attendance:
Virginia Fletcher, Law Clerk
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Joanne Deboehmler, Observer, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of the *Code* – plagiarism – submitted three papers with significant and intentional plagiarism – hearing not attended – reasonable notice of hearing provided as per the Code and the Statutory Powers Procedure Act – finding on guilt – aggravating factors of multiple plagiarized papers, deliberate attempts by the Student to hide the plagiarism, disregard for the discipline process and failure to respond, and

no demonstrated accountability and remorse – grade assignment of zero in the Course; 3-year suspension; the earlier of either a 4-year notation on the Student's academic record and transcript, or a notation until the Student's graduation from the University; case reported to Provost for publication

Student was charged with three offences under *s. B.i.1(d)* of the *Code*. The charges related to allegations of plagiarism for three separate assignments in the Course. The Student was not present at the hearing at the appointed time. The Panel waited for 30 minutes. The Panel concluded that the efforts made to contact the Student by phone, mail, and e-mail were reasonable as per the Code and the Statutory Powers Procedure Act. The Panel ordered that the Hearing proceed in the Student's absence.

Student was found guilty of all three charges of plagiarism. The Panel took into account Turnitin reports and concluded that there was significant and intentional plagiarism. The extent and nature of the plagiarism precluded any possibility that the dishonest conduct was the result of a mere error or a simple lack of proper attribution. There was also no evidence to suggest that the conduct was a result of a failure on the Student's part to understand the English language with sufficient proficiency. The Panel noted that the changes made by the Student to the plagiarized quotes were sophisticated and well thought out. The Panel also noted that it could not determine whether there was any reason not to suspect that there would be a repetition of offences.

The Panel took into account a number of aggravating factors; namely, that three plagiarized papers were submitted, that the conduct of the Student demonstrated a deliberate attempt to hide the plagiarism, that the Student disregarded the discipline process in its entirety and failed to respond throughout, and that the Student demonstrated no accountability and no remorse. The Panel emphasized the seriousness of the offence of plagiarism and noted the importance of denouncing and penalizing such dishonest conduct in a reasoned, principled, and consistent manner. The Panel imposed a grade assignment of zero in the Course; a 3-year suspension; the earlier of either a 4-year notation on the Student's academic record and transcript, or a notation until the Student's graduation from the University; and that the case be reported to the Provost for publication.

FILE: Case #783 (15-16)
DATE: July 21, 2015
PARTIES: University of Toronto v Y.T.

Hearing Date:
April 30, 2015

Panel Members:
Dena Varah, Chair
Markus Bussmann, Faculty Member
Shan Arora, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Julia Wilkes, Counsel for the Student

In Attendance:
Ms. Y.T., the Student (via Skype)
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* and *s. B.i.1(b)* of the *Code* – plagiarism, unauthorized aid, and academic dishonesty – course work purchased from commercial provider of essays – failed to attribute ideas and expressions from an academic source – Agreed Statement of Facts – guilty plea – finding on Agreed Statement of Facts – finding on guilt – Joint Submission on Penalty – prior academic offence – mitigating factors of using only four paragraphs of the Purchased Essay and personal issues – aggravating factor of previous academic offence – Joint Submission on Penalty accepted – grade assignment of zero in the Course; 5-year suspension; notation on the Student's academic record and transcript until her graduation from the University; case reported to Provost for publication

Student charged under *s. B.i.1(d), s. B.i.1(b)* and, in the alternative, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted an essay containing four paragraphs directly from an essay purchased from a

commercial essay provider and that the Student copied the ideas and expressions of an academic source without attributing the excerpts appropriately.

Student admitted to having committed the offences. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel reviewed the Agreed Statement of Facts in determining that the Student was guilty of plagiarism and using unauthorized aid.

The University and the Student submitted a Joint Submission on Penalty. The Panel noted that though the purchase of essays is among the most serious of offences that can be committed in a University setting, and that the sanction is generally expulsion, there were a number of distinguishing mitigating factors in this case that made a lesser sanction appropriate. The mitigating factors were that the Student only used part of the Purchased Essay and completed much of the essay on her own, and that the Student had a difficult year personally with health and familial issues. The Panel also took into account an aggravating factor, namely that the Student had a prior academic offence. In deciding the appropriate sanction, the Panel noted the high threshold for rejecting a Joint Submission on Penalty, and stated that to reject it here would be inappropriate. The Panel imposed a grade assignment of zero in the Course; a 5-year suspension; a notation on the Student's academic record and transcript until her graduation from the University; and that the case be reported to the Provost for publication.

FILE: Case #800 (15-16)
DATE: December 8, 2015
PARTIES: University of Toronto v S.E.

Hearing Date:
November 23, 2015

Panel Members:
John A. Keefe, Chair
Joel Kirsh, Faculty Member
Hayden Rodenkirchen, Student Member

Appearances:
Robert A. Centa, Assistant Discipline Counsel
Lauren Pearce, Articling Student, Paliare Roland Barristers
Neil Wilson, Counsel for the Student
Kristi Gourlay, Manager, Office of Student Academic Integrity
Martin Loeffler, Director, Information Security and Enterprise Architecture
Karen Reid, Department of Computer Science

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a)*, *s. B.i.1(b)* and *s. B.i.1(d)* of the *Code* – forged academic record, unauthorized aids, plagiarism – Student hacked into the computer account of the Course Teaching Assistant to alter the mark recorded for his assignment – Student hacked into another student's computer account, copied the student's work, and submitted it as his own work – hearing not attended, but Student's counsel did attend – guilty plea – University still required to prove its case even though the Student did not challenge the evidence – Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty accepted – the Student's agreement to permanently withdraw from the University was an important factor in the Panel's decision to accept the Joint Submission on Penalty – grade assignment of zero; 4-year suspension; permanent notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged with three offences under *s. B.i.3(a)*, one offence under *s. B.i.1(b),* one offence under *s. B.i.1(d)* and, in the alternative, two offences under *s. B.i.3(b)* of the *Code*. The charges related to two separate allegations; first that the Student knowingly forged or in any other way altered or falsified the mark recorded on Assignment #1 in the Course by hacking into the computer account of the Course's teaching assistant, and second that the Student knowingly used or

obtained unauthorized assistance in connection with Assignment #2 in the Course by hacking into the account of a fellow student, copying his work, and submitting it as his own work. The evidence of these charges was overwhelming and not challenged by the Student. The Student was not present at the hearing, but he did appear through his counsel. Counsel for the Student indicated that the Student was entering a no contest plea. The hearing proceeded on the basis that the University would nonetheless prove its case even though the Student would not be challenging the evidence.

The Student was found guilty with respect to the charges under *s. B.i.3(a)*, *s. B.i.1(b)* and *s. B.i.1(d)*. The University then withdrew the alternative charges under *s. B.i.3(b)*. The Panel accepted the parties' Agreed Statement of Facts and Joint Submission on Penalty. The Panel considered the fact that the Student agreed to permanently withdraw from the University and not to seek readmission at any time in the future as an important aspect of its decision to accept the Joint Submission on Penalty. The Panel imposed a grade assignment of zero in the Course; a 4-year suspension; a permanent notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE: Case #805 (15-16)
DATE: August 10, 2015
PARTIES: University of Toronto v Y.C.

Hearing Date:
June 22, 2015

Panel Members:
Sarah Kraicer, Chair
Bruno Magliocchetti, Faculty Member
Alberta Tam, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Tegan O'Brien, Counsel for the Student, DLS
Nicole Wilkinson, Counsel for the Student, DLS
John Carter, Dean's Designate, Faculty of Applied Science and Engineering
Manfreddi Maggiore, Instructor of the Course
Luca Scardovi, Instructor of the Course

In Attendance:
Mr. Y.C., the Student
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Johanna Braden, Observer

Trial Division – *s. B.i.1(b)* of the *Code* – unauthorized aid and academic dishonesty – Student had unauthorized exam aids on his desk during the final examination – Student signed an Acknowledgement of Possession of Unauthorized Exam Aid(s), but this was not admitted as evidence of guilt because the Student may not have understood what he was admitting to – finding on evidence – finding on guilt – prior academic offence – University submission on penalty accepted – grade assignment of zero in the Course; 2-year suspension; the earlier of either a 3-year notation on the Student's academic record and transcript or a notation until his graduation from the University; case reported to Provost for publication

Student charged under *s. B.i.1(b)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student possessed three unauthorized aids in the final exam of the Course; namely, lecture notes, the prior year's final exam, and solutions to a homework assignment. The Student signed an Acknowledgement of Possession of Unauthorized Exam Aid(s) form after the examination had concluded, but as it was plausible that the Student did not understand at the time of signing that he was admitting to having committed an academic offence, the Tribunal did not rely on this form as evidence of an admission of guilt by the Student. The Student pleaded not guilty at the hearing.

Student was found guilty with respect to *s. B.i.1(b)* of the *Code*. To support the inference that he knowingly possessed the unauthorized aids, the Panel took into account that the Student acknowledged that he knew the applicable rules for permissible aids, that he admitted to bringing the documents into the examination, and that he could not have mistaken the unauthorized documents for a permissible study aid. The Student's explanation that illness and/or medication resulted in him not knowing that he possessed unauthorized aids on his desk was found to be implausible and not supported by any cogent evidence. An aggravating factor was the fact that this was the Student's second academic offence. The Panel noted that receiving a strong warning that future misconduct would be subject to severe penalties did

not deter the Student from committing a second offence, and that therefore there was an increased likelihood of repetition. The Panel recognized that the sanctions typically imposed in cases of unauthorized aids would have a severe impact on the Student's ability to continue in his academic program, but it noted the seriousness of the offence and stated that reducing a penalty to cushion a student from a cumulative effect is not a principled reason for granting leniency. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension; the earlier of either a 3-year notation on the Student's academic record and transcript or a notation until his graduation from the University; and that the case be reported to the Provost for publication.

FILE: Case #811 (15-16)
DATE: December 8, 2015
PARTIES: University of Toronto v Y.L.

Hearing Date:
September 29, 2015

Panel Members:
Sarah Kraicer, Chair
Joel Kirsh, Faculty Member
Simon Czajkowski, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Dylan Clark, Director of Contemporary Asian Studies
Pamela Klassen, Dean's Designate for Academic Integrity, Office of the Dean, Faculty of Arts and Science

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Johanna Braden, Observer

Trial Division – *s. B.i.1(d)* and *s. B.i.1(f)* of the *Code* – plagiarism and concoction – hearing not attended – reasonable notice of hearing provided pursuant to the *Statutory Powers Procedure Act* and the University Tribunal Rules of Practice and Procedure – finding on evidence – Student knew or ought to have known he was committing plagiarism given his years of academic experience – finding on guilt – two prior academic offences of plagiarism – acknowledgement of responsibility not considered a mitigating factor given previous warnings and academic discipline – aggravating factor of disregarding previous warnings – high likelihood of repeating the misconduct – more serious offences must receive more serious sanctions than lesser offences – grade assignment of zero in the Course; 3-year suspension; notation on the Student's academic record and transcript until his graduation from the University; case reported to Provost for publication

Student charged under *s. B.i.1(d), s. B.i.1(f)* and, in the alternative, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly represented ideas from other sources as his own in the Essay for the Course and that the Student submitted the Essay for credit knowing that it contained references to sources that had been concocted. The Student was not present at the hearing. The Panel concluded that the efforts made to contact the Student by email were reasonable as per sections 6 and 7 of the *Statutory Powers Procedure Act* and Rule 17 of the University Tribunal Rules of Practice and Procedure. The Panel ordered that the hearing proceed in the Student's absence.

The Student was found guilty with respect to the plagiarism and concoction charges. The University then withdrew the alternative charge of academic dishonesty not otherwise described. The Panel took into account the fact that the Student had considerable experience with academic work at the University at the time he submitted the Essay, supporting the finding that he either knew or ought to have known that the Essay contained plagiarism and concocted references. The Panel also noted that the Student had committed two prior acts of plagiarism, the latter of which resulted in a meeting with the Dean's Designate only 3 days before the Student submitted the plagiarized Essay at issue in this case. Though the Student acknowledged that he committed the offences at a meeting with the Dean's Designate, the Panel did not consider this acknowledgment of responsibility to be a mitigating factor given his disregard for the two prior warnings he received. The Panel emphasised that the concoction of references exacerbates the seriousness of plagiarism because it adds a further element of dishonesty to the offence.

The Panel noted that the likelihood that the Student would repeat this misconduct was high, and stated that a significant penalty is warranted to achieve specific deterrence in these circumstances. The Panel did not accept the University's

proposed penalty of a 3-year notation of the sanction on the Student's academic record, noting that 3 years was insufficient to reflect the Student's misconduct history, the likelihood that he would repeat the misconduct, and the need for specific deterrence. The Panel also noted that it would be inappropriate and misleading for this more serious offence to receive a notation period shorter than the notation for the earlier, less serious sanction. The Panel imposed a grade assignment of zero in the Course; a 3-year suspension; a notation on the Student's academic record and transcript until his graduation from the University; and that the case be reported to the Provost for publication.

FILE: Case #798 (15-16)
DATE: March 1, 2016
PARTIES: University of Toronto v S.J.

Hearing Date:
December 8, 2015

Panel Members:
Andrew Pinto, Chair
Kathi Wilson, Faculty Member
Yusra Qazi, Student Member

Appearances:
Tina Lie, Assistant Discipline Counsel
Lauren Pearce, Student-at-Law, Paliare Roland Barristers
John Carter, Dean's Designate, Academic Integrity, Faculty of Applied Science and Engineering
Neeraj Sood, Course Teaching Assistant
Piero Triverio, Assistant Professor, Faculty of Applied Science and Engineering
Jaro Pristupa, Director, Information Technology

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Obsourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d), s. B.i.1(c), and s. B.i.1(b)* of the *Code* – plagiarism, impersonation, and unauthorized aid – Student plagiarized computer code for an assignment from an online software repository – Student used other University students' computer accounts to send an email impersonating the Course professor in an attempt to obtain the examination – Student copied from his lab partner during the final examination – hearing not attended – reasonable notice of hearing provided – mere reference to medical reasons to explain missing the hearing did not constitute a request for adjournment – finding on evidence – finding on guilt – no prior offences – three offences committed within a short amount of time considered to be three first-time offences – Student's statement that he was depressed and anxious was not sufficient to be considered as a mitigating factor – aggravating factors of lack of remorse and the severity of the student's deception – grade assignment of zero in both courses; 5-year suspension or a suspension until the Governing Council's decision on expulsion; corresponding notation on the Student's academic record and transcript; recommendation of expulsion; case reported to Provost for publication

Student charged with one offence under *s. B.i.1(d),* three offences under *s. B.i.1(b),* one offence under *s. B.ii.2*, one offence under *s. B.i.1(c)* and, in the alternative to those charges, three offences under *s. B.i.3(b)* and one offence under *s. B.i.1(d)*. The charges related to separate allegations that the Student committed plagiarism with respect to an Assignment in one Course, that the Student attempted to obtain an advance copy of the final examination in another Course by personating a professor of the Course via email, and that the Student used unauthorized assistance in the final examination in the second Course by copying from another student during the examination. The Panel noted that the Student had no prior offences, and that the acts happened within a reasonably short amount of time (2 months) such that they should be considered three first-time offences. The Student was not present at the hearing. The Panel concluded that the Student had reasonable notice of the hearing via email, and the Student's lawyer acknowledged that the Student knew the hearing would proceed in his absence. The Panel held that the lawyer's reference to "medical reasons" as a reason for the Student's absence did not constitute a request for an adjournment.

Student was found guilty of the plagiarism charge, the impersonation charge, and the unauthorized aid charge. The other charges against the Student were withdrawn. The Panel accepted the evidence of the University's witnesses, who described how the Student copied directly from a publicly available software repository for the Assignment, how the Student obtained the login information of three other University of Toronto students and sent an email to a professor as if coming from the Course Professor's email but really coming from another student's account, and how the Student copied from his lab partner's examination. The Panel noted that the Student had gone to extraordinary lengths to commit academic misconduct. The circumstances surrounding the phishing email were particularly egregious because of the considerable planning, deliberation, and deception involved, including the identity theft of three university students' userIDs and passwords and the personation of a professor. The Student showed no remorse when confronted with the charges; accordingly, a more severe sanction was required here than would be had the Student pleaded guilty and expressed remorse. The Student's statement that he was depressed and anxious, without more, did not rise to the level of sufficiency required for the Panel to consider it a mitigating circumstance. The Panel imposed a grade assignment of zero in both courses; a 5-year suspension or a suspension until the Governing Council's decision on expulsion; a corresponding notation on the Student's academic record and transcript; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FILE: Cases #786 (15-16)
DATE: March 24, 2016
PARTIES: University of Toronto v S.H.L.

Hearing Date(s):
December 4, 2015
January 15, 2016

Panel Members:
Sana Halwani, Chair
Chris Koenig-Woodyward, Faculty Member
Alice Zhu, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Tegan O'Brien, Counsel for Mr. S.J.P.
Lawrence Veregin, Counsel for Mr. S.J.P.
Rabiya Mansoor, Counsel for Mr. S.J.P.
Steve Joordens, Professor of the Course
Ada Le, Invigilator for the Final Exam in the Course
Ainsley Lawson, Undergraduate Course Coordinator, Department of Psychology & Neuroscience
Wayne Dowler, Dean's Designate, University of Toronto Scarborough
Emily Dies, Law Student, University of Toronto Faculty of Law
Kinson Leung, Invigilator for the Final Exam in the Course

In Attendance:
Hayley Ossip, Articling Student, Gilbert's LLP
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Tracey Gameiro, Observer
Nisha Panchal, Observer, Student Conduct & Academic Integrity Officer
Mr. S.J.P., the suspected collaborator
Mr. S.H.L., the Student

Trial Division – *s. B.i.1(b), s. B.i.1(a), s. B.i.3(b)* of the *Code* – unauthorized aid, forged documents, and academic dishonesty – obtained an unauthorized aid for a final exam while on a bathroom break – destroyed the aid after it was discovered – denied having the aid – initial hearing not attended – Student claimed he was ill and, though skeptical, the Panel accepted this and adjourned the initial hearing – later hearings attended – finding on evidence – not necessary to determine how the Student obtained the unauthorized aid – non-expert

statistical evidence not accepted – finding on guilt – grade assignment of zero in the Course; 2-year suspension; 3-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(b), s. B.i.1(a),* and *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly used or possessed an unauthorized aid in connection with a final exam, that the Student obtained the unauthorized aid while he went on a bathroom break during the Exam, and that the Student subsequently forcefully took and destroyed the unauthorized aid after it was seized by the Exam invigilators.

Student was not present for the initial hearing date. Reasonable notice of the hearing was provided. The Student claimed that he had become too ill to attend the hearing, and contacted the Office of Appeals, Discipline, and Faculty Grievances in the early hours of the scheduled hearing date. The initial hearing was adjourned, with reluctance, because though the evidence with respect to the Student's illness warranted skepticism, the evidence was essentially uncontradicted. The Student was present at the subsequent hearings.

The Panel emphasized the onus of proof set out in the *Code*, noting that to prove the charges against the Student, the University must satisfy on a balance of probabilities standard, with clear and cogent evidence, that the Student used an unauthorized aid to assist him in the exam and then destroyed the unauthorized aid. For the purposes of the Student's charges, it was not necessary for the Panel to determine how or where the Student obtained the cheat sheet.

Taking into account the evidence supporting the existence or absence of the unauthorized aid, the Panel accepted the evidence of the invigilators and determined that even without the physical cheat sheet being in evidence, the University had provided ample evidence to meet its burden of proving the existence of the cheat sheet. The Panel placed no weight on the statistical evidence that compared the Student's exam answers to those of the suspected supplier of the unauthorized aid because of the lack of expert evidence provided as well as the general difficulties associated with statistical evidence.

Student was found guilty of all three charges. The Panel took into account that the Student was a first time offender. The Panel also took into account several aggravating factors; namely, that the Student destroyed the evidence rather than dealing with the repercussions of being caught cheating, the serious nature of the offence, and the Student's lack of remorse throughout the proceeding and failure to accept responsibility. The Panel imposed a grade assignment of zero in the Course; a 2-year suspension; a 3-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

FILE:	Case #817 (15-16)	Panel Members:
DATE:	April 19, 2016	Rodica David, Chair
PARTIES:	University of Toronto v H.F.L.	Joel Kirsh, Faculty Member
		Sean McGowan, Student Member
Hearing Date:		
March 3, 2016		Appearances:
		Lily Harmer, Assistant Discipline Counsel
		Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga
		Sherna Tamboly, Counsel for the Student, Downtown Legal Services
		In Attendance:
		Mr. H.F.L., the Student
		Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b)* of the *Code* – unauthorized aid – Student submitted an Assignment for which he had obtained the answers from a friend who had previously completed the Course – Agreed Statement of Facts – guilty plea – finding on Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty – two prior academic offences – Panel emphasized the need for the sanction to reflect the seriousness of the offence and the fact that it was the Student's third offence – likelihood of repetition not lessened by the Student's graduation from the University – Joint Submission on Penalty accepted, though the Panel noted it

would have considered backdating the suspension further if the requirement for not accepting a Joint Submission on Penalty were not so stringent – grade assignment of zero in the Course; 3-year suspension; the earlier of either a 4-year notation on the Student's academic record and transcript, or a notation until his graduation from the University; case reported to Provost for publication

Student charged under *s. B.i.1(b)* of the *Code*. The charges related to allegations that the Student knowingly obtained unauthorized assistance in a Course Assignment. After the Course Instructor discovered that the computer systems showed no record of the Student accessing the system to complete the assignment, the Student admitted that he had obtained unauthorized assistance to complete it from a friend who had previously completed the Course.

Based on the Agreed Statement of Facts, the Panel found the Student guilty of the unauthorized aid charge. The Panel noted that the Student had two prior offences, emphasizing that the sanction needed to be significant to reflect the seriousness of not only the offence itself, but also the fact that it was a third offence. The Panel did not accept Counsel's submission that there was no likelihood of repetition because the Student was in a position to graduate after the offence was dealt with, noting that if the Student wished to go onto post graduate work, repetition of the offence could occur. The Panel accepted the Joint Submission on Penalty, but it noted that if the requirements for not accepting a Joint Submission on Penalty were not as stringent as they were, it might have considered backdating the suspension farther back than agreed to by the parties in order to avoid penalizing the Student for the delay in the Tribunal. The Panel imposed a grade assignment of zero in the Course; a 3-year suspension; the earlier of either a 4-year notation on the Student's academic record and transcript, or a notation until his graduation from the University; and that the case be reported to the Provost for publication.

FILE:	Case #816 (16-17)	Panel Members:
DATE:	July 27, 2016	Lisa Brownstone, Chair
PARTIES:	University of Toronto v L.D.	Joel Kirsh, Faculty Member
		Carl Shen, Student Member
Hearing Date(s):		
April 7, 2016		Appearances:
June 23, 2016		Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers
June 29, 2016		Lucy Gaspini, Manager, Academic Integrity & Affairs, UTM
		Shu Cui Lin, Paralegal for the Student
		Joseph Jim, Assistant to Ms. Lin
		Prof. Kathleen Yu, Instructor of the Course
		Prof. Catherin Seguin, Dean's Designate, UTM
		Alexandra Di Blasio, Academic Integrity Assistant, UTM
		Ms. L.D., the Student
		Mr. Y.L. Ms. X.C., and Ms. B.J.L, friends of the Student, UTM
		Mary Xu Ling Wang, Interpreter for the Student
		In Attendance:
		Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
		Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances
		Sean Lourim, IT Support, Office of the Governing Council
		Mr. Y.J., the Student's boyfriend

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – Student altered her test paper before submitting it to her professor for re-grading – finding on evidence – finding on guilt – mitigating factors of expressing remorse, participating in the discipline process, unlikeliness of repetition, and difficult personal circumstances – grade assignment of zero; 1-year suspension; 2-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(a)* and, in the alternative, *s. Bi.3(a)* and *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student knowingly forged, altered, or falsified her Test before resubmitting it in an attempt to obtain additional marks. Student found guilty with respect to the forged documents charge contrary to *s. B.i.1(a)* of the *Code*. The University then withdrew the alternative charges. The Panel took into account evidence that the Student made two alterations to her test based on the Course Instructor's scan of her originally submitted Test. In *The University of Toronto v. O.S.* (case #824), a student was found guilty of a forged documents charge involving the very same course and the very same test. The Student in this case argued that she made two markings on the Test but forgot about these changes when she resubmitted it for regarding. The Panel in this case noted the differences in this case, namely the mitigating factors of this Student: the Student took the proceedings and the fall-out from her actions seriously, there was a degree of remorse, the conduct was unlikely to be repeated, and the student had difficult personal circumstances. The Panel therefore imposed a lesser sentence than it had in Case #824, but it continued to emphasize the serious nature of the misconduct. The Panel imposed a grade assignment of zero in the Course; a 1-year suspension from the University; a 2-year notation on the Student's academic record and transcript; and that the matter be reported to the Provost for publication.

FILE: Case #810 (16-17)
DATE: August 5, 2016
PARTIES: University of Toronto v B.S.

Hearing Date(s):
January 27, 2016
June 28, 2016

Panel Members:
Sana Halwani, Chair
Maria Rozakis-Adcock, Faculty Member
Raylesha Parker, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Ms. B.S., the Student
Yelena Goren, Counsel for the Student

Witnesses:
Laura Bisaillon, Instructor of the Course, UTS
Maryam Saatian, the Student's dentist
Eleanor Irwin, Dean's Designate, UTS
Ms. B.S., the Student
Ms. A.G.K., the Student's mother

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(a)*, *s. B.i.1(d)* and *s. B.i.1(f)* of the *Code* – forged documents, plagiarism, and concoction – Student forged a medical certificate and committed plagiarism and concoction of sources in relation to a Paper in the Course – finding on evidence – finding on guilt – grade assignment of zero; 3-year suspension; 4-year notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged under *s. B.i.1(a)*, *s. B.i.1(d)*, *s. B.i.1(f)* and, in the alternative, two offences under *s. B.i.3(b)*. The charges related to allegations that the Student submitted a forged Verification of Student Illness or Injury form in support of her request for academic accommodations for the Course, and that the Student committed plagiarism and concocted sources in connection with a paper submitted for the Course. The Student did not submit the Paper on time, and in her request for extra time and she provided a three medical certificates ostensibly from her dentist. The dentist attended the hearing and confirmed that she completed the first and third medical certificates, but that she had not completed the second certificate and had not seen the student on the alleged date.

At the conclusion of the Course Instructor's testimony (after she had been cross-examined by the Student and the Panel had been given an opportunity to ask questions, and she had been excused from the hearing), the Student requested to bring the Instructor back for further questioning. The Student claimed that she believed she would have another

opportunity to cross-examine. The Panel ruled that the Student had had ample opportunity to question the Instructor, and emphasized that the Tribunal process was clearly explained on the Tribunal website.

The Student's complaints that she was dealt with unfairly by the Course Instructor with respect to the calculation of the late penalty applied to the paper was not within the jurisdiction of the Panel. The Panel also emphasized that any belief that the Student may have had about unfair treatment would not justify either a forged medical note or a plagiarized document.

With respect to the Student's allegations of racism or harassment on the part of the Course Instructor and the Dean's Designate, the Panel concluded that the discovery of the alleged academic dishonesty was a result of the usual investigative process and not a targeting of the Student in any way. Moreover, the student's allegations were irrelevant to the charges or the reason they were laid. The Panel noted that there are other avenues for the Student to pursue such allegations.

With respect to the Student's submissions in her argument at the end of the hearing that she had been treated unfairly at the decanal level, the Panel decided that any such objections should have been raised at the outset of the hearing and cannot be dealt with in closing argument (pursuant to *s. C.i.(a)11* of the *Code*) and that, in any case, there was no merit to those submissions.

The Student's mother provided evidence of the great stress the Student and her family suffered through the process. The Panel emphasized, however, that the Student did not address the Panel. As such, she did not take responsibility, express remorse for her actions, or provide any evidence of circumstances that would mitigate her sanction.

Majority:

With respect to the forgery charge, the Panel took into account the multiple discrepancies between the second medical certificate and the verified first and third certificates, the credible and consistent testimony of the dentist who allegedly completed the second certificate, and the Student's implausible testimony. The Panel concluded that the Student was guilty of forgery contrary to *s. B.i.1(a)* of the *Code*.

With respect to the plagiarism and concoction charges, the Panel took into account the evidence of verbatim or nearly verbatim plagiarism gathered by the Dean's Designate and the Student's testimony that she was fully aware of the University's policies on plagiarism and proper citation procedures. Though the Student claimed that she did not knowingly plagiarize or concoct sources, she provided no evidence to refute the University's evidence. The Panel concluded that the Student was guilty of knowingly representing others' ideas as her own and failing to properly cite sources in the paper contrary to *s. B.i.1(d)* of the *Code* and that she knowingly concocted sources contrary to *s. B.i.1(f)* of the *Code*.

The University then withdrew the alternative charges.

At the hearing for sanction, the Student was represented by new counsel. Her counsel sought leave to allow the Student to bring a motion for an order directing the University to provide the Student with a transcript of the first day of the hearing, and asked that the sanction hearing be stayed pending resolution of that motion. The Panel denied the Student's request for leave to bring the motion because the hearing date was peremptory on the Student and because she had been given numerous opportunities to obtain the transcript well in advance of the sanction hearing.

The Panel took into account the serious nature of the offences in determining the appropriate sanction, noting that the offences called into question the Student's character and that the forged medical certificate goes beyond the walls of the University and implicated a member of the medical professions. The Panel also noted that the fact that the Paper was only worth 15% of the Student's grade does not detract from the fact that it involved plagiarism and concocted sources; on the contrary, that the Student would commit this level of dishonest conduct at this stage of her career for a paper worth 15% of a final mark is troubling. Similarly, the fact that the Student obtained two other authentic medical notes does not detract from the fact that she forged a third. Further, the Student refused to acknowledge any wrongdoing and showed no remorse, instead blaming others for her behaviour. The Panel concluded that the multiple offences and the Student's behaviour warranted an increase from a 2-year suspension (currently recommended by the Provost as the appropriate sanction where a student has not committed any prior offence), to a 3-year suspension. The Panel imposed a

grade assignment of zero; a 3-year suspension; a 4-year notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

Dissent:

Prof. Rozakis-Adcock dissented as to the forgery charge, noting that the failure of the dentist to keep records of the Student's visits, her willingness to make false claims as to the Student's medical condition, and her backdating of the third certificate displayed dishonest conduct, which allows for little weight to be placed on her testimony. As such, Prof. Rozakis-Adcock did not believe that the University had met its burden of proving on a balance of probabilities that the Student forged the second medical certificate, and would not find her guilty of this charge.

FILE: Case #858 (16-17)
DATE: August 12, 2016
PARTIES: University of Toronto v A.D.S.

Hearing Date(s):
July 12, 2016

Panel Members:
William C. McDowell, Chair
Ernest Lam, Faculty Member
Sean McGowan, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Lucy Gaspini, Manager, Academic Integrity & Affairs, UTM
Prof. Divya Maharajh, Instructor of the Course

In Attendance:
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Sean Lourim, Client Support Technologist, University of Toronto

Trial Division – *s. B.i.1(f)* and *s. B.i.1(a)* of the *Code* – concoction and forged documents – Student concocted references to sources in a research report – Student falsified the document outlining his sanction to reflect a lesser penalty – Student attached the falsified document to his appeal documents – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – 5-year suspension; recommendation of expulsion; case reported to Provost for publication

Student charged under *s. B.i.1(f)* and *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student concocted references to one or more sources in a research report, and that when offered a proposed sanction for the concoction, the Student knowingly altered or falsified the sanction letter to reduce the suggested penalty in his appeal of the sanction. The Student was not present at the hearing. The Panel heard evidence that the Student had accessed his ROSI account. The Panel found that reasonable notice of the hearing had been provided in accordance with the *Code*, and the hearing continued in the absence of the Student.

Student found guilty with respect to both charges. The Panel accepted evidence that the sources referenced in the Student's report did not exist, and evidence that the University sanction document had been altered by the Student. The Panel emphasized the severity of the allegations, noting its astonishment that in the process of exercising his right to appeal his concoction sanction the Student would falsify the very document under consideration by the Vice Provost. The Panel concluded that its sanction for the Student should reflect the abhorrence of the Tribunal for this kind of misconduct, and should seek to deter other students from contemplating any sort of alternation of University documents. The Panel imposed a 5-year suspension; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FILE: Case #818 (16-17)
DATE: September 6, 2016
PARTIES: University of Toronto v M.N.

Hearing Date(s): May 27, 2016

Panel Members:
William C. McDowell, Chair
M Evans, Faculty Member
Raylesha Parker, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Rabiya Mansoor, Law Student for the Student
Kristi Gourlay, Manager Office of Academic Integrity

In Attendance:
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
M.N., the Student
Mother, Mother of Student

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents and forged University Verification of Student Illness or Injury Forms – request for accommodation– Agreed Statement of Facts – guilty plea accepted for charges under *s. B.i.1(a)* — Joint Submission on Penalty – Student cooperative and admitted guilt – extenuating circumstances — Joint Submission on Penalty accepted – Panel should not depart from the JSP unless the proposed result amounts to an error in principle - grade of zero in courses; five-year suspension; six-year notation

Student charged with six offences under *s. B.i.1(a)*. The charges related six forged documents in two separate medical Petitions for accommodation sent by the Student. The Student pleaded guilty to the charges under *s. B.i.1(a)* and the matter proceeded by way of an Agreed Statement of Facts (ASF). The Panel also received a Joint Submission on Penalty (JSF).

The ASF described the Student as seeking various academic accommodations in 2015. In support of this request the Student submitted a Medical Verification Form which she admitted to altering the dates of and a University Verification of Student Illness or Injury Form. As well, the Student submitted documents from turnitin.com which she had also altered.

In 2016 the Student submitted a falsified Verification of Student Illness or Injury Form to be granted academic accommodation in a course as well as a further Verification Form. The Student met with the Dean's Designate and admitted that she had forged, altered and/or otherwise falsified documents submitted in support of her Petitions. She cooperated with the University investigation.

The parties presented a Joint Submission on Penalty (JSP) recommending a grade of zero in the courses; a five-year suspension; and a six-year notation on the Student's academic record and transcript. The Panel noted the length of time of the Student's dishonesty and that she had deceived three different instructors. The Panel also noted the presence of mitigating factors including the Students religious background, the difficult process of disclosure of her sexual orientation to her parents, personal challenges, and suicide attempt. The Panel accepted the JSP noting that given the exceptional circumstances submitted, the mitigating factors might have warranted a shorter suspension. However, it acknowledged that the Panel should not depart from the JSP unless the proposed result would amount to an error in principle, which was not the case in this circumstance.

The Panel imposed the penalty submitted in the JSP.

FILE: Case #837 (16-17)
DATE: August 31, 2016
PARTIES: University of Toronto v M.A.

Hearing Date(s): April 25, 2016

Panel Members:
Paul Morrison, Chair
Markus Bussman, Faculty Member
Jeffery Couse, Student Member

Appearances:
Rob Centa, Assistant Discipline Counsel

Luisa Ritacca, Counsel for the Student
Kasha Visutskie, Academic Integrity Officer

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
M.A., the Student

NOTE: Overturned on appeal

Trial Division — *s. B.i.1(c)* and *s. B.i.3(b)* of the *Code* – personation – Agreed Statement of Facts – guilty plea accepted for charges under *s. B.i.1(a)* — Joint Submission on Penalty – Student admitted guilt and cooperated throughout — Joint Submission on Penalty accepted in part – permanent notation rejected – coupled with Student's voluntary withdrawal from the University would approximate expulsion - grade of zero in course; five-year suspension; five-year notation; report to Provost for publication

The Trial Division of the Tribunal held a hearing to consider charges brought by the University against the Student under the *Code of Behaviour on Academic Matters.*

Student charged with offences under *s. B.i.1(c), s. B.i.1(d),* and *s. B.i.3(b)* of the Code. The charges related to allegations that the student knowingly had someone personate them in an exam and represented the work of another as their own. The University proceeded on the charges under *s. B.i.1(c)*, the charges under s. *B.i.1(d)*, were disposed of.

The Hearing precede on the basis of an Agreed Statement of Facts (ASF). In the ASF the Student admitted to hiring another to take a test for her. The Student further admitted that she was scheduled to meet with the Dean's Designate for Academic Integrity in the Faculty of Arts and Sciences to discuss the allegations of personation but that instead of attending the Meeting herself, she engaged the imposter to personate her at the Meeting, which they did. On the basis of the ASF, the Panel entered a finding of guilty.

The parties presented a Joint Submission on Penalty recommending a grade of zero in the courses; a five-year suspension; and a permanent notation on the Student's academic record and transcript. The Student also agreed to voluntarily withdraw and not reapply to the University. The Panel also noted the presence of mitigating factors including the Students cooperation, full admission, and young age at the time of offence. The Panel accepted the penalty of grade and suspension but not the permanent notation. In light of the Student's agreement to withdraw voluntarily from the University and not to reapply in the future, the Tribunal was concerned that a permanent notation of the sanction would have the effect that the penalty would approximate expulsion from the University. The Panel considered that a sanction with this effect was too severe in the circumstances.

The Panel found the Student guilty of one count of personation contrary to *s. B.i.1(c)* of the Code and one count of academic dishonesty contrary to *s. B.i.3(b)* of the Code. The Panel imposed a penalty of a grade of zero in the course, a five-year suspension; a five-year notation on her transcript; and that a report be issued to the Provost.

DAB Decision

FILE: Case #837 (16 - 17)
DATE: December 22, 2016
PARTIES: University of Toronto v. M.A. ("the Student")

Hearing Date(s): December 13, 2016

Panel Members:
Mr. Ronald Slaght, Chair
Professor Elizabeth Peter, Faculty Panel Member
Professor Allan Kaplan, Faculty Panel Member
Ms. Jiawen Wang, Student Panel Member

Appearances:
Mr. Robert Centa, Counsel for the University

In Attendance:
Mr. David Dewees, Dean's Designate

NOTE: See the Tribunal case summary above for detailed facts

Discipline Appeal Board – University appeal from sanction – Joint Submission on Penalty accepted - reasonableness of Joint Submission on Penalty – definition of "public interest" in university context – standards of unreasonableness and unconscionability – objective standard of reasonableness - policy benefits of Joint Submissions of Penalty - where an agreement to never reapply to the University is negotiated in a Joint Submission on Penalty when an expulsion is otherwise appropriate, it should be accompanied by a permanent notation on the student's transcript to alert other institutions of misconduct — Appeal allowed

Appeal by the University from a Tribunal decision not to accept the parties' Joint Submission on Penalty (JSP). The Student pled guilty to two charges of impersonation. The matter proceeded by an Agreed Statement of Facts and a JSP. Included in the JSP was a penalty of a permanent notation on the Student's transcript coupled with an agreement that the Student never reapply to the University. The Panel accepted all the sanctions in the JSP, including the agreement that the Student not reapply to the University, except it replaced the permanent notation on the Student's transcript with a lesser penalty of a five-year notation on the Student's transcript. The University appealed and sought a permanent notation on the Student's transcript as agreed to in the JSP.

The Board allowed the appeal and ordered a permanent notation on the transcript per the JSP. In so doing, they followed the test set out in the Board decision, *The University of Toronto v S.F.* (2014, DAB Case # 690). The Board found the parties should be able to expect the Panel to uphold a JSP unless it is fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable after considering all the relevant circumstances. The Board elaborated that a JSP is against the public interest of the University if it is offensive to the values and behaviours that members of the University community are expected to uphold. Examples of these values may be found in the preamble of the *Code.* The Board adopted the standard of unreasonableness or unconscionable sentencing agreements set out by Moldaver J in the Supreme Court of Canada decision *R v Anthony Cook*, (2016 SCC 43) where sentencing agreements are unconscionable if they are "so unhinged from the circumstances of the offence" that their acceptance would lead a reasonable observer to believe that the proper functioning of the justice system had broken down.

The Board further cited the policy reasons for deference to negotiated sentences from the *Cook* decision which states that sentencing agreements are both commonplace and vitally important to the justice system at large. The Board found that JSPs promote certainty in circumstances where an accused has given up their right to a hearing in exchange for a guilty plea and a negotiated sentence, acceptable to all. Time and resources are thus conserved, furthering the greater interests of fairness and efficiency. The Board found that the Panel erred by concentrating on its own subjective view on the reasonableness of the penalty, and not that of the greater community interests.

Finally, the Board found that the Panel did not consider the actual circumstances surrounding the JSP, namely, that both parties gained advantages in the negotiated sanction. The Student admitted to three serious offences (though only charged and pled guilty for two of them) which justified a sanction of an expulsion had the Student not agreed that she would never reapply to the University. In making this agreement not to reapply which was not recorded on her transcript, the University obtained the benefit of the effect of an expulsion, at the same time, the Student avoided having a permanent notation of an expulsion on her transcript. If the notation was limited to five years, there would be nothing flagging the Student's serious academic misconduct at the University should she choose to apply for admission to other institutions after five years. Finally, the parties were represented by counsel throughout the process. Taken together, the Board found that the JSP was reasonable in the circumstances and ought to have been accepted by the Panel.

Appeal allowed.

FILE: Case #847 (16-17)
DATE: September 6, 2016
PARTIES: University of Toronto v M.K.K.

Hearing Date(s):
August 15, 2016

Panel Members:
Roslyn Tsao, Chair
Michael Saini, Faculty Member
Yusra Qazi, Student Member

Appearances:
Rob Centa, Assistant Discipline Counsel
Ejona Xega, Law Student for the Student
Martha Harris, Academic Integrity Officer

In Attendance:
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
M.K.K., the Student
Shaun Laubman, Observer
Christopher Wirth, Observer
Natashe Brein, Observer

Trial Division – *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code* – plagiarism – Agreed Statement of Facts – plagiarism on multiple exams — Joint Submission on Penalty – not first offence - Student admitted guilt and cooperated throughout — Joint Submission on Penalty – without JSP the Panel would have been inclined to give a greater punishment - grade of zero in course; four-year suspension; five-year notation; report to Provost for publication

The Trial Division of the Tribunal held a hearing to consider charges 11 brought by the University against the Student including plagiarism and the use of unauthorized assistance in four separate classes. The Student was represented by a student from DLS. The Student and the University entered into an Agreed Statement of Facts (ASF). In the ASF the Student admitted to knowingly including verbatim excerpts from uncited sources in her exams contrary to *s. B.i.1(d)* or in the alternative*, s. B.i.3(b)* of the *Code*.

On this basis the Panel entered a finding of guilty on three charges. The University withdrew the other eight charges. The Hearing proceeded on the basis of an Agreed Statement of Facts relating to Penalty (ASFP) and the parties presented a Joint Submission on Penalty recommending a grade of zero in the courses; a four-year suspension; and a five-year notation on the Student's academic record and transcript. The Student had two prior sanctions on matters of plagiarism since attending the University in 2011. In both instances the Student received a written letter warning her not to reoffend. The Panel felt that the Student had ignored the sentiment and committed the offense in an exam setting. The Panel also noted the presence of mitigating factors including the Student's cooperation and full admission. Finally, the Panel noted that the JSP was light and without it the Panel would have been inclined to give a greater punishment.

The Panel imposed penalty of a grade of zero in the course, a four-year suspension; a five-year notation on the Student's transcript; and that a report be issued to the Provost and the University's newspapers.

FILE: Case # 835 (16-17)
DATE: October 12, 2016
PARTIES: University of Toronto Mississauga v. A.S. ("the Student")

Hearing Date(s): September 30, 2016

Panel Members:
Mr. Christopher Wirth, Chair
Professor Michael Evans, Department of Statistical Sciences, Faculty Member
Ms. Ashley Barnes, Student Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University, Palaire Roland Barristers
Mr. Michael Cockburn, Law Student for the Student, Downtown Legal Services

In Attendance:
Ms. A.S., the Student
Ms. Lucy Gaspini, Academic Integrity and Affairs for the Office of the Dean
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances
Ms. Sara Zborovski (Observer, New University Tribunal Chair)

Trial Division – *s. B.i.1(d) and B.i.3(d) of Code* – plagiarism – lack of proper attribution – Agreed Statement of Facts – guilty plea – two prior academic offences – joint submission of penalty – grade assignment of zero in

the course; suspension of two years and eleven months; sanction recorded on academic record and transcript for three years; report to the Provost

Student charged with two offences under the *Code*. The charges related to the Student's failure to attribute sources in an essay that she had submitted in partial completion of her course requirements. The essay contained ideas and verbatim, or nearly verbatim, text from unattributed sources. The matter proceeded on an Agreed Statement of Facts. The Student pleaded guilty to the plagiarism charge. The University then withdrew the alternative charge of academic dishonesty not otherwise described. In determining the penalty to be imposed, the Panel took into account that the Student had been found guilty of academic dishonesty on two prior occasions- one which involved plagiarism, the other involved unauthorized assistance from personal notes during a final exam. In both cases, the Student pleaded guilty to the offence, was sanctioned, and warned against committing future offences. The Panel also took into account the mitigating circumstances of the Student's guilty plea and cooperation in the proceedings. Though they found it to be lenient in the circumstances, the Panel accepted the parties' joint submission of penalty and imposed a grade assignment of zero in the course; a 2-year, 11-month suspension; a notation on the Student's academic record and transcript for three years; and that the case be reported to the Provost for publication.

FILE:	Case #846 (16-17)	Panel Members:
DATE:	September 21, 2016	Mr. Andrew Pinto, Lawyer, Chair
PARTIES:	University of Toronto Mississauga v. Z.W. ("the Student")	Professor Louis Florence, Faculty Panel Member Ms. Raylesha Parker, Student Panel Member
Hearing Date(s):	June 24, 2016	Appearances: Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers Professor Judith Poë, Bioinorganic Chemistry & Chemistry Education, University of Toronto, Mississauga Professor Christoph Richter, Associate Chair, Undergraduate, Biology, University of Toronto, Mississauga Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, Office of the Dean, University of Toronto, Mississauga
		In Attendance: Ms. Z.W., the Student Ms. Diane Matias, (Observer), Undergraduate Advisor, Department of Biology, University of Toronto, Mississauga Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division –*s. B.i.1(d)* and *s. B.i.3(b)* of the *Code* – plagiarism – laboratory assignments contained text copied from website – consequences of plagiarism for 'draft' assignments – finding of guilt – no prior offences – no evidence of extenuating circumstances –no mitigating evidence – not having been previously engaged in a discipline process not a mitigating factor - participating in discipline process but denying wrongdoing not akin to 'cooperation' – distinction between a student who commits a second offence after imposition of an academic discipline process resulting in a guilty finding and a student who commits multiple infractions prior to the imposition of a first academic process - grade assignment of zero in two courses; two-year suspension; three year notation on transcript; and report to the Provost.

Student charged with 4 offences under *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The charges related to laboratory assignments, one in chemistry and one in biology, that were submitted in partial completion of course requirements. The laboratory assignments were handed in two days apart. They contained unattributed ideas, the expression of ideas, and verbatim or nearly verbatim text from a website that the student represented as her own ideas.

The Student participated in both the Dean's Designate meeting and the Tribunal hearing. The Student admitted to copying portions of the assignment from the Internet, but denied wrongdoing. The Panel found the Student ought reasonably to have known that her conduct was unacceptable and constituted an academic offence. The Panel also rejected the Student's suggestion that, because the assignment in one course involved submitting a mere "draft" and not the final report, submitting work that was not her own, was acceptable. Upon finding the Student guilty of plagiarism, the University withdrew the academic dishonesty charges.

In sanctioning the Student, the Panel acknowledged that the Student did not have a prior discipline history. The Panel emphasized that whether or not a student has participated in a prior academic discipline process is but one factor among many that must be weighed in the sanctioning process. That a student has not engaged previously in a discipline process is not a mitigating factor. Rather, where a student is found guilty of an academic infraction that was committed after the student participated in an academic discipline process, the Panel will consider this as a factor that may warrant a more serious sanction since the student's prospects for rehabilitation are diminished.

Here, the charges related to two infractions that occurred days apart, but prior to any meeting with the Dean's Designate or engagement with the academic discipline process. The Panel accepted that in situations like this, the University distinguishes between a student who commits a second offence after the imposition of an academic discipline process that results in a finding of guilt, and a student who commits multiple infractions prior to the imposition of a first academic discipline process.

In the former situation, the University can legitimately assert that the student committed the second offence despite involvement in the University's discipline process. These circumstances reflect poorly on the student's ability or willingness to have gained insight from the discipline process. In the latter situation, however, the University would not be able to assert that the student ought to have gained insight from the academic discipline process. Depending on the facts, particularly where the infractions occurred within a relatively short period, multiple infractions may be bundled up in one offence or be considered two or more offences that occurred within a short spate of time.

The Panel did not accept University Counsel's submission on a penalty of three years' suspension, distinguishing the Student's case from precedent where three years' suspension was found to be an appropriate penalty. Here the student committed two distinct infractions prior to any involvement with the discipline process so the Student's ability to learn from her misconduct was limited by the close succession of the offences. The Student had no prior record of academic dishonesty. Finally, she attended the Dean's Designate meeting and the Tribunal hearing. She denied wrongdoing throughout so it could not be said that she "cooperated" in the discipline process, but the Panel found that it would be incorrect to treat the Student akin to students who partially or wholly avoid the discipline process altogether.

The Panel imposed a final grade of zero in two courses; suspension from the University for two years; the sanction be recorded on the Student's academic record and transcript for three years; and reporting to the Provost.

FILE: Case # 854 (16 - 17)
DATE: November 30, 2016
PARTIES: University of Toronto v. M.B. ("the Student")

Hearing Date(s): August 23, 2016

Panel Members:
Mr. Andrew Pinto, Barrister and Solicitor, Chair
Professor Ato Quayson, Professor of English and Director of the Centre for Diaspora and Transnational Studies, University of Toronto, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Emily Home, Student-at-Law, Paliare Roland Barristers
Mr. Daniel Walker, Counsel for the Student, Bobila Walker Law LLP

In Attendance:
M.B., the Student
A.B., the Student's Son
Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga
Mr. Christopher Lang, Appeals, Discipline, and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – group work - Agreed Statement of Facts – guilty plea – two prior academic offences – mitigating factors include assignment was only worth 15% of the final grade in the course, student pleaded guilty which obviated need for University to prove student's contribution to group work, student cooperated with discipline process - Joint Submission on Penalty accepted – grade assignment of zero in the course; suspension of two years; sanction recorded on academic record and transcript for three years; report to the Provost

The Student was charged with one offence of plagiarism under *s. B.i.1(d)* of the *Code*, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to a presentation worth 15% of her course marks in which, the Student admitted to knowingly including verbatim statements from unattributed sources and representing the ideas or words of others as her own. The Student pled guilty to the plagiarism charge. The University then withdrew the academic dishonesty charge.

An Agreed Statement of Fact and Joint Submission of Penalty was submitted by the Student and the University agreeing to a final grade of zero in the course, a two-year suspension, a three-year notation on her transcript and a report to the Provost regarding this case. The Student had committed two prior plagiarism offences. Five years prior to the current charge, the Student pled guilty to plagiarism in an assignment that she had submitted for course credit. She received a grade of zero on the assignment, a further reduction of ten marks from her final grade, and a six-month annotation on her academic record and transcript. The second prior incident of plagiarism was two years after the first. After pleading guilty to plagiarism, the Student received a penalty of a final grade of zero in the course, a one year suspension, and an 18-month annotation on her transcript and record for that offence. In accepting the Joint Submission of Penalty, the Panel took into account earlier decisions where a two-year suspension was awarded for students who had committed prior academic offences (*University of Toronto v. Z.B.,* Case No. 487, January 22, 2008 and *University of Toronto v. Y.L.*, Case No. 04-05-02, April 11, 2005), the fact that the assignment was only worth 15% of the final grade in the course, the Student's guilty plea saved the University from having to prove the Student's involvement and contribution to the offence, as well as the Student's cooperation with the discipline process. The Panel found no principled reason to reject the parties' Joint Submission of Penalty.

FILE: Case #848 (16-17)
DATE: November 2, 2016
PARTIES: University of Toronto v. D.H. ("the Student")

Hearing Date(s): March 16, 2016 and August 9, 2016

Panel Members:
Mr. John A. Keefe, Barrister and Solicitor, Chair
Professor Gabriele D'Eluterio, Faculty Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Palaire Roland Barristers
Mr. Glenroy Bastien, Counsel for The Student
Professor John Britton, Dean's Designate, Office of Student Academic Integrity (March 16, 2016)
Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science (

In Attendance:

Mr. Christopher Lang, Director, Appeals, Discipline, and Faculty Grievances (March 16, 2016)
Krista Osbourne, Administrative Assistant, Appeals, Discipline, and Faculty Grievances (August 9, 2016)
The Student

Note: Appeal dismissed.

Trial Division – *s. B.i.3(a)* and *s.B.ii.2* of *Code* – forged academic records and intent to commit an offence - student ordered transcripts after disciplinary sanction was imposed but before notation was made on transcript for the purpose of employment, immigration, and professional licensing – Agreed Statement of Facts – guilty plea – third offence – prior convictions included falsification of academic record and academic dishonesty – deliberate offence – contested hearing on sanction - Agreed Statement of Facts on Penalty – University submission on Penalty accepted – recommendation that Student be expelled per *s. C.ii.(b)(i)* of the *Code,* interim notation until Governing Council makes decision on expulsion, and report issued to Provost

The Student was charged with two offences for attempting to circulate falsified academic records pursuant to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* or alternatively, three charges under *s. B.i.3(b), s. B.ii.2 and B.i.3(a)* of the *Code.* The charges related to the Student's attempt to order transcripts and obtain letters of good standing from the University once he had learned that he had been suspended for three years, but before the notation had been recorded on his record in the University system. The Panel convened for an initial hearing and then a subsequent sanction hearing. At the initial hearing, the matter proceeded based upon an Agreed Statement of Facts. The Student pled guilty to the charges under *s. B.i.3(a)* and *s. B.ii.2* of the *Code.* Upon the Panel's finding of guilt on the two charges relating to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* the University withdrew the remaining charges.

The sanction hearing proceeded by way of Agreed Statement of Facts on Penalty which indicated that the Student had been guilty of two prior academic offences. The Student's first offence was academic dishonesty relating to an incident where he altered and re-submitted a test to be re-graded. He pled guilty and was sanctioned to a zero on the test and resulting reduction in his course mark, as well as a notation on his academic transcript for two years. The Student's second academic offence was for forging or otherwise falsifying his academic record. Those charges related to an application for employment where the Student submitted a transcript that omitted the notation of academic dishonesty from the prior year. The Panel considered the Student's mitigating circumstance of mental health issues and sanctioned the Student to a suspension for a period of up to three years; a notation on the Student's academic record for four years; and a report to the Provost. The reasons for that decision were available on May 19, 2015. Although the normal practice was to immediately record the Panel's decision on the Repository of Student Information (ROSI), out of a concern for the Student's mental health, the Panel also postponed making the notation the Student's record until after the Student had the opportunity to read the decision with counsellors present, on June 1, 2015.

On June 2, 2015, the Student ordered ten transcripts, knowing the sanction had not yet been implemented on ROSI. On June 3, 2015, he requested that Woodsworth College provide letters on his behalf to Canada Immigration, CPA Ontario, and "To Whom It May Concern" stating that he was a student in good standing at the University and that he was expected to graduate in the Summer of 2017. The Student knew that the transcripts that he had ordered online and the letters that he had requested did not reflect his academic record and he admitted that he intended to make use of them.

The Panel found that the Student's actions were not spontaneous, but deliberate, since they took place over a three-day period. The Panel found that it was particularly troubling that the Student took advantage of the Panel's sympathetic treatment because of the Student's fragile emotional state, but then took immediate steps to obtain transcripts that he knew were false. Aggravating considerations were that the charge of falsification of an academic record is a very serious offence, this was the Student's third offence, and it occurred immediately after he received a three-year suspension for his second offence. The Panel considered mitigating circumstances that there was an Agreed Statement of Facts and an Agreed Statement of Facts on Penalty, that the Student admitted guilt at a very early stage, he attended the hearing, and that the Student was suffering from severe mental distress at the time the offence was committed. The Panel found that there was a pattern of dishonest conduct and prior convictions, and recommended that the Student be expelled, an interim notation until Governing Council makes decision on expulsion, and that the case be reported to the Provost.

FILE:	Case #931 (2017 - 2018)	Appearances:
DATE:	October 27, 2017	Mr. Robert Centa, Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
PARTIES:	University of Toronto v. C.W. ("the Student")	
Hearing Date(s):	July 28, 2017	In Attendance: Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, UTM
Panel Members: Ms. Amanda Heale, Chair Professor Pascal van Lieshout, Faculty Panel Member Ms. Alanis Ortiz Espinoza, Student Panel Member		Ms. Alexandra Di Blasio, Academic Integrity Assistant, UTM Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of the Appeals, Discipline and Faculty Grievances Mr. Sean Lourim, IT Support, Office of the Governing Council Mr. Douglas Harrison, Tribunal Co-Chair, Observer
		Not in Attendance: The Student

Trial Division - *s. B.i.1(d)* – plagiarism – unattributed sources from the internet in an essay – student not present – two prior offences – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – start date – consecutive penalties – notation longer than suspension – final grade of zero in the affected course, suspension of three years, transcript notation for four years, and report to the provost

The Student was charged with plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative one charge of academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code.* The charges related to an essay that the Student had written that contained text from the website Wikipedia that the Student had copied verbatim and expressed as her own ideas. At the Dean's designate meeting, the Student admitted to submitting the plagiarized essay . The matter proceeded by way of an Agreed Statement of Facts, Joint Book of Documents and a Joint Submission on Penalty (JSP). Upon acceptance of the Student's guilty plea in relation to the plagiarism charge, the University withdrew the alternative charge that had been laid under s. B.i.3(b) of the *Code.*

The parties submitted a Joint Submission on Penalty (JSP) proposing: (a) a final grade of zero in the affected course; (b) suspension from the University for three years; (c) a notation of the sanction on the Student's academic record and transcript for four years; and (d) that the matter be reported to the Provost for publication. The JSP proposed that the 3 year suspension commence immediately following the conclusion of the 12 month suspension being served by the Student for a previous academic misconduct offence. The Panel took into consideration the seriousness of the offence and the fact that the Student had previously been sanctioned for obtaining an academic advantage over other students and for unauthorized assistance and plagiarism. The plagiarism offence was admitted by the Student only three months prior to the conduct that gave rise to the charge in this case. Mitigating factors were that the Student had cooperated in the process and entered into the ASF and JSP, thereby showing insight and remorse. The Panel accepted the JSP including the University's submission that sentences not overlap when they both arise from academic misconduct., and ordered a final grade of zero in the affected course; suspension from the University for three years to start after the current suspension expired; a notation of the sanction on the Student's academic record and transcript for four years; and that the matter be reported to the Provost for publication.

FILE: Case # 860 (16 - 17)
DATE: November 30, 2016
PARTIES: University of Toronto v. Q.Y. ("the Student")

Hearing Date(s): August 23, 2016

Panel Members:
Mr. Andrew Pinto, Barrister and Solicitor, Chair
Professor Ato Quayson, Professor of English and Director of the Centre for Diaspora and Transnational Studies, University of Toronto, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Emily Home, Student-at-Law, Paliare Roland Barristers
Mr. Daniel Walker, Counsel for the Student, Bobila Walker Law LLP

In Attendance:
Ms. Q.Y., "the Student"
Professor John Carter, Dean's Designate for Academic Integrity
Mr. Christopher Lang, Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aid – Agreed Statement of Facts – student brought smart phone into exam - Guilty Plea – finding of guilt – mitigating circumstance of abusive relationship - Joint Submission on Penalty – three prior offences –final grade of zero in the course, a 3.5-year suspension, a 4.5-year notation on transcript, and a report to Provost

The Student was charged with one offence of use of an unauthorized aid found in s. *B.i.1(b)* of the *Code*, or alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charge related to the Student attending and writing a midterm test with a smartphone in her possession during the test contrary to the rules. The Student pled guilty and was found to be guilty of the unauthorized aid charge. The University withdrew the alternative charge of academic dishonesty.
An Agreed Statement of Fact and Joint Submission of Penalty was submitted by the Student and the University agreeing to a final grade of zero in the course, a three and a half-year suspension, a four and a half-year notation on her transcript and a report to the Provost regarding this case. The Student had committed three prior offences. Two had been committed just one month apart, and the third was committed after her meeting with professors with respect to the second charge. Discipline Counsel raised the mitigating circumstance that the Student had been in an abusive relationship with her spouse at the time of the offences. The Panel found that the Joint Submission on Penalty was reasonable in light of other decisions (specifically, *University of Toronto v. L.W.,* Case No. 625, February 13, 2013) and there was no principled reason to reject it.

FILE: Case #870 (16 - 17)
DATE: October 31, 2016
PARTIES: University of Toronto v. J.O. ("the Student")

Hearing Date(s): September 22, 2016

Panel Members:
Paul Michell, Barrister & Solicitor, Chair
Dr. Chris Koening-Woodyard, Faculty Panel Member
Sean McGowan, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University
Professor Luc De Nil, Dean's Designate, Vice-Dean, Students and Dean's Designate for Academic Integrity, School of Graduate Studies
Mr. Victor Kim, Law Student, Downtown Legal Services, for the Student

In Attendance:
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
The Student
Mr. John Darmondy, Recording Technologist, Live Media
Ms. Vicki Vokas, Manager, Portfolio Services

Trial Division - *s. B.i.1(a)* and *s. B.i.1(d)* of *Code* – forged documents – plagiarism - forged reference letter in scholarship application – unattributed ideas in assignment – Agreed Statement of Facts - guilty plea – consideration of Mr. C. factors relevant to expulsion - second chance principle - premeditated calculating deliberate and intentional acts - final grade of zero in the two courses where the Student submitted the plagiarized assignments; recommendation that the Student be expelled; suspension pending expulsion; permanent notation on transcript; report to Provost

Student charged with one count of forgery under *s. B.i.1(a)* of the *Code* and two counts of plagiarism under *s. B.i.1(d)* of the *Code* as well as four alternative charges of academic dishonesty and unauthorized assistance under *s. B.i.1(b)* and *s.B.i.3(b)* of the *Code*. The hearing proceeded by an Agreed Statement of Facts wherein the student admitted to forging a reference letter in a scholarship application, as well as to plagiarising assignments that she had submitted for course credit in two different courses. The Student was present at the hearing. The Student pled guilty to one charge of forgery and two plagiarism charges. Upon the Panel finding the Student guilty of these charges, the University withdrew four charges that had been made in the alternative.

The student testified at the penalty phase of the hearing, which focussed on whether an expulsion was an appropriate penalty. The Panel looked to the principles and factors described in *University of Toronto and Mr. C.* (November 5, 1976/77-3). The Student was of generally good character – a professional, single mother of four children in her 30s who had been working as a nurse for ten years prior to starting her graduate studies at the University. She had expressed remorse for her actions and concerns about their effect on her professional standing. She also pled guilty, which saved the University time and expense. These were the Student's first offences at the University, however the Student had forged the reference letter within a month of starting her program and she used the same forged reference letter five months afterwards, which undermined the Student's assertion that she was acting rashly. The Panel took into account a number of aggravating factors; namely, that both forgery and plagiarism are very serious offences; that the plagiarism here was intentional, extensive, and deliberate; that the Student had derived financial gain by being awarded a $10,000 scholarship that she had used the forged reference letter to apply for; at the same time, she deprived another student from being awarded that scholarship on a legitimate basis. She offered to return the money, but had not taken any steps to actually do so in the months since the forgery had been uncovered. The Panel also weighed the detriment to the University and the need to deter others from committing the same offence. The Panel acknowledged extenuating circumstances surrounding the commission of the offence including the Student's difficult upbringing, family responsibilities, financial hardships, and health issues to be mitigating circumstances to varying degrees.

The Panel considered other cases where recommendation for expulsion had been made and found that forgery was a most serious academic offence, and usually warranted expulsion except in circumstances where there is a Joint Submission on Penalty or significant mitigating factors which were not present here. The Panel held the "second chance" principle did not apply on these facts given the seriousness of the offences, their detriment to the University, and need for general and specific deterrence. The Panel found that the commission of two other serious academic offences on top of forgery weighed in favor of expulsion in this case.

The Panel imposed a recommendation to the President that the Student be expelled, a grade of zero in the courses where the student had submitted the plagiarized assignments, immediate suspension for a period of five years with a corresponding notation on the Student's record pending expulsion, a permanent notion of the sanction on the Student's transcript, and a report to the Provost.

FILE:	Case # 865 (16 - 17)	Panel Members:
DATE:	February 22, 2017	Ms. Johanna Braden, Barrister and Solicitor, Chair
PARTIES:	University of Toronto v. S.M. ("the Student")	Professor Richard Day, Faculty Panel Member Ms. Alexis Giannelia, Student Panel Member
Hearing Date(s):	November 17,2016	Appearances: Ms. Lilly Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
		In Attendance: Mr. Christopher Lang, Director, Office of the Appeals, Discipline and Faculty Grievances Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, Office of the Dean, University of Toronto, Mississauga Mr, Sean Lourim, Technology Assistant, Office of the Governing Council
		Not in Attendance: The Student

Trial Division – *s. B.i.1(b)* and *s. B.i.3(d)* of the *Code* – unauthorized aids on exam – illegal notes – Student not present – affidavits served – concurrent and consecutive penalties – Student already suspended for a low grade-point-average at the time of the hearing – grade of zero in course; suspension of two years; notation on transcript for three years; report to Provost for publication – one year overlap between existing academic suspension and penalty imposed at hearing

Student charged with possession of an unauthorized aid under *s. B.i.1(b)*, and in the alternative, an academic dishonesty under *s. B.i.3(b)* of the Code. The Student did not attend the hearing but the Panel was satisfied that the Student had reasonable notice of the hearing and had been served several affidavits in accordance with the Rules of Practice and Procedure of the University Tribunal. The Panel proceeded in accordance with the University Tribunal Rules of Practice and Procedure.

The charges related to the Student's possession of unauthorized notes during an exam. The Student had been advised in the course materials and when she signed in for the exam that memory aids were not allowed during the exam. At the end of the exam, an invigilator noticed that the Student had typewritten and handwritten notes in her possession. After being confronted about her notes at the time of the exam, the Student gave inconsistent accounts to her instructor and at the Dean's designate meeting as to whether and how she had used these notes. Based on the evidence of the instructor and the exam invigilators, the Panel unanimously ruled that the Student had violated *s. B.i.1(b)* of the *Code* and the University withdrew the alternative charge.

The Panel accepted the University's submission on penalty of a grade of zero in the course, a suspension of two years, a notation on the Student's transcript for three years, and a report to the Provost for publication. At issue was when these penalties would take effect because, at the time of the hearing, the Student was already a year and a half into a three-year academic suspension for a low grade-point-average. To determine if the penalty should run consecutively or concurrently with the Student's ongoing suspension, the Panel took into consideration that giving or receiving of unauthorized aid generally results in a suspension of at least two to three years. Even though this was the Student's first offence, it was a deliberate and calculated attempt to gain a benefit that she was not entitled to. The Tribunal sought to impose a sanction that would be meaningful to the Student and also have some practical impact on her ability to attend the University, but was concerned that a sanction that would effectively keep the Student from attending the University for two years on top of her academic suspension would be overly punitive. Accordingly, the Panel ordered a one year overlap between the Student's in-progress academic suspension and the additional sanctions imposed for her use of an unauthorized aid at the hearing. One year of the suspension and transcript notation took effect concurrently with the suspension that was in-progress.

FILE:	Case # 851 (16-17) Finding, Sanction	Panel Members:
DATE:	March 1, 2017	Ms. Johanna Braden, Barrister and Solicitor, Chair
PARTIES:	University of Toronto v. Y.Y. ("the Student")	Professor Michael Evans, Faculty Panel Member Ms. Yusra Qazi, Student Panel Member
Hearing Date(s):	November 30, 2016	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers Mr. Peter Wuebbolt, Barrister and Solicitor, Counsel for the Student The Student
		In Attendance: Ms. Krista Osborne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances Mr. Sean Lourim, Technology Assistant, Office of the Governing Council Ms. W.Z. (Mother of the Student)

Trial Division - *s. B.i.1(b)* - unauthorized aids – cheating by copying another student's exam responses – sentencing principles – first offence – defending oneself in a disciplinary action can be consistent with cooperation – transcript notation longer than suspension – nexus required between medical condition and commission of offence – penalty start date – grade of zero in the course, suspension of two years, transcript notation of three years, and report to the provost.

The Student had been found guilty of using an unauthorized aid during an exam contrary to *s. B.i.1(b)* of the *Code* for copying answers off of the person sitting next to her in the exam room during her final exam. The Panel convened this hearing to determine the appropriate penalty.

The Panel reviewed prior decisions that set out that cheating during exams, whether through the giving or receiving of unauthorized aid, generally results in a suspension of at least two years if it is a first offence, with a longer suspension often being ordered in subsequent offences. The exact length of suspension depends on factors such as the student's cooperation, evidence as to mitigating factors, and the precise nature of the misconduct. Further, the cases suggested that it is common for transcript notations to last for a longer time than a suspension. This ensures that if the Student returns to the University following the suspension, administrators and others are alive to the student's history and can monitor the student's progress as may be appropriate. Transcript notations also ensure a returning student knows that he or she may be watched more closely, thereby encouraging the student to abide by the rules (e.g. *University of Toronto v* R (June 6, 2014, Case No. 708); *University of Toronto v S* (February 8, 2012, Case No. 635); *University of Toronto v L* (November 3, 2008, Case No. 527); and *University of Toronto v L* (April 11, 2005, Case No. 2004/05-04)).

Applying these principles along with the *Mr. C.* factors to the present case, aggravating factors were the serious nature of the offence, the detriment to the University's reputation occasioned by those who cheat on examinations, and the need to deter others. Mitigating factors were that it was the Student's first offence and that she had participated in the discipline process. That she had defended herself against the allegations was not to be held against her. The Student's claim that an unresolved medical condition played a role in the offence was at odds with the submission that she would not repeat the offence. Without clear and specific medical evidence explaining the role of the Student's illness in her commission of the offence, the Panel did not treat the Student's medical condition as a mitigating factor.

The Panel determined that the penalty should be deemed to have started when the hearing began on its merits (five months prior to the current proceeding) because the delay in convening the penalty hearing was not within the Student's control. The Panel accepted the University's submission on penalty of a grade of zero in the course; a two-year suspension; a notation on the Student's academic record and transcript for three years; and a report to the Provost.

FILE:	Case # 885 (16 - 17)	Panel Members: Mr. Shaun Laubman, Lawyer, Chair Professor Pascal van Lieshout, Faculty Panel Member Mr. David Kleinman, Student Panel Member
DATE:	January 17, 2017	
PARTIES:	University of Toronto v. J.R. ("the Student")	
Hearing Date(s):	December 7, 2016	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers Ms. Lucy Gaspini, Manager, Academic lntegrity and Affairs, Office of the Dean, U of T, Mississauga Mr. Lawrence Williams, Teaching Assistant for SOC219, University of Toronto, Mississauga In Attendance: Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances Mr. Sean Lourim, Technology Assistant, Office of the Governing Council Not in Attendance: The Student

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized assistance – student - did not attend – no mitigating circumstances– grade of zero in the course; a suspension of two years; a notation on the Student's transcript for three years; and a report to the Provost.

Student charged with one charge of plagiarism contrary to *s. B.i.1(d)* of the *Code* and one charge of obtaining unauthorized assistance contrary to *s. B.i.1(b)* of the *Code* or in the alternative, one charge of academic dishonesty contrary to *s. B.i.3(b)* of the *Code*. The charges related to an essay that had been submitted by the Student for course credit that contained significant edits made by an individual who provided professional editing and writing services. The Student did not attend the hearing but the University produced an affidavit establishing that the Student had received reasonable notice. The Panel determined that it was appropriate to proceed.

The University led evidence from a teaching assistant who testified that he had discovered that an essay that had been submitted by the Student included significant edits that had been performed by an individual who provided professional editing and writing services. The University also called a witness who testified that no Dean's meeting had been held because the Student had only sporadically responded to the University's requests for a meeting. The Student was found guilty of unauthorized assistance. The University then withdrew the plagiarism charge and the alternative charge of academic dishonesty not otherwise described.

In finding the Student guilty and in imposing the sanctions, the Panel noted the following: the Student did not attend the hearing; this was a first offence; and, there were no mitigating circumstances presented. The Panel accepted the University's submission on penalty and ordered a grade assignment of zero in the course; a suspension of two years; a notation on the Student's transcript for three years; and a report to the Provost.

FILE:	Case # 886 (16 - 17)	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
DATE:	March 16, 2017	
PARTIES:	University of Toronto v. H.L. ("the Student")	
Hearing Date(s):	December 16, 2016	In Attendance: Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto, Mississauga (via Skype) Dr. Jaimal Thind, Assistant Professor, Mathematical & Computational Sciences, University of Toronto, Mississauga
Panel Members: Ms. Amanda Heale, Chair Professor Pascal Riendeau, Faculty Panel Member Ms. Grace Lee, Student Panel Member		

Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Not in Attendance:
The Student

The Student did not attend the hearing. The University proved that service of notice was properly attempted. There was no evidence of the student actually using the phone. Yet the student was found guilty of possessing an unauthorized aid on the testimony of the professor who heard it ringing and found it during the exam. The student had been properly

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aid – student had cell phone on person during exam – student not attending hearing – sentencing –suspension for academic misconduct running concurrently with academic suspension from insufficient grade point average – "typical penalty" stated on exam paper relevant to appropriate sentence – zero on course, two year suspension, three year notation, publication of the decision with the name of the Student withheld

The Student was charged with one offence of using or possessing an unauthorized aid under *s. B.i.1(b)* of the *Code*, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to a cell phone found ringing on the student's person during a final exam.

warned not to have a phone on their person.

Following the University's submission, the Tribunal imposed a mark of zero on the course, a two year suspension, a notation for one year longer than the suspension, and publication of the decision with the name of the Student withheld. The Tribunal rejected the University's request that the suspension not start until 2018, as the student was already suspended due to an insufficient grade point average. The University argued that a suspension for academic misconduct would have no deterrent effect for the period during which it overlapped with the academic suspension. The Tribunal found that this would be unduly harsh given that the exam paper stated that a "typical penalty" for an unauthorized aid was failing the course, that this was a first offence, and the lack of evidence that the Student used or intended to use the cell phone.

FILE: Case # 719 (16 - 17)
DATE: April 11, 2017
PARTIES: University of Toronto v. W.K. ("the Student")

Hearing Date(s): February 16, 2016; April 13, 2016; August 25, 2016; August 30, 2016; October 6, 2016; November 2, 2016; January 16, 2017

Panel Members:
Ms. Sarah Kraicer, Barrister and Solicitor, Co-Chair
Professor Ernest Lam, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland, Barristers
Ms. Lauren Pearce, Articling Student, Paliare Roland, Barristers (February 16, 2016, April 13, 2016)
Ms. Emily Home, Articling Student, Paliare Roland, Barristers (August 25, 2016, August 30, 2016, October 6, 2016, November 2, 2016, January 16, 2017)

In Attendance:
The Student
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts & Science (February 16, 2016, April 13, 2016, August 25, 2016, August 30, 2016, November 2, 2016, January 16, 2017)
Professor John Britton, Dean's Designate, Faculty of Arts & Science (February 16, 2016, April 13, 2016, August 25, 2016, October 6, 2016, January 16, 2017)
Dr. William Ford, Educational Psychologist (October 6, 2016)

Mr. Paul Russell, Associate Registrar, Student Services, New College (October 6, 2016)
Ms. Krista Osborne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances (February 16, 2016)
Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances, (February 16, 2016, April 13, 2016, October 6, 2016, January 16, 2017)
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances (April 13, 2016, August 25, 2016, August 30, 2016, November 2, 2016)
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council (August 25, 2016, August 30, 2016, October 6, 2016, November 2, 2016, January 16, 2017)
Ms. Michelle Henry, Observer, newly-appointed Tribunal Co-Chair (August 25, 2016)

Trial Division - *s. B.i.1(a)* and *s. B.i.1(d)* of the *Code* – falsified personal statement in petition for academic accommodation – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – facts admitted in an ASF relating to a charge that is later withdrawn can still be used in considering remaining charges – plea agreement with no Joint Submission on Penalty – presumptive penalty of expulsion for purchased essays – aggravating factors include two prior offences, disregard for previous warnings, no acknowledgement of responsibility, conduct during the hearing – assignment of zero in the affected courses; immediate five-year suspension pending expulsion; and report to Provost
The Student was charged with 13 counts of misconduct under sections *B.i.1(a), B.i.1(b),* and *B.i.1(d)* of the *Code*, or in the alternative, s. *B.i.3(b)* of the *Code*. The Parties produced an Agreed Statement of Facts (ASF) and entered into a plea agreement. The Student pled guilty to two charges of making false statements in documents seeking academic accommodation contrary to s. *B.i.1(a)* of the *Code* and six charges of plagiarism contrary to s. *B.i.1(d)* of the *Code*. The plagiarism charges related to work that was submitted for course credit in four different courses that was either purchased from a commercial provider of essays, copied from lecture slides, an on-line forum, assigned course readings, or from academic articles. The Panel found the Student guilty of these eight charges. The University withdrew the other charges.

In determining the appropriate sanction, the Panel applied the principles set out in *University of Toronto v. Mr. C* (Case No. 1976/77-3; November 5, 1976): (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.

The Student had previously been sanctioned for two separate incidents of plagiarism. The Panel found this history, combined with the large number of incidents of misconduct at issue, the fact that these incidents were committed shortly after the Student had already been warned and disciplined for prior offences, and that they were committed while the Student was under a transcript notation for the prior offences, were strong factors which indicated that there is a significant likelihood that the Student was likely to repeat the offences. In addition, the Panel found that the Student had failed to take responsibility for his actions. Further, the Panel found that the Student's conduct at the hearing constituted an aggravating factor for the purpose of sanctioning. The Student's lateness, lack of preparation, and inflammatory accusations against counsel and the Panel demonstrated a lack of respect for the University and its discipline process and raised serious concerns about the Student's continued inability to govern himself in accordance with the University's standards, rules and responsibilities.

The Panel found that the offences of plagiarism and filing a false petition were very serious acts of misconduct that occasioned detriment to the University and required a strong need to deter others. The Panel referred to the Discipline Appeal Board decision, *University of Toronto v C., H. and K.* (Case No. 596, 597, 598, November 23, 2011) which held that

purchasing an essay is generally sanctioned by an expulsion because it involves intention, planning and deliberate deception, a 3rd party commercial element, and is often more difficult than other types of plagiarism to detect. The Panel found that falsification of information in a petition was a very serious offence because it took advantage of the University's petition system which is intended to provide students who experience genuine personal difficulties or circumstances with a means to obtain extraordinary relief from academic requirements and deadlines. By submitting false information in his personal statements, the Student breached his relationship of trust with the University and undermined the integrity of the petition system.

The Student argued that the Panel could not consider the facts in the ASF where he had admitted to purchasing an essay because those admissions related to the unauthorized assistance charge, which was subsequently withdrawn by the University when the Student pled guilty to the plagiarism charge that related to the same incident. The Panel held that the withdrawal of a charge by the University does not have the effect of preventing the Tribunal from taking into account facts admitted in the ASF that relate to the withdrawn charge. The facts concerning the unauthorized assistance charge related to and supported the charge of plagiarism to which the Student pled guilty. Furthermore, the Panel found that the argument that "plagiarism" is a different charge than "purchasing an essay" was also not consistent with Tribunal jurisprudence, which commonly considers purchased essays as a form of "plagiarism" under the *Code*.

The Panel did not find that the Student's mental health and learning disabilities to be mitigating factors in the circumstances because the evidence failed to establish that these disabilities had any temporal or causal link to or were a justification, explanation or excuse for the commission by the Student of the offences. The Student was sanctioned with a grade of zero in each of the affected courses; an order that the Student be immediately suspended from the University for up to 5 years pending an order of expulsion; and an order that the case be reported to the Provost for publication with the Student's name withheld.

FILE:	Case # 719 (2017 - 2018)
DATE:	February 20, 2018
PARTIES:	University of Toronto v. W.K. ("the Student")
Hearing Date(s):	December 12, 2017

Panel Members:
Ms. Lisa Brownstone, Barrister and Solicitor, Chair
Dr. Ramona Alaggia, Faculty Panel Member
Professor Elizabeth Peter, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Ms. Lisa Freeman, Courtyard Chambers, Counsel for the Student
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:
The Student
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts & Science
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline & Faculty Grievances
Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline & Faculty Grievances
Mr. Sean Lourim, IT Support, Office of the Governing Council

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Student appeal from sanction – request to set aside order of expulsion and impose a suspension - *s. B.i.1(a)* and *s. B.i.1(d)* of the *Code* – eight offences committed during a six month period - falsified personal statement in petition for academic accommodation – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – conduct during the hearing relevant in determining the Student's character as well as likelihood the Student would follow University rules in the future – Panel entitled to give little weight to medical evidence where author not available for cross-examination – appeal dismissed - assignment of zero in the affected courses; immediate five-year suspension pending expulsion; and report to Provost

Appeal by the Student from the sanction of expulsion that was ordered by the Tribunal after the Student pled guilty to committing eight counts of academic misconduct contrary to s. B.i.1(a) of the *Code* and s. B.i.1(d) of the *Code*. The Student argued that the errors of law committed by the Tribunal is that they had applied irrelevant considerations in determining the appropriate sanction and mis-apprehended the evidence. The Student requested that the sanction of expulsion be replaced with a five-year suspension.

The Board rejected the first ground of appeal, finding that the Panel had made limited and appropriate use of the Student's conduct at the hearing. The Student's conduct at the hearing was relevant to their character (a factor clearly relevant to sanction) and also in the concern that the Student would not follow rules of the University if the relationship between the Student and the University were not severed. The Board dismissed the Student's second ground of appeal, the misapprehension of the evidence, because in the absence of the ability to cross examine the authors of the reports the underlying information provided to the authors of the reports could not be tested. The Board found that the Panel was entitled to admit the medical reports submitted by the Student but then place little weight on their contents because the Student did not call the authors of the report to testify so cross-examination on their contents did not take place. Though the Board found that there were no errors in law committed by the Panel, even if they were wrong in this respect, the errors in law alleged by the Student would have been to minor too warrant granting a new hearing.

The Board refused the Student's alternative argument that his unique circumstances (diagnoses of learning disability, anxiety and depression) warrant an expansive reading of the Board's powers to substitute a different penalty on compassionate grounds. The Board's three reasons for dismissing this argument were: (1) at the time of the offences, the only contemporaneous medical evidence showed that the Student was seeing physicians for other, non-mental health related illnesses; (2) the only mental health expert who did treat the Student testified that there was no nexus between the Student's learning disabilities that would cause him to commit the offences; and (3) the earlier cases to which the Student referred as precedents for a lesser penalty did not involve the number and severity of offences as those that the Student admitted to committing in this case. The Panel's sanction of a grade of zero in each of the affected courses; an order that the Student be immediately suspended from the University for up to 5 years pending an order of expulsion; and an order that the case be reported to the Provost for publication with the Student's name withheld were upheld.

Appeal dismissed.

FILE: DATE: PARTIES:	Case # 1000 (18-19) April 10, 2019 University of Toronto v. L.E.	Panel Members: Ms. Sara Zborovski, Chair Professor Georges Farhat, Faculty Panel Member Ms. Daryna Kutsyna, Student Panel Member
HEARING DATES:	November 23, 2018 and January 11, 2019	Appearances: Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP In Attendance: Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(d) of *Code* – plagiarism – Student knowingly represented the work of another as her own and knowingly included the ideas and expressions of another without appropriate acknowledgement or citations in an essay submitted for academic credit – hearing adjourned to provide additional time for Student to respond to notice of hearing – service by both email and courier to address provided by Student in ROSI in Cairo, Egypt - Student did not attend either hearing – reasonable notice of hearing provided – finding of guilt – no mitigating factors – no engagement in the discipline process – no response by Student to considerable correspondence from the University – grade of zero; two year suspension from date of hearing; corresponding notation on Student's academic record for three year period from date of hearing; and publication by Provost of notice of decision and sanctions with the Student's name withheld.

The Student was charged with two counts of academic misconduct under the *Code of Behaviour on Academic Matters, 1995* (the "*Code*") on the basis that she knowingly committed plagiarism by submitting an essay for academic credit containing an idea and/or an expression of an idea and/or the work of another that she did not cite appropriately. Specifically, the Student was charged with plagiarism under s. B.i.1(d) of the *Code*, and in the alternative, academic dishonesty under s. B.i.3(b) of the *Code*.

Neither the Student nor a legal representative of the Student appeared on the first day of the hearing, November 23, 2018. The Panel heard evidence of the efforts taken by the University to serve the Student with notice, including service by email to the email address provided by the Student in ROSI and service by courier to the address in Cairo, Egypt, provided by the Student in ROSI. The Panel heard evidence that the Student had last logged into her University email account on September 17, 2018 (prior to the first attempts of the University to notify her of the charges). It also noted the short period of time between the service of the materials on the Student in Cairo (on November 15, 2018) and the first hearing date (November 23, 2018). The Panel adjourned to allow the Student additional time to respond to the notice of hearing. Neither the Student nor a legal representative of the Student appeared on the adjourned hearing date, January 11, 2019. The University advised the Panel of additional attempts to serve the Student with notice of the new hearing date, including service by delivery to the Student's address in Cairo, Egypt, which was received on December 1, 2018. Although it was confirmed to the Panel that the Student had neither accessed her University email account nor provided a forwarding email address in ROSI, the Panel was satisfied that the totality of attempts made to provide notice to the Student (and particularly given that the notice of hearing had been received at the Student's address in Cairo, Egypt) demonstrated that notice had been adequately provided to the Student in accordance with the requirements of the *Statutory Powers Procedure Act* and the *University Tribunal Rules of Practice and Procedure*. As such, the Panel decided to proceed with the hearing in the Student's absence.

The Panel heard evidence from the teaching assistant responsible for grading the Student's work, who explained that he had noticed quotation marks in odd places in the Student's essay and a wide variance in the quality of the language, with grammatical errors mixed in with the use of very sophisticated language. Upon carrying out an internet search for the phrases used by the Student in the essay, the teaching assistant discovered a number of websites containing similar and/or verbatim language. No citations were provided in the Student's essay to any of these websites. The Tribunal determined that the evidence clearly established that the essay submitted by the Student contained ideas that were not her own and that were not cited appropriately. The Tribunal found the Student guilty of plagiarism, contrary to s. B.i.1(d) of the *Code*.

In determining the appropriate sanction, the Panel noted the seriousness of the offence of plagiarism, stating that this offence strikes at the heart of the integrity of academic work and is widely understood to be an unacceptable form of cheating. The Tribunal noted that students at the University are made aware of this when they enrol and are reminded throughout their time at the University by their professors and instructors of the importance of integrity and the prohibition of any form of academic cheating including plagiarism. The Tribunal also noted that students are given significant guidance on how to specifically avoid plagiarism. In this case, the Student did not respond to considerable correspondence from the University on this issue, did not attend the hearing and as a result, there were no mitigating circumstances for consideration. The Tribunal imposed the following sanctions: a final grade of zero; a suspension from the University until January 11, 2021; and a notation of this sanction on the Student's academic record and transcript until January 11, 2022. The Tribunal also ordered that the case be reported to the Provost for publication of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

FILE:	Case # 658 (12-13)	Panel Members:
DATE:	July 5, 2012	Ms. Rodica David, Chair
PARTIES:	University of Toronto v. N.G.	Dr. Joel Kirsh, Faculty Member Ms. Emily Holland, Student Member
HEARING DATE:	June 21, 2012	Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers Ms. Mary Phan, Legal Case Worker, Counsel for the Student, Downtown Legal Services

Trial Division – s. B.i.1(a) of *Code* – forgery of documents – Student knowingly forged, altered or falsified documents (specifically, medical certificates) required by the University in support of petitions for deferrals of exams in two courses – Agreed Statement of Facts (ASF) – guilty plea – Joint Submission on Penalty (JSP) – relevance of previous offences – pattern of forgery and falsification - challenging personal circumstances carry some weight in determining appropriate penalty – University's lack of intervention after initial offences a mitigating factor – University has duty to proactively assist students in distress rather than simply penalizing such students – test for disregarding JSP is very high – to reject a JSP the recommended penalty must be contrary to public interest or bring the administration of justice into disrepute – JSP accepted - limited circumstances in which motion can be brought to reopen case – final grade of zero; five-year suspension; notation of sanction on academic record and transcript; and publication by the Provost of notice of decision and sanctions with the Student's name withheld.

The Student was charged with six counts of academic misconduct under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* (the "*Code*") on the basis that she knowingly forged, altered or falsified documents (specifically, medical certificates) to obtain deferrals for writing final examinations in two courses at the University.

The parties submitted an Agreed Statement of Facts (ASF) and a Joint Submission on Penalty (JSP). The agreed facts were that the Student had registered as a student at the University in Fall 2007. In 2011, the Student petitioned for permission to write deferred examinations in two of her courses, which petitions were granted. The Student failed to write deferred examinations in either of the courses. The University then requested evidence of the Student's illness to support the reasons for missing her exams. The Student did not respond to this request. The Student subsequently submitted two formal online petition requests for a second deferral in each of the courses, both petitions indicating medical sickness as the reason for the requests. These petitions were refused on the basis that they had been submitted outside the designated deadline. The Student then submitted a medical certificate in support of her petitions. Upon investigation, the University discovered that the medical certificate was not genuine. The Student admitted that she had made up the certificate by obtaining the address stamp on line.

The Tribunal was satisfied that the facts in the ASF discharged the burden on the University to prove the offences by clear and convincing evidence. It unanimously found the Student guilty of the four charges upon which the University proceeded.

The Parties submitted a JSP in support of a final grade of zero in the two courses, a five-year suspension, a notation of the sanction on the Student's academic record and transcript from the date of the order until the earlier of her graduation from the University or June 30, 2018 and that the case be reported to the Provost for publication of a notice of the Tribunal's decision and the sanction imposed, with the name of the Student withheld.

In considering the appropriate sanction, the Tribunal noted two previous offences committed by the Student: the submission of a false quiz in one case and a false essay in the other. The Tribunal also noted the Student's challenging personal circumstances; that she was a 22 year old single parent of two young children, working two jobs and under significant financial pressure. The Tribunal found that the Student had shown a pattern of forgery and falsification as a means of obtaining credits toward her degree and that the previous sanctions she had received had no deterrent effect on her. The Tribunal took the view that the Student had numerous legitimate options open to her for dealing with her challenging personal circumstances, including seeking counselling at the University, applying for financial assistance, withdrawing from the programme or becoming a part-time student. While the Tribunal found that the Student's circumstances were not an excuse for her behaviour, it was satisfied that they did carry some weight in determining the appropriate penalty. The Tribunal stated that the University's lack of intervention after the Student's initial offences was a mitigating factor, noting that the University should consider that it has a duty to give proactive assistance to students in distress rather than simply imposing penalties on such students. Additional mitigating factors included that the Student acknowledged her wrongdoing at a meeting with the Dean, signed two ASFs and the JSP and pleaded guilty.

While the Tribunal considered that a recommendation for expulsion might have been more appropriate than the five-year suspension proposed in the JSP, it noted the very stringent test for rejecting a JSP set out in the case of *Regina v. Tsicos*. To reject a JSP, the Tribunal must find that the recommended penalty is contrary to the public interest or will bring the administration of justice into disrepute. Due to the high deference the JSP must be given, the Tribunal accepted the JSP.

Following the hearing, the Student sent an email to the two lay members of the Tribunal. The Tribunal noted in an addendum to its report that once a hearing is concluded, it might be open to a student to bring a motion to reopen the

case in certain circumstances. These are: if any facts came to light which could not have been known with reasonable diligence at the time of the hearing, if the facts sought to be adduced would have a significant bearing on the outcome and if it does not prejudice the University. No such motion was brought in this case and the Tribunal members did not therefore read the email.

The Tribunal imposed the following sanctions: a final grade of zero on both courses; suspension for a period of five years, to end June 30, 2017; notation of the sanction on the Student's academic record and transcript from the date of the order until the earlier of her graduation from the University or June 30, 2018; and publication by the Provost of a notice of the decision and sanctions imposed with the Student's name withheld.

FILE: Case # 991 (2020-2021)
DATE: July 6, 2020
PARTIES: University of Toronto v. Y. W. ("the Student")

Hearing Date(s):
January 29, 2020, in person, and May 7, 2020, via Zoom

Panel Members:
Ms. Lisa Talbot, Chair
Professor Margaret MacNeill, Faculty Member
Mr. Jin Zhou, Student Member

Appearances:
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Megan Phiffer, Law Student, Paliare Roland Rosenberg Rothstein LLP
Ms. Olivia Eng, Law Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:
Ms. Krista Kennedy, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances (January 29, 2020 & May 7, 2020)
Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances (May 7, 2020)

NOTE: The hearing followed the Panel's hearing in the related matter of the *University of Toronto and V.T.* (Case No. 980, May 5, 2020), in which it made findings of fact that are referenced in these reasons.

Trial Division – s. B.i.1(b) of Code – unauthorized assistance – Student initially found guilty of knowingly obtaining unauthorized assistance from a teaching assistant - *Policy on Official Correspondence with Students* – joint Submission on Penalty ("JSP") accepted - Student knowingly committed multiple offences and engaged in a scheme to cover-up the true facts from the University, which were viewed as aggravating factors – Students must know that they cannot seek to obtain unfair benefits from teaching assistants with whom they share a social network, or at all, and that doing so constitutes a breach of trust by everyone involved - grade of zero in the course – up to five-year suspension – a recommendation that the Student be expelled, further to s. C.ii.(b)(i) of Code – report to Provost for publication of a notice of the decision and the sanctions imposed, with the name of the Student withheld.

The Student was initially charged with five counts under s. B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") for knowingly using or possessing an unauthorized aid or aids or obtaining unauthorized assistance from a teaching assistant in connection with a programming course. The University subsequently withdrew three of these charges. Alternatively, she was charged with one count under s. B.i.3(b) of the Code for knowingly doing or omitting to do something to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage. This was charge was also withdrawn.

The Student did not attend the hearing on January 29, 2020. Based on various affidavits and the University's *Policy on Official Correspondence with Students*, the Panel found that she had been served with the charges and the Notice of Hearing and had received reasonable notice of the hearing. The Panel ordered that the hearing proceed in her absence and found her guilty of two counts of knowingly obtaining unauthorized assistance, contrary to s. B.i.1(b) of the Code. Following the University's submissions on penalty, the Panel adjourned the hearing to afford the Student a further opportunity to make submissions on penalty. The Panel accepted the Student's subsequent adjournment request and reconvened on May 7, 2020 with her in attendance.

The Student admitted that she had engaged in misconduct and accepted the University's sanctions set out in the JSP. The Panel found that she exhibited dishonesty and unethical character because she was prepared on two occasions to take

unauthorized assistance and to copy the instructor's solutions, and was prepared to exploit her relationship with a teaching assistant to obtain unauthorized assistance in a course in which she was registered. The Panel highlighted that the Student's actions were not isolated, but repeated, indicating that she did not suffer a momentary lapse of judgment and was prepared to mislead and lie repeatedly to the University about the misconduct when confronted. Furthermore, the Panel noted that she had only admitted her misconduct, expressed remorse and indicated that she was prepared to accept the consequences at the continuation hearing, after having engaged in a conspiracy to mislead the University over many months. According to the Panel, the fact that she originally conspired with other students to avoid sanction for herself and for the teaching assistant suggests she would likely commit such an offence if she thought she would not get caught or to protect another student engaging in misconduct. It also noted that the Student sees a distinction between cheating on a lab and cheating on an exam suggests she would likely cheat again if she thought it wasn't "serious". Her engagement in multiple breaches of the *Code* also contributed to the Panel's view that there is a likelihood of the Student committing ethical breaches again.

The Panel characterized the offences as serious because the Student was aware of what she was doing and aware that her actions were in breach of the *Code*. It also noted that she then deliberately misled the University in its investigation. According to the Panel, the Student's admission and her expression of remorse constituted mitigating factors. The fact that the Student knowingly committed multiple offences and engaged in a scheme to cover-up the true facts from the University was viewed as aggravating factors. The University has an important interest in protecting the integrity of the institution. Such integrity is fundamental to the academic relationship important that students are deterred from committing academic dishonesty. Students must know that knowingly breaching the *Code* will not be tolerated. They must also know that they cannot seek to obtain unfair benefits from teaching assistants with whom they share a social network, or at all, and that doing so constitutes a breach of trust by everyone involved.

The Panel imposed the following sanctions: a grade assignment of zero in the course; up to five-year suspension; a recommendation to the President that the Student be expelled further to s. C.ii.(b)(i) of *Code*; report to Provost for publication of a notice of the decision and sanction imposed, with the name of the Student withheld.

FILE: Case # 1077 (2020-2021)
DATE: November 2, 2020
PARTIES: University of Toronto v. J.H ("the Student")

Hearing Date(s):
August 6, 2020, via Zoom

Panel Members:
Mr. Dean F. Embry, Chair
Professor Kimberley Widger, Faculty Panel Member
Ms. Emily Hawes, Student Panel Member

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

Not in Attendance:
The Student

Hearing Secretary:
Ms. Krista Kennedy, Hearing Secretary and Administrative Clerk, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Trial Division – s. B.i.1(d) of *Code* – plagiarism – Student knowingly represented an idea or expression of an idea or work of another as their own in an assignment - Student did not attend hearing – reasonable notice of hearing provided – Rule 14 and 9 of the Tribunal's *Rules of Practice and Procedure* – finding of guilt – plagiarism strikes at the very heart of academic integrity and requires a significant sanction – no extenuating or mitigating circumstances as Student did not participate in the hearing – the lack of participation in the process is not an aggravating factor – lack of participation is not evidence that the Student has no insight or is not remorseful – final grade of zero in the course; two-yearsuspension ; notation of the sanction on the Student's transcript; and publication of notice of decision and sanctions with the Student's name withheld.

The Student was charged under s. B.i.1(d) of the *Code of Behaviour on Academic Matters, 1995* (the "*Code*") on the basis that he knowingly represented an idea or expression of an idea or work of another as his own in an assignment to obtain an academic credit. In the alternative, the Student was charged under ss. B.i.1(b) and B.i.3(b) of the *Code* on the basis that the Student knowingly obtained unauthorized assistance in connection with an assignment and knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage.

Neither the Student nor a legal representative of the Student appeared at the hearing. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges and notice of hearing. The Student was subsequently provided with an opportunity to provide submissions in relation to the request of Assistant Discipline Counsel for this matter to proceed electronically due to the COVID-19 pandemic. The Student did not respond to this request and the hearing was ordered to proceed electronically. The charges, notice, and other email correspondence to the Student went unanswered. The Panel found that that the Student had been provided with reasonable notice and proper service in accordance with Rule 14 and 9 of the Tribunal's *Rules of Practice and Procedure* and therefore determined it would proceed to hear the case on its merits in the Student's absence.

The assignment in question required the Student to write an interactive tree-map visualization tool in which the Student was provided with a "starter code" which he was required to build upon to create the envisioned tool. The course in question was taught at both the St. George and University of Toronto Mississauga ("UTM") campuses at the same time in which the "starter code" was the same. However, there were two non-operative changes made to the code to differentiate between the two campuses. The Student's assignment contained the UTM started code instead of the one provided to the St. George campus students.

Regarding the charges laid under s. B.i.1(d) of the *Code*, the Panel considered the possibility that the Student generated his own original work and it was somehow shared or accessed by other students without his knowledge, however, the Panel found that the identical or substantially similar contents of the Student's assignment compared to the assignments of the other students and the use of the UTM "starter code" makes that possibility unlikely. The Panel found that it was more likely than not that the Student was guilty of one count of knowingly representing an idea or expression of an idea or work of another as his own, contrary to section B.i.1(d) of the *Code*. Given the Panel's finding, the University withdrew the charges under ss. B.i.1(b) and B.i.3(b).

In determining sanction, the Panel declined to treat the Student's lack of participation in the process as an aggravating factor as it is the Panel's finding that the Student's lack of participation is not evidence that the Student has no insight or is not remorseful and it would be improper to infer anything from the lack of participation or attendance as there is no evidence before the Panel as to why the Student did not participate in the process. Without the Student's participation, the Panel found no evidence of mitigating circumstances or factors and accepted the University's submission on penalty. Given the seriousness of the offence the Panel imposed the following sanctions: a final grade of zero in the course; a two-year suspension from the University; a three-year notation of the sanction on the Student's transcript; and a publication by the Provost of a notice of the decision and sanctions imposed with the Student's name withheld.

FILE: Case # 1137 (2020-2021)
DATE: May 18, 2021
PARTIES: University of Toronto v. B.C. ("the Student")

Hearing Date(s):
February 17, 2021, via Zoom

Panel Members:
Mr. Nader Hasan, Chair
Dr. Maria Rozakis-Adcock, Faculty Panel Member
Ms. Yerin Lee, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(b) of Code – unauthorized aid – Student knowingly attempted to obtain unauthorized assistance in a final exam – Agreed Statement of Fact ("ASF") – guilty plea – Joint Submission on Penalty ("JSP") – Joint Book of Documents ("JBD") – The offer of money in exchange for participating in an act of academic dishonesty is an aggravating factor – Joint Submission on Penalty accepted – final grade of zero

in the course; a four-year suspension; a five-year notation of the sanction on the Student's transcript; and a report to the Provost for a publication.

The Student was charged under s. B.i.1(b) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he knowingly obtained unauthorized assistance in connection with a final exam. In the alternative, the Student was charged under s. B.i.3(b) of the Code on the basis that the Student knowingly did or omitted to do something to engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in a course.
Neither the Student nor a legal representative of the Student appeared at the hearing. The hearing took place based on an Agreed Statement of Facts ("ASF") signed by the Student and Assistance Discipline Counsel. The ASF noted that the Student did not wish to participate in the proceedings and requested that the Tribunal proceed in his absence. The Student acknowledged that he understood that the Tribunal may find that he committed an act, or acts, of misconduct and may impose sanctions in accordance with the Code and that the University Tribunal is not bound by the terms of the joint submission on penalty.

Along with the ASF, the parties submitted a Joint Book of Documents ("JBD"). The ASF outlined that the Student admitted that he knew that he was not permitted to have anyone assist him in the final assessment; he asked a third-party to provide him with unauthorized assistance in the final assessment; he offered to pay the third-party for their assistance; he attempted to convince the third-party to provide unauthorized assistance after they had decline; and that he was guilty of attempting knowingly to obtain unauthorized assistance for the final assessment. After hearing the submission of counsel for the University as well as reviewing the ASF and JBD, the Panel concluded that the charge of unauthorized assistance had been proven with clear and convincing evidence on a balance of probabilities and accepted the guilty plea of the Student. As a result of this finding, the University withdrew the alternative charge under s. B.i.3(b) of the Code.

The parties submitted a Joint Submission on Penalty ("JSP") prior to the hearing. The Panel received submissions from the University that indicated that a JSP should only be rejected if the joint submission on penalty is contrary to the public interest or would bring the administration of justice into disrepute, in accordance with the Discipline Appeals Board ("DAB") decision in *University of Toronto and M. A.* (Case No. 837, December 22, 2016). The Panel took into consideration the seriousness of the offence and that the Student offered another student money in exchange to obtain unauthorized assistance in an exam. The offer of money in exchange for participating in an act of academic dishonesty is an aggravating factor. The Panel noted the Provost's submission that the sanction sought took into account some mitigating factors. First, the offence was an attempt, rather than a complete offence and second, the Student's cooperation and entering into the ASF and JSP shows insight and remorse. The Panel, having regard for the DAB decision, the aggravating factor, and the University's submission that the JSP takes into account the mitigating factors, determined that there is no evidence to suggest that the JSP would be unreasonable and unconscionable. Therefore, the Panel accepted the penalty proposed by the JSP. The Panel imposed the following sanctions: a final grade of zero in the course; a four-year suspension; a five-year notation on the transcript; and a report to the Provost for a publication.

FILE: Case # 1126 (2020-2021)
DATE: September 13, 2021
PARTIES: University of Toronto v. K.Z. ("the Student")

Hearing Date(s):
June 15, 2021, via Zoom

Panel Members:
Mr. Dean F. Embry, Chair
Professor Mike Evans, Faculty Panel Member
Ms. Syeda Hasan, Student Panel Member

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

Not in Attendance:
The Student

Hearing Secretary:
Ms. Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(d) of the Code – two counts of plagiarism – Student knowingly represented an idea or expression of an idea or work of another as their own in a final exam and a test – Student did not attend hearing – reasonable notice of hearing provided – Rules 9 and 14 of the University Tribunal's *Rules of Practice and Procedure* ("Rules") – finding of guilt on both counts of plagiarism – although a Student's assurance that the behaviour will not be repeated can act as a mitigating factor, there is no onus on the Student to provide such assurances such that an absence is an aggravating factor – final grade of zero in the course; two-year suspension; three-year notation on transcript; and a report to the Provost for a publication.

The Student was charged with two counts of knowingly representing the ideas of another, or the expressions of the ideas of another, as her own work in a test and a final exam, contrary to s. B.i.1(d) of the *Code of Behaviour on Academic Matters, 1995* (the "Code"). In the alternative, the Student was charged with two counts of knowingly obtaining unauthorized assistance in connection with a test and a final exam, contrary to s. B.i.1(b) of the Code. In the further alternative, the Student was charged with two counts of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage in connection with a test and a final exam, under s. B.i.3(b) of the Code.

Neither the Student nor a legal representative of the Student appeared at the hearing. The University provided evidence that the Student had been served with the charges and the Notice of Electronic Hearing via email to her ROSI-listed email address. The University filed evidence demonstrating attempts to contact the Student via email which included invitations for discussions, efforts to arrange scheduling of the hearing, disclosure of materials, and reminders of the hearing. The Student was subsequently provided an opportunity to provide submissions in relation to the request of the Assistant Discipline Counsel for the hearing to proceed electronically due to the COVID-19 pandemic. The Student did not respond to this request and the hearing was ordered to proceed electronically. The charges, notice, and email correspondence to the Student went unanswered. Given the foregoing, the Panel found that the Student was provided with reasonable notice and proper service as outlined in rules 9 and 14 of the University Tribunal's *Rules of Practice and Procedure* and as such, the Panel ordered that the hearing proceed in the Student's absence.

Regarding the charges laid under s. B.i.1(d) of the Code, the Panel received affidavit evidence of the professor who taught the course for which the test and the final exam in question were submitted. The professor's evidence outlined that after the exams were submitted the instructors and the teaching assistants in the course found a number of questions and answers for both the test and the final exam on Chegg.com ("Chegg"). It was later discovered that someone had posted questions and answers from the test and the final exam on Chegg during the 24 hour-period of both examinations. An examination of the answers provided by the Student and those posted on Chegg revealed striking similarities. For example, the manner in which the problems were solved and the steps taken in those solutions were the same and unusual. Further, both set of answers contained missing steps. The Panel agreed that the similarities between the answers of the Student and those found on Chegg showed, on a balance of probabilities, that the Student somehow came into possession of the answers posted on Chegg and copied them into the answers she ultimately submitted. The Panel noted that the evidence did not show that the Student was the one who posted the questions on Chegg or that she received the answers from Chegg; all that could be said was that the Student directly or indirectly came into possession of those answers and improperly relied on them. Given all the evidence, the Panel found the Student guilty of two counts of knowingly representing an idea or expression of an idea of work of another as her own, contrary to s. B.i.1(d) of the Code.

In determining sanction, the Panel considered the guidance outlined in the Provost's Guidance on Sanctions in Appendix "C" of the Code. Section B.8(b) provides that at the Tribunal level, "absent exceptional circumstances, the Provost will request that the Tribunal suspend a student for two years for any offence involving academic dishonesty, where a student had not committed any prior offences." The University drew the attention of the Panel to a number of factors that they say call for a higher sanction than that contemplated in the Code. First, the University noted that the Student failed to participate in the process which goes to the character of the Student and that there is no evidence of remorse, mitigating circumstances or acknowledgement from the Student that this behaviour will not be repeated. Second, the University noted that there was a financial or commercial aspect to these offences that elevates their seriousness. Finally, the University noted that the behaviour was repeated as it was in relation to two separate tests. The Panel disagreed with the University that the Student's non-participation can be used as an aggravating factor. The Panel noted that while a failure to participate robs the Student of the ability to present evidence of remorse or mitigating factors that may reduce a sanction, the non-presentation of that evidence does not itself represent an aggravating factor that can be used to increase sanction. Similarly, although a student's assurance that the behaviour will not be repeated can

act as a mitigating factor, the Panel noted that there is no onus on the Student to provide such assurances such that an absence is an aggravating factor. Based on the evidence outlined at the hearing, the Panel determined that since it was unable to conclude whether the Student was a subscriber to Chegg or that she was aware that the answers she used were retrieved from that site, the commercial nature of the site could not be used an as aggravating factor. Regarding the repetition of the behaviour in question the Panel noted that although teaching staff reached out to the Student prior to the second offence, there is no evidence that the Student reviewed that correspondence. Therefore, the University had not proven that the Student repeated the behaviour after being notified that it was unacceptable. The Panel further noted that both offences took place in the initial weeks of the COVID-19 pandemic as lockdowns swept Ontario and thus, it was reasonable to assume that the global upheaval during those weeks had a negative effect on the Student. The Panel did not impose the sanction requested on behalf of the University. However, given the serious nature of the offence and absence of any mitigating factors, the Panel found that a substantial sanction was an appropriate one. The Panel imposed the following sanctions: a final grade of zero in the course; a two-year suspension; a three-year notation on the transcript; and a report to the Provost for a publication.

FILE:	Case # 1274 (2022-2023)	Panel Members:
DATE:	July 11, 2022	Ms. Cynthia Kuehl, Chair
PARTIES:	University of Toronto v. X.Z. ("the Student")	Professor Ernest Lam, Faculty Panel Member Ms. Saskia Van Beers, Student Panel Member
Hearing Date(s): April 19, 2022, via Zoom		Appearances: Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP Mr. William Webb, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP Not in Attendance: The Student Hearing Secretary: Ms. Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

Trial Division – s. B.i.1(b) of Code – unauthorized assistance – Student used or possessed an unauthorized aid or obtained unauthorized assistance in an assessment – Student did not attend the hearing – Rules 9 and 17 of the University Tribunal's Rules of Practice and Procedure – ss. 6 and 7 of the Statutory Powers Procedure Act – Panel was satisfied the hearing could proceed in the Student's absence – finding of guilt – the Student attended a paid review session that occurred during the assessment window – there were **a number of similarities between the Student's answers and those given by the tutoring service in the review session – the Student's name appeared on the attendee list of the review session and they were the only student in the course by that name –the University is harmed whenever students participate in mass cheating incidents, as it potentially sends a message to the broader community regarding the University's integrity – abuse of asynchronous/online testing is an ongoing issue at the University – unauthorized assistance strikes at the heart of academic integrity, and it is appropriate to send a strong message to student that this type of misconduct will be treated very seriously – University of Toronto and D.K. (Case No. 1119, July 21, 2021) and University of Toronto and S.C. (Case No. 1215, January 13, 2022) – absence of any other aggravating factors, the Panel determined that a suspension of 2.5 years, representing the aggravation of a commercial nature of enterprise only, was appropriate – a grade of zero in the course; a two-and-a-half-year suspension; a three-and-a-half-year notation on the transcript; and a report to the Provost for publication**

The Student was charged under s. B.i.1(b) of the *Code of Behaviour on Academic Matters*, 1995 (the "Code") on the basis that the Student knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in an assessment. In the alternative, the Student was charged under s. B.i.3(b) of the Code on the basis that the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage in connection with an assessment.

The hearing was scheduled to commence at 5:45 p.m., but the Panel waited until 6:00 p.m. before commencing the hearing. The Student did not appear. The University requested that the hearing proceed in the absence of the Student. The Panel noted that the jurisdiction for proceeding in the absence of the Student is set out in ss. 6 and 7 of the *Statutory Powers Procedure Act* ("SPPA") and rule 17 of the University Tribunal *Rules of Practice and Procedure* ("Rules"). The Panel further noted that the Tribunal may proceed in the absence of a party provided that reasonable notice of an oral hearing has been given to the party in accordance with the SPPA, and when a party does not attend and reasonable notice was given, a party

is not entitled to further notice. The University provided evidence that the Student was served with the charges, Notice of Electronic Hearing, and other correspondence to the Student's email address as recorded in the Repository of Student Information ("ROSI"). The Panel noted that students are responsible for maintaining in ROSI a current and valid mailing address and University-issued email account and are expected to retrieve mail and email on a frequent and consistent basis. Rule 9 of the Rules provides that a student may be served by sending a copy of a document to a student's email address as contained in ROSI. The Panel noted that the service of documents to the Student's email address contained in ROSI therefore met the requirements for service under rule 9. The University provided evidence that they took numerous steps to contact the Student including by email, telephone, and courier to the Student's last known mailing address contained in ROSI. Given the evidence, the Panel found that notice had been given in accordance with the SPPA and the Rules and that there was no reason not to proceed in the absence of the Student in accordance with s. 7(3) of the SPPA. The Panel proceeded to hear the case on its merits in the absence of the Student.

Regarding the charge under s.B.i.1(b) of the Code, the Panel received affidavit evidence of one of the professors who taught the course for which the assessment in question was submitted and of a member of the Association of Professional Language Interpreters who provided a translation of a poster for Easy Edu, a commercial tutoring service. The Professor supplemented his affidavit with testimonial evidence. The Professor's evidence outlined that after the assessment, the Professor was contacted by a student in the course who advised that there has been a review session online by a commercial tutoring service called Easy Edu. The review session included a copy of a student package that contained 22 questions. The Professor confirmed that those exact same 22 questions had been provided to another student who subsequently admitted they had paid a tutor to check their answers during the assessment period. Another student emailed the Professor, and the Student Academic Integrity office, expressing concerns with the academic integrity of this particular assessment and attached a link to a YouTube video of the Easy Edu review session. Upon review of the YouTube video, the Professor noted that all 22 questions in the student package were solved, there were at least 180 attendees, and the session occurred during the assessment period. The Panel noted that the Professor testified that the student package had four different authors on it and that in his view, a proficient person could both modify the questions and develop solutions to all the questions in a one-hour period. The Professor further testified that although the video was in another language, he was able to understand the math as seen in the video and confirmed that the 22 questions that were solved during the review session were the ones he had written for the assessment. Furthermore, review of the rough work submitted by the Student revealed a number of similarities with the answers that Easy Edu provided in the review session. The Panel noted that the Professor confirmed that he was able to see the names of the attendees at the review session and these names included the name of the Student. The Panel was convinced, on a balance of probabilities, that the student whose name appeared on the review video was the same person as the Student who is the subject of these charges. The Panel further noted that there was only one student by that name in the course, and therefore only one student of that name would be motivated to attend. Furthermore, the similarities of the specific idiosyncratic notations between the Easy Edu answers and the Student's rough work established that the Student received and used unauthorized assistance to complete the assessment, contrary to s. B.i.1(b) of the Code. In consideration of all the evidence, the Panel found that the University had established the first charge. The University withdrew the alternative charge.

In determining sanction, the Panel carefully considered the factors set out in University of Toronto v. Mr. C. (Case No. 1976/77-3, November 5, 1976). The Panel noted that there was no evidence of the Student's character other than those in relation to the offence. The Panel noted that this was the Student's first offence, but it was unable to make any findings in relation to the likelihood of repetition of offence in the future. With respect to the nature of the offence, the Panel noted that the University must be able to trust that asynchronous testing will be completed with the same academic integrity as if the test were administered in person. Regarding the detriment to the University, the Panel accepted that the University's trust in the Student was harmed as a result of this incident and noted that the University is harmed whenever students participate in mass cheating incidents, as they potentially send a message to the broader community regarding the University's integrity. The Panel outlined that general deterrence is an important factor in these cases especially since it is apparent that the abuse of asynchronous/online testing is an ongoing issue at the University. The Panel noted that unauthorized assistance strikes at the heart of academic integrity, and it is appropriate to send a strong message to student that this type of misconduct will be treated very seriously. In determining the appropriate length of suspension, the Panel had particular regard for two cases provided to it by the University: *University of Toronto and D.K.* (Case No. 1119, July 21, 2021) (*D.K.)* and *University of Toronto and S.C.* (Case No. 1215, January 13, 2022) (*S.C.*). The Panel agreed that where there is the use of a commercial provider there ought to be consequences over and above the typical two-year suspension for unauthorized assistance and conventional academic dishonesty. *S.C.* and *D.K.* are good examples of incremental increased in the length of suspension. Given the absence of any other aggravating factors and any prior misconduct, the Panel determined that a suspension of two-and-a-half years, representing the aggravation of a commercial nature of enterprise only, was appropriate. The Panel imposed the following sanctions: a grade of zero in the course; a

two-and-a-half-year suspension; a three-and-a-half-year notation on the transcript; and a report to the Provost for publication.

IMPLICATION OF THIRD PARTY

FILE: Case #522 (08-09)
DATE: May 5, 2009
PARTIES: University of Toronto v F. M.

Hearing Date(s):
January 12, 2009

Panel Members:
Andrew Pinto, Chair
Annette Sanger, Faculty Member
Song Li, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Betty-Ann Campbell, Law Clerk to Mr. Centa
Grant Allen, Vice-Dean

Trial Division – *s. B.i.1(a)* of *Code* – forged documents – altered mid–term and term test resubmitted – hearing not attended – charges not responded to – reasonable notice of hearing – see *Policy on Official Correspondence with Students* and *Statutory Powers Procedure Act* – finding of guilt – breach of trust evoking at least two year suspension – see case of *Mr. S.B.* – on-going campaign of deception – third party implicated and named – University Submission on Penalty accepted – grade assignment of zero for two courses; four-year suspension; six-year notation on transcript; and report to Provost

The Student was charged with two offences under *s. B.i.1(a)* and alternatively, two offences under *s. B.i.3(b)* of the *Code.* The charges related to allegations that the Student submitted for re-grading an altered mid-term examination in one course and an altered term test in another course. The Student did not attend the hearing and was not represented by counsel. There had been no communication from the Student in relation to the charges. The Panel considered the efforts made by the University to serve the Student, the *Policy on Official Correspondence with Students* and the *Statutory Powers Procedure Act* and found that all reasonable attempts to provide the Student with Notice of the hearing had been made. The Panel permitted the hearing to proceed in the Student's absence. According to evidence submitted by the University, the Student denied that the submitted test booklet was his own and he claimed that he had asked a friend to submit the document on his behalf. The Student claimed that the friend, another student, submitted a different test booklet because he wanted to get him into trouble. The Student also denied submitting the documents regarding the mid-term exam and claimed that the documents submitted were not his own. The Student also implicated the other student in the events associated with the mid-term exam. The Panel considered the method of marking for the courses, the evidence, including testimony from the course professors, and the submissions of the University and found that the evidence was overwhelming. The Panel returned a finding of guilt on the two charges under *s. B.i.1(a).* The Panel considered the case of *Mr. S.B.* (Nov. 14, 2007) and whether the Student's misconduct constituted a serious breach of trust giving rise to at least a two-year suspension and whether a two-year suspension should be imposed for each of the Student's two infractions. The Panel concluded that the penalty requested by the University should be imposed. The Panel found that the Student had engaged in an on-going campaign of deception beyond the falsification of documents. The Panel found that on the balance of probabilities, the examination booklet and midterm test that the Student denied having submitted were the Student's own. The Panel found that the Student denied sending emails from his own email account and that his claims regarding his health changed during the course of the hearing process. The Panel found that the Student's implication and naming of a third party was a significant aggravating factor. The Panel imposed a grade of zero in the two courses; a four-year suspension; a six-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #684 – Finding; Sanction (12-13)
DATE: June 11, 2013
PARTIES: University of Toronto v C.M.

Hearing Date(s):
February 20, 2013
May 2, 2013

Panel Members:
Lisa Brownstone, Chair
Pascal van Lieshout, Faculty Member
Yingxiang Li, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Assistant Discipline Counsel
C.M, the Student
Stewart Aitchison, Professor
Nick Carriere, Teaching Assistant
Alex Wong, Teaching Assistant

John Carter, Dean's Designate
Diane Kruger, Forensic Document Examiner

In Attendance:
Adam Goodman, to advise student, not on record (Feb. 20, 2013)
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

NOTE: Sanction overturned on appeal.

Trial Division – *s. B.i.1(a)* of the *Code* – forged documents – submitted another student's test as Student's own – Student's expert's report submitted minutes before trial unsigned and in draft form –Student could not cross examine University expert on the contents of Student's expert report where Student's expert did not attend hearing – Student retracted admission made at Dean's Meeting – Student did not sign anything at Dean's Meeting – Panel held retracted admission was of limited assistance because it was possible the Student did not genuinely intend to plead guilty – finding of guilt – evidence against Student was substantial and unambiguous – offence was serious – no mitigating factors – Student implicated professor and TA as having presented fabricated evidence – not an aggravating factor for the Student to criticize the system; students must be free to comment without fear – grade assignment of zero in the course; recommendation that the Student be expelled; suspension lasting five years or until Governing Council makes decision on expulsion; report to Provost for publication

Student charged with one offence under *s. B.i.1(a)*. Student was charged in the alternative with one offence under *s. B.i.3(a)* and in the further alternative, with one offence under *s. B.i.3(b)*. The charges related to an allegation that the Student advised the professor a test mark was erroneously recorded as a zero and altered and submitted to the professor another student's test claiming it to be the Student's own. The Student attended the hearing. The Student was accompanied at the hearing by the Student's former counsel who was not on the record but had come to provide the Student with advice.

Both the Student and the University had retained their own forensic document examiners. A week prior to the hearing, an order was made by a Proceedings Chair that University counsel was to deliver the University's expert report by February 13, 2013. The Proceedings Chair also held that if the Student's expert did not attend the hearing, the evidence of the Student's expert would not be admitted. The Student received a report from a forensic document examiner in Michigan on February 18, 2013. No arrangements were made to have the expert appear in person or by video conference. The Student delivered the report to University counsel, unsigned and in draft form, minutes before the hearing on February 20, 2013. The Student attempted to cross examine the University's expert on the contents of the report prepared by the Student's expert. University counsel objected and the Panel ruled that the Student could ask questions based on information learned from the report of his expert, but that the Student could not tender the report as evidence, nor refer to the report in cross-examination.

The Panel determined that the evidence that the Student did not write the test was substantial and unambiguous. The Panel found that the emails between the Student and the TA were sent from the Student, notwithstanding the Student's attempts to characterize these emails as abnormal. The Panel stated that the contents of the email the Student sent to the TA and the email the student provided to the professor, along with the Student's desire to keep the original test paper, all supported the University's allegations. The Panel accepted the evidence of the University's expert and concluded that there was no doubt that the Student's name and student number had been written over top of those of the original student's whose test had been altered. The Panel held that the admission made by the Student at the Dean's Meeting was of limited assistance. The Student had retracted the admission and the Panel agreed that it was possible that the Student had never meant to plead guilty and had only said "yes" to "get it over with." The Student had not signed any documents at the Dean's Meeting. The Panel concluded that the standard of proof set out in *F.H. v McDougall* was met and found the Student guilty of the offence alleged under *s. B.i.1(a)* of the Code.

The sanction phase of the hearing occurred on a separate day. At the sanction phase the Student sought to introduce a variety of documents relevant to liability. The Panel considered whether it was appropriate to reconsider liability at the sanction phase. The Panel observed the existence of a broad right of appeal wherein fresh evidence may sometimes be admitted. The Panel noted that the right of reconsideration is never explicitly addressed in either the Code or the Rules.

The Panel also stated that it was unclear whether it had jurisdiction to reconsider liability at the sanction phase, after considering the *Statutory Powers and Procedure Act* and the Rules. The Panel concluded that even if it had this jurisdiction, it would not exercise its discretion to admit new materials relevant only to the issue of liability at this stage given the full hearing had already occurred, the Student had access to counsel at the hearing, and all the information the Student wished the Panel to consider had been available to the Student at the time of the initial hearing.

The Panel underscored the seriousness of the offence and noted that there was a high degree of planning and deliberation involved. The Panel observed that there was no evidence of mitigating factors and was concerned that the Student had implicated one of the TAs and the professor by suggesting they either fabricated or possessed "bogus" emails. The Panel disagreed, however, with the University's submission that it was an aggravating factor for the Student to suggest that there was a problem with "the system." The Panel concluded that this suggestion was not sufficient to call into question the University's integrity and students must be able to bring forward concerns about the systems in place without fear of those concerns being cast as aggravating factors. The Panel imposed a final grade of zero in the course, a recommendation that the Student be expelled from the University, a suspension of five years or until the Governing Council makes a decision on expulsion, whichever comes first, and ordered that the case be reported to the Provost for publication.

FILE: Case # 796 (16 - 17)
DATE: November 10, 2016
PARTIES: University of Toronto v. R.D. ("the Student")

Hearing Date(s): August 11, 2016

Panel Members:
Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Bruno Magliocchetti, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland, Barristers
Ms. Ejona Xega, Student-at-law, Downtown Legal Services

In Attendance:
The Student
Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, Office of the Dean, U of T, Mississauga
Mr. H.D., the Student's brother
Ms. S.D., the Student's mother
Mr. D.D., the Student's father
Mr. Paul Michell, Observer, newly appointed Tribunal Co-Chair
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(b), s. B.i.1(d)* of *Code* – unauthorized assistance - plagiarism — Agreed Statement of Facts – guilty plea – Agreed Statement of Facts on Penalty – Joint Submission on Penalty accepted – sentencing principles – consideration of Mr. C factors relevant to sanction – grade assignment of zero in the two courses associated with the plagiarism charges; a suspension of two years and eight months; a notation on the Student's transcript until graduation; and a report to the Provost.

Student charged with two charges of plagiarism contrary to *s. B.i.1(d)* of the *Code* and one charge of obtaining unauthorized assistance during a test contrary to *s. B.i.1(b)* of the *Code.* Alternative charges included academic dishonesty contrary to *s. B.i.3(b)* of the *Code*, obtaining unauthorized assistance contrary to *s. B.i.1(b)* of the *Code,* and being a party to obtaining unauthorized assistance contrary to s. *B.i.1(b)* and s. *B.ii.1* of the *Code.* The charges related to allegations that the Student shared answers with another student during a test, and had represented ideas as his own from unattributed sources in two separate written assignments.

The matter proceeded by an Agreed Statement of Facts. In relation to the charge of unauthorized assistance, the Student admitted that he had shared answers with a classmate during a test. The plagiarism charges related to essays that had been turned in for course credit in two separate courses. Both essays copied text directly from internet sources (Wikipedia, the BBC website, and others) that had not been accompanied by proper citations. The Student did not admit liability at the Dean's Designate meetings with respect to the offences but at the Tribunal, pled guilty to the unauthorized assistance charge as well as the two charges of forgery. Upon the Panel finding guilt on these charges, the University withdrew the alternative charges.

The parties submitted a Joint Submission on Penalty. In determining the appropriateness of the proposed penalty, the Panel took into consideration that the Student's admissions of guilt only came after his co-conspirator had admitted to unauthorized assistance during the test; that the Student had past academic misconduct (he had two prior charges of plagiarism in addition to three charges dealt with at the hearing); that the Student would be graduating after the completion of the sanction so it was the last chance to stress the importance of the *Code;* and the need for general deterrence. The Panel reviewed other cases advanced by the University which suggested that a two-year suspension is a threshold penalty for plagiarism, and that a three-year suspension is a "baseline" where there have been multiple offences. In light of the Student's history of academic misconduct, the Panel noted that a suspension of three to four years may have been appropriate in this case, but recognized the need to respect and defer to the Joint Submission on Penalty. Though it was on the low end of sanctions where a student was found guilty of multiple offences, the Panel accepted the parties' Joint Submission on Penalty of a grade assignment of zero in the two courses associated with the plagiarism charges; a suspension of two years and eight months; a notation on the Student's transcript until graduation; and a report to the Provost.

TIMELINESS OF HEARING

FILE: Case #01-02-01 (01-02) *DAB
DATE: November 19, 2001
PARTIES: University of Toronto v Mr. P. (Applicant-Respondent)

Panel Members:
C. Anthony Keith, Senior Chair

Appearances:

Hearing Date(s):
October 4, 2001

Lily Harmer, for the Respondent-Applicant
Gary Shortliffe, for the Applicant-Respondent

DAB Decision

Discipline Appeals Board – application for extension of time to appeal - cross-application request that extension of time not operate as stay of Tribunal decision – notice of appeal not delivered within time provided – see *E.5* of *Code* – understanding from Tribunal Secretary that legal representation should be secured before filing formal notice of appeal - exceptional circumstances required to enlarge time for appeal made before or after expiry of time provided - see *s. E.5* of *Code* – no reference of exceptional circumstances in past decisions, *Code* or *Code of Student Conduct* - time limits not rendered mandatory by imperative language in *Code* – exceptional circumstances demonstrated – application not opposed by University provided conditions incorporated into order – acceptance of conditions - extension for the time of appeal granted with conditions - submissions on costs reserved to Chair of Appeal Tribunal

Application by the Student for an extension of time to bring his appeal from a Tribunal decision. The University brought a cross-application, pursuant to section *E. 10* of the *Code*, requesting that any extension of time not operate as a stay of the decision of the Tribunal below. The Student claimed that while no formal notice of appeal was delivered to the secretary within the time provided by *E.5* of the *Code*, he understood from his conversations with the then-Secretary of the Tribunal that he should proceed with his attempts to obtain legal representation and when he had secured that legal representation he should then file a formal notice. The issue before the Chair was whether or not the circumstances described by the Student would reasonably fall within the language of the *Code* and constitute "exceptional circumstances" so that the Chair could exercise his power under *s. E.5* of the *Code* and enlarge the time for appeal upon application made either before or after the expiry of time provided. The Chair considered the *Code of Student Conduct* and previous Tribunal decisions found that the *Code of Student Conduct* did not contain the phrase "exceptional circumstances," or any provision for the extension of time and that there were no previous decisions of the Tribunal addressing the issue. The Chair considered the general jurisprudence on the issue of administrative tribunals and extensions of time and found that the use of imperative language found the in *Code* did not by itself render time limits mandatory. The Chair considered the chronology of events and the submissions of the Student, and affidavit evidence which indicated his understanding of what was expected of him as a result of a conversation with an employee representing the University, and the fact that the University had not decided to controvert by cross-examination or filing additional material, and found that on the circumstances of the case alone, there were exceptional circumstances upon which to exercise the power under the enactment to enlarge the time for appeal. The University did not oppose the Student's application provided that certain conditions were incorporated into the order granting an extension of time. The Chair considered the Student's acquiescence to the conditions and ordered that an extension for the time of appeal be granted, conditional upon: the appeal of the Tribunal decision would not operate as a stay of that decision, pursuant to *s. E.10* of the *Code*; the granting of leave to appeal would not operate so as to prevent the University from raising as an issue on the appeal any practical difficulties which may arise in terms of presenting the necessary witnesses to deal with any new hearing the appellant tribunal might see fit to order; and the parties were to abide by a strict timetable. The Chair ordered that any submissions as to costs of the hearing would be reserved to the Chair of the Appeal Tribunal.

FILE: Case #495 (08-09)
DATE: information not available
PARTIES: University of Toronto v. T.F.O.K.

Panel Members:
Bernard Fishbein, Chair
Kristina Dahlin, Faculty Member
Joan Saary, Student Member

Hearing Date(s):
May 26, 2008
November 26, 2008

Appearances:
Lily Harmer, Assistant Discipline Counsel
Max Shapiro, Counsel for the Student, DLS

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – course work in two courses – Agreed Statement of Facts – guilty plea with regard to one assignment – charges disputed with regard to another assignment – third party submitted copy of essay – explanation of circumstances not credible – finding of guilt – Joint Submission on Penalty – effective date of proposed sanction disputed – *de facto* greater suspension because of loss of work in full year courses – but for agreement of parties suspension of greater duration would have been imposed – delay in Tribunal process – prior academic offence – little remorse – academic misconduct not admitted until sentencing – impact of suspension would work to greater effect because of delay in Tribunal process – delay in Tribunal process not attributed to Student – suspension not to commence until the end of second term – grade assignment of zero for two courses; three-year suspension; four-year notation on transcript; and report to Provost

The Student was charged with two offences under *s. B.i.1(d)* and, alternatively, two offences under *s. B.i.3(b)* of the *Code*. The charges related to alleged acts of plagiarism with regard to two assignments, submitted in two courses, both of which contained unacknowledged verbatim or nearly verbatim text from another student's paper. The Student pleaded guilty to the first allegation of plagiarism but disputed the charges with respect to the second assignment. The matter proceeded as an Agreed Statement of Facts. With respect to the first assignment, the Student admitted that he had copied passages from another student's paper which was posted on the course website. With respect to the charges in the second assignment, the Student submitted an essay which was virtually identical to an essay submitted by another student in the course. Upon investigation it was discovered that the other student in the course had resubmitted, with corrections, an essay which she had previously submitted in a summer course. The Student was also in the summer course with the other student. The other student confessed to altering her essay for the summer course and re-submitting it with the alterations in the course in question. The essay submitted by the Student contained the same errors as the original essay submitted by the other student in the summer course. The other student could not explain how the Student obtained a copy of her essay. The Student claimed that he had written the essay for the summer course initially but that his USB had gone missing from the computer lab and that it was irretrievable without the USB key. The Student claimed that he later discovered his draft of the essay on his sister's laptop and he submitted it to fulfill the essay requirement in the course in question. The Manager of the UTM police testified that no report was filed regarding the purported missing USB key. Participants in the investigation process asserted that the Student's previous explanation of events ran contrary to the Student's evidence in chief. The reference material footnoted in the essay was not available from the Library where the Student asserted he had done the research nor did documents that the Student provided during the investigation match the footnotes or quotes contained in the essay. The library records at the University showed that the other student had borrowed the relevant books footnoted in the essay at the relevant time. The Panel found that the Student's explanation was not credible. The Panel found that there was no evidence to support the Student's claim that the other student had obtained a copy of his essay and submitted it as her work in both the summer course and later in the second course with some alterations. The Panel found that, even in absence of any direct evidence of how the Student had obtained the other student's essay, on the balance of probabilities, the University had established that contrary to *s. B.i.1(d)* of the *Code*, the Student had knowingly represented as his own the work of another. Although the parties made a Joint Submission on Penalty, the effective date of the proposed three-year suspension was disputed. The University proposed that the date of suspension commence at the beginning of the next term. The Student opposed that proposal since it would have turned the three year suspension into a *de facto* greater suspension as he would have lost the work already completed in his full year courses. The Student claimed that if the Tribunal deliberations had concluded earlier he would not have enrolled in the full year courses and that the delay in the tribunal process made the impact of the penalty more severe. The Panel stated that but for the agreement of the parties, it would have imposed a longer suspension. It was not the Student's first offence with respect to similar misconduct, he displayed little remorse or contrition over his academic misconduct and he resisted any admission of his academic misconduct until the sentencing portion. The Panel observed that, having accepted the agreed upon suspension, the actual impact of the suspension would work to an even greater effect because of the delay in the Tribunal process. The delay in the Tribunal process could not be attributed to the Student. The Panel accepted the Student's position and ordered that the suspension not commence until the end of the second term. The Panel imposed a grade of zero for the two courses; a three-year suspension; a four-year notation on the Student's academic record and transcript; and that a report be issued to the Provost.

DUPLICATIVE CHARGES

FILE: Case #410 (07-08)
DATE: August 20, 2007
PARTIES: University of Toronto v A.L.

Hearing Date(s):
April 3, 2007

Panel Members:
John A. Keefe, Chair
Melanie Woodin, Faculty Member
Liang Yuan, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel

Trial Division – *s. B.i.1(b)*, *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code* – plagiarism, unauthorized aids and cheating – two students enlisted to complete assignments – cheat sheets created by third party and used in exams – hearing not attended - Direction of Tribunal - reasonable notice of hearing - see *Code* and *the Statutory Powers Procedures Act* – allegations denied – evidence of witnesses credible – finding of guilt – duplicative charges dismissed - violations of University practices and procedures - manipulation of two students – conduct over several years and involving several courses – no evidence of extenuating circumstances - University's submission on Penalty accepted – recommendation that the Student be expelled, as per *s. C.ii.(b)(i)* of *Code*; grade assignment of zero for eight courses; five-year suspension pending expulsion decision; and report to Provost

Student charged with 84 offences under *s. B.i.1(b)*, *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The charges related to 9 courses in which the Student was alleged to have enlisted the aid of two female students to prepare 21 assignments, including course assignments, essays and exams, which the Student submitted as his own work. The Student was also alleged to have been in possession of, and copying from, text relevant to the subject matter of several exams in the courses at issue. The Student did not attend the hearing. The Panel considered the evidence submitted by the University and the Direction of the Tribunal, and found that the Student had received reasonable notice of the hearing in accordance with the *Code* and *the Statutory Powers Procedures Act*, and that it was appropriate to proceed in the Student's absence. The University submitted that the female students attended the lectures on behalf of the Student, wrote his assignments or essays, and then allowed him to submit them, or submitted them for him, under his name. The Panel considered the affidavits and oral testimony of the two "friends" and e-mail exchanges between the Student and the "friends". The Panel found that the email exchanges provided clear evidence that all the work for the assignments was done by the "friends" and not by the Student. The Panel found the two "friends" to be credible. The Panel also considered affidavit evidence from the course professors and instructors, the Chair of the department and the Manager of the Divisional Office of Student Academic Conduct. According to the University, the Student had denied the allegations and claimed that he had done all of the work for the courses himself although he might have obtained editing help for some assignments. At a Dean's meeting regarding the allegations, the Student was unable to provide meaningful answers to questions concerning the content of the coursework. The Panel observed that some of the charges against the Student were duplicative because they alleged different offences for the same misconduct. The Panel found that a conviction should be entered on one count only relating to each event of misconduct with other charges being dismissed as duplicative. With respect to the first course, the Panel found that the evidence was inconclusive as to whether the Student used draft answers, prepared by Friend 1, as "cheat-sheets" on the exam. The Panel dismissed the six charges related to the first course. With respect to the second course, the Panel compared the research paper submitted by the Student and the documents tendered as exhibits to the affidavit of Friend 1 and found that it corroborated Friend 1's evidence that she prepared the paper. The evidence of Friend 1 was that she also prepared the webpage related to the project without any assistance or input from the Student. The Panel found the Student guilty of two offences under *s. B.i.1(b)* and *B.i.1(d)* of the *Code* in connection with the course work, and two offences under *B.i.1(d)* of the *Code* in connection with the essay and the webpage. There were two term tests and a term paper at issue with respect to the third course. The Panel found that there was no clear and convincing evidence that the Student used draft answers, prepared by Friend 1, on the first test, and dismissed the charges associated with the test. The Panel found that the Student took a test booklet with answers pre-prepared by Friend 2 to a re-write of a second test and that he submitted a term paper prepared by Friend 2 as his own work. The Panel dismissed the charges in connection with the first term test and found the Student guilty of two offences under *s. B.i.1(b)* and *s. B.i.3(b)* of the *Code* in connection with the second term test, and one offences under *B.i.1(d)* in connection with the term paper. There were two course assignments and a term paper at issue with respect to the fourth course. The Panel found that the first assignment was prepared by Friend 1 and submitted on behalf of the Student, and that the second assignment and term paper were prepared by Friend 1 and submitted by the Student as his own work. The Panel found the Student guilty of three offences under *s. B.i.1(d)* of the *Code* in connection with the two assignments and the term paper. With respect to the fifth course, the Panel compared

the book report submitted by the Student and the documents submitted as exhibits to the affidavit of Friend 1 and found that it corroborated her testimony that she prepared the report, with assistance from Friend 2, which was submitted by the Student as his own work. The Student was taking work from Friend 1 and Friend 2 at the same time. The Panel found the Student guilty of one offences under *s. B.i.1(d)* of the *Code* in connection with the book report. With regard to the sixth course, the Panel considered the evidence and testimony of Friend 2 and found that she prepared the answer for a test in advance of the test and that the Student copied the answer on to a cheat-sheet which he used while writing the test. The Panel found the Student guilty of one offences under *s. B.i.3(b)* of the *Code* in connection with the test. With regard to the seventh course, the Panel considered the evidence of Friend 2 and found that she did all the course work for an essay worth 100 per cent of the course grade and that she prepared the essay that was submitted by the Student as his own work. The Panel found the Student guilty of one offences under *s. B.i.1(b)* in connection with the course work and *s. B.i.1(d)* of the *Code* in connection with the essay. There was an essay and an exam at issue with respect to the eighth course. The Panel considered the evidence of Friend 2 and found that the essay was prepared by Friend 2 and submitted by the Student as his own work. The Panel found that the evidence was inconclusive as to whether the Student used draft answers, prepared by Friend 2, as "cheat-sheets" on the exam. The Panel found the Student guilty of one offences under *s. B.i.1(d)* of the *Code* in connection with the essay and dismissed the charges in connection with the exam. There was a term test and an essay at issues with respect to the ninth course. The Panel considered the evidence of Friend 2 and found that there was no clear evidence that the Student used draft answers, obtained by other students and edited by Friend 2, as a "cheat-sheet" on the test. The Panel found that the essay was prepared by Friend 2 and submitted by the Student as his own work. The Panel dismissed the charges in connection with the exam and found the Student guilty of one offences under *s. B.i.1(d)* of the *Code* in connection with the essay. The Panel considered the guidelines for determining appropriate sanction and found that the Student demonstrated a pattern of deliberate disregard for University's rules of ethical conduct. The Student submitted work that was not authored by him, that was not his original work and that was entirely the work of others; there was evidence of cheating on tests and assignments; and there was a pattern of deliberate dishonest and manipulative conduct. The Panel found that the Student's pattern of conduct involved violations of the University's practices and procedures and the manipulation of the two students, and took place over several years and involved several courses. The Panel found no evidence of extenuating circumstances. No evidence was presented by the Student to rebut the evidence of the "friends"; he did not participate in the Tribunal process; he intentionally evaded service; he perpetuated his dishonesty when confronted with the allegations; and he showed no understanding of his wrongdoing. The Panel accepted the University's submission on penalty and imposed a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; a grade of zero in the nine courses; a five-year suspension pending the expulsion decision; and that a report be issued to the Provost.

FILE: Case #718 (15-16)
DATE: February 3, 2016
PARTIES: University of Toronto v O.K.

Hearing Date(s):
November 11, 2015

Panel Members:
Patricia D.S. Jackson, Chair
Jenna Jacobson, Student Member
Beth Martin, Student Member
Elizabeth Peter, Faculty Member

Appearances:
Rob Centa, for the Appellant, the University of Toronto

DAB decision
NOTE: See the Tribunal case summary above for detailed facts

Discipline Appeals Board – University appeal from acquittal of plagiarism charges – Student found guilty of unauthorized aid offences but acquitted of plagiarism offences arising from the same events – Tribunal erred in concluding that plagiarism under *s. B.i.1(d)* of the *Code* requires an element of theft – explanatory appendices are not intended to derogate or otherwise modify *Code* offences – interpreting plagiarism as requiring an element of theft is unworkable and undesirable – the rule against multiple convictions applies where there is a relationship of sufficient proximity between the facts and the offences which form the basis of the charges – appeal dismissed

Appeal by the University from a Tribunal decision in which the Student was acquitted of two plagiarism charges. The University submitted that the Tribunal erred in concluding that plagiarism under *s. B.i.1(d)* of the *Code* requires an "element of theft." The University also argued that the "rule against multiple convictions" does not apply to prevent a

conviction of plagiarism in respect of the same acts giving rise to a conviction for unauthorized assistance. The University did not seek any additional penalty in respect of the plagiarism offences. The Student did not attend the appeal hearing, and the Tribunal found that reasonable notice had been provided pursuant to the *Rules of Practice and Procedure*.

The issues on appeal relate to the Student's submission of a partial essay draft and the subsequent final essay in the Course. At the Trial Division, the Tribunal found the Student guilty of unauthorized aid offences, but it declined to convict the Student of the plagiarism offences. In coming to that conclusion, the Tribunal noted that University counsel was not aware of any other cases in which a student had been convicted both of obtaining unauthorized assistance and of plagiarism in circumstances where a student submitted the work of another person. The Tribunal also noted that plagiarism necessarily includes the theft of misappropriation of the work of another; as there was no suggestion that the Student lacked permission from the Essay writer to use his idea, there was no basis upon which the Student could be convicted of the offence of plagiarism.

The Board found that the University had established the offence of plagiarism. The Student submitted the ideas, expression of ideas and work of another person without attribution or any other indication that they were not hers. The Board disagreed with the Tribunal regarding its suggested requirement to establish the additional element of theft, noting that there is no element of theft contained in the section of the *Code* that defines the offence of plagiarism. The Board emphasized that the Tribunal's interpretation of the word "purloining" as found in the explanatory Appendix for *s. B.i.1(d)* is not intended to derogate or otherwise modify the plagiarism offence as set out in the *Code*. The Board noted that the Tribunal's interpretation of the plagiarism offence is completely unworkable and undesirable in the academic setting; if the element of theft is required to make out the offence of plagiarism, then the University would be unreasonably required in every case to prove that the author did not consent to the student's use of his or her idea, expression or work.

The Board found that the rule against multiple convictions prevents a conviction for plagiarism in respect of the same acts giving rise to a conviction of unauthorized assistance. The Board noted that this issue had not been previously addressed in decisions of the University Tribunal at either level. The Board cautioned against referring to cases that were decided on the basis of an agreed statement of facts and an agreement as to which charges would proceed and which would be withdrawn. The rule against multiple convictions is applicable where there is a relationship of sufficient proximity between (1) the facts and (2) the offences which form the basis of the two or more charges. The charges of plagiarism and unauthorized assistance arose from the same act. Rather than creating any additional or distinguishing elements to the offence of unauthorized assistance, the offence of plagiarism on the facts of this case was in effect a particular method of obtaining unauthorized assistance. The Panel concluded that there was a sufficient nexus between the offences and the facts on which they were based to engage the rule against multiple convictions.

The Board found that the Tribunal erred in concluding that the evidence did not establish an offence of plagiarism, but that the rule against multiple convictions prevents a conviction for both the unauthorized assistance offences and plagiarism offences. Appeal dismissed.

HEARING NOT ATTENDED

FILE: Case #479 (08-09)
DATE: June 22, 2009
PARTIES: University of Toronto v L. Y.

Hearing Date(s):
December 1, 2008

Panel Members:
Lisa Brownstone, Chair
Magdy Hassouna, Faculty Member
Jeffrey Clayman, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Tina Lie, Assistant Discipline Counsel
Scott Graham, Dean's Designate

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aids – two examinations – hearing not attended – Student charges not responded to – reasonable notice of hearing – see *Statutory Powers Procedure Act* – unaware of possession of aid – appearance of cheat sheet and high degree of relevance – unauthorized aid copied into examination booklet – Student knew or ought to have known of possession of unauthorized aid – finding of guilt - prior academic offence – breach of trust evoking at least two year suspension and a suspension of three years or longer for repeat offences – see case of *Mr. S.B.* – pre–meditation and deceit – timing of offences – failure to engage in process – University submission on penalty accepted – grade assignment of zero in two courses; recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; and report to Provost

Student charged with two offences under *s. B.i.1(b),* and alternatively, two offences under *ss. B.i.3(b)* of the *Code*. The charges related to a deferred final examination during which the Student was alleged to have been in possession of text relevant to the subject matter of the exam, and to a final examination in which the Student was alleged to have been in possession of, and copying from, text relevant to the subject matter of the exam. The Student did not appear at the Hearing. The Panel considered the reasonableness of notice provided to the Student and found the University had taken repeated steps to try and locate the Student, and that the Student had failed to make herself available or to acknowledge the University's communications. The Panel found that reasonable notice had been provided and that it would be improper to permit a student to avoid facing charges by a failure to respond to the University's attempts to reach her. The Panel found that adjourning to permit further attempts at service would not be appropriate as the Student had appeared to have moved. The Hearing proceeded without the Student, in accordance with the *Statutory Powers Procedure Act*. The Panel heard evidence that with regard to the deferred examination, students were permitted to bring a calculator into the examination room. The exam invigilator testified that inside the Student's calculator she discovered a piece of paper containing notes. According to the University, the Student agreed that she had had an unauthorized aid but claimed that the note was prepared as a study aid for a previous term test and that by the time of the examination she had forgotten that she had left it in the calculator. With regard to the second examination, students were permitted to bring the course text into the examination room. The course professor testified that he discovered text relevant to the examination in the Student's course text during the examination. The Panel considered the University's submissions and evidence and found that on both sets of charges, the University had proven its case on the balance of probabilities and that Student was guilty as alleged under s. *B.i.1(b)*. With respect to the deferred examination, the Panel found that the note appeared to be a cheat sheet as it was written in small writing and folded to fit within the covers of the calculator. The Panel found that the note had a very high degree of relevance to the final examination and that the Student knew or ought to have known that the aid was there. The Panel observed that the Student bore the responsibility for ensuring that she did not bring the unauthorized aid into the examination. With respect to the second examination, the Panel found that contrary to explicit instructions, pre-prepared exam answers were handwritten into the Student's text book and bore the same headings as the practice questions provided in advance of the examinations and that the same answers where copied word for word into the Student's examination booklet. The Panel found that the Student knew or ought to have known that she was in possession of an unauthorized aid during the examination. The Student had a prior academic offence for plagiarism. The University claimed that the offences were not concurrent but should be treated as a second and third offence because each offence occurred after a previous offence had been brought to the Student's attention. In its decision on penalty, the Panel considered the University's submissions and evidence, as well as the *Code* and past Tribunal decisions. The Panel agreed with the decision in *The University of Toronto v. D.L.* and found that students who do not act with honesty undermine the reputation of the University. The Panel considered the decision in *The University of Toronto v. Mr. S.B.* which found that a breach of trust such a plagiarism and/or concoction should evoke at least a two year suspension for the first offence and a suspension of three years or longer on a subsequent finding. The Panel expressed concern regarding the elements of pre-meditation and deceit in both offences; the timing of the offences; and the failure of the Student to engage in the process or respond to the University's charges. The Panel found

that due to the Student's failure to participate in the process, it had no evidence of any mitigating factors or prospect of rehabilitation. The Panel accepted the University's submission on penalty and imposed a grade of zero in the two courses; a recommendation to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; and that a report be issued to the Provost.

FILE: Case #540 (08-09)
DATE: May 4, 2009
PARTIES: University of Toronto v A. A-A.

Hearing Date(s):
April 14, 2009

Panel Members:
Roslyn M. Tsao, Chair
Louis Florence, Faculty Member
Elena Kuzmin, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel

In Attendance
Lucy Gaspini, Manager, Academic Integrity and Affairs

Trial Division – *s. B.i.1(a)* of *Code* – forged document – Letter of Permission for Visiting Student Admission Application – hearing not attended – reasonable notice of hearing – see *Code* and *s.6(3)(b)* of *Statutory Powers Procedure Act* – efforts to effect proper service not negated by failure to review emails or check ROSI mailing address – forgery confirmed by Professor – finding of guilt – prior academic offence – academic success – charges not responded to – recommendation that the Student be expelled as per *s. C.ii.(b)(i)* of *Code*; and permanent notation on academic record

Student charged under *s. B.i.1(a),* and alternatively, *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student submitted a forged Letter of Permission for a Visiting Student Admission Application. The Student did not attend the Hearing and did not respond to the charges. The Panel considered whether reasonable notice of the Hearing had been provided pursuant to the *Code* and the *Statutory Powers Procedure Act*, particularly *s.6(3)(b)*. The Panel considered the fact that none of the emails sent to the Student were returned to the sender and that his step-sister confirmed his email address. The Panel found that the Student had received or ought to have received reasonable notice of the charges and Notice of the Hearing. The failure of the Student to have reviewed his emails or check his ROSI mailing address did not negate the University's efforts to effect proper service. The Hearing proceeded without the Student. According to the evidence submitted by the University, the Student, when confronted with the allegations, claimed that he did not have time to get the required letter from his home university so he made up the letter and forged a signature. The University tendered an affidavit sworn by the Professor at the Student's home university, whose name and purported signature appeared on the letter. The Panel accepted the evidence, noting that there was no prejudice to the Student because he was not in attendance at the Hearing and therefore did not require the opportunity to cross-examine the Professor. The Professor confirmed that she did not write or sign the letter that contained her allegedly forged signature. Based on the evidence submitted by the University, the Panel found that the Student was guilty of the charges. The Panel noted that the Student had been previously found guilty of forgery by the University and served a one year suspension; that the Student had had modest success at the University; and that the Student had not responded to the charges nor appeared at the Hearing. The Panel found that the Student may have caused a diversion of resources and could have denied other worthy candidates from being accepted. The Panel recommended to the President, further to *s. C.ii.(b)(i)* of the *Code*, that the Student be expelled from the University; and that a permanent notation be placed on the Student's academic record indicating that he had been expelled for academic misconduct.

FILE: Case #588 (11-12)
DATE: July 28, 2011
PARTIES: University of Toronto v. Mr. G.

Hearing Date(s):
June 20, 2011

Panel Members:
Roslyn M. Tsao, Chair
Markus Bussman, Faculty Member
Robert Chu, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Mohammad Mojahedi, Professor
Sean Hum, Professor

Konstantinos Sarris, Professor

In Attendance:
Jane Alderdice, Director, Quality Assessment and Governance
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(f)* of *Code* – concoction – thesis contained concocted statements – hearing not attended – Student requested adjournment but failed to provide information requested by the Tribunal – allowed matter to proceed in the absence of the Student – affidavits submitted and oral testimony given by the Student's thesis supervisor – University met the burden of proof – Student claimed "honest" and "unintentional" mistakes – Panel rejected the claim and stated that even if accepted, it cannot be a defence based on the extended definition of "knowingly" – finding of guilt – Student ought to have known that he was submitting concocted work for his thesis – deliberate concoction and a lack of appreciation about seriousness of misconduct – differentiated the case from *D.* (Case No. 406) – grade assignment of zero for course; recommendation that the degree be cancelled and recalled; permanent notation on transcript; and report to Provost

Student charged under *s. B.i.1(f)* of the *Code*. The charges related to allegations that the Student's thesis contained concocted statements which were essential to the integrity of his thesis. The Student did not attend the hearing. The hearing dates were adjourned twice to accommodate the Student. The Student requested adjournment for the third time but failed to provide the information requested by the Tribunal. As such, the Panel allowed the matter to proceed in the absence of the Student. The Student's thesis supervisor ("the Professor") as well as two other professors in the Department submitted affidavits and testified orally. The Panel found the Professor to be sincere and credible. Based on the testimony of the Professor, the Panel held that the University met the burden of proof for each of the four allegations of concoction that (1) the Student misrepresented that he used "series loading capacitors" in the design and construction of his transmission line (circuit boards), (2) the Student misrepresented that operational series loading elements were inserted into the line, (3) the Student's simulated and measured results were necessarily fabricated, and (4) the Student digitally altered a photograph included in his thesis. The Student claimed that any errors in his research were the results of honest and unintentional mistakes. The Panel rejected this claim because (1) the Student has demonstrated a pattern of first denying any misrepresentation and after being confronted with incontrovertible evidence, providing very different explanations and finally suggesting that the results were theoretically good enough despite the errors; and (2) the facts of the case rules out the possibility of an unintentional mistake. Even if the claim of "honest" and "unintentional" mistakes was accepted by the Panel, it would not be a defence based on the extended definition of "knowingly" in the *Code*. Accordingly, the Panel found the Student guilty under *s. B.i.1(f)*. The Panel stated that the Student ought to have known, as a graduate student, that he was submitting concocted academic work for an M.A.Sc. thesis. In considering an appropriate sanction, the Panel stated that there was no evidence of extenuating circumstances and that there was deliberate concoction and a lack of appreciation about the seriousness of such academic misconduct. The Panel again noted the Student's pattern of behaviour. The Panel differentiated this case from *D.* (Case No. 406) in that this case did not involve a consideration of the Student's rehabilitation/reformation against the need for deterrence and protection of the public. The Panel imposed a grade of zero for the course; a recommendation to the Governing Council that it cancel and recall the M.A.Sc. awarded to the Student; a permanent notation on the Student's academic record and transcript; and that a report be issued to the Provost.

FILE: Case #829 (15-16)
DATE: December 16, 2015
PARTIES: University of Toronto v W.L.

Hearing Date:
November 25, 2015

Panel Members:
Roslyn Tsao, Chair
Gabriele D'Eleuterio, Faculty Member
Raylesha Parker, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Lucy Gaspini, Manager, Academic Affairs, University of Toronto Mississauga
Ken Derry, Department of Historical Studies, University of Toronto Mississauga

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Trial Division – information not available – hearing not attended – reasonable notice of hearing not provided given the delayed service of notice and the Student's likely residence abroad – hearing adjourned *sine die* for the University to consider other service of notice to the Student

Student charged in relation to an Essay she submitted. In the term following the submission of the Essay, the Student was suspended from the University for a period of 3 years as a result of unrelated poor academic performance. The Student was not present at the hearing. The Panel took into account that the Student was first emailed about the Course Instructor's concerns regarding the Essay a year after the completion of the Course and a year into the Student's 3-year suspension, by which point the Student had likely moved abroad. The Student did not respond to emails detailing the charges and the notice of hearing. The Panel noted that though email service to the Student's ROSI email is usually acknowledged as sufficient notice, the Panel did not think that the emails in this case conformed with the notion of effective service. In this case, the Student, who was suspended for a year by the time the email was sent to her by the professor, might reasonably not have been checking her email account and, as such, the Panel was not comfortable proceeding in the Student's absence. The hearing was adjourned *sine die* for the University to consider other service of notice to the Student. The Panel also noted its concern about the resources that would be required to serve notice to the Student, and questioned the utility of addressing the matter if the Student never seeks to re-enrol with the University.

FILE: Case #828 (15-16)
DATE: April 11, 2016
PARTIES: University of Toronto v C.A.

Hearing Date:
January 8, 2016

Panel Members:
William C. McDowell, Chair
Chris Koenig-Woodyard, Faculty Member
Yusra Qazi, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel
Lauren Pearce, Articling Student, Paliare Roland Barristers

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Tracey Gameiro, Observer, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a)* of the *Code* – forged academic record – Student submitted an altered unofficial transcript as part of an application to another university – hearing not attended – reasonable notice of hearing provided given the Student's correspondence with his College – finding on evidence – finding on guilt – recommendation of expulsion; permanent notation on the Student's academic record and transcript; 5-year suspension; case reported to Provost for publication

Student charged under *s. B.i.3(a)* of the *Code*. The charge related to allegations that the Student knowingly forged, altered or falsified a document that purported to be his unofficial transcript from the University. The Student submitted the altered document in application to another university. The other university brought the atypical transcript to the attention of the University. The Student was not present at the hearing. The Panel concluded that reasonable notice of the hearing had been given pursuant to the *Code* and the *Rules of Practice and Procedures of the University Tribunal*. The Panel noted that even if the Student did not have actual notice of the charges laid against him, the Student should be taken to have had notice of a serious academic discipline issue by reason of the correspondence issued to him by his College. The Panel concluded that it could proceed with the hearing.

Student was found guilty of the forged academic record charge. The Panel accepted the evidence of the manager of the University transcripts centre, who confirmed that the transcript submitted was incomplete and inaccurate. The Panel found that the Student had not received a degree from the University as indicated on the document, but rather falsely represented to the other university that he had done so. The Student also falsified the individual grades on the purported transcript. The Student did not respond to requests to meet with the Dean's Designate or other members of the University. The Panel noted that the penalty typically handed down in cases of forged academic records is expulsion. Here, the Student claimed a degree which had not been awarded and falsely suggested that he had achieved academic success considerably at variance from the results recorded on his transcript. The Panel took into account *The University v MK*, which emphasized the need to protect the integrity of the University and to deter such conduct. The Panel imposed a recommendation of expulsion; a permanent notation on the Student's academic record and transcript; a 5-year suspension; and that the case be reported to the Provost for publication.

FILE: Case #856 (16-17)
DATE: October 6, 2016
PARTIES: University of Toronto v. T.C. ("the Student")

Hearing Date(s): July 6, 2016

Panel Members:
Mr. Paul Morrison, Chair
Professor Dionne Aleman, Faculty Panel Member
Ms. Sue Mazzatto, Student Panel Member

Appearances:
Ms. Lily Harmer, Assistant Discipline Counsel
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Faculty of Arts and Science
Ms. Brenda Thrush, Faculty Registrar, Leslie Dan Faculty of Pharmacy

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

Trial Division – *s. B.i.3(a) and B.i.3(b)* of the *Code* – forged academic records – circulated forged academic records in application for employment – hearing not attended – reasonable notice of hearing - prior academic offences – falsifying pharmaceutical degree raises significant concerns with respect to the safety of the public - University obligation to uphold and maintain the integrity of its academic degrees and degree-granting process – recommendation that the Student be expelled; immediate suspension from the University for a period of up to five years pending expulsion; permanent notation on academic record.

The Student was charged with two offences under the *Code.* The charges related to alleged representations that were made by the Student in a cover letter and resume that were submitted to Safeway Food and Drug ("Safeway") for employment as a Pharmacist (the "Application"). Though the Student had not completed any degree program at the University of Toronto, the Application falsely claimed that she had graduated with an Honours Bachelor of Science in Human Biology and Physical Anthropology from the University and was a candidate in the Doctor of Pharmacy program at the University.

The Student denied the allegations with respect to falsifying her academic record at the meeting with the Dean's Designate. Upon further investigation after that meeting, the University found that the student had previously been under academic suspension for plagiarism and had also previously been suspended by the University for failure to maintain a 1.5GPA. Neither the Student nor counsel for the Student attended the hearing. The Panel was satisfied that appropriate efforts to effect service on the Student had been made and that the provisions of the Tribunal's Rules of Practice and Procedure had been satisfied.

The Panel concluded that the Student forged and falsified her academic record. Upon the entering of a finding of guilt with respect to *s. B.i.3(a)* of the *Code,* counsel for the University withdrew the charge in relation to *s. B.i.3(b).* The Panel considered the aggravating facts that the student had previously been suspended by the University for failure to maintain

a 1.5 GPA and that that she had also previously admitted to plagiarism and had been warned, in writing, that a second offence would be dealt with more severely. The Panel found that the offense of falsification of one's academic record for advantage to the Student is a most serious offense and one that, absent sufficient mitigating circumstances, would call for a recommendation of expulsion. In this case, there were also significant concerns with respect to the safety of the public as a result of a falsified degree in pharmacy. The Panel held that the University has an obligation to uphold and maintain the integrity of its academic degrees and its Degree-granting process. The Panel accepted the University's submission on penalty and imposed a penalty of immediate suspension from the University for a period of up to five years; recommended that the Student be expelled; and that a permanent notation be placed on the Student's academic record and transcript.

FILE: Case #858 (16-17)
DATE: August 12, 2016
PARTIES: University of Toronto v A.D.S.

Hearing Date(s):
July 12, 2016

Panel Members:
William C. McDowell, Chair
Ernest Lam, Faculty Member
Sean McGowan, Student Member

Appearances:
Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Lucy Gaspini, Manager, Academic Integrity & Affairs, UTM
Prof. Divya Maharajh, Instructor of the Course

In Attendance:
Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Sean Lourim, Client Support Technologist, University of Toronto

Trial Division – *s. B.i.1(f)* and *s. B.i.1(a)* of the *Code* – concoction and forged documents – Student concocted references to sources in a research report – Student falsified the document outlining his sanction to reflect a lesser penalty – Student attached the falsified document to his appeal documents – hearing not attended – reasonable notice of hearing provided – finding on evidence – finding on guilt – 5-year suspension; recommendation of expulsion; case reported to Provost for publication

Student charged under *s. B.i.1(f)* and *s. B.i.1(a)* of the *Code*. The charges related to allegations that the Student concocted references to one or more sources in a research report, and that when offered a proposed sanction for the concoction, the Student knowingly altered or falsified the sanction letter to reduce the suggested penalty in his appeal of the sanction. The Student was not present at the hearing. The Panel heard evidence that the Student had accessed his ROSI account. The Panel found that reasonable notice of the hearing had been provided in accordance with the *Code*, and the hearing continued in the absence of the Student.

Student found guilty with respect to both charges. The Panel accepted evidence that the sources referenced in the Student's report did not exist, and evidence that the University sanction document had been altered by the Student. The Panel emphasized the severity of the allegations, noting its astonishment that in the process of exercising his right to appeal his concoction sanction the Student would falsify the very document under consideration by the Vice Provost. The Panel concluded that its sanction for the Student should reflect the abhorrence of the Tribunal for this kind of misconduct, and should seek to deter other students from contemplating any sort of alternation of University documents. The Panel imposed a 5-year suspension; a recommendation of expulsion; and that the case be reported to the Provost for publication.

FILE: Case #858 (16 - 17)
DATE: June 28, 2017
PARTIES: University of Toronto v. A.S. ("the Student")

Hearing Date(s): May 18, 2017

Panel Members:
Ms. Lisa Brownstone, Barrister and Solicitor, Chair
Professor Elizabeth Peter, Faculty Panel Member
Professor Allan Kaplan, Faculty Panel Member
Ms. Beth Martin, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Emily Howe & Glynnis Howe, Students-at-Law, Paliare Roland Barristers
Ms. Lucy Gaspini, Manager Academics Integrity, University of Toronto, Mississauga
Alexandra DiBlasio, Academic Integrity Assistant, University of Toronto, Mississauga
The Student
Mr. R.S., Student's Father and Representative

In Attendance:
Ms. Tracey Gameiro, Associate Director, Office of Appeals Discipline and Faculty Grievances, ("ADFG")
Mr. Christopher Lang, Director, ADFG, University of Toronto
Mr. Sean Lourim, IT Support, Office of the Governing Council

DAB Decision
NOTE: See the Tribunal case summary for detailed facts

Discipline Appeal Board – Student appeal – reasonable notice of hearing – delivery of notice during an academic suspension – delivery of notice via email – no evidence about who accessed email account or which specific emails had been read – exceptional circumstances – *s. 7(b)* of the *Code* – Appeal allowed, matter remitted to a new hearing

Appeal by the Student from a Tribunal decision that reasonable notice had been provided by the University. The Student was suspended for a year. During the course of the Student's suspension, the University filed charges of academic dishonesty against the Student and served him with a Notice of Hearing and a revised Notice of Hearing by email to his University of Toronto email address. As evidence that notice had been given to the Student, the Provost provided an email from the University's Information Security Department which showed that the Student's University of Toronto email account had been accessed two weeks prior to the hearing, which led the Panel to conclude that the University's obligation to give reasonable notice of the hearing to the Student had been discharged. The hearing proceeded without the Student, who was found guilty of academic misconduct.

On appeal, the Student argued that he had not received reasonable notice. The Student testified that he believed that he was effectively suspended until the fall session of 2016 so he was not checking emails sent to his University of Toronto email address during his suspension. There was no evidence that anyone from the University had advised the Student that the University's polices and guidelines would continue to apply to him while he was under suspension and unable to participate in the academic life of the University, or that he was expected to be active on his University email account during his suspension. The Student had taken steps to appeal the Panel's decision as soon as he had learned of it. The email from Information Security was insufficient proof that the Student had received notice because it provided no information as to who accessed the Student's email account or information about whether any specific emails had been accessed. In these exceptional circumstances, the Board exercised its discretion under s. 7(b) of the *Code of Behaviour on Academic Matters* to remit the matter for a new hearing at which the Student would participate.

Appeal allowed.

FILE: Case # 1107 (2021-2022)
DATE: August 18, 2021
PARTIES: University of Toronto v. D.B. ("the Student")

Hearing Date(s):
July 21, 2021, via Zoom

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Allan Kaplan, Faculty Panel Member
Ms. Samantha Chang, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
The Student

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals on the basis that it was improper for the Trial Division to proceed in the Student's absence, that the University is required to establish that the Student received notice beyond a reasonable doubt, and that the sanction is unreasonable – request to set aside the finding of the Tribunal's Panel and order a new hearing – ss. B.i.1(d) and B.i.3(b) of the Code – plagiarism – the Student had reasonable notice of the charges and the hearing – the University has the onus to demonstrate that the Student had reasonable notice of the hearing on a balance of probabilities – once a Panel is satisfied that reasonable notice has been given to a student, the Panel has jurisdiction to proceed in the absence of the student – the Tribunal did not make any error in concluding that the University had discharged its onus to demonstrate that the Student had reasonable notice of the hearing and that they could proceed with the hearing in the Student's absence – the fairness standard relates to having reasonable notice of the adjudication and, thereby, having the opportunity to attend and be heard – the sanction ordered was appropriately consistent with penalties imposed in similar cases – appeal dismissed – Order of the Tribunal affirmed in its entirety

The Student appeals the finding of guilt and the sanction imposed by the Tribunal's Trial Division on the basis that (1) it was improper to proceed with the original hearing in the Student's absence; (2) the University is required to establish that the Student received notice of the hearing "beyond a reasonable doubt"; (3) the sanction imposed is unreasonable; and (4) the appropriate remedy on appeal is to set aside the Panel's Order and order a new hearing.

In dismissing the Student's appeal, the Board discussed the Student's grounds for appeal in three main issues. First, it was the Student's position that it was improper to proceed with the original hearing in the Student's absence and that the University is required to establish that he received notice of the hearing "beyond a reasonable doubt." In examining Rule 9(c) of the Tribunal's *Rules of Practice and Procedure*, the University's *Policy on Official Correspondence with Students* and the affidavits regarding service, the Board found that the Student had reasonable notice of the charges and the hearing. The Board found that the Tribunal did not make any error in concluding that the University had discharged its onus to demonstrate that the Student had reasonable notice of the hearing and that they could proceed with the hearing in the Student's absence. The Student argued that although he should have checked his University email more frequently, the onus is still on the University to prove, beyond a reasonable doubt, that he accessed or read the emails that were sent to him regarding the hearing. The Board rejected this argument. As correctly noted by the Panel, the onus is on the University to demonstrate that the Student had reasonable notice of the hearing on a balance of probabilities. Once the Panel was satisfied that reasonable notice had been given to the Student, the Panel had jurisdiction to proceed in the absence of the Student. The Board does not find any error in that finding. At the hearing, the Student referred to it being "unfair" that he was not present at the original hearing. The Board noted that "unfairness" is not the test for procedural fairness. The fairness standard relates to having reasonable notice of the adjudication and, thereby, having the opportunity to attend and be heard.

The second issue was whether the sanction imposed on the Student, if the finding of guilt was upheld, was unreasonable. Upon review of the Tribunal's reasons and the authorities provided to the Panel, the Board found that the sanction ordered was consistent with penalties imposed in similar cases. The Board noted that consistency and

predictability are valid goals in encouraging general deterrence. Relying on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011(Appeal)) at paras. 61-64, the Board did not feel that this was a situation of "special circumstances" to grant the Student an opportunity to adduce fresh evidence when the Student had reasonable notice of the hearing and failed to attend. The Student advised the Board that he had withdrawn from his courses in Winter 2021 even though he filed an appeal which stayed the order pending the appeal decision. Seeing as the Student acted as if he was suspended from the University since the date of the Tribunal's Order, the Board felt it was appropriate to affirm the Order, including the commencement date of the suspension.

Lastly, the Student argued that the appropriate remedy on appeal is to set aside the Tribunal's Order and order a new hearing. The Board noted that given its finding that the Tribunal did not err in their decision, they dismissed the Student's request for a new hearing.

Appeal dismissed. Order of the Tribunal affirmed in its entirety.

PRIOR OFFENCE

FILE: Case # 694, 695, 767 – Finding; Sanction (14-15)
DATE: August 11, 2014
PARTIES: University of Toronto v J.L., H.L., A.Z.

Hearing Date(s):
July 11, 2014

Panel Members:
Roslyn Tsao, Chair
Markus Bussman, Faculty Member
Adel Boulazreg, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Samuel Greene, DLS, for the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Nathan Innocente, Teaching Assistant
Catherine Seguin, Senior Lecturer

In Attendance:
Student 1 (JL)
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Not in Attendance:
Student 2 (HL)
Student 3 (AZ)

Trial Division – *s. B.i.3(a), s. B.i.1(c)* and *s. B.i.3(b)* of the *Code* –ASF – personation – forgery – forged T-Card - Dean's Designate meeting - Student appears at hearing –Students do not appear at hearing– previous incident not elevated to prior offence due to timing – finding of guilt – grade of zero in the courses in question; five year suspension; suspension deferred to allow completion of courses; academic record notation

The Panel found JL and HL guilty of use of an unauthorized aid in an earlier decision but adjourned the hearing until after this hearing on personation charges against JL and AZ. HL and AZ did not attend. The Panel imposed a grade of zero in the course in question for HL.

JL was charged with having another person personate her contrary to *s. B.i.1(c)*, falsifying a T-card contrary to *s. B.i.3(a)* and, in the alternative, academic misconduct not otherwise described in the *Code* contrary to *s. B.i.3(b)* of the *Code*. AZ was charged with personating a student contrary to *s. B.i.1(c)*, falsifying a T-card contrary to *s. B.i.3(a)* and, in the alternative, academic misconduct not otherwise described in the *Code* contrary to *s. B.i.3(b)* of the *Code*.

JL and the University entered into an Agreed Statement of Facts (ASF) confirming that JL persuaded AZ, who was not enrolled in the course, to take an exam for her using a forged T-Card. In a Dean's Designate meeting JL claimed AZ was her cousin and was in high school, which was later contradicted by AZ in another meeting who claimed she was a University student and not JL's cousin.

The Dean's Designate testified that she met with AZ who admitted to taking the exam for JL with a forged T-Card as she felt sympathy for JL who had broken up with her boyfriend.

The Panel found AZ and JL guilty on the first two counts and the University withdrew the alternative charge.

The University suggested a two year suspension for HL who has no academic offence history. The Panel accepted the recommended penalty and imposed a two year suspension with a notation on HL's academic record for the length of the suspension.

AZ had a previous infraction, had not participated in the process since meeting with the Dean's Designate and the University recommended expulsion. The Panel imposed a five year suspension with a notation on AZ's academic record

for the length of the suspension plus one year, taking into account that AZ gained no advantage in her personation and was trying to show JL sympathy.

JL testified and submitted there were mitigating factors such that JL's grandmother had died just before the infraction, she had no family in Toronto, she admitted her guilt at the Dean's Designate meeting, her deception was not calculated, she had no prior offences and a small likelihood of reoffending. JL sought a suspension for five years, deferred to allow completion of summer courses, with a notation on for the length of the suspension plus one year.

The University submitted that JL had not taken advantage of the first opportunity to admit her guilt, continued to mislead the University as to AZ's identity. This and the T-Card forgery and continued attempts at deception warranted a sanction of expulsion, a grade of zero in the courses in question, suspension for five years, and a notation on JL's academic record for the length of the suspension plus one year. The University cited several instances of personation in support of its position.

The Panel did not view the first offence as a prior offence as that conviction took place after the hearing. The Panel also took into account JL's grandmothers death, though it was concerned about the delay in providing this information. The Panel also noted JL's cooperation through two years of proceedings.

The Panel imposed a penalty of a grade of zero in the courses in question, suspension for five years, deferred to allow completion of summer courses, and a notation on JL's academic record until August 31, 2020.

FILE: Case #794 (15-16)
DATE: July 6, 2015
PARTIES: University of Toronto v P.T.

Hearing Date:
May 19, 2015

Panel Members:
John A. Keefe, Chair
Graeme Hirst, Faculty Member
Jeffery Couse, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Julia Wilkes, Counsel for the Student

In Attendance:
Ms. P.T., the Student
Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto Mississauga
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. R.T., the Student's sister

Trial Division – *s. B.i.1(b), s. B.i.1(d), s.B.i.3(b)* and *s.B.ii.1(a)* of the *Code* – unauthorized aid, plagiarism, academic dishonesty, party to an offence – aiding and abetting plagiarism – aiding and abetting unauthorized aid– Agreed Statement of Facts – guilty plea – finding on Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty – prior academic offence of plagiarism – Joint Submission on Penalty Accepted – grade assignment of zero in both courses affected by the charges; 3-year suspension; the earlier of either a 4-year notation on the Student's academic record and transcript, or a notation until the Student's graduation from the University; case reported to Provost for publication

Student charged with one offence under *s. B.i.1(b),* two offences under *s. B.i.1(d),* two offences under *s. B.ii.1(a)* and, in the alternative, two offences under *s. B.i.3(b)* of the *Code.* The charges related to two separate allegations, first that the Student aided and abetted her sister in committing plagiarism and in using an unauthorized aid or obtaining unauthorized assistance from the Student in one course, and second that the Student knowingly represented the ideas of another as her own work in a written assignment in another course.

Student was found guilty with respect to the charges of aiding and abetting her sister in committing plagiarism and in using unauthorized assistance. The Student and her sister each submitted identical assignments that contained a few identical errors. There was an Agreed Statement of Facts, and the Student pleaded guilty to the charges under the first

allegation. The Tribunal accepted the plea and found the Student guilty of plagiarism, unauthorized aid, and being a party to an offence. The University then withdrew the alternative charge of academic dishonesty not otherwise described.

Student was found guilty with respect to the charge of plagiarism. Student submitted an assignment that contained numerous words and expressions of idea that were verbatim or nearly verbatim from a text of an unattributed source. There was an Agreed Statement of Facts, and the Student pleaded guilty to the charge of plagiarism. The Tribunal accepted the plea and found the Student guilty. The University then withdrew the alternative charge of academic dishonesty not otherwise described.

There was a Joint Submission on Penalty and an Agreed Statement of Additional Facts for Sanction, which indicated that the Student had been disciplined on a prior occasion in respect of a charge of plagiarism. That the Student had been warned that a repeat offence would lead to more serious consequences was an aggravating factor. The Agreed Statement of Additional Facts also included evidence of mitigating factors, namely that at the time of the offences, the Student's parents were unemployed, and therefore the Student was required to work a fulltime job while also enrolled as a fulltime student.

Even taking into account the aggravating and mitigating factors, the Panel decided that the sanctions proposed in the Joint Submission on Penalty were reasonable and there was no basis to reject them. It is clearly established that the Tribunal should only reject a Joint Submission on Penalty where it is truly unreasonable or unconscionable. The Panel imposed a grade assignment of zero in both courses affected by the charges; a 3-year suspension; the earlier of either a 4-year notation on the Student's academic record and transcript, or a notation until the Student's graduation from the University; and that the case be reported to the Provost for publication.

FILE: Case # 854 (16 - 17)
DATE: November 30, 2016
PARTIES: University of Toronto v. M.B. ("the Student")

Hearing Date(s): August 23, 2016

Panel Members:
Mr. Andrew Pinto, Barrister and Solicitor, Chair
Professor Ato Quayson, Professor of English and Director of the Centre for Diaspora and Transnational Studies, University of Toronto, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Emily Home, Student-at-Law, Paliare Roland Barristers
Mr. Daniel Walker, Counsel for the Student, Bobila Walker Law LLP

In Attendance:
M.B., the Student
A.B., the Student's Son
Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga
Mr. Christopher Lang, Appeals, Discipline, and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – group work - Agreed Statement of Facts – guilty plea – two prior academic offences – mitigating factors include assignment was only worth 15% of the final grade in the course, student pleaded guilty which obviated need for University to prove student's contribution to group work, student cooperated with discipline process - Joint Submission on Penalty accepted – grade assignment

of zero in the course; suspension of two years; sanction recorded on academic record and transcript for three years; report to the Provost

The Student was charged with one offence of plagiarism under *s. B.i.1(d)* of the *Code*, and alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charges related to a presentation worth 15% of her course marks in which, the Student admitted to knowingly including verbatim statements from unattributed sources and representing the ideas or words of others as her own. The Student pled guilty to the plagiarism charge. The University then withdrew the academic dishonesty charge.

An Agreed Statement of Fact and Joint Submission of Penalty was submitted by the Student and the University agreeing to a final grade of zero in the course, a two-year suspension, a three-year notation on her transcript and a report to the Provost regarding this case. The Student had committed two prior plagiarism offences. Five years prior to the current charge, the Student pled guilty to plagiarism in an assignment that she had submitted for course credit. She received a grade of zero on the assignment, a further reduction of ten marks from her final grade, and a six-month annotation on her academic record and transcript. The second prior incident of plagiarism was two years after the first. After pleading guilty to plagiarism, the Student received a penalty of a final grade of zero in the course, a one year suspension, and an 18-month annotation on her transcript and record for that offence. In accepting the Joint Submission of Penalty, the Panel took into account earlier decisions where a two-year suspension was awarded for students who had committed prior academic offences (*University of Toronto v. Z.B.*, Case No. 487, January 22, 2008 and *University of Toronto v. Y.L.*, Case No. 04-05-02, April 11, 2005), the fact that the assignment was only worth 15% of the final grade in the course, the Student's guilty plea saved the University from having to prove the Student's involvement and contribution to the offence, as well as the Student's cooperation with the discipline process. The Panel found no principled reason to reject the parties' Joint Submission of Penalty.

FILE: Case #848 (16-17)
DATE: November 2, 2016
PARTIES: University of Toronto v. D.H. ("the Student")

Hearing Date(s): March 16, 2016 and August 9, 2016

Panel Members:
Mr. John A. Keefe, Barrister and Solicitor, Chair
Professor Gabriele D'Eluterio, Faculty Member
Ms. Alice Zhu, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Palaire Roland Barristers
Mr. Glenroy Bastien, Counsel for The Student
Professor John Britton, Dean's Designate, Office of Student Academic Integrity (March 16, 2016)
Dr. Kristi Gourlay, Manager, Office of Student Academic Integrity, Faculty of Arts and Science

In Attendance:
Mr. Christopher Lang, Director, Appeals, Discipline, and Faculty Grievances (March 16, 2016)
Krista Osbourne, Administrative Assistant, Appeals, Discipline, and Faculty Grievances (August 9, 2016)
The Student

Note: Appeal dismissed.

Trial Division – *s. B.i.3(a)* and *s.B.ii.2* of *Code* – forged academic records and intent to commit an offence - student ordered transcripts after disciplinary sanction was imposed but before notation was made on transcript for the purpose of employment, immigration, and professional licensing – Agreed Statement of Facts – guilty plea – third offence – prior convictions included falsification of academic record and academic dishonesty – deliberate offence – contested hearing on sanction - Agreed Statement of Facts on Penalty – University submission on Penalty accepted – recommendation that Student be expelled per *s. C.ii.(b)(i)* of the *Code,* interim notation until Governing Council makes decision on expulsion, and report issued to Provost

The Student was charged with two offences for attempting to circulate falsified academic records pursuant to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* or alternatively, three charges under *s. B.i.3(b), s. B.ii.2 and B.i.3(a)* of the *Code.* The charges related to the Student's attempt to order transcripts and obtain letters of good standing from the University once he had learned that he had been suspended for three years, but before the notation had been recorded on his record in the University system. The Panel convened for an initial hearing and then a subsequent sanction hearing. At the initial hearing, the matter proceeded based upon an Agreed Statement of Facts. The Student pled guilty to the charges under *s. B.i.3(a)* and *s. B.ii.2* of the *Code.* Upon the Panel's finding of guilt on the two charges relating to *s. B.i.3(a)* and *s. B.ii.2* of the *Code,* the University withdrew the remaining charges.

The sanction hearing proceeded by way of Agreed Statement of Facts on Penalty which indicated that the Student had been guilty of two prior academic offences. The Student's first offence was academic dishonesty relating to an incident where he altered and re-submitted a test to be re-graded. He pled guilty and was sanctioned to a zero on the test and resulting reduction in his course mark, as well as a notation on his academic transcript for two years. The Student's second academic offence was for forging or otherwise falsifying his academic record. Those charges related to an application for employment where the Student submitted a transcript that omitted the notation of academic dishonesty from the prior year. The Panel considered the Student's mitigating circumstance of mental health issues and sanctioned the Student to a suspension for a period of up to three years; a notation on the Student's academic record for four years; and a report to the Provost. The reasons for that decision were available on May 19, 2015. Although the normal practice was to immediately record the Panel's decision on the Repository of Student Information (ROSI), out of a concern for the Student's mental health, the Panel also postponed making the notation the Student's record until after the Student had the opportunity to read the decision with counsellors present, on June 1, 2015.

On June 2, 2015, the Student ordered ten transcripts, knowing the sanction had not yet been implemented on ROSI. On June 3, 2015, he requested that Woodsworth College provide letters on his behalf to Canada Immigration, CPA Ontario, and "To Whom It May Concern" stating that he was a student in good standing at the University and that he was expected to graduate in the Summer of 2017. The Student knew that the transcripts that he had ordered online and the letters that he had requested did not reflect his academic record and he admitted that he intended to make use of them.

The Panel found that the Student's actions were not spontaneous, but deliberate, since they took place over a three-day period. The Panel found that it was particularly troubling that the Student took advantage of the Panel's sympathetic treatment because of the Student's fragile emotional state, but then took immediate steps to obtain transcripts that he knew were false. Aggravating considerations were that the charge of falsification of an academic record is a very serious offence, this was the Student's third offence, and it occurred immediately after he received a three-year suspension for his second offence. The Panel considered mitigating circumstances that there was an Agreed Statement of Facts and an Agreed Statement of Facts on Penalty, that the Student admitted guilt at a very early stage, he attended the hearing, and that the Student was suffering from severe mental distress at the time the offence was committed. The Panel found that there was a pattern of dishonest conduct and prior convictions, and recommended that the Student be expelled, an interim notation until Governing Council makes decision on expulsion, and that the case be reported to the Provost.

FILE: Case # 860 (16 - 17)
DATE: November 30, 2016
PARTIES: University of Toronto v. Q.Y. ("the Student")

Hearing Date(s): August 23, 2016

Panel Members:
Mr. Andrew Pinto, Barrister and Solicitor, Chair
Professor Ato Quayson, Professor of English and Director of the Centre for Diaspora and Transnational Studies, University of Toronto, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Ms. Emily Home, Student-at-Law, Paliare Roland Barristers
Mr. Daniel Walker, Counsel for the Student, Bobila Walker Law LLP

In Attendance:

Ms. Q.Y., "the Student"
Professor John Carter, Dean's Designate for Academic Integrity
Mr. Christopher Lang, Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council

Trial Division – *s. B.i.1(b)* of *Code* – unauthorized aid – Agreed Statement of Facts – student brought smart phone into exam - Guilty Plea – finding of guilt – mitigating circumstance of abusive relationship - Joint Submission on Penalty – three prior offences –final grade of zero in the course, a 3.5-year suspension, a 4.5-year notation on transcript, and a report to Provost

The Student was charged with one offence of use of an unauthorized aid found in s. *B.i.1(b)* of the *Code*, or alternatively, academic dishonesty under *s. B.i.3(b)* of the *Code*. The charge related to the Student attending and writing a midterm test with a smartphone in her possession during the test contrary to the rules. The Student pled guilty and was found to be guilty of the unauthorized aid charge. The University withdrew the alternative charge of academic dishonesty.
An Agreed Statement of Fact and Joint Submission of Penalty was submitted by the Student and the University agreeing to a final grade of zero in the course, a three and a half-year suspension, a four and a half-year notation on her transcript and a report to the Provost regarding this case. The Student had committed three prior offences. Two had been committed just one month apart, and the third was committed after her meeting with professors with respect to the second charge. Discipline Counsel raised the mitigating circumstance that the Student had been in an abusive relationship with her spouse at the time of the offences. The Panel found that the Joint Submission on Penalty was reasonable in light of other decisions (specifically, *University of Toronto v. L.W.,* Case No. 625, February 13, 2013) and there was no principled reason to reject it.

CONDUCT INFORMS INTENT

FILE: Case #738 (14-15)
DATE: January 15, 2015
PARTIES: University of Toronto v R.A.

Panel Members:
John Keefe, Chair
Michael Evans, Faculty Member
Michael Dick, Student Member

Hearing Date(s):

October 20, 2014

Appearances:
Lily Harmer, Assistant Discipline Counsel
The Student
Michelle Neely, Course Instructor

In Attendance:
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances
John Britton, Dean's Designate

Trial Division – *s. B.i.1(b)* and *s. B.i.3(d)* of the *Code* – unauthorized aids on exam – use of instructor's computer – use of internet for exam answers – unexplained deletion of answers – other conduct corroborates guilty intent – grade of zero in course; suspension from October 20, 2014 until August 20, 2017; notation on transcript from date of order until August 20, 2017; report to Provost for publication

Student charged with an offence under *s. B.i.1(b)*, and in the alternative, an offence under *s. B.i.3(b)* of the *Code*. The charges related to the use of an unauthorized aid during an exam.

The instructor testified by video link that the Student had injured her hand before the exam and was unable to write. The instructor offered her computer for the Student's use and saved her work at one point. The computer was connected to the internet and the instructor noticed that the Student had an extra screen open. When she approached the Student she noticed that she closed the window and began typing and saved her work. At the end of the exam the Student called over the instructor and informed her that all of the work, save for the Student's name, had disappeared. The instructor was suspicious and offered the Student the opportunity to take another exam the following day which the Student declined. The instructor found two links in the bowser history related to the exam. She took screenshots of both the browser history and the text of the sites in the history. The instructor further testified that her computer auto-saved every 10 minutes and had saved the Student's work herself. She could not explain how only the Student' answers were deleted and not her name and reported the incident to the office of the Dean. The Student suggested that the instructor had created the entries after the exam but the instructor was able to explain how that was not possible. The Panel accepted the instructor's evidence as credible.

The Student testified regarding her injury and was unable to explain how her exam answers were deleted from the computer. She was unfamiliar with Apple computers and indicated that she was saving regularly. The Panel found her evidence unreasonable and lacking credibility.

The Panel found that the Student used the instructor's computer to answer test questions and intentionally deleted her exam answers. Although the deletion finding is not necessary for the first count it corroborates a guilty intention rather than accidental conduct. The Panel found the Student guilty of the first charge and the University withdrew the alternative charge.

The University sought a penalty including a grade of zero in the course, a two year suspension from the date of the hearing, a notation on the Student's transcript for three years, and that the case be reported for publication. The University submitted cases demonstrating that a two year suspension was the ordinary sanction in similar circumstances.

The Panel considered the principles in establishing penalty, including that it was the Student's first offence, the lack of a good explanation for the activity, and the lack of remorse on the Student's part. The Panel imposed a grade of zero in the course, a suspension commencing October 20, 2014 until August 20, 2017, a notation on the Student's transcript from the date of the order until August 20, 2017, and that the case be reported to the Provost for publication.

BURDEN OF PROOF

FILE: Case #800 (15-16)
DATE: December 8, 2015
PARTIES: University of Toronto v S.E.

Hearing Date:
November 23, 2015

Panel Members:
John A. Keefe, Chair
Joel Kirsh, Faculty Member
Hayden Rodenkirchen, Student Member

Appearances:
Robert A. Centa, Assistant Discipline Counsel
Lauren Pearce, Articling Student, Paliare Roland Barristers
Neil Wilson, Counsel for the Student
Kristi Gourlay, Manager, Office of Student Academic Integrity
Martin Loeffler, Director, Information Security and Enterprise Architecture
Karen Reid, Department of Computer Science

In Attendance:
Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.3(a)*, *s. B.i.1(b)* and *s. B.i.1(d)* of the *Code* – forged academic record, unauthorized aids, plagiarism – Student hacked into the computer account of the Course Teaching Assistant to alter the mark recorded for his assignment – Student hacked into another student's computer account, copied the student's work, and submitted it as his own work – hearing not attended, but Student's counsel did attend – guilty plea – University still required to prove its case even though the Student did not challenge the evidence – Agreed Statement of Facts – finding on guilty plea – Joint Submission on Penalty accepted – the Student's agreement to permanently withdraw from the University was an important factor in the Panel's decision to accept the Joint Submission on Penalty – grade assignment of zero; 4-year suspension; permanent notation on the Student's academic record and transcript; case reported to Provost for publication

Student charged with three offences under *s. B.i.3(a)*, one offence under *s. B.i.1(b),* one offence under *s. B.i.1(d)* and, in the alternative, two offences under *s. B.i.3(b)* of the *Code*. The charges related to two separate allegations; first that the Student knowingly forged or in any other way altered or falsified the mark recorded on Assignment #1 in the Course by hacking into the computer account of the Course's teaching assistant, and second that the Student knowingly used or obtained unauthorized assistance in connection with Assignment #2 in the Course by hacking into the account of a fellow student, copying his work, and submitting it as his own work. The evidence of these charges was overwhelming and not challenged by the Student. The Student was not present at the hearing, but he did appear through his counsel. Counsel for the Student indicated that the Student was entering a no contest plea. The hearing proceeded on the basis that the University would nonetheless prove its case even though the Student would not be challenging the evidence.

The Student was found guilty with respect to the charges under *s. B.i.3(a)*, *s. B.i.1(b)* and *s. B.i.1(d)*. The University then withdrew the alternative charges under *s. B.i.3(b)*. The Panel accepted the parties' Agreed Statement of Facts and Joint Submission on Penalty. The Panel considered the fact that the Student agreed to permanently withdraw from the University and not to seek readmission at any time in the future as an important aspect of its decision to accept the Joint Submission on Penalty. The Panel imposed a grade assignment of zero in the Course; a 4-year suspension; a permanent notation on the Student's academic record and transcript; and that the case be reported to the Provost for publication.

UNDERTAKINGS

FILE: Case #571 (09-10)
DATE: February 3, 2010
PARTIES: University of Toronto v S.H.

Hearing Date(s):
November 18, 2010

Panel Members:
Julie Hannaford, Chair
Graeme Hirst, Faculty Member
Elena Kuzmin, Student Member

Apperances:
Robert Centa, Assistant Discipline Counsel
Noah Craven, Counsel for the Student, DLS
Eleanor Irwin, Dean's Designate
S.H., the Student

Trial Division – s. B.I.1(d) of Code – plagiarism – course work copied from internet – Agreed Statement of Facts – guilty plea – prior academic offences – Joint Submission on Penalty accepted – undertaking – grade assignment of zero for course; three-year suspension; three-year notation on transcript; and report to Provost

Student charged under s. B.I.1(d) of the Code. The Student plead guilty to the charge that she knowingly represented an idea that was not her own in an essay. An Agreed Statement of Fact and Joint Submission of Penalty was submitted by the Student and the University agreeing to a final grade of zero in the course, a three-year suspension, a three-year notation on her transcript and a report to the Provost regarding this case. The Student had committed two previous academic offences. First, the Student had admitted to having brought unauthorized aids into an examination three years prior. The Student received a final grade of zero in the course for said offence. Second, the Student admitted to plagiarizing an essay two years prior for which she received a final grade of zero in the course and a four month suspension. As part of the Joint Submission, the Student agreed to complete a program through the University of Toronto Scarborough Center for Teaching and Learning to undertake five workshops including instruction on 'Common Types of Academic Assignments' and the 'Elements of Writing. The Panel was satisfied with the joint submission, noting the University and the Student had approached the undertaking in a conscientious way. The Panel held it was not appropriate to reject a joint submission that includes an undertaking because it is novel or because the rehabilitative end cannot be guaranteed. The Panel further held that the novel joint submission of the University and the Student was to be respected and accorded great deference and agreed with the terms of the penalty.

FILE: Case #631 (11-12)
DATE: November 25, 2011
PARTIES: University of Toronto v Y. K.

Hearing Date(s):
October 27, 2011

Panel Members:
Lisa Brownstone, Chair
Bruno Magliocchetti, Faculty Member
Shakir Rahim, Student Member

Apperances:
Lily Harmer, Assistant Discipline Counsel
Kenneth Raddatz, Counsel for the Student, DLS

In Attendance:
Y.K., the Student
Kristi Gourlay, Manager, Office of Academic Integrity
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – coursework plagiarized from another student and internet sources – agreed statement of facts – guilty plea – finding of guilt based on Agreed Statement of Facts – Student acknowledged need to address her limited writing ability – Undertaking to complete writing workshops – Joint Submission on Penalty – concern that undertaking may be viewed as an excuse for misbehaviour – Student's willingness to work with University toward rehabilitation and remediation is a mitigating factor – Joint Submission on Penalty accepted – grade assignment of zero for each of the two courses; three-year suspension; four-year notation on transcript or until graduation; and report to Provost

Student charged under *s. B.i.1(d), s. B.i.1(b),* and alternatively, under *s. B.i.3(b)* of the *Code*. The charges related to allegations that the Student copied a significant portions of a course assignment from another student and that the Student copied significant portions of a course assignment for a different course from various websites. The parties agreed on the facts relating to the offences. The Student admitted to having committed the offences as set out in *s. B.i.1(d)* and *s. B.i.3(b)* of the *Code* and pleaded guilty to the charges. The Panel found the Student guilty of the offences under *s. B.i.1(d)* of the *Code* and accepted the withdrawal of the charge under *s. B.i.1(b)* and *s. B.i.3(b)*. The parties submitted an Agreed Statement of Facts on Sanction which indicated that the Student was currently serving a one-year suspension for an academic offence and that the Student acknowledged she needed to take steps to address her limited writing ability and be fully aware of her obligations as a student. The parties also submitted an undertaking executed by the Student which required her to complete workshops at the University of Toronto Writing Centre. The Student acknowledged on the Undertaking that the sanction sought by the University is in reliance of her Undertaking. The parties submitted a Joint Submission on Penalty. The Panel found that the joint submission is within the appropriate range of penalty and accepted the submission. However, the Panel stated its concern that while an undertaking can be a useful tool in penalty and rehabilitation, its use should not be viewed as an excuse for the misbehaviour. Nonetheless, the Panel found that the Student's willingness to work with the University toward rehabilitation and remediation is a mitigating factor in considering appropriate sanction. The Panel imposed a grade of zero in each of the two courses; a three-year suspension, a four-year notation on the Student's academic record and transcript (or until graduation, whichever was to occur first); and that a report be issued to the Provost.

FILE: Case #651 (11-12)
DATE: April 10, 2012
PARTIES: University of Toronto v O.O.

Hearing Date(s):
April 10, 2012

Panel Members:
William McDowell, Chair
Annette Sanger, Faculty Member
Shakir Rahim, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
O.O., the Student

In Attendance:
Lucy Gaspini, Manager, Academic Integrity and Affairs
Jason Marin, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d)* of *Code* – plagiarism – passages from essay taken verbatim from internet sources – Agreed Statement of Facts – guilty plea – finding of guilt – Joint Submission on Penalty – Undertaking to complete writing workshops – prior academic offences of similar nature – Panel acknowledged that a joint submission should not be rejected unless its acceptance would bring the administration of justice into disrepute – Panel accepted Joint Submission with reluctance – timing of Undertaking – suspicious unsettled facts – better to address academic deficiencies before and not after repeated academic offences – serious nature of the offence and harm to the university – grade assignment of zero for course; three-year suspension; report to Provost – Panel rejected the Student's motion for a ban on publication

Student charged under *s. B.i.1(d)* of the *Code*. The charges related to allegations that the Student submitted an essay containing passages taken verbatim or nearly verbatim from internet sources. The parties submitted an Agreed Statement of Facts. The Student pleaded guilty to the charges, and the Panel found the Student guilty under *s. B.i.1(d)*. The parties also agreed on a proposed penalty: a grade assignment of zero in the course and a three-year suspension. As part of the resolution, the Student signed an Undertaking which required the Student to take workshops at the university's writing centre. Before the current offence, the Student had committed two similar plagiarism offences. In considering whether to accept the joint submission, the Panel acknowledged that a joint submission should not be rejected unless it is contrary to the public interest in that the proposed penalty would bring the administration of justice into disrepute. The Panel stated that it accepted the joint submission with reluctance. The reasons for reluctance were as follows. First, the Panel considered it unfortunate that the Undertaking was offered after the Student's third offence and not his first offence. Second, the Panel remained suspicious of some of the facts agreed by the parties. Because of the University's half-way position in which it accepted reports submitted by the Student while stating that it did not accept the truth of

all the facts submitted, the Panel was asked to accept the Student's "exquisite bad luck in relation to motor vehicle accidents, coupled with a poorly supported medical/psychiatric explanation." The Panel stated that this way of proceeding runs the risk of confusing the Panel. Third, the Panel also stated that it agreed with the view regarding undertakings expressed in *Y.K.* (Case No. 631), that the student's academic deficiencies should be addressed before, and not as a result of academic offences. Finally, the Panel stressed the harm that the offence of plagiarism brings to the university and stated that a penalty of expulsion would not have been out of line for the Student. As according to the joint submission, the Panel imposed a grade assignment of zero in the course; a three-year suspension; and a report be issued to the Provost. The Panel rejected the Student's motion for a ban on publication as the question of publication was settled in the joint submission; the Panel found it abhorrent that the Student said because his family donated to the university, there should be a ban on publication.

FILE: Case #675 (13-14)
DATE: April 23, 2014
PARTIES: University of Toronto v O.K.

Hearing Date(s):
March 4, 2014

Panel Members:
Sana Halwani, Chair
Joel Kirsh, Faculty Member
Jenna Jacobson, Student Member

Appearances:
Lily Harmer, Assistant Discipline Counsel
Sylvia Schumacher, Lawyer for the Student

In Attendance:
The Student
David Walders, Acting Secretary, Governing Council Secretariat, Observer
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Trial Division – *s. B.i.1(d) and s. B.i.3(b)* of the *Code* – plagiarism – adjournment to retain counsel granted – Agreed Statement of Facts – guilty plea –two prior offences – Undertaking to complete Academic Skills Workshops – Joint Submission on Penalty – grade of zero in the course; three-year suspension; four-year transcript notation; report to Provost for publication

The Trial Division of the Tribunal was convened to consider charges under *s. B.i.1(d)* and, in the alternative, *s. B.i.3(b)* of the Code laid against the Student. The Student appeared unrepresented and was granted an adjournment to retain counsel. A second Notice of Hearing was issued with new panel members. On the basis of a joint request by the Student and University, the original Chair ordered the matter could proceed before a new Panel as the original panel had not heard any evidence.

The Student pleaded guilty, the matter proceeded on the basis of an Agreed Statement of Facts and the University advised that if the Student's plea was accepted, the alternative charge would be withdrawn. The charges arose from an assignment the Student submitted in hardcopy and on Turnitin.com, an online plagiarism detector, which detected significant similarities between the Student's paper and online sources. The Professor met with the Student and referred the case to the Office of the Dean. The Student then attended a Dean's Designate meeting where she indicated she hadn't intentionally plagiarized and abstained from pleading. The matter was then forwarded to the Provost.

The Student's guilty plea was accepted, and the alternative charge was withdrawn. The Student had committed two previous plagiarism offences. She was given mark deduction penalties and a one-year transcript notation. The Student had also entered an Undertaking to complete eight Academic Skills Workshops and agreed she would be unable to graduate until their completion. The Undertaking formed the basis of the Joint Submission on Penalty which contemplated a three year suspension. The Panel considered cases of Undertaking, appreciating their value, but felt they are more appropriate at discovery of a first offence, not when the Student is facing suspension or expulsion. The Student spoke and expressed remorse. The high threshold for rejecting a Joint Submission on Penalty was not met and the Panel accepted the parties' submission.

The Panel found the Student guilty of plagiarism contrary to *s. B.i.1(d),* assigned a grade of zero in the course, imposed a three-year suspension from the date of the hearing, ordered a notation on the Student's transcript for four years or until

graduation and ordered that the case be reported to the Provost for publication.

FILE: Case #923 (2017 - 2018)
DATE: August 30, 2017
PARTIES: University of Toronto v. O.E. ("the Student")

Hearing Date(s): August 9, 2017

Panel Members:
Mr. Paul Michell, Chair
Prof. Pascal van Lieshout, Faculty Panel Member
Ms. Sherice Robertson, Student Panel Member

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel for the University, Palaire Roland Barristers
Ms. Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, University of Toronto Mississauga
Ms. Alexandra Di Blasio. Academic Integrity Assistant, University of Toronto Mississauga
Mr. Robert Sniderman, Law Student, Downtown Legal Services, for the Student

In Attendance:
The Student
Ms. Tracey Gameiro, Associate Director, Office of Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
Ms. Breese Davies, New Co-Chair (observing)

Trial Division - *s. B.i.1 (d)* – plagiarism – ideas in an essay copied from another student – agreed statement of facts – joint book of documents – joint submission on penalty – guilty plea – three prior offences – undertaking – Panel acknowledged that a joint submission should not be rejected unless its acceptance would bring the administration of justice into disrepute – Panel accepted Joint Submission with reluctance – final grade of zero in the course; specified date for suspension; the sanction be recorded on academic record and transcript for seven years or until graduation, whichever is earlier; and that the decision be reported to the Provost for publication with the Student's name withheld

The Student was charged with one charge plagiarism contrary to s. B.i.1(d) of the *Code,* or in the alternative, one charge of unauthorized assistance contrary to s. B.i.1(b) of the *Code;* or in the further alternative, one charge of academic misconduct not otherwise described contrary to s.B.i.3(b) of the *Code.* The charges related to an essay that the Student had submitted for course credit that contained passages that were verbatim or nearly verbatim to those contained in an essay that another student had submitted in the previous term. The matter proceeded by way of agreed statement of facts and a joint book of documents. The Student pled guilty to the first charge of plagiarism contrary to s. B.i.1(d) of the *Code.* Upon the Panel accepting the Student's guilty plea to the first charge, the University withdrew the alternative charges.

The parties submitted a Joint Submission on Penalty (JSP) requesting: (a) final grade of zero in the course; (b) a four-year suspension; (c) the sanction be recorded on academic record and transcript for seven years or until graduation, whichever is earlier; and (d) that the decision be reported to the Provost for publication with the Student's name withheld. The JSP was accompanied by an undertaking that the Student complete at least six writing workshops offered by the University within the first two terms in which she is next registered for a course at the University. The parties did not seek an order with regards to the undertaking, and clarified for the Panel that it was a separate agreement between the Provost and the Student as the *Code* provides no authority to the Panel to order a Student to give such an undertaking. The Panel reviewed the case *University of Toronto v. O.O.* [Case No. 651; June 13, 2012], at para. 22 and *University of Toronto v. SA.* [Case No. 591.; May 13, 2011] in accepting that an undertaking is a mitigating factor supporting a JSP.

In deciding whether to accept the Panel considered the *Mr. C.* factors [Case No. 1976/77-3; Nov. 5, 1976] and a number of cases where students had been expelled for committing fewer plagiarism offences (*University of Toronto v. K.P.* [Case No. 660, February 6, 2012 - (two plagiarism offences: prior plagiarism offence)]; *University of Toronto v. O.O.* [(plagiarism offence: two prior plagiarism offences)], and *University of Toronto v. S.A.M.* [Case No. 657; September 11, 2012, (plagiarism offence: two prior plagiarism offences)]. Based on these cases, the Panel concluded that the present case would have warranted a more stringent penalty than that proposed by the parties, were it not for the JSP.

Despite these cases, the Panel found that the narrow circumstances that would permit them to depart from the JSP were not present. The Panel referred to the DAB decisions *University of Toronto v. M.A.* [Case No. 837; December 22, 2016], *University of Toronto v. S.F.* [DAB Case No. 690; October 20, 2014] as well as the Tribunal's prior decision in *University of Toronto v. Z.Z.* [Case No. 918; March 28, 2017] which emphasize the key role of JSPs in the University's discipline process and the narrow circumstances where the Tribunal may depart from them. The Panel found that mere disagreement with a JSP is not enough, and that the JSP here did not meet the test of bringing "the administration of justice into dispute," nor was it "fundamentally offensive", or "truly unreasonable or unconscionable" (*M.A.*., paras. 24-26). The Panel accepted the parties' JSP and ordered:(a) final grade of zero in the course; (b) suspension until August 31, 2021 (from date of Tribunal Order); (c) the sanction be recorded on academic record and transcript for seven years or until graduation, whichever is earlier; and (d) that the decision be reported to the Provost for publication with the Student's name withheld.

FILE:	Case #959 (2018-19)	Appearances:
DATE:	September 18, 2018	Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP, Barristers
PARTIES:	University of Toronto v. J.L. ("the Student")	Mr. Nathan Korenberg, Paralegal and Agent, Juslaw Legal Services
Hearing Date(s):	June 28, 2018	Ms. Sana Kawar, Manager, Transcript Centre, University of Toronto
Panel Members:		
Mr. Douglas Harrison, Barrister and Solicitor, Chair		In Attendance:
Dr. Chris Koenig-Woodyard, Faculty Panel Member		Ms. Lucy Gaspini, Manager, Academic Success & Integrity, Office of the Dean, University of Toronto Mississauga
Mr. Chad Jankowski, Student Panel Member		Ms. Lisa Devereaux, Academic Integrity Officer, Academic Success & Integrity, Office of the Dean, University of Toronto Mississauga
		Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances
		Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
		Not in Attendance:
		The Student

Trial Division - s. B.i.3(a) – forging or falsifying an academic record – forged transcript – agreed statement of facts – guilty plea - student did not attend hearing – joint submission on penalty – undertaking not to reapply to the University - suspension of five years; ten year notation on transcript; that the decision be reported to the Provost with the Student's name withheld.

The Student was charged with forging or falsifying an academic record contrary to s.B.i.3(a) of the *Code,* or in the alternative, academic dishonesty not otherwise described contrary to s. B.i.3(b) of the *Code.* The charges related to an application that the Student had made to another University which contained a transcript that was a forgery. The Student pled guilty to the first charge, the University withdrew the alternative charge. The Student did not attend the hearing. The Tribunal accepted the Student's guilty plea. The parties submitted a joint submission on penalty (JSP) and an undertaking from the Student that he would not apply to the University for re-admission. Pursuant to the JSP, the University and the Student requested an order (a) immediately suspending the Student for five years; (b) that a corresponding notation of this sanction be made on the Student's academic record and transcript for ten years; and (c) that the Tribunal's decision be reported to the Provost with the Student's name withheld. In determining the appropriateness of the sanction, the Tribunal referred to the case *University of Toronto v. N.R.* (Case No. 714, October 11, 2013) for the proposition that forging a transcript was one of the most serious offences a Student can commit because it involves deliberate dishonesty, which was particularly egregious in this case because the Student was attempting to defraud another publicly funded post-secondary academic institution, taking away a space from an honest applicant. The Tribunal noted that expulsion is a common penalty in cases of forged academic records, however the Student had admitted guilt and cooperated with the University and in similar cases a lengthy suspension and transcript notation had been appropriate in other cases (See *The University of Toronto v. A. F.* (Case No. 2004/05-07, May 16, 2005); *The University*

of Toronto v. N. R., supra; and *The University of Toronto v. S.B.*(Case No.905, November 1, 2017). Noting that there was no authority for the Tribunal to enforce the undertaking, the Tribunal made an order: (a) immediately suspending the Student for five years; (b) that a corresponding notation of this sanction be made on the Student's academic record and transcript for ten years; and (c) directing that the Tribunal's decision be reported to the Provost with the Student's name withheld.

ACADEMIC RECORD: DEFINITION AND PURPOSE

FILE:	Case # 1011 (2019-2020)	Panel Members:
DATE:	October 7, 2019	Ms. Johanna Braden, Chair
PARTIES:	University of Toronto	Professor Julian Lowman, Faculty Member
	v. H.A. ("the Student")	Ms. Natasha Brien, Student Member
HEARING DATE:	July 8, 2019	Appearances:
		Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
		Hearing Secretary:
		Ms. Jennifer Dent, Associate Director, Office of Appeals, Discipline and Faculty Grievances
		Not in Attendance:
		The Student

Trial Division – s. B.i.3(a) of the Code – forgery of academic record – Student knowingly forged, circulated or made use of two documents purporting to be Confirmation of Enrolment letters from University in support of application for replacement study permit - Student did not attend hearing – ss. 6 and 7 of the *Statutory Powers and Procedures Act* – Rules 9, 14 and 17 of the University Tribunal's *Rules of Practice and Procedure – Policy on Official Correspondence with Students* – reasonable notice of hearing provided – finding of guilt – confirmation of enrolment letters are "academic records" for purposes of Code – enrolment letters represent an official control mechanism for verifying enrolment, so that only students registered with the University can claim the benefits associated with registration – falsification of University enrolment for immigration purposes jeopardizes University's reputation and undermines University's efforts to accommodate international students – need for general deterrence significant concern – no extenuating circumstances as Student declined to participate in hearing - a five-year suspension; a recommendation that the Student be expelled, as per s. C.ii.(b)(i) of Code; and a report to the Provost for a publication.

The Student was charged with two counts of academic misconduct under s. B.i.3(a) of the *Code of Behaviour on Academic Matters, 1995* (the "Code") on the basis that he knowingly falsified, circulated or made use of two forged academic records, namely, documents purporting to be Confirmation of Enrolment letters from the University dated June 23, 2017 and September 6, 2017, respectively.

Neither the Student nor a legal representative of the Student appeared at the hearing. The Panel noted that the *Policy on Official Correspondence with Students* makes it clear that a student is responsible for maintaining a current and valid University-issued email account. Students are also expected to monitor and retrieve their email on a frequent and consistent basis. The University provided evidence that the Student had been served at his ROSI-listed email address with the charges and notice of hearing. The Student was subsequently served with a revised notice of hearing changing the name of the Chair; and a second revised notice of hearing, changing the location of the hearing. Neither of the revised notices changed the date or time of the hearing. The Panel noted that there was evidence that the Student had accessed his email account after service of the charges and the original notice of hearing which notified him of the date and time of the hearing. Taking into consideration rules 9, 14 and 17 of the *Rules of Practice and Procedure* of the University Tribunal coupled together with sections 6 and 7 of the *Statutory Powers and Procedures Act*, the Panel found the Student had been given reasonable notice of the hearing and ordered the hearing to proceed to be heard on its merits in the absence of the Student.

The Student was registered at the University from Fall 2015 to Fall-Winter 2016-2017. A Risk Assessment Officer at Immigration, Refugees and Citizenship Canada ("ICRCC") received two letters from the Student in support of the Student's application for a study permit replacement. The two letters sent by the Student to ICRCC purported to be Confirmation of Enrolment letters from the University, but were forgeries. The two letters were clearly forged or altered and were not genuine letters from the University. There was no direct evidence that the Student forged or altered them himself; the only evidence was the letters sent to ICRCC and then to the University for authentication. The Tribunal

found it more likely than not that the Student, at the very least, circulated and made use of two falsified Confirmation of Enrolment letters so that he could fraudulently obtain a study permit replacement allowing him to remain in Canada.

The Tribunal was satisfied that the two forged Confirmation of Enrolment letters were "academic records" for the purposes of the Code. The Tribunal noted that the definition of "academic record" contained in the Code includes "any other record or document of the University ... used, submitted or to be submitted for the purposes of the University." Although the Panel noted that Confirmation of Enrolment letters are typically used to satisfy third parties regarding a student's academic standing, they serve an important purpose of the University. They represent an official control mechanism for verifying enrolment, so that only students registered with the University can claim the benefits associated with registration. The Panel found the Student guilty of the two charges.

In determining the appropriate sanction, the Panel noted that although this was the Student's first academic offence, the dishonest conduct was repeated, and the falsifications were deliberate and careful. There was no evidence of extenuating circumstances, as the Student declined to participate in the hearing. The Panel noted that when people fake their University enrolment with immigration officials, they put honest international students at a disadvantage, jeopardize the University's reputation and undermine the University's efforts to accommodate and support international students. The Panel also stated that the need for general deterrence is a significant concern as this type of offence is hard for the University to police. The Panel concluded that a five-year suspension would not be appropriate. Had the Student appeared and given credible, truthful evidence of compelling mitigating circumstances that helped to explain the misconduct, the Panel stated that it might have concluded differently. As the Student did not attend, the Panel found that the most severe sanction, a recommendation of expulsion, was the most suitable.

The Panel imposed the following sanctions: a five-year suspension; a recommendation that the Student be expelled, as per s. C.ii.(b)(i) of Code; and a report to the Provost for a publication.

APPENDIX:
DISCIPLINARY APPEALS BOARD SUMMARIES 2000-PRESENT

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UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2000-2001

FILE: Case #00-01-05 (00-01)
DATE: March 8, 2001
PARTIES: University of Toronto v. Mr. W.

Hearing Date(s):
August 29, 2000

Panel Members:
Patricia D.S. Jackson, Chair
Marvin Gold, Faculty Member
Lorraine Weinrib, Faculty Member
Josh Hunter, Student Member

Appearances:
W. Gerald Punnett, Counsel for the Appellant
Lily I. Harmer, Counsel for the Respondent

Discipline Appeal Board – Student appeal from finding of guilt – Students should not have been tried jointly, attribution of sources demonstrated the lack of intent to plagiarize or alternatively the lack of plagiarism, University wrongly allowed to reopen its case, evidence wrongly excluded, pre-hearing procedures not complied with as per *Code*, and inappropriate penalties imposed – considerations met - see *s. 9.1* of *Statutory Powers Procedures Act* - consent of parties to joint trial not avoided by failure of trial reporter - no injustice as result of joint trial - finding of necessary mental element to constitute plagiarism - findings on fact supported by evidence – case not reopened by exchange between Chair and University witness - no injustice occurred so as to interfere with discretion to permit reopening case - decision to exclude evidence not in error - evidence irrelevant to charges - no evidentiary basis for argument - no requirement to afford meeting with teaching assistant – see *Code* - no disadvantage as result of defect in procedures - no substantial wrong, detriment or prejudice - not appropriate to vary penalty imposed - signal to Student and other students of severity of offence not signaled by sanction limited to report mark - appeal dismissed

Appeal by the Student from a Tribunal decision in which the Student was found guilty of submitting a plagiarized report, contrary to *s. B.i.1(d)* of the *Code*. The Student submitted that the Tribunal should not have tried the Student at the same time as a second student charged with the same offence in relation to the same report; that the attribution of sources in the report demonstrated that the Student did not intend to plagiarize, or alternatively such attribution was sufficient that there was no plagiarism; that the Chair of the Trial Panel wrongly allowed the University to reopen its case during the course of submissions, resulting in fundamental unfairness to the Student; that the Tribunal wrongly excluded evidence of plagiarism by other students who wrote other chapters of the same report; that the University did not comply with the pre-hearing procedures specified in the *Code*; and that the penalties imposed were inappropriate. At the Trial Division hearing, the Student was not represented by counsel. The Board considered the transcript of the Trial Division hearing. With respect to the first ground of appeal, the joint trial, the Panel considered the Student's submissions and *s. 9.1(l)(a)* of the *Statutory Powers Procedures Act*, and found that the conditions of *s. 9.1* had been met because the Trial Panel made it clear to both Students that if either of them objected to a joint trial then they would be tried separately; that there was no suggestion that they had to justify such a separation; and that the similarity of the facts and law underpinning the identical charges against the two students was evident, and that it was not incumbent upon the Tribunal to identify such evident similarities as a basis for exercising its jurisdiction. The Panel considered the transcript of the Trial Division hearing and the submissions on the Student's counsel and found that the parties did consent to a joint trial and that the failure of the reporter to fully record that consent did not avoid it. The Panel found that there was no injustice as a result of the joint trial because there was no indication at the trial or on appeal of an area in which the appellant sought to cross-examine and was denied, and no indication that the defences of the two Students were in conflict. With respect to the second ground of appeal, the Panel considered the definition of plagiarism in the *Code*, and found that the Trial Panel's finding was a finding of the necessary mental element to constitute the offence of plagiarism. The Panel found that the Trial Panel's rejection of the Student's defence was based on findings on fact and that those findings were supported by the evidence. With respect to the third ground of appeal, the Panel found that an exchange between the Chair and the course professor, which did not go to proving any element of the offence, did not amount to a "re-opening" of the University's case, and that even if it did amount to a re-opening, there is a discretion to permit such re-opening which should not be interfered with unless an injustice had resulted and that no injustice had occurred. With regard to the fourth ground of appeal, the Panel found that the Trial Panel's decision to exclude evidence of the potential commission by others of an offence to not be in error, and that such evidence was irrelevant to the question of whether the Student committed the offence. With regard to the fifth ground of appeal, the Panel considered the *Code* and found that there was no evidentiary basis for the Student's argument that the matter may have been resolved without having to proceed with the prosecution if the he had the opportunity to meet with the teaching assistant who marked the Report. The Panel found that there was no requirement in the *Code* to afford a meeting with the teaching

assistant, that there was no basis for departing from the conclusion of the Trial Panel that the Students was not disadvantaged as a result of the defect in procedures, and that there was no substantial wrong, detriment or prejudice to the Student. With regard to the sixth ground of appeal, the Board considered the Student's academic status and the Trial Panel's object in imposing a sanction, and found that it was not appropriate to vary the penalty imposed by the Trial Panel. The Board found that penalizing the Student only in relation to his mark in the report, rather than in the course as a whole, would not reflect the reality that plagiarism reflects a want of academic integrity, and a sanction limited to the report mark would not adequately signal to the Student and other students, the severity of the offence. Appeal dismissed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2001-2002

FILE:	Case #01-02-01 (01-02) *DAB	Panel Members:
DATE:	November 19, 2001	C. Anthony Keith, Senior Chair
PARTIES:	University of Toronto v Mr. P. (Applicant-Respondent)	Appearances:
Hearing Date(s):		Lily Harmer, for the Respondent-Applicant
October 4, 2001		Gary Shortliffe, for the Applicant-Respondent

Discipline Appeals Board – application for extension of time to appeal - cross-application request that extension of time not operate as stay of Tribunal decision – notice of appeal not delivered within time provided – see *E.5* of *Code* – understanding from Tribunal Secretary that legal representation should be secured before filing formal notice of appeal - exceptional circumstances required to enlarge time for appeal made before or after expiry of time provided - see *s. E.5* of *Code* – no reference of exceptional circumstances in past decisions, *Code* or *Code of Student Conduct* - time limits not rendered mandatory by imperative language in *Code* – exceptional circumstances demonstrated – application not opposed by University provided conditions incorporated into order – acceptance of conditions - extension for the time of appeal granted with conditions - submissions on costs reserved to Chair of Appeal Tribunal

Application by the Student for an extension of time to bring his appeal from a Tribunal decision. The University brought a cross-application, pursuant to section *E. 10* of the *Code*, requesting that any extension of time not operate as a stay of the decision of the Tribunal below. The Student claimed that while no formal notice of appeal was delivered to the secretary within the time provided by *E.5* of the *Code*, he understood from his conversations with the then-Secretary of the Tribunal that he should proceed with his attempts to obtain legal representation and when he had secured that legal representation he should then file a formal notice. The issue before the Chair was whether or not the circumstances described by the Student would reasonably fall within the language of the *Code* and constitute "exceptional circumstances" so that the Chair could exercise his power under *s. E.5* of the *Code* and enlarge the time for appeal upon application made either before or after the expiry of time provided. The Chair considered the *Code of Student Conduct* and previous Tribunal decisions found that the *Code of Student Conduct* did not contain the phrase "exceptional circumstances," or any provision for the extension of time and that there were no previous decisions of the Tribunal addressing the issue. The Chair considered the general jurisprudence on the issue of administrative tribunals and extensions of time and found that the use of imperative language found the in *Code* did not by itself render time limits mandatory. The Chair considered the chronology of events and the submissions of the Student, and affidavit evidence which indicated his understanding of what was expected of him as a result of a conversation with an employee representing the University, and the fact that the University had not decided to controvert by cross-examination or filing additional material, and found that on the circumstances of the case alone, there were exceptional circumstances upon which to exercise the power under the enactment to enlarge the time for appeal. The University's did not oppose the Student's application provided that certain conditions were incorporated into the order granting an extension of time. The Chair considered the Student's acquiescence to the conditions and ordered that an extension for the time of appeal be granted, conditional upon: the appeal of the Tribunal decision would not operate as a stay of that decision, pursuant to *s. E.10* of the *Code*; the granting of leave to appeal would not operate so as to prevent the University from raising as an issue on the appeal any practical difficulties which may arise in terms of presenting the necessary witnesses to deal with any new hearing the appellant tribunal might see fit to order; and the parties were to abide by a strict timetable. The Chair ordered that any submissions as to costs of the hearing would be reserved to the Chair of the Appeal Tribunal.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2002-2006

No DAB decisions reported for 2002-2003, 2003-2004, 2004-2005, 2005-2006

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2006-2007

FILE: Case #513 (06-07)
DATE: August 21, 2006
PARTIES: University of Toronto v N.P.

Hearing Date(s):
June 21, 2005

Panel Members:
Janet E. Minor, Co-chair
John Browne, Faculty Member
Francoise Ko, Student Member
Jorge Sousa, Student Member

Appearances:
Lily Harmer, Counsel for the Respondent
N.P., the Student

Discipline Appeal Board – Student appeal from finding of guilt – appeal from recommendation of expulsion – motion for the admission of new evidence – evidence not relevant or probative to consideration of penalty - see Provision *E.8* – previous expulsion decisions involved changing of grade or misrepresentation of achievement - dishonesty would have permitted a second chance at writing tests and marks obtained would still be based on performance - severe personal stress - genuine remorse and apology - appeal allowed - mark of zero imposed in two courses; five-year suspension commencing on decision date of University Tribunal; report to Provost

Appeal by the Student from a Tribunal decision in which the Student was found guilty of ten offences related to allegations that the Student submitted forged documents and provided false information in order to gain permission to write a final test and a term exam in two separate courses, contrary to *s. B.i.1(a)* and *s. B.i.3(b)* of the *Code*. The Student appealed the penalty potion of the decision respecting the recommendation of expulsion. The Student brought a motion for the admission of new evidence related to communication between the University and the Student directed towards responding to an affidavit filed at the Tribunal hearing. The Board considered Provision *E.8* under the *Code* and the findings by the Hearing Panel and found that the proposed evidence was not relevant or probative to its consideration of penalty and it did not admit the proposed further evidence. The Panel considered previous Tribunal decisions in which students had been expelled, and found that the cases involved the changing of a grade or misrepresentation of achievement by misrepresenting grades or a transcript in order to rely on a higher mark or grades than had actually been received. The Board found that the Student's dishonesty stopped short of conduct which would have permitted him to rely on misrepresentation of his achievements, but rather the dishonesty would have permitted him to have a second chance at writing two tests and the marks obtained would still have been based on his performance. The Board found that the Student was under severe personal stress during most of the period in which the conduct occurred and accepted that his remorse and apology were genuine. The Panel allowed the Student's appeal and ordered that the Student receive a mark of zero in the two courses; a five-year suspension, commencing on the date that the University Tribunal rendered its decision; and that a report be issued to the Provost.

