

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on January 22, 2019,

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

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

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

D [REDACTED] A [REDACTED] (the “Student”)

REASONS FOR DECISION

Hearing Dates: June 24, 2019 July 5, 2019 and July 22, 2019

Members of the Panel:

Mr. Shaun Laubman, Lawyer, Chair
Professor Dionne Aleman, Faculty Panel Member
Ms. Elizabeth Frangos, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Meg Cormack, Downtown Legal Services

In Attendance:

The Student

Hearing Secretary

Mr. Christopher Lang, Director, Appeals, Discipline & Faculty Grievances

1. The Trial Division of the University Tribunal heard this matter over the course of three days.
2. The Student was charged in connection with three separate alleged offences. The primary charges were as follows:
 - a. In or about March 2018, you knowingly represented as your own an idea or expression of an idea or work of another in a lab report titled “Using comparative proteomics of myosin light chain to assess evolutionary relationships and environmental variation between Shark, Cod and Tilapia species” (“BIO314 Lab Report”) that you submitted in BIO314H5S, contrary to section B.i.1(d) of the *Code*;
 - b. In the alternative to paragraph 1, in or about March 2018, you knowingly used or possessed an unauthorized aid or aids and obtained unauthorized assistance in connection with your BIO314 Lab Report, contrary to Section B.i.1(b) of the *Code*;
 - c. On or about April 8, 2018, you knowingly represented as your own an idea or expression of an idea or work of another in a book report titled “Book Review Reconstructing the Past: Parsimony, Evolution, and Inference By: Elliot Sober (1988)” (“Sober Book Review”) that you submitted in BIO443H5S, contrary to section B.i.1(d) of the *Code*; and
 - d. On or about April 8, 2018, you knowingly represented as your own an idea or expression of an idea or work of another in a book report titled “Book Review Proof of An Evolutionary Account of the Social and Conceptual Development of Science By David Hull (1988)” (“Hull Book Review”) that you submitted in BIO443H5S, contrary to section B.i.1(d) of the *Code*. (the “Charges”)
3. At the conclusion of the Hearing, the Student was found guilty of two Charges, committing plagiarism in relation to the BIO314 Lab Report and the Hull Book Review.

4. The Student was acquitted of the Charges in connection with the Sober Book Review.
5. After hearing oral submissions and receiving further written submissions, and for the reasons detailed below, the Tribunal imposes the following penalty on the Student:
 - a. That the Student receive a final grade of zero in each of the following courses:
 - i. BIO314H5S in Winter 2018; and
 - ii. BIO443H5S in Winter 2018;
 - b. That the Student be suspended from the University for a period of four years, commencing on July 22, 2019 and ending on July 21, 2023;
 - c. That the sanction be recorded for a period of five years on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct, commencing on July 22, 2019 and ending on July 21, 2024; and
 - d. That this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld.

Evidence of the Offences

6. The University presented clear and convincing evidence that the Student committed plagiarism with her BIO314 Lab Report and Hull Book Review. By contrast, there was little evidence of the Charges in connection with the Sober Book Review other than the review itself and the Professor's view that an undergraduate student would not be able to write the review that was submitted.

BIO314 Lab Report

7. The Student took BIO314 during the Winter 2018 semester. Fifteen percent of the course grade was a lab report due in March 2018.

8. All lab reports in the course, including the Student's, were submitted to turnitin.com. The lab report submitted by the Student had a result of 0% when it was checked using turnitin. Initially, this result escaped detection and the Student scored very well on the report. However, the peculiar turnitin.com result ultimately came to the attention of Professor Chatfield, the course instructor.
9. Professor Chatfield noticed both the 0% result for the Student's report, which he described as highly unusual, and the fact that Turnitin identified only 46 words in the report. The report, which was 8 pages long, clearly has many more than 46 words.
10. The Professor noted that the Student's report had been submitted to turnitin.com in PDF format and was not being read properly as a result. The Student was asked to resubmit her report to turnitin.com in a readable Word format.
11. On April 17, 2018, a Word version of what was represented to be the Student's report was sent to Professor Chatfield. He submitted the Word version of the report to turnitin.com and discovered that the report had a high degree of similarity to a lab report submitted by a different student for the same class the previous year.
12. After receiving these results, the Professor wrote out a paragraph from the initial PDF version of the Student's lab report and submitted that excerpt to turnitin.com. The result was a perfect match to the other student's lab report from the previous year.
13. The Professor compared the original lab report submitted by the Student and the Word version that was provided on April 17th. There were a number of changes between the two documents. The changes were mainly to adjectives and other wording as opposed to the substance of the lab report. The Professor described some of the changes as non-sensical.
14. The inference that the University invited the Tribunal to draw from the fact of the changes was that the Student attempted to conceal her plagiarism by changing words once she knew the lab report would be checked using turnitin.

15. In his evidence at the Hearing, the Professor reviewed the two versions of the lab report submitted by the Student compared to the lab report submitted by a different student in 2017. The similarities were extensive and obvious.
16. In cross-examination, the Professor conceded that he would expect to see some degree of overlap or similarities in lab reports from year to year; however, he stated that he had never seen the extent of overlap that existed between the Student's lab report and the 2017 report submitted by a different student. For example, with one exception, the Student listed identical references, including page citations, as the lab report from the preceding year.
17. In her testimony at the Hearing, the Student admitted that she knew the student who authored the lab report that she was accused of plagiarising from. However, she denied having seen the other lab report prior to the Dean's meeting and she was adamant that she did not plagiarize from any source for her BIO314 Lab Report.
18. The Student had no credible explanation for the extensive and obvious similarities between her lab report and the earlier report that she was accused of plagiarizing. She admitted submitting a different report in April despite knowing that she was expected to submit the same paper.
19. The Tribunal accepts that it is reasonable to draw the inference from the evidence that the Student made changes to her report in an effort to avoid detection.
20. On the evidence presented at the Hearing, the Tribunal had little difficulty in finding that the Student had committed plagiarism in respect of the BIO314 Lab Report.

Hull Book Review

21. The Student enrolled in BIO443 in the Winter 2018 semester. She was one of two students in the course who elected to submit two optional book reports in order to earn up to an additional 4% towards her final grade. Those two book reports are referred to below as the Hull Book Review and the Sober Book Review.

22. Professor Stefanovic testified for the Provost. He testified that he was immediately struck by the Student's choice of books to review. He described them as unusual choices for an undergraduate student.
23. After Professor Stefanovic reviewed the Student's Hull Book Review, he was struck by the sophistication of some of the language and by the bizarre word selection throughout the review. In his evidence, he provided the Tribunal with a number of examples of words that did not make sense in the context for which they were used in the review.
24. The Professor did a Google search for book reviews of the underlying book, a 1988 book by David Hull entitled "Proof of an Evolutionary Account of the Social and Conceptual Development of Science". On the first Google results page, he found two book reviews published in the early 1990s. When he compared these two reviews to the Student's Hull Book Review, he found a number of passages that were identical except for apparent selective word changes.
25. At the Hearing, the Professor reviewed the two books reviews that he found on Google and compared them to the Student's Hull Book Review. The similarities were again extensive and obvious.
26. As with the BIO314 Lab Report, the Student denied committing plagiarism with the Hull Book Review. She testified that she found the Hull book difficult to understand at first but she did additional research in order to understand it, which helped her overall understanding and performance in the second half of the course.
27. The Student said that she had never seen the other two reviews of Hull's book prior to the Dean's meeting. She had no credible explanation for the similarities between those two reviews and her own.
28. On the evidence presented at the Hearing, the Tribunal had little difficulty in finding that the Student had committed plagiarism in respect of the Hull Book Review.

Sober Book Review

29. The evidence regarding the Sober Book Review was different than the evidence presented by the Provost to make out the other two alleged offences. No source material was presented to support the allegation that the Student had plagiarized the Sober Book Review.
30. Professor Stefanovic's evidence was that he found that the Sober Book Review used very sophisticated terminology and phraseology. He found that the review employed sophisticated concepts but without any explanation or details. In his view, an undergraduate student would not be capable of writing the Sober Book Review.
31. The Professor said that he searched for a source for the content in the Sober Book Review but could not find any.
32. The Student denied any plagiarism regarding the Sober Book Review.
33. In its submissions, the Provost argued that the Tribunal could infer that the Sober Book Review was not the Student's original work product based on the Professor's evidence that he did not believe an undergraduate student could write the review. The Provost relied on a 2016 decision in which an inference was drawn that a student did not write an essay, in part because the writing was superior to other work product submitted by the student.
34. The 2016 decision is distinguishable on its facts, including the fact that the Provost's evidence in that case was unchallenged since the student did not attend the hearing. In this case, the Student expressly denied any plagiarism in respect of the Sober Book Review.
35. On the limited evidence submitted by the Provost, the Tribunal was not satisfied that the charges in respect of the Sober Book Review were made out. The Student was acquitted of those Charges.

Penalty Phase

36. The Student and the Provost agreed that an appropriate penalty for the two convictions on plagiarism would include a grade of zero for both BIO314 and BIO443. They also agreed that the decision should be published with the Student's name redacted. The Tribunal agrees that those terms should form part of the penalty.
37. Where the Student and the Provost disagreed was in the length of the suspension and notation on the Student's transcript, and whether the suspension should run consecutively or concurrently with a three-year academic suspension that the Student would have to serve as a result of her cumulative GPA dropping below the minimum requirements.
38. With respect to the length of the suspension and notation, the Provost argued for a four year suspension and a five year notation on the Student's transcript. The Provost emphasized the efforts the Student made to avoid detection: for example, first submitting a PDF of the BIO314 Lab Report and then altering words to avoid detection by turnitin. The Provost also submitted that the lack of remorse exhibited by the Student and her persistent refusal to accept responsibility for her conduct despite the overwhelming evidence against her, at least with respect to the BIO314 Lab Report and Hull Book Review, were relevant considerations for imposing a penalty towards the upper range of sanctions for a student with no prior history of academic offences.
39. The Student's position was that a two year suspension and three year notation were appropriate penalties. She gave evidence regarding her family circumstances and future ambitions to become a doctor. There was a dispute over whether she could also introduce evidence of a medical condition after failing to provide proper notice or a medical report. The Tribunal ruled that this evidence was inadmissible. Even if it had been admitted, it would have been entitled to no weight since it was uncorroborated.
40. The Student relied on the fact that she had no prior academic offences and argued that the length of her suspension should be towards the lower end of the range in the

precedents provided to the Tribunal. The Provost replied to this submission by pointing out that the Student submitted the altered BIO314 Lab Report in April 2018 after she had met with and been warned by Professor Stefanovic regarding the Hull Book Review in BIO443.

41. The Student also relied on the fact that the BIO314 Lab Report and the Hull Book Review were worth a relatively low percentage of the overall course grade in the respective courses (15% and 2% respectively). The Tribunal did not find this to be a persuasive factor in this case, particularly in light of the Provost's submissions regarding the seriousness of plagiarism and its impact on the University and its stakeholders.
42. Finally, during the course of submissions, the parties alerted the Tribunal to the fact that the Student was serving a three-year academic suspension because of her low cumulative GPA. That academic suspension was scheduled to run until April 30, 2022. The Tribunal invited the parties to make written submissions following the Hearing on the issue of whether the suspension that was going to be imposed due to the Charges should run concurrently or consecutively with the Student's academic suspension.
43. The Provost requested that if a four year suspension was imposed, that suspension begin to run May 1, 2021. The effect would be a one year overlap with the Student's academic suspension and a cumulative suspension of six years. In the alternative, the Provost requested that if the suspension was less than four years that it run consecutive with the academic suspension. The Provost relied on the need for significant deterrence and the aggravating factor of the Student's attempts to avoid detection. The Provost acknowledged that a cumulative seven year suspension would have a prejudicial effect on the Student.
44. The Student submitted that a suspension that was entirely consecutive to her academic suspension would be unduly harsh, particularly if the Tribunal accepted the Provost's recommendation of a four year suspension. She requested that the suspension run concurrently with her academic suspension or, in the alternative, a

hybrid approach where the majority of the suspensions ran concurrently with only one additional year of the penalty running past her academic suspension for a total suspension from the University of four years.

45. The Tribunal accepts the Provost's recommendation that a four year suspension and five year notation are appropriate penalties in this case. While these penalties are towards the upper range for a student without a prior history of academic offences, there were several aggravating factors. There were multiple offences. The Student also deliberately and repeatedly took steps to prevent her plagiarism from being detected. The Student also exhibited a lack of remorse and responsibility for her actions. Finally, the Tribunal is of the view that a penalty of the same or less duration than the Student's academic suspension would not have any deterrent effect.
46. The Tribunal was not persuaded that the penalty should run consecutive to the Student's academic suspension. The Tribunal accepted the Student's submission that an aggregate suspension of five years or more would be unduly harsh and would have a prejudicial effect on the Student if she ever decided to return to the University or pursue further post-secondary education. A four year suspension, running concurrent with the academic suspension, is a significant penalty and strikes the appropriate balance between the need for deterrence, imposing consequences for the Student's conduct and providing the opportunity for her to learn from her mistakes.
47. The following penalty is imposed on the Student for the two breaches of section B.i.1(d) of the *Code* in connection with the BIO314 Lab Report and the Hull Book Review:
 - a. That the Student receive a final grade of zero in each of the following courses:
 - i. BIO314H5S in Winter 2018; and
 - ii. BIO443H5S in Winter 2018;

- b. That the Student be suspended from the University for a period of four years, commencing on July 22, 2019 and ending on July 21, 2023;
- c. That the sanction be recorded for a period of five years on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct, commencing on July 22, 2019 and ending on July 21, 2024; and
- d. That this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this 21 day of October, 2019



Shaun Laubman, Co-Chair