

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on February 27, 2020

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

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

BETWEEN:

UNIVERSITY OF TORONTO

- and -

T [REDACTED] M [REDACTED] (“the Student”)

REASONS FOR DECISION

Hearing Date: April 27, 2020

Members of the Panel:

Ms. Lori Anne Thomas, Barrister and Solicitor, Chair

Professor Pascal Riendeau, Faculty Panel Member

Mr. Abdul Sidiqi, Student Panel Member

Appearances:

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

Ms. Meg Cormack, Law Student, Downtown Legal Services

Hearing Secretary:

Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

In Attendance:

Ms. T [REDACTED] M [REDACTED], the Student

1. The Trial Division of the University Tribunal was convened on April 20, 2020, to consider charges brought by the University of Toronto (the “University”) against the “Student” under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 (the “Code”).

The Charges and Particulars

2. The Charges and Particulars alleged against the Student are as follows.

Charges

A. Charges related to Prof. McFarlane application

1. On