FILE: Case #512 (06-07)
DATE: July 27, 2006
PARTIES: University of Toronto v. C.Z.

Hearing Date(s):
March 30, 2006

Panel Members:
Patricia D.S. Jackson, Senior Chair
Cheryl Shook, Faculty Member
Jorge Sousa, Student Member
Lorraine Weinrib, Faculty Member

Appearances:
Lily Harmer for the Appellant
Jennifer Kotz for the Respondent
C.Z., the Student

Discipline Appeal Board – University appeal from finding of guilt – Student permitted to graduate - jurisdiction of the Tribunal to impose sanctions ordered, the sanctions did not reflect nature of offence and sanctions inconsistent with previous decisions - see *s. C.ii(b)* of the *Code* - no jurisdiction to entertain appeal due to Student's graduation and *s. C.i.(a)12* of the *Code* – *s. B.1.4* of *Code* did not detract from *s. C.i.(a)12* of *Code* – requested penalty inconsistent with having allowed Student to graduate and moot due to graduation - amendment of *Code* appropriate method to address policy concerns – appeal would have been allowed if jurisdiction to do existed and more serious sanction drawn from *s. C.ii(b)* of the *Code* – appeal quashed

Appeal by the University from a Tribunal decision in which the Student was found guilty of plagiarizing large portions of a submitted essay, contrary to *s. B.i.1(d)* of the *Code*. The Hearing Panel found that the Student had been haphazard in text citation method and submitted the paper in good faith and without any intention to portray the work of someone else but that he ought reasonably have known that he was committing an academic offence. Prior to the delivery of any notice of appeal, the University permitted the Student to graduate. The University claimed that the decision to allow the Student to graduate was made without adverting to *s. C.i.(a)12* of the *Code*. The University appealed the sanction portion of the decision respecting the jurisdiction of the Tribunal, under *s. C.ii(b)* of the *Code*, to impose three of the sanctions ordered; that the sanctions did not reflect the nature of the offence; and that the sanctions were inconsistent with those imposed in previous decisions involving plagiarism. The Board considered *s. C.i.(a)12* of the *Code* and asked the parties to address the question of whether, since the Student had graduated, the decision of the Tribunal had not necessarily become the final disposition of the accusation. The Board found that as a result of the Student's graduation and the provisions of *s. C.i.(a)12* of the *Code*, it lacked jurisdiction to entertain the appeal. The Board found that the provisions of *s. B.1.4* of the *Code* did not detract from the conclusion articulated in *s. C.i.(a)12* of the *Code*. The Board agreed with the Student's position that *s. B.1.4* of the *Code* applied in circumstances in which the offence was not detected until after the Student had graduated. The Board found that the University sought the imposition of a penalty which was inconsistent with having allowed the Student to graduate and which was moot in light of that graduation. The Board found that the appropriate method to address any possible policy concerns that would justify allowing the University to permit a student to graduate without precluding an appeal with respect to conviction was by amendment of the *Code*, which did not permit an appeal in such circumstances. The Board observed that it was in agreement with the University's position on the seriousness of the offence of plagiarism. The Board stated that the difficulty of identifying plagiarism was a reason why sanctions imposed should reflect the seriousness of the offence and operate as a deterrent, both to intentional plagiarism and plagiarism resulting from reckless indifference to accepted citation standards. The Board stated that if it had the jurisdiction to do so, it would have allowed the appeal and imposed a more serious sanction drawn from the provisions of *s. C.ii(b)* of the *Code*. The Board quashed the appeal.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2007-2008

No DAB decisions reported for 2007-2008

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2008-2009

FILE: Case #497 (08-09)
DATE: March 25, 2009
PARTIES: University of Toronto v O.M.

Hearing Date(s):
June 21, 2005

Panel Members:
Patricia D.S. Jackson, Chair
Aaron Christoff, Student Member
Wendy Duff, Faculty Member
Jemy Joseph, Student Member

Appearances:
Linda Rothstein for the Appellant
Lily Harmer for the Appellant
Maurice Vaturi for the Respondent

Discipline Appeal Board – University appeal from acquittal - balance of probabilities applicable standard of proof for proceedings under the *Code* - requirement to prove case on the balance of probabilities does not detract from requirement that the standard must be met by clear, convincing and cogent evidence – Student's evidence and credibility of Professor's evidence accepted – University erroneously required to prove case to a standard higher than balance of probabilities - irrelevant consideration focused on - finding of fact based on irrelevant consideration was material error of law - appeal allowed - matter sent back to Trial Division for a new hearing

Appeal by the University from a Tribunal decision in which the Student was found not guilty of submitting an answer booklet during a term test that was written prior to rather than during the test, contrary to *s. B.i.3(b)* of the *Code*. The University submitted that the Tribunal erred in three respects: by applying a standard of proof which required the University to prove its charges "conclusively or by necessary inference" and to disprove all possibilities inconsistent with guilt, rather than prove its case on a balance of probabilities; requiring "independent corroboration" of evidence from the University's witness notwithstanding the Tribunal's finding that the witnesses evidence was credible; and placing significant reliance on an irrelevant consideration. The Board stated that the applicable standard of proof for proceedings under the *Code* was according to a civil standard, on a balance of probabilities, but that the requirement to prove the case on the balance of probabilities did not detract from the *Code* and common law requirement that the standard be met by evidence that is clear, convincing and cogent. The Panel found that the case involved a conflict between the evidence of the Student and the course Professor, and that the Tribunal both accepted the Student's evidence and did not question the credibility of the Professor's evidence. The Tribunal had concluded that the offence was not "determined conclusively or by necessary inference", was not accompanied by "independent corroboration" and that the evidence had not eliminated the "many possibilities that are inconsistent with an inference of guilt." The Board found that the Tribunal, in concluding that the Professor failed to establish the offence, was requiring the University to prove the case to a standard higher than the balance of probabilities. The Panel found that a count of the examination booklets distributed and returned would not resolve the question of whether the Professor's evidence or the Student's evidence was correct. The Board found that in focusing on the failure to count, the Tribunal focused on an irrelevant consideration that did not resolve the conflict in the evidence. The Board found that the conflict fell to be resolved by the application of the standard of balance of probabilities. The Board found the Tribunal's finding of fact based on an irrelevant consideration to be a material error of law. Appeal allowed. The Panel ordered that the matter be sent back to the Trial Division for a new hearing.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2009-2011

No DAB decisions reported for 2009-2010, 2010-2011.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2011-2012

FILE: Case #596, 597 & 598 (11-12)
DATE: November 23, 2011
PARTIES: University of Toronto v C., H., and K.

Hearing Date(s):
October 24, 2011

Panel Members
Ronald G. Slaght, Chair
Elizabeth Peter, Faculty Member
Kenneth Davy, Student Member
Sabrina Tang, Student Member

Appearances:
Robert Centa for the Appellant
Joy-Ann Cohen for the Respondents, C. and K.
Philip Trotter for the Respondent, H.

Discipline Appeal Board – University appeal from sanction – expulsion a likely sanction in purchased essay cases – *s. E.7(c)* allows Board not to show any deference – principled approach showing some deference – majority erred in concluding Student were victims – submitting purchased essays could not be justified – majority erred in treatment of previous offences – no continuum of remorse – previous offence did not have to be identical to be relevant – majority erred by giving too much weight to demeanor and expressions of remorse – multitude of factors relevant in sentencing – effect of previous offences – indications of continuing dishonest motive and a failure to recognize and adhere to core University values – in purchased essay cases, two *Chelin* factors were more relevant than others: the detriment to the University and the need for deterrence – expulsion was the appropriate sanction – H's affidavit was not much different from her earlier expressions of regret and there would need to have been something materially more dramatic to have an effect – Appeal allowed

Appeal by the University from a Tribunal decision in which the Students were each found guilty of purchasing an essay, contrary to *s. B.i.1(d)* of the *Code*, and sentenced to a five-year suspension. The University sought a recommendation that each Student be expelled. The Board started the analysis by stating that expulsion should be considered as a likely, or the most likely, sanction in purchased essay cases. On the issue of deference, the Board stated that although the language of *s. E.7(c)* of the *Code* allowed it to simply substitute its own view of the sanction for whatever reason, the Board in previous decisions showed some deference, basing determinations on a principled analysis. The Board stated that its role would involve a two-step process: (1) determining whether the Panel has made a reversible errors of law or fact; and (2) if so, whether those errors should result in a variation of the penalty imposed.

(1) The Board held that the majority of the Panel made significant errors in material findings of fact and characterization of the evidence in concluding that the Students were victims of commercial companies such as the Essay Place. The Board stated that the Students did not portray themselves as victims and the evidence showed rather that their concerns were more with the high dollar cost of purchasing the essays. In addressing the majority's finding that the Students purchased the essays as a last resort, the Board stated that it could not endorse any suggestion that purchasing essays could be justified. The Board also found that the majority erred in taking a benign view of the previous offences committed by the Students: the majority failed to appreciate that within two months of their meeting with the Dean regarding their previous offence, the Students were conspiring together to commit much more serious offences, in the full realization that what they were doing was wrong. This was inconsistent with the majority's finding that there was a continuum of expression of remorse. It should count that the Students committed a further offence after cheating, being caught, expressing remorse and apologizing. However, the fact that the earlier offences were not identical to the last offence should have no bearing in trying to measure their importance in the overall context of deciding a sanction for the last offence. The Board further found that the majority erred by giving too much weight in the Students' demeanor during the hearing and their expressions of shame, regret, and remorse. The demeanor and such expressions should not be elevated to that degree of significance when measured against other sentencing factors.

(2) The Board stated that while the Tribunal should approach sentencing in purchased essay cases with a working assumption that expulsion was the sanction best commensurate with the gravity of the offence, the result in each case would depend on multitude of factors. These factors include the circumstances under which the essay was purchased and submitted; the degree of intent and deliberation; recognition by the student that the conduct was grave and wrong; involvement of other people; influences that can legitimately influence the penalty; subsequent events; and egregious or ameliorating factors. Although whether the student learned from the entire matter or true expressions of remorse are relevant, these will rarely blunt the force of the offence. On the issue of previous offences, the Board stated that when

there was none, expulsion may not be the result. When there were one or more, whatever their nature, it would be a powerful indication that expulsion may be warranted. Moreover, when the previous offence involved purchasing and submitted an essay, it would be most unusual for the student to escape expulsion. The Board emphasized, however, that previous offences did not have to be similar; they served as indications of continuing dishonest motive and a failure to recognize and adhere to core University values. The Board further stated that in balancing the factors in purchased essay cases, two sentencing principles should be paramount over the others: the detriment to the University and the need for deterrence. Accordingly, the Board concluded that expulsion was the appropriate penalty for the Students. On the issue of the new affidavit submitted by H., the Board stated that it was not much different from her earlier expressions of regret and there would need to have been something materially more dramatic to overcome the overwhelming facts that otherwise point to expulsion.

Appeal allowed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2012-2013

FILE: Case #606 (12-13)
DATE: October 10, 2012
PARTIES: University of Toronto v A.L.

Hearing Date(s):
September 18, 2012

Panel Members:
Ronald G. Slaght, Chair
Elizabeth Peter, Faculty Member
Chirag Variawa, Student Member
Graeme Norval, Faculty Member

Appearances:
Lily Harmer for the Appellant, the Provost
Glenroy Bastien for the Respondent, the Student

In Attendance:
A.L., the Student
Eleanor Irwin, Dean's Designate
Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Discipline Appeal Board – University appeal from sanction – request to set aside the penalty and impose a recommendation for expulsion – Board need grant little deference given its very broad powers – deference given on the issue of credibility did not apply in this case because the Student did not testify – the possibility of expulsion is a real deterrent effect – no extenuating circumstances to justify a lesser sentence than expulsion – concern that if expulsion was not the result in this case, it would be difficult to justify in any case – whether the Student had prior offences should be seen in combination with other factors – nothing to put context around the first offence in a mitigating sense – no remorse or explanation by the Student – guilty plea in its own terms was neutral or irrelevant – Board found it significant that Student continued his misconduct even after being warned by a potential employer – Board rejected the idea that because the act itself is the same on each occasion, they should be considered all as one – little weight on the psychiatrist evidence – the fact that the Student had accumulated enough credits to graduate was not a mitigating factor – Board differentiated the case from *A.K.G.* on the ground that the circumstances were different – deterrent effect and the harm occasioned to the University by the nature of the offence were the two most important sentencing principles in a serious case such as this – nothing in this case that could blunt or ameliorate the facts of the case or the need for consistency and uniformity in sentencing principles – Appeal allowed – recommendation for expulsion

Appeal by the University from a Tribunal decision in which the Student was found guilty of submitting falsified academic records to prospective employers on three different occasions, contrary to *s. B.i.1(a)* and *s. B.i.3(a)* of the *Code*, and sentenced to a five-year suspension. The University asked the Appeals Board to set the penalty aside and replace it with a recommendation that the Student be expelled. On the issue of deference, the Board stated that it had very broad powers which meant that it need grant little deference to the Trial Panel decision although it does give deference over credibility issues, where they arise in a trial setting and where the Trial Panel has the opportunity to observe the witnesses giving evidence. The Board stated that in this case, the Board did not have to take deference into account because the panel did not have the opportunity to observe the Student as he did not testify. Regarding the Panel's concern that anonymity hurt the deterrent effect and there was no proven difference between the deterrent effect of a five-year suspension and that of a recommendation for expulsion, the Board agreed that anonymity blunted the deterrent effect but stated that the most serious penalty, in the most serious cases, was a real deterrent and it remained an important element in setting penalties in serious cases. The message conveyed that falsifying transcripts generally meant expulsion and not just suspension accomplished deterrence, a legitimate purpose of sentencing. Moreover, the Board found that in this case, there were no extenuating circumstances that would justify a lesser sentence and expressed a concern that if expulsion was not the result in this case, then it would be difficult to justify expulsion in any case. For example, the issue of whether the Student committed a prior offence was an element that had to be seen in combination with others such as whether he had shown remorse for a first offence, the nature and gravity of the offence, the circumstances of the first offence, and other extenuating circumstances that in combination could lead to a lighter penalty for a first offender. In this case, the Board found that there was nothing to put context around the first offence in a mitigating sense. The Student made no personal expression of remorse nor offered any explanation, and the Trial Panel and the Board were left completely in the dark without any explanation for his behaviour and conduct on the original actions, the subsequent denials, and the future prospects. Regarding the Student's guilty plea, the Board noted

that a guilty plea in its own terms was neutral or irrelevant in all respects and did not speak to any explanation or remorse for the facts. The Board also found it significant that the Student further submitted falsified academic records after being warned by a potential employer who spotted anomalies and contacted him. As for the Panel's finding that the Student's acts should be seen as one continuing offence rather than 10 offences that he had been charged with, the Board rejected the idea that because the act itself is the same on each occasion, they should be considered all as one. Thus, it was not a mitigating factor. Furthermore, the Board found that it was difficult to place much weight on the evidence given by the Student's psychiatrist without any direct evidence from the Student himself. On the issue that the Student had accumulated sufficient credits to graduate, the Board refused to give effect to this factor, stating that it would convey the message that it would lighten the penalty if a student continues to cover up and deny, until sufficient credits are obtained. Finally, the Board differentiated this case from *A.K.G.* (Case 508) on the ground that the circumstances were different. Unlike this case, in *A.K.G.*, the Student had already earned a degree and after that, on one occasion, submitted a false record to one recipient, and then immediately admitted what he had done. In closing, the Board stated that the deterrent effect of the penalty and the harm occasioned to the University by the nature of the offence were the two most important sentencing principles in a serious case such as this. The Board found that there was nothing in this case that could blunt or ameliorate the facts of the case or the need for consistency and uniformity in sentencing principles, in order not to skew future cases. The Board allowed the appeal and imposed a recommendation that the Student be expelled.

FILE: Case #634 (12-13)
DATE: October 4, 2012
PARTIES: University of Toronto v M.K.

Hearing Date(s):
October 3, 2012

Panel Members:
Patricia D.S. Jackson, Chair
Faye Mishna, Faculty Member
Graeme Norval, Faculty Member
Yuchao Niu, Student Member

Appearances:
Robert Centa for the Respondent

Discipline Appeal Board – Student appeal from sanction – appeal limited to the Panel's recommendation that he be expelled – hearing not attended despite the accommodations Student received regarding scheduling – hearing proceeded in Student's absence – Student claimed he made every effort to address mistakes and did not attempt to deceive and blamed the prosecution and his supervisor – attempt to introduce new evidence did not meet the criteria for the admission of fresh evidence – Student's allegations were contrary to factual findings – deference especially appropriate in cases such as this where credibility was at the heart of the decision – Board would have reached the same conclusion even if it was not for deference – discussion of *Chelin* factors – deliberate fabrication of research results was a serious and inexcusable offence – detriment to the University exacerbated by the inclusion of fabricated data in a grant proposal – Student did not demonstrate remorse and offered no prospect of rehabilitation – evidence of bad character – deterring misrepresentation of research results must be a significant priority – appeal dismissed

Appeal by the Student from a Tribunal decision in which he was found guilty of deliberately falsifying research results in his Ph.D. program, contrary to *s. B.i.1(f)* of the *Code*, and sentenced to a recommendation that the Student be expelled. The Student only appealed the Panel's recommendation that he be expelled and did not appeal the finding of academic misconduct and other sanctions. Before the hearing, the Student had sought and received accommodations regarding scheduling of the hearing. The Board allowed an extension of time to appeal the Trial Panel's decision and scheduled the hearing on a date to accommodate the Student's situation and wish to order the transcript of the tribunal hearing. After a number of correspondences with the University, which included contradicting reasons he provided for his non-attendance, the Student did not attend the hearing. No one on the Student's behalf appeared at the hearing to explain his absence. Therefore, the hearing proceeded in his absence. In his submissions, the Student asserted that he had made every effort to address his mistakes and did not attempt to deceive anyone. He also claimed that the prosecution was motivated by the supervisor's concern that if he left, the supervisor would lose grant funding. The Board found that this attempt to introduce new evidence did not meet the criteria for the admission of fresh evidence. Furthermore, the Student's allegations were entirely contrary to the factual findings made by the Trial Panel. On the issue of deference, the Board stated that as noted in the *CHK* appeal decision (Case 596, 597 & 598), Appeal Boards had been reluctant to embrace the broad powers authorized by the *Code* and instead had generally analyzed decisions under appeal to examine whether the Trial Panel made an error in: the application of general administrative law; the interpretation and application of the large body of University Tribunal and Appeals Board cases; or fact finding, particularly where the findings are

unsupported by any evidence. The Board further stated that deference was particularly appropriate in cases such as this where credibility was at the heart of the Panel's decision. However, the Board stated that it would have reached the same conclusion as the Trial Panel even if it was not for deference: the sanction was not overly punitive in light of the *Chelin* factors. The Board agreed with the Panel that the deliberate falsification of research results by the Student in a Ph.D. program was a serious and inexcusable offence and found that it clearly supported the sanction imposed. Moreover, the detriment to the University was clear and exacerbated by the inclusion of fabricated data in a grant proposal from the University. As for extenuating circumstances, the Board found that the Student had not demonstrated any remorse or insight and offered no prospect of rehabilitation, which was demonstrated in his submissions as well as his attempt to engage the appellate process to delay the result. Also, there was a likelihood of a repetition of the offence as the Student chose to disregard the warning given previously by an academic journal that had expressed concern about data fabrication. As for the character, the Board stated that the evidence suggested that the Student misled the participants in the discipline process, shifted and fabricated evidence, and attempted to blame others; this was not evidence of good character. Finally, deterring the misrepresentation of research results must be a significant priority. Appeal dismissed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2013-2014

FILE: Case #684 (13-14)
DATE: June 3, 2014
PARTIES: University of Toronto v C.A.M.

Hearing Date(s):
December 3, 2013

Panel Members:
Patricia Jackson, Chair
Elizabeth Peter, Faculty Member
Beth Martin, Student Member
Michael Dick, Student Member

Appearances:
David Cousins, for the Appellant
Robert Centa, Assistant Discipline Counsel

In Attendance:
The Student

Appeal Division - *s. B.i.1(a)* of the *Code* – forged documents – submitted another student's test as Student's own – second offence – appeal on sanction, not finding – what Dean would have imposed is relevant for sanctioning purposes – "systems error" evidence raised by student not an aggravating factor for the Student as students must be free to bring evidence without fear they will be cast as aggravating factors – fresh evidence on appeal - APPEAL ALLOWED – grade assignment of zero in the course; five-year suspension; permanent notation on transcript; report to Provost for publication

Majority - Student convicted with one offence under *s. B.i.1(a)* and the Panel imposed a final grade of zero in the course, a recommendation that the Student be expelled from the University, a suspension of five years or until the Governing Council makes a decision on expulsion, whichever comes first, and ordered that the case be reported to the Provost for publication. The Student appeals the sentence imposed and asserts it was excessively harsh having regard to a number of personal factors, but did not appeal the conviction.

The conviction relates to the Student's second offence where the Student attempted to receive credit from a test written by another student. The Student admitted to the offence at the Dean's meeting but withdrew his admission when he was informed about the sanction. The Student was partially represented by counsel at the liability hearing. Ultimately, the original panel did not believe the Student's evidence and found him guilty. At the hearing on sanction the Student was no longer represented by counsel. The University agued it was an aggravating factor for the Student to suggest in defense that there was a "system error" but the Panel disagreed and stated that one must be able to bring forward evidence without fear of reprisals.

On this appeal the Student sought to bring fresh evidence relating to academic, work, and of a personal and familial nature. The Panel considered *s. E.8* of the *Code*, the *Main* case and the test for admitting fresh evidence on an appeal. The test includes if the evidence was available, relevant, and credible, was there a reasonable explanation for the failure to adduce it, and could the evidence have reasonably been expected to have affected the initial decision. The Panel allowed the evidence to be brought but disqualified all of the evidence because it was irrelevant and would not have affected the decision below.

The Majority affirmed its jurisdiction to alter panel decisions under *s. E.4* of the *Code*. The Majority cited cases to modify a decision where there is an error of law or fact and when the sanction is inconsistent with other decisions. The Majority considered the factors in the *Mr. C* case and stated that the two substantial factors in this case were the seriousness of the offence and detriment to the University, both of which the Dean believed would have been addressed with a mark of zero. The issue then was whether the remaining factors warranted an escalation to expulsion. The Majority concluded that the Student's conduct warranted an escalated penalty but that it did not warrant expulsion. The Majority allowed the appeal and imposed a final grade of zero in the course, a suspension of five years from the date from the order, a permanent notation on the Student's transcript, and ordered that the case be reported to the Provost for publication.

Dissent – Elizabeth Peter
The Dissent disagreed with the weight given to the decanal penalties and stated that little weight should be given to decanal decisions. Further, the Dissent felt that the Student's evidence was not an issue as all members of the Tribunal and Appeals Board believed it to be false. The Student's character was determined to be dishonest by the Tribunal and issues of credibility should attract deference. Taking into account the factors in the Mr. C case, the Student showed no

remorse, committed a planned and deliberate offence and provided no extenuating circumstances to warrant a more lenient sanction. The Dissent would dismiss the appeal.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2014-2015

FILE: Case #690 (14-15)
DATE: October 20, 2014
PARTIES: University of Toronto v S.F.

Hearing Date(s):
October 7, 2014

Panel Members:
Ronald G. Slaght, Chair
Elizabeth Peter, Faculty Member
Jenna Jacobson, Student Member
Graeme Norval, Faculty Member

Appearances:
Robert Centa, Counsel for the University
Julia Willkes, Counsel for the Appellant

In Attendance:
The Appellant
John Britton, Dean's Designate

Appeal Division – Trial Panel rejected Joint Submission on Penalty – Appellant joined by Respondent – Discipline Appeal Board has power to modify trial level sanction – Trial Panel can accept or reject Joint Submission on Penalty- Joint Submission on Penalty can only be rejected where contrary to the public interest or brings the administration of justice into disrepute – DAB will not interfere with decisions found to be reasonable in all circumstances, even if other reasonable dispositions can be supported - APPEAL ALLOWED — JSP imposed - grade of zero in 17 courses; five-year suspension; seven-year notation on transcript; report to Provost for publication

Matter before the Discipline Appeals Board (DAB) on appeal from a penalty imposed by Trial Panel. The appellant was not at the Trial hearing but had negotiated an Agreed Statement of Facts (ASF) and a Joint Submission on Penalty (JSP) including a grade of a zero in the 17 courses, a suspension from the date of the Order for five years, and a permanent notation be placed on his academic record. The Panel added a recommendation that the Appellant be expelled from the University. The Appellant, joined by the Respondent Provost, argued that the Panel erred in its decision not to impose the JSP sanction. The appeal raised the question of when and under what circumstances a Panel may impose a penalty other than one agreed to in a JSP and if the original Panel was justified in rejecting the proposed sanction agreed to by both parties.

The DAB noted its broad appeal powers in section *E.7.c* of the *Code*, which states: "The Discipline Appeal Board shall have the power … in any other case, to affirm, reverse, quash, vary or modify the verdict, penalty or sanction appealed from and substitute any verdict penalty or sanction that could have been given or imposed at trial." The DAB also recognized that while it has jurisdiction to do so, it will not interfere with decisions found to be reasonable in all circumstances, even if other reasonable dispositions can be supported.

An ASF set out that in two separate years the Appellant submitted petitions seeking late withdrawal from 17 courses; 10 in the first year and 7 in the second. The second petition was denied and the Appellant submitted a third petition seeking the same relief as the second petition, this time on account of a grandmother's death and accompanied by a death certificate. The Appellant submitted a Certificate of Death and a newspaper death notice for his grandmother. The Appellant met with the Dean's Designate in July 2012 where he admitted to some falsifications in his submissions. In October 2012 the Appellant was formally charged with 22 counts of academic misconduct. In the ASF the Appellant admitted that much of his submissions were false and a further ASF revealed that the Appellant had been sanctioned for plagiarism on two prior occasions.

The DAB examined principles guiding when a JSP may be accepted or rejected. A Panel is not obliged or required to accept a JSP, however one may be rejected only when to give effect to the JSP would be contrary to the public interest or bring the administration of justice into disrepute. If it is to reject a JSP the Panel must clearly articulate why it is doing so. The Panel must assess a JSP against the backdrop of the values of the University, which may be found in the Preamble to the *Code* and in the shared expectations which members of the University abide by. The DAB cited a Law Society Appeal Panel decision which stated that only truly unreasonable or unconscionable joint submissions should be rejected.

The DAB allowed the appeal as the imposition of a five-year suspension, as opposed to a recommendation of expulsion, was not so fundamentally unreasonable to justify rejection of a JSP. The DAB noted the benefits joint submissions promote including early resolution, saving time and expense, and fostering trust and cooperation. The DAB also noted that the penalty in the JSP was so severe it did not "condone the Appellant's conduct and that the Appellant saved the University from a large evidentiary burden in his ASF and JSP." The DAB felt that the Panel did not decide if the JSP was reasonable, rather it determined that expulsion was an appropriate penalty and imposed it.

The DAB ordered the Panel's Order on penalty to be set aside and imposed the penalty provided in the JSP.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2015-2016

FILE: Case #718 (15-16)
DATE: February 3, 2016
PARTIES: University of Toronto v O.K.

Hearing Date(s):
November 11, 2015

Panel Members:
Patricia D.S. Jackson, Chair
Jenna Jacobson, Student Member
Beth Martin, Student Member
Elizabeth Peter, Faculty Member

Appearances:
Rob Centa, for the Appellant, the University of Toronto

Discipline Appeals Board – University appeal from acquittal of plagiarism charges – Student found guilty of unauthorized aid offences but acquitted of plagiarism offences arising from the same events – Tribunal erred in concluding that plagiarism under *s. B.i.1(d)* of the *Code* requires an element of theft – explanatory appendices are not intended to derogate or otherwise modify *Code* offences – interpreting plagiarism as requiring an element of theft is unworkable and undesirable – the rule against multiple convictions applies where there is a relationship of sufficient proximity between the facts and the offences which form the basis of the charges – appeal dismissed

Appeal by the University from a Tribunal decision in which the Student was acquitted of two plagiarism charges. The University submitted that the Tribunal erred in concluding that plagiarism under *s. B.i.1(d)* of the *Code* requires an "element of theft." The University also argued that the "rule against multiple convictions" does not apply to prevent a conviction of plagiarism in respect of the same acts giving rise to a conviction for unauthorized assistance. The University did not seek any additional penalty in respect of the plagiarism offences. The Student did not attend the appeal hearing, and the Tribunal found that reasonable notice had been provided pursuant to the *Rules of Practice and Procedure*.

The issues on appeal relate to the Student's submission of a partial essay draft and the subsequent final essay in the Course. At the Trial Division, the Tribunal found the Student guilty of unauthorized aid offences, but it declined to convict the Student of the plagiarism offences. In coming to that conclusion, the Tribunal noted that University counsel was not aware of any other cases in which a student had been convicted both of obtaining unauthorized assistance and of plagiarism in circumstances where a student submitted the work of another person. The Tribunal also noted that plagiarism necessarily includes the theft of misappropriation of the work of another; as there was no suggestion that the Student lacked permission from the Essay writer to use his idea, there was no basis upon which the Student could be convicted of the offence of plagiarism.

The Board found that the University had established the offence of plagiarism. The Student submitted the ideas, expression of ideas and work of another person without attribution or any other indication that they were not hers. The Board disagreed with the Tribunal regarding its suggested requirement to establish the additional element of theft, noting that there is no element of theft contained in the section of the *Code* that defines the offence of plagiarism. The Board emphasized that the Tribunal's interpretation of the word "purloining" as found in the explanatory Appendix for *s. B.i.1(d)* is not intended to derogate or otherwise modify the plagiarism offence as set out in the *Code*. The Board noted that the Tribunal's interpretation of the plagiarism offence is completely unworkable and undesirable in the academic setting; if the element of theft is required to make out the offence of plagiarism, then the University would be unreasonably required in every case to prove that the author did not consent to the student's use of his or her idea, expression or work.

The Board found that the rule against multiple convictions prevents a conviction for plagiarism in respect of the same acts giving rise to a conviction of unauthorized assistance. The Board noted that this issue had not been previously addressed in decisions of the University Tribunal at either level. The Board cautioned against referring to cases that were decided on the basis of an agreed statement of facts and an agreement as to which charges would proceed and which would be withdrawn. The rule against multiple convictions is applicable where there is a relationship of sufficient proximity between (1) the facts and (2) the offences which form the basis of the two or more charges. The charges of plagiarism and unauthorized assistance arose from the same act. Rather than creating any additional or distinguishing elements to the offence of unauthorized assistance, the offence of plagiarism on the facts of this case was in effect a particular method of obtaining unauthorized assistance. The Panel concluded that there was a sufficient nexus between the offences and the facts on which they were based to engage the rule against multiple convictions.

The Board found that the Tribunal erred in concluding that the evidence did not establish an offence of plagiarism, but that the rule against multiple convictions prevents a conviction for both the unauthorized assistance offences and plagiarism offences. Appeal dismissed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2016-2017

FILE: Case #837 (16 - 17)
DATE: December 22, 2016
PARTIES: University of Toronto v. M.A. ("the Student")

Hearing Date(s): December 13, 2016

Panel Members:
Mr. Ronald Slaght, Chair
Professor Elizabeth Peter, Faculty Panel Member
Professor Allan Kaplan, Faculty Panel Member
Ms. Jiawen Wang, Student Panel Member

Appearances:
Mr. Robert Centa, Counsel for the University

In Attendance:
Mr. David Dewees, Dean's Designate

DAB Decision

NOTE: See the Tribunal Decision for detailed facts

Discipline Appeal Board – University appeal from sanction – Joint Submission on Penalty accepted - reasonableness of Joint Submission on Penalty – definition of "public interest" in university context – standards of unreasonableness and unconscionability – objective standard of reasonableness - policy benefits of Joint Submissions of Penalty - where an agreement to never reapply to the University is negotiated in a Joint Submission on Penalty when an expulsion is otherwise appropriate, it should be accompanied by a permanent notation on the student's transcript to alert other institutions of misconduct — Appeal allowed

Appeal by the University from a Tribunal decision not to accept the parties' Joint Submission on Penalty (JSP). The Student pled guilty to two charges of impersonation. The matter proceeded by an Agreed Statement of Facts and a JSP. Included in the JSP was a penalty of a permanent notation on the Student's transcript coupled with an agreement that the Student never reapply to the University. The Panel accepted all the sanctions in the JSP, including the agreement that the Student not reapply to the University, except it replaced the permanent notation on the Student's transcript with a lesser penalty of a five-year notation on the Student's transcript. The University appealed and sought a permanent notation on the Student's transcript as agreed to in the JSP.

The Board allowed the appeal and ordered a permanent notation on the transcript per the JSP. In so doing, they followed the test set out in the Board decision, *The University of Toronto v S.F.* (2014, DAB Case # 690). The Board found the parties should be able to expect the Panel to uphold a JSP unless it is fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable after considering all the relevant circumstances. The Board elaborated that a JSP is against the public interest of the University if it is offensive to the values and behaviours that members of the University community are expected to uphold. Examples of these values may be found in the preamble of the *Code.* The Board adopted the standard of unreasonableness or unconscionable sentencing agreements set out by Moldaver J in the Supreme Court of Canada decision *R v Anthony Cook*, (2016 SCC 43) where sentencing agreements are unconscionable if they are "so unhinged from the circumstances of the offence" that their acceptance would lead a reasonable observer to believe that the proper functioning of the justice system had broken down.

The Board further cited the policy reasons for deference to negotiated sentences from the *Cook* decision which states that sentencing agreements are both commonplace and vitally important to the justice system at large. The Board found that JSPs promote certainty in circumstances where an accused has given up their right to a hearing in exchange for a guilty plea and a negotiated sentence, acceptable to all. Time and resources are thus conserved, furthering the greater interests of fairness and efficiency. The Board found that the Panel erred by concentrating on its own subjective view on the reasonableness of the penalty, and not that of the greater community interests.
Finally, the Board found that the Panel did not consider the actual circumstances surrounding the JSP, namely, that both parties gained advantages in the negotiated sanction. The Student admitted to three serious offences (though only charged and pled guilty for two of them) which justified a sanction of an expulsion had the Student not agreed that she would never reapply to the University. In making this agreement not to reapply which was not recorded on her

transcript, the University obtained the benefit of the effect of an expulsion, at the same time, the Student avoided having a permanent notation of an expulsion on her transcript. If the notation was limited to five years, there would be nothing flagging the Student's serious academic misconduct at the University should she choose to apply for admission to other institutions after five years. Finally, the parties were represented by counsel throughout the process. Taken together, the Board found that the JSP was reasonable in the circumstances and ought to have been accepted by the Panel.

Appeal allowed.

FILE: Case #858 (16 - 17)
DATE: June 28, 2017
PARTIES: University of Toronto v. A.S. ("the Student")

Hearing Date(s): May 18, 2017

Panel Members:
Ms. Lisa Brownstone, Barrister and Solicitor, Chair
Professor Elizabeth Peter, Faculty Panel Member
Professor Allan Kaplan, Faculty Panel Member
Ms. Beth Martin, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Emily Howe & Glynnis Howe, Students-at-Law, Paliare Roland Barristers
Ms. Lucy Gaspini, Manager Academics Integrity, University of Toronto, Mississauga
Alexandra DiBlasio, Academic Integrity Assistant, University of Toronto, Mississauga
The Student
Mr. R.S., Student's Father and Representative

In Attendance:
Ms. Tracey Gameiro, Associate Director, Office of Appeals Discipline and Faculty Grievances, ("ADFG")
Mr. Christopher Lang, Director, ADFG, University of Toronto
Mr. Sean Lourim, IT Support, Office of the Governing Council

DAB Decision
NOTE: See the Tribunal case summary for detailed facts

Discipline Appeal Board – Student appeal – reasonable notice of hearing – delivery of notice during an academic suspension – delivery of notice via email – no evidence about who accessed email account or which specific emails had been read – exceptional circumstances – *s. 7(b)* of the *Code* – Appeal allowed, matter remitted to a new hearing

Appeal by the Student from a Tribunal decision that reasonable notice had been provided by the University. The Student was suspended for a year. During the course of the Student's suspension, the University filed charges of academic dishonesty against the Student and served him with a Notice of Hearing and a revised Notice of Hearing by email to his University of Toronto email address. As evidence that notice had been given to the Student, the Provost provided an email from the University's Information Security Department which showed that the Student's University of Toronto email account had been accessed two weeks prior to the hearing, which led the Panel to conclude that the University's obligation to give reasonable notice of the hearing to the Student had been discharged. The hearing proceeded without the Student, who was found guilty of academic misconduct.

On appeal, the Student argued that he had not received reasonable notice. The Student testified that he believed that he was effectively suspended until the fall session of 2016 so he was not checking emails sent to his University of Toronto email address during his suspension. There was no evidence that anyone from the University had advised the Student that the University's polices and guidelines would continue to apply to him while he was under suspension and unable to participate in the academic life of the University, or that he was expected to be active on his University email account during his suspension. The Student had taken steps to appeal the Panel's decision as soon as he had learned of it. The email from Information Security was insufficient proof that the Student had received notice because it provided no information as to who accessed the Student's email account or information about whether any specific emails had been accessed. In these exceptional circumstances, the Board exercised its discretion under s. 7(b) of the *Code of Behaviour on Academic Matters* to remit the matter for a new hearing at which the Student would participate.

Appeal allowed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2017-2018

FILE: Case #841 (2017 - 2018)
DATE: October 31, 2017
PARTIES: University of Toronto v. L.S. ("the Student")

Hearing Date(s): October 16, 2017

Panel Members:
Mr. Ronald G. Slaght, Chair
Professor Elizabeth Peter, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member
Ms. Alena Zelinka, Student Panel Member

Appearances:
Ms. Tina Lie, Counsel for the Appellant, the University of Toronto
Mr. Robert Sniderman, Counsel for the Respondent, the Student

In Attendance:
The Student
Ms. Lucy Gaspini, Manager, Academic Success & Integrity, Office of the Dean, UTM
Ms. Alexandra Di Blasio, Academic Integrity Assistant, UTM

DAB Decision.

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Provost appeal – request to order a new hearing on the charges - *s. B.i.1(b)* – *s. B.i.1(d)* – *s. B.i.3(b)* – plagiarism – similar ideas in essays exchanged in University incentivized peer-review exercise – Board need grant little deference given its very broad powers except on matters relating to credibility and the Tribunal's approach to the assessment of evidence – Appeal dismissed

Appeal by the Provost from a Tribunal decision in which the majority of the Tribunal acquitted the Student of charges of plagiarism contrary to *s. B.i.1(b), s. B.i.1(d)* and *s. B.i.3(b)* of the *Code*. The Provost asked the Appeals Board to set the decision aside because the Tribunal erred by considering the evidence in a piecemeal fashion and not as a whole, that there were fundamental mischaracterizations of the evidence, and that the Tribunal had held the Provost to a higher standard of proof.

The Board began by noting that it had very broad powers to review errors of law and significant errors of fact and that it need not show deference to the Tribunal's decisions. However, over the years, the Board has recognized that deference is owed on findings of credibility as well, that the Board should not substitute the decision it would have made on the evidence, for that of the panel below.

The Board found that there were no significant errors in fact finding or in law in the manner in which the Tribunal approached the assessment of the evidence. The Tribunal's approach in analyzing the evidence mirrored the way the evidence and argument were presented by the Provost during the hearing. The Board further noted that it was unlikely that approaching the evidence as a whole, as opposed to analyzing individual similarities between the two essays, would have caused the Tribunal to reach a different result on whether or not the Student committed the offence of plagiarism.

The Board further found that the Tribunal's reference to the Provost's reliance on circumstantial evidence was not a reflection of applying a different standard of proof to the Provost's case, rather that it was common practice to describe the nature of the evidence at some point in the course of giving reasons as circumstantial in order to serves as a reminder that the burden of proof rests on the Provost in these cases and that the standard is to meet a reasonable level of clear cogent evidence. In this case there was no direct evidence (i.e. the texts that were under consideration, testimony from other students involved in the peer review process), so a decision would have to result from inferences from the evidence.

The Provost's final ground of appeal involved the Tribunal's assessment of the credibility of one of the witnesses, an argument that the Board rejected because they were in no position to substitute their own views for the Tribunal's with regards to assessing credibility or the relative weight to be given to the evidence of witnesses. It was open to the Tribunal to assess that witness's evidence in the overall context of the case, which it did in the present case. Appeal dismissed.

FILE:	Case #848 (2017 - 2018)	Appearances:
DATE:	October 13, 2017	Mr. Glenroy K. Bastien, Counsel for the Student
PARTIES:	University of Toronto v. D.H. ("the Student")	Ms. Tina Lie, Counsel for the Respondent, the University of Toronto
Hearing Date(s):	August 4, 2017	In Attendance: The Student

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Mr. Sean McGowan, Student Panel Member Professor
Elizabeth Peter, Faculty Panel Member
Ms. Alena Zelinka, Student Panel Member

DAB Decision.

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Student appeal from sanction – request to set aside order of expulsion - *s.B.ii.2*– *s. B.i.3(a)* – forged academic record – third offence – Board need grant little deference given its very broad powers – deference given on the issue of credibility – expulsion generally penalty for forgery when prior offence – Appeal dismissed – recommendation for expulsion

Appeal by the Student from a Tribunal decision in which the Student pled guilty to two charges of forging or falsifying an academic record contrary to *s. B.ii.2* and *s. B.i.3(a)* of the *Code*, and sentenced to expulsion. The Student asked the Appeals Board to set the penalty aside because the Tribunal either overlooked his medical evidence, or failed to provide reasons which indicated what weight, if any, was attached to that evidence. Finally, the Student alleged that the Tribunal arbitrarily attempted to fit this case into the penalties imposed in previous cases, without regard to the Student's fragile mental condition.

The Board stated that it had very broad powers and that it need not show deference to the Tribunal decision except for matters relating to credibility, where the Tribunal has the opportunity to observe witnesses giving evidence and draw conclusions from this based on their first-hand exposure to the demeanour and quality of evidence. The Board also stated that it is appropriate for it to vary a sanction which it believes to be wrong whether because of an error of law, significant errors of fact, or a material inconsistency with the weight of other Tribunal and appeal decisions.

The Board found no such errors in the Tribunal decision. The Board found that the Tribunal did not overlook the medical evidence, but rather admitted it notwithstanding its late delivery, absence of any cross-examinations or testing and over the objection of the University. The Tribunal specifically referred to the Student's "fragile mental state", and noted as a mitigating factor that the offence occurred when the Student was suffering from significant mental distress and at the lowest point of his academic career. Finally, the Board did not find that the Tribunal was artificially trying to fit this case within the confines of previous cases and without regard to the facts and circumstances of the Student. The Board found that in cases where a Student has forged an academic record, the penalty of expulsion (or where the student has completed a degree, the revocation of that degree) recognizes both the seriousness of the harm inflicted on the institution and the fact that it is difficult to detect. In the rare cases where expulsion has not been recommended, the Board stated that it was generally on the basis that the student had no prior offences and also, usually, because the case proceeded by way of a joint submission on penalty. In this case, the Board agreed with the Tribunal's conclusion that given that it was the Student's third conviction, that forgery is a serious offence, and that it occurred immediately after the Student was notified of the penalty for his second offence, that a recommendation of expulsion was appropriate.

The Board accepted the University's request that, due to delay associated with the hearing caused by the Student, the Student's current period of suspension be extended to the later of May 19, 2018 or the date on which the Governing Council makes its decision on expulsion. Appeal dismissed.

FILE: Case #709 (17 - 18)(DAB)
DATE: February 2, 2018
PARTIES: University of Toronto v. C.S. ("the Student.")

Hearing Date(s): November 2, 2017

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Professor Allan Kaplan, Faculty Panel Member Ms.
Wendy Wang, Student Panel Member
Ms. Alena Zelinka, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers
Mr. Darryl Singer, Counsel for the Student
Ms. Nadia Condotta, Counsel for the Student

In Attendance:
Ms. Tina Lie, Affiant

Not in Attendance
The Student

DAB Decision
Note: See Tribunal case summary for detailed facts

Discipline Appeal Board – plagiarism – Section B.i.1(d) of the *Code* – requirement of medical corroboration in request for adjournment – student not present – notice – deliberate delay – procedural fairness – factors to consider in denying a request for adjournment – appeal dismissed – final grade of zero in the affected course, degree recall and cancellation, permanent notation on transcript, removal of thesis from library, recommendation of expulsion, publication of decision with name withheld

Appeal by the Student. from a Tribunal decision in which the Student was found guilty of one count of plagiarism contrary to s. B.i.3(d) of the *Code* and sentenced to a final grade of zero in the affected course, degree recall and cancellation, permanent notation on his transcript, removal of his thesis from the library, a recommendation of expulsion and that the case be published with the Student's name withheld. The Student appealed on the grounds that the Tribunal's decision not to grant the Student's request for adjournment and proceeding with the hearing in his absence was a breach of procedural fairness; that his counsel's withdrawal denied him a fair opportunity to make submissions at the hearing; and that procedural fairness required that the Tribunal Panel adjourn before its determination of penalty.

The Board referred to its broad powers to review a Tribunal decision as found in section E.7 of the *Code,* and noted that particular deference ought to be given to a Tribunal's decisions concerning the conduct of a hearing and whether or not to grant a request for an adjournment. The Board stated that justice and procedural fairness can only be said to be infringed where the Panel exercised its discretion in an unreasonable or non-judicious fashion.
The Board was referred to the case *The Law Society of Upper Canada vs. Igbinosun*, (2009 ONCA 484 at para. 37) which provided that factors that supported the denial of an adjournment include: a lack of compliance with prior court orders, previous adjournments that have been granted to the applicant, previous peremptory hearing dates, the desirability of having the matter decided and a finding that the applicant is seeking to manipulate the system by orchestrating delay. Factors in favour of granting of an adjournment include: the fact that the consequences of the hearing are serious, that the applicant would be prejudiced if the request were not granted, and a finding that the applicant was honestly seeking to exercise his right to counsel and had been represented in the proceedings up until the time of the adjournment request. In weighing these factors, the timeliness of the request, the applicant's reasons for being unable to proceed on the scheduled date and the length of the requested adjournment should also be considered. The Board found that all of the factors in favour of a denial of an adjournment existed in this case and the factors that might have allowed for the granting of an adjournment had in fact led to multiple adjournments in the proceedings prior to the hearing.
The Student had six prior notices of hearing that warned him "if the panel finds you guilty, it will then be asked to determine an appropriate penalty", a warning that was reinforced in decisions on his multiple requests for adjournments. The Board referred to Rule 17 of the *Rules of Practice and Procedure* which provide that a person who does not attend a hearing of which they have had notice is not entitled to further notice of different stages of the proceeding. There could be no basis for a suggestion of non-disclosure to the Student as the University did not call additional evidence at the hearing. Further, the Student had been advised on several occasions that his general assertions of a "mental health

issue" were not a sufficient basis upon which to grant an adjournment and he had failed to provide evidence of a medical condition that prevented him from participating in the proceedings.
The Board found that the Tribunal's decision to recommend the cancellation and recall of the Student's degree was reasonable and appropriate, and that character evidence and letters of support could not reasonably be expected to make a difference to this sanction. Appeal dismissed.

FILE: Case # 719 (2017 - 2018)
DATE: February 20, 2018
PARTIES: University of Toronto v. W.K. ("the Student")

Hearing Date(s): December 12, 2017

Panel Members:
Ms. Lisa Brownstone, Barrister and Solicitor, Chair
Dr. Ramona Alaggia, Faculty Panel Member
Professor Elizabeth Peter, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:
Ms. Lisa Freeman, Courtyard Chambers, Counsel for the Student
Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:
The Student
Dr. Kristi Gourlay, Manager & Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts & Science
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline & Faculty Grievances
Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline & Faculty Grievances
Mr. Sean Lourim, IT Support, Office of the Governing Council

DAB Decision
NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeal Board – Student appeal from sanction – request to set aside order of expulsion and impose a suspension - *s. B.i.1(a)* and *s. B.i.1(d)* of the *Code* – eight offences committed during a six month period - falsified personal statement in petition for academic accommodation – plagiarism – course work purchased from commercial provider of essays – guilty plea – Agreed Statement of Facts – conduct during the hearing relevant in determining the Student's character as well as likelihood the Student would follow University rules in the future – Panel entitled to give little weight to medical evidence where author not available for cross-examination – appeal dismissed - assignment of zero in the affected courses; immediate five-year suspension pending expulsion; and report to Provost

Appeal by the Student from the sanction of expulsion that was ordered by the Tribunal after the Student pled guilty to committing eight counts of academic misconduct contrary to s. B.i.1(a) of the *Code* and s. B.i.1(d) of the *Code*. The Student argued that the errors of law committed by the Tribunal is that they had applied irrelevant considerations in determining the appropriate sanction and mis-apprehended the evidence. The Student requested that the sanction of expulsion be replaced with a five-year suspension.

The Board rejected the first ground of appeal, finding that the Panel had made limited and appropriate use of the Student's conduct at the hearing. The Student's conduct at the hearing was relevant to their character (a factor clearly relevant to sanction) and also in the concern that the Student would not follow rules of the University if the relationship between the Student and the University were not severed. The Board dismissed the Student's second ground of appeal, the misapprehension of the evidence, because in the absence of the ability to cross examine the authors of the reports the underlying information provided to the authors of the reports could not be tested. The Board found that the Panel was entitled to admit the medical reports submitted by the Student but then place little weight on their contents because the Student did not call the authors of the report to testify so cross-examination on their contents did not take place. Though the Board found that there were no errors in law committed by the Panel, even if they were wrong in this respect, the errors in law alleged by the Student would have been to minor too warrant granting a new hearing.

The Board refused the Student's alternative argument that his unique circumstances (diagnoses of learning disability, anxiety and depression) warrant an expansive reading of the Board's powers to substitute a different penalty on compassionate grounds. The Board's three reasons for dismissing this argument were: (1) at the time of the offences, the only contemporaneous medical evidence showed that the Student was seeing physicians for other, non-mental health related illnesses; (2) the only mental health expert who did treat the Student testified that there was no nexus between the Student's learning disabilities that would cause him to commit the offences; and (3) the earlier cases to which the Student referred as precedents for a lesser penalty did not involve the number and severity of offences as those that the Student admitted to committing in this case. The Panel's sanction of a grade of zero in each of the affected courses; an order that the Student be immediately suspended from the University for up to 5 years pending an order of expulsion; and an order that the case be reported to the Provost for publication with the Student's name withheld were upheld. Appeal dismissed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2020-2021

FILE: Case # 1054 (2020-2021)
DATE: November 17, 2020
PARTIES: University of Toronto v. A.M. ("the Student")

Hearing Date(s):
August 18, 2020, via Zoom

Panel Members:
Ms. Patricia D.S. Jackson, Chair
Professor Aarthi Ashok, Faculty Panel Member
Mr. Said Sidani, Student Panel Member

Appearances:
Ms. Tina Lie, for the Respondent, Appellant by Cross-Appeal, Paliare Roland Rosenberg Rothstein LLP
Mr. Sean Grouhi for the Appellant, Respondent by Cross-Appeal, Downtown Legal Services

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

DAB Decision

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals finding of guilty arguing Tribunal erred in allowing the University to call reply evidence – University cross-appeals acquittal of a charge under s. B.i.1(a) of the *Code* – *R. v. Krause*, [1986] 2 SCR 466 - *R. v. Sanderson*, 2017 ONCA 470 - it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student - in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, the Tribunal is not bound by the strict rules of evidence and there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case - no obligation on the University to prove the contents of the Agreed Statement of Facts and it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to - as soon as the Tribunal found that the Student's conduct is an offence under s. B.i.1(a) of the Code, the offence under s. B.i.3(b) ceases to apply

The Student appeals the finding of the Tribunal on the basis that the standard of review is correctness and that the Tribunal erred in law by permitting the University to call reply evidence from two teaching assistants. Relying on the Supreme Court of Canada's decision in *R. v. Krause*, [1986] 2 SCR 466, the Student argued, among other things, that the University should have anticipated his evidence.

The University cross-appeals on the basis that the Tribunal erred in acquitting the Student of a charge under s. B.i.1(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code"), which makes it an offence to forge, alter or falsify a document required by the University and to make use of such forgery. This was the first of three charges that were subject of the hearing before the Trial Division. Alternatively, the University had also charged the Student under s. B.i.1(b) of the Code for knowingly obtaining unauthorized assistance in connection with a midterm examination ("second charge"), and under s. B.i.3(b) of the Code for knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation to obtain academic credit or other academic advantage of any kind in connection with a midterm examination ("third charge").

In dismissing the Student's appeal, the Board agreed that it is an important element of a fair hearing that the University should not split its case, leading in reply evidence that it could and should have made part of its initial case against a student. It also held that, in general terms, the principles enunciated in cases such as *R. v. Krause* and *R. v. Sanderson*, 2017 ONCA 470 apply. However, it noted that the Tribunal is not bound by the strict rules of evidence and highlighted that there have been in the past, and there may in the future be, circumstances where fairness justifies the calling of reply evidence which might not be permitted in a criminal case.

Further, the Board held there was no obligation on the University to prove the contents of the Agreed Statement of Facts and that it would be unwise and a waste of hearing resources to have multiple witnesses confirm facts that the parties have agreed to. Relying on *R. v. Sanderson*, it stated that the principles that govern the calling of reply evidence should not

be interpreted so rigidly that the University should call as part of its case evidence that addresses any possible issue that a student may raise and to address a position that is at odds with the facts to which the student appears to have agreed. The obligation is to lead evidence on the issues that are relevant to material issues in dispute or to a defence that they can or ought reasonably to anticipate. While recognizing that the Student may choose not to disclose his defence to the University, including by declining to deliver an opening, the Board also indicated that in this case, the decision not to do so meant that the University had no reason to suspect that the Student intended to depart from the facts to which he appeared to have agreed.

Ultimately, the Board concluded that it could not be said that the University ought reasonably to have anticipated the defence that the Student put forward in his evidence. According to the Board, the Tribunal's decision was both reasonable and correct. It would have come to the same result as the Tribunal without regard to the reply evidence.
In allowing the University's cross-appeal, the Board indicated that the issue it raises lies in the definition of the offence which the Tribunal found had been committed and that this offence can only be found in circumstances where the conduct in question is not an offence under any other section of the Code. The Tribunal had found the Student guilty of violating s. B.i.3 of the Code, which constitutes the third charge. To find the Student guilty under this section, the Tribunal was in effect determining that the conduct that was the subject of the charges was "not …otherwise described" in the Code. This implies that the first charge could not be established. According to the Board, it is not apparent that the Tribunal was alive to this issue because its reasons for decision contain no analysis of whether or why the first charge was not made out.

The Board considered that the facts found by the Tribunal made out the offence contained in the first charge. It agreed with the University that the Student should not also be convicted for the same conduct under the third charge and that as soon as it is found that the conduct is an offence under the section of the Code referenced in the first charge, the offence referenced in the third charge ceases to apply. Accordingly, the Board substituted a conviction under the first charge for the conviction found by the Tribunal.
Finally, the Board agreed that the substitution of a conviction under the first charge ought not to alter the sanctions imposed by the Tribunal.

Student's appeal dismissed. University's cross-appeal allowed.

FILE: Case # 1100 (2021-2022)
DATE: February 8, 2022
PARTIES: University of Toronto v. R.S. ("the Student")

Motion Date(s):
June 8, 2021, via Zoom with written submissions June and September 2021

Panel Members:
Mr. Paul Michell, Associate Chair

Appearances:
Ms. Tina Lie, Assistant Discipline Counsel, Paliare, Roland, Rosenburg, Rothstein LLP

Hearing Secretary:
Krista Kennedy, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:
The Student

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appealed the sanction imposed by the Trial Division – Student took no steps to advance his appeal – Provost moved to dismiss the appeal summarily and without formal hearing – ss. C.II(a)(7), C.II(a)(11), E.7(a), and E.8 of the *Code of Behaviour on Academic Matters, 1995* ("Code") – s.7(a) of Appendix A of the Discipline Appeals Board's *Terms of Reference* ("Terms") – Tribunal's *Rules of Practice and Procedure* ("Rules") – ss. 3, 4.2.1(1), and 4.6 of the *Statutory Powers Procedures Act* ("SPPA") – the Code does not grant a single member of the Board jurisdiction to hear and decided a motion to dismiss an appeal summarily without formal hearing – s. C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the

requirements of the SPPA – the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA – the Code and the Terms create a legitimate expectation in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 that the Tribunal will conduct a hearing – an appeal to the Discipline Appeals Board ("Board") falls within s. 3 of the SPPA – s. 4.2.1(1) of the SPPA applies to this motion – there is no statutory requirement that appeals (or this motion) be heard by a panel of more than one person – a motion in writing is sufficient to dismiss an appeal summarily – a single member of the Board, if designated, can dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation –s. 4.6 of the SPPA does not apply to this motion nor does it affect the Associate Chair's jurisdiction to hear and decide this motion – proposed grounds of appeal do not identify any errors in the Trial Division's decision – Student did not lead any evidence at the trial as he failed to appear – Student would need leave to submit evidence at the appeal hearing – *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal – no realistic prospect that a motion to admit new evidence would be granted – Student cannot establish an evidentiary basis for his appeal – appeal is frivolous and without foundation – a party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal – without genuine intent to appeal, an appeal is viewed as vexatious – appeal dismissed

The Student appealed the sanction imposed by the Tribunal's Trial Division to the Discipline Appeals Board ("Board") but took no steps to advance his appeal and did not respond to any inquiries. The Provost moved to have the Board dismiss the appeal summarily and without formal hearing. The Associate Chair noted that the Provost's motion raises two questions concerning appeals to the Board. First, what is the scope of the Board's jurisdiction to dismiss an appeal summarily and without formal hearing, where the appeal is frivolous, vexatious or without foundation? Second, does a single member of the Board have the jurisdiction to hear and decide such a motion?

The Associate Chair outlined that section E.7(a) of the *Code of Behaviour on Academic Matters, 1995* ("Code") expressly confers jurisdiction to a three-member panel of the Board to dismiss an appeal summarily and without formal hearing in appropriate circumstances. Furthermore, section 7(a) of Appendix A of the Board's *Terms of Reference* ("Terms") contains a substantially identical provision. The Associate Chair noted that the issue in this motion is whether he may exercise this power alone. The Code, the Terms, and to the extent they apply, the Tribunal's *Rules of Practice and Procedure* ("Rules"), are silent on this question. The Associate Chair noted that the Code does not define the term "Discipline Appeals Board" and the Provost argued that the division of responsibilities between the chair of a panel of the Tribunal and the other members of a panel also applied by analogy to panels of the Board hearing appeals from decisions of the Tribunal. The Provost further suggested that to dismiss an appeal summarily is, in some cases, a "question of law" that can be determined by the chair alone. The Associate Chair was not persuaded by this submission because the Code specifies a division of responsibilities for deciding different types of questions as between chairs and other members of a panel of the Tribunal. However, it does specify that a chair of a panel can decide questions of law without a full panel. Furthermore, the Associate Chair noted that this motion does not raise a question of law alone. The Associate Chair found that the Code itself does not grant a single member of the Board the jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing.

The Associate Chair considered whether another source of law could provide some guidance on whether a single member of the Board has jurisdiction to hear and decide a motion to dismiss an appeal summarily and without formal hearing. Due to the lack of clarity on whether the *Statutory Powers Procedure Act* ("SPPA") applies to appeals to the Board from decisions of the Tribunal, the Associate Chair sought additional submissions from the parties on this issue. The Provost provided additional submissions; the Student did not respond. The Provost submitted that the SPPA applies to appeals to the Board from decisions of the Tribunal, and that subsection 4.2.1(1) of the SPPA applies. The Associate Chair noted that he agreed with both of these submissions. The Associate Chair outlined that the basis for these submissions was that the Code in section C.II(a)(7) states that the procedures of the Tribunal "shall conform" to the requirements of the SPPA, and section C.II(a)11 of the Code defines "Tribunal" to mean both the trial and the appeal divisions of the Tribunal, which includes the Board. The Associate Chair noted that the use of "conform" suggests that the Code and the Terms seek to make their procedures consistent with the SPPA, whose application normally arises by operation of section 3 of the SPPA, not simply because a tribunal chooses to make the SPPA apply to it. The effect of the Tribunal's use of the "conform" language in the Code and the Terms is to create a legitimate expectation on the part of the parties before the Tribunal in the sense employed in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at paras. 26 and 29, and in *Canada (Attorney General) v. Mavi*, [2011] 2 S.C.R. 504 at para.68, that the Tribunal will conduct a hearing. The Associate Chair further noted that an appeal to the Board falls within section 3 of the SPPA, because the SPPA applies to a proceeding by the tribunal where the tribunal is required, otherwise by law, to hold or afford the parties an opportunity for a hearing before making a decision. The Associate Chair outlined that subsection 4.2.1(1) of the SPPA applies to this motion because,

by designating him to respond to the Provost's request for a proceeding management conference, the Senior Chair assigned him to hear and decide any motions that might reasonably arise from it. Furthermore, the *University of Toronto Act, 1971,* as amended by 1978, Chapter 88, contains no requirement that appeals to the Board be heard by a panel of more than one person, nor does any other statute (including the University of Toronto Act, l947, as amended, to the extent it may still be in force). Therefore, there is no "statutory requirement" that appeals (or this motion) be heard by a panel of more than one person.

The Code and the Terms specify that the Board only has the power to dismiss an appeal summarily and without formal hearing when it determines that an appeal is frivolous, vexatious or without foundation. The Associate Chair noted that a similar dismissal power is set out in section 4.6 of the SPPA, but this dismissal power differs from the Board's dismissal power in a critical way. The Associated Chair outlined that the Code and the Terms address the issue of dismissal of an appeal summarily and without formal hearing, where section 4.6 of the SPPA permits dismissal without a hearing. The Associate Chair noted that neither the Code nor the Terms define a "formal hearing," or distinguish it from other types of hearings. In the Associate Chair's view, the Code and the Terms contemplate that in appropriate cases an appeal may be dismissed summarily without an oral hearing, not that no hearing is required at all. A motion in writing is sufficient. Therefore, the Code and the Terms permit the Board, and where a designation has been made, a single member to dismiss an appeal summarily by way of a motion in writing, where the appeal is shown to be frivolous, vexatious, or without foundation. Furthermore, the Code and the Terms contemplate that the Board's ability to dismiss appeals summarily in appropriate circumstances means that it may do so by way of something less than a full formal hearing. The Associate Chair found that because the Code and the Terms do not purport to empower the Board to dismiss an appeal summarily without a hearing, section 4.6 of the SPPA is not triggered, and does not apply to this motion. Therefore, the Associate Chair's jurisdiction to hear and decide the motion is unaffected by section 4.6 of the SPPA. Accordingly, the Associate Chair found that he had jurisdiction to hear and decide the Provost's motion.

Regarding the Provost's motion to dismiss the appeal, the Associate Chair agreed that the appeal was frivolous, vexatious or without foundation but for different reasons than those contemplated by the Provost in their submissions. The Associate Chair noted that appeals from sanction need not be limited to a question of law alone. However, the Student's proposed grounds of appeal did not identify any errors. Instead, the Student claimed that due to the challenges caused by the Covid-19 pandemic and the resulting "new education model" that followed, it was difficult for him to adapt in a short period of time. The Associate Chair further noted that there was no basis for this claim in the evidence that was before the Tribunal. Therefore, the Student would need to seek leave to admit new evidence to provide a basis for his proposed appeal. The Student had not done so. Section E.8 of the Code and para. 8 of Appendix A of the Terms provide that the Board may allow the introduction of further evidence on appeal which was not available or was not adduced at the trial in exceptional circumstances. The Associate Chair relied on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011) and *University of Toronto v. D.B.* (Case No. 1107, August 18, 2021) which outline that absent special circumstances, a student who fails to appear at a hearing before the Tribunal of which they had reasonable notice cannot introduce evidence on appeal that they otherwise could have led before the Tribunal. Therefore, even if the Student had brought a motion to admit new evidence, there would have been no realistic prospect that it would be granted. Furthermore, since there would be no realistic prospect that the Student could establish an evidentiary basis for his appeal, it would fail.

Based on the foregoing, the Associate Chair found that the appeal was frivolous and without foundation. The Associate Chair also concluded that the appeal was vexatious because the only reasonable inference to be drawn from the Student's failure to take steps to advance his appeal is that he no longer had a genuine intention to appeal. A party who commences an appeal but then takes no steps to advance it ceases to have a genuine intention to appeal. Absent a continuing genuine intention to appeal, an appeal must be viewed as vexatious. Appeal dismissed.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2021-2022

FILE: Case # 1107 (2021-2022)
DATE: August 18, 2021
PARTIES: University of Toronto v. D.B. ("the Student")

Hearing Date(s):
July 21, 2021, via Zoom

Panel Members:
Ms. Roslyn M. Tsao, Chair
Professor Allan Kaplan, Faculty Panel Member
Ms. Samantha Chang, Student Panel Member

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
The Student

Hearing Secretary:
Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

NOTE: See the Tribunal case summary for detailed facts.

Discipline Appeals Board – Student appeals on the basis that it was improper for the Trial Division to proceed in the Student's absence, that the University is required to establish that the Student received notice beyond a reasonable doubt, and that the sanction is unreasonable – request to set aside the finding of the Tribunal's Panel and order a new hearing – ss. B.i.1(d) and B.i.3(b) of the Code – plagiarism – the Student had reasonable notice of the charges and the hearing – the University has the onus to demonstrate that the Student had reasonable notice of the hearing on a balance of probabilities – once a Panel is satisfied that reasonable notice has been given to a student, the Panel has jurisdiction to proceed in the absence of the student – the Tribunal did not make any error in concluding that the University had discharged its onus to demonstrate that the Student had reasonable notice of the hearing and that they could proceed with the hearing in the Student's absence – the fairness standard relates to having reasonable notice of the adjudication and, thereby, having the opportunity to attend and be heard – the sanction ordered was appropriately consistent with penalties imposed in similar cases – appeal dismissed – Order of the Tribunal affirmed in its entirety

The Student appeals the finding of guilt and the sanction imposed by the Tribunal's Trial Division on the basis that (1) it was improper to proceed with the original hearing in the Student's absence; (2) the University is required to establish that the Student received notice of the hearing "beyond a reasonable doubt"; (3) the sanction imposed is unreasonable; and (4) the appropriate remedy on appeal is to set aside the Panel's Order and order a new hearing.

In dismissing the Student's appeal, the Board discussed the Student's grounds for appeal in three main issues. First, it was the Student's position that it was improper to proceed with the original hearing in the Student's absence and that the University is required to establish that he received notice of the hearing "beyond a reasonable doubt." In examining Rule 9(c) of the Tribunal's *Rules of Practice and Procedure*, the University's *Policy on Official Correspondence with Students* and the affidavits regarding service, the Board found that the Student had reasonable notice of the charges and the hearing. The Board found that the Tribunal did not make any error in concluding that the University had discharged its onus to demonstrate that the Student had reasonable notice of the hearing and that they could proceed with the hearing in the Student's absence. The Student argued that although he should have checked his University email more frequently, the onus is still on the University to prove, beyond a reasonable doubt, that he accessed or read the emails that were sent to him regarding the hearing. The Board rejected this argument. As correctly noted by the Panel, the onus is on the University to demonstrate that the Student had reasonable notice of the hearing on a balance of probabilities. Once the Panel was satisfied that reasonable notice had been given to the Student, the Panel had jurisdiction to proceed in the absence of the Student. The Board does not find any error in that finding. At the hearing, the Student referred to it being "unfair" that he was not present at the original hearing. The Board noted that "unfairness" is not the test for procedural fairness. The fairness standard relates to having reasonable notice of the adjudication and, thereby, having the opportunity to attend and be heard.

The second issue was whether the sanction imposed on the Student, if the finding of guilt was upheld, was unreasonable. Upon review of the Tribunal's reasons and the authorities provided to the Panel, the Board found that the sanction ordered was consistent with penalties imposed in similar cases. The Board noted that consistency and predictability are valid goals in encouraging general deterrence. Relying on *University of Toronto v. M.M.* (Case No. 543, April 14, 2011(Appeal)) at paras. 61-64, the Board did not feel that this was a situation of "special circumstances" to grant the Student an opportunity to adduce fresh evidence when the Student had reasonable notice of the hearing and failed to attend. The Student advised the Board that he had withdrawn from his courses in Winter 2021 even though he filed an appeal which stayed the order pending the appeal decision. Seeing as the Student acted as if he was suspended from the University since the date of the Tribunal's Order, the Board felt it was appropriate to affirm the Order, including the commencement date of the suspension.

Lastly, the Student argued that the appropriate remedy on appeal is to set aside the Tribunal's Order and order a new hearing. The Board noted that given its finding that the Tribunal did not err in their decision, they dismissed the Student's request for a new hearing.

Appeal dismissed. Order of the Tribunal affirmed in its entirety.

UNIVERSITY TRIBUNAL – DISCIPLINE APPEALS BOARD: 2022-2023

FILE:	Case # 1262 (2022-2023)
DATE:	August 29, 2022
PARTIES:	University of Toronto v. G.L. ("the Student")

Hearing Date(s):
March 14, 2022, via Zoom with written submissions in May 2022

Panel Member:
Ms. Lisa Brownstone, Associate Chair

Appearances:
Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Not in Attendance:
The Student

Hearing Secretary:
Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

NOTE: See the Tribunal case summary for detailed facts

Discipline Appeals Board – Student appealed on the basis that they were not in attendance at the trial and were not represented at the trial hearing – Provost seeks an order dismissing the appeal summarily and without a formal hearing because it is frivolous, vexatious or without foundation – sections C.ii.(a)7, C.ii.(a).11, and E.7(a) of the *Code of Behaviour on Academic Matters* ("Code") – section 4.2.1(1) of the *Statutory Powers Procedure Act* ("SPPA") – the procedures of the Tribunal shall conform to the requirements of the SPPA – there are two divisions of the Tribunal; (a) Trial and (b) Appeal – the University has determined that SPPA procedures are to apply to hearings and appeals before its Tribunal, and that by including section C.ii.(a)7 in the Code, they have advised their students of such an application – courts have long distinguished between procedural and substantive matters in this regard and have been willing to intervene on procedural matters (*Re Polten and Governing Council of University of Toronto (1976),* 8 O.R. (2d) 749 (Divisional Court); 1975 CanLII 709*)* – section 4.2.1(1) of the SPPA applies, and Associate Chair may hear the motion as a panel of one person – an appeal can be classified as frivolous or vexatious if the student takes no steps to move the appeal forward and fails to engage with the process or comply with Directions – the Student's failure to communicate and engage in the process to advance the appeal renders the appeal vexatious – the Student's own statements indicated that they used external aids in an assignment, which violated the assignment's requirements to do the work independently – the appeal is frivolous, vexatious or without foundation – motion granted – appeal dismissed summarily and without formal hearing

The Student appealed the University Tribunal's Trial Division decision on the basis that they were not in attendance and were not represented at the hearing. After submitting their Notice of Appeal, the Student engaged in very sporadic communication with Assistant Discipline Counsel and the Tribunal's administrative office. The Associate Chair noted that two Directions were issued to ensure that the appeal proceeded in a timely fashion. The Student did not respond nor did they act as required in accordance with the Directions. In accordance with the second Direction, the Provost moved for dismissal of the appeal. The Student was afforded an opportunity to respond the Provost's motion in writing. The Student did not respond.

The Associate Chair outlined that there were two issues. The first issue was whether the Tribunal, as a single member, has jurisdiction to entertain the Provost's motion. The second issue was whether the Student's appeal should be dismissed on the grounds that it is frivolous, vexatious, or without foundation.

With respect to the first issue, the Associate Chair agreed with the conclusion of the appeal motion in *University of Toronto and R.S.* (Case No. 1100, February 8, 2022) ("*R.S.*") that the Tribunal has jurisdiction to hear this appeal, sitting as a single member. Specifically, the *Statutory Powers Procedure Act*, R.S.O 1992, c. 22 ("SPPA") applies to appeals before the Discipline

Appeals Board ("Board") from decisions of the Tribunal's Trial Division, and section 4.2.1(1) of the SPPA, permits a single member of the Board to decide a motion. The Associate Chair noted that historically university discipline tribunals were arguably not the sort of tribunals to which the SPPA would directly apply since the relationship between a student and a university has been characterized as contractual as opposed to statutory. However, the courts have long distinguished between procedural and substantive matters in this regard and have been willing to intervene on procedural matters (*Re Polten and Governing Council of University of Toronto (1976)*, 8 O.R. (2d) 749 (Divisional Court); 1975 CanLII 709*)*. The Associate Chair further noted that the University has codified the relationship between the student and the University, when it comes to academic matters, in the *Code of Behaviour on Academic Matters* issued by the University's Governing Council ("Code"). Section C.ii.(a).7 of the Code provides that the procedures of the Tribunal shall conform to the requirements of the SPPA. Section C.ii.(a).11 of the Code provides that there are two divisions of the Tribunal: (a) Trial and (b) Appeal. Therefore, the Associate Chair found that the University has determined that SPPA procedures are to apply to hearings and appeals before its Tribunal, and that by including section C.ii.(a)7 in the Code, it has advised its students of such an application. The Associate Chair did not view the fact that the University had chosen to use the language "conform" rather than "apply" to be a material distinction and was confident that the language distinction between "conform" and "apply" would not aid the University should it attempt not to comply with the SPPA. In considering section 4.2.1(1) of the SPPA, the Associate Chair noted that this section provides that the chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person. The Associate Chair agreed with the observation in *R.S.* that there is no statutory provision contrary to section 4.2.1(1) of the SPPA, and, therefore, concluded that section 4.2.1(1) of the SPPA applies, and they may hear the motion as a panel of one person.

Having decided that they have jurisdiction to hear this appeal as a single member, the Associate Chair considered the second issue, namely, whether the appeal is frivolous, vexatious or without foundation. The Associate Chair noted that section E.7(a) of the Code gives the Board the power to dismiss an appeal summarily and without formal hearing if the appeal is frivolous, vexatious or without foundation. An appeal can be classified as frivolous or vexatious if the student takes no steps to move the appeal forward and fails to engage with the process or comply with Directions. The Associate Chair further noted that the failure to engage in the process or to be responsive to the Tribunal's, ADFG's, or counsel's attempts to move the matter forward can render the appeal frivolous or vexatious. Whether an appeal is without foundation is concerned with the merits of the appeal, and while it can be difficult to opine on the merits of an appeal in the absence of the full participation of the student, there are circumstances, such as this one, where such a determination can be made. The Student engaged in a pattern of non-responsiveness and failure to engage with the process and while the Student's subjective desire to appeal may exist, that is insufficient to overcome the frivolous and vexatious nature of the Student's conduct in failing to pursue the appeal. In determining whether the appeal was with or without foundation, the Associate Chair noted that the Student's own statements in an email to the ADFG Office indicated that the Student improperly used external aids in the assignment. The Student outlined that they received assistance from their brother and not Chegg.com, therefore, even if the Student were permitted to advance their version of events, they acknowledged that they violated the assignment's requirements to do the work independently.

The Student's appeal was frivolous, vexatious, or without foundation. Motion granted. Appeal dismissed summarily and without formal hearing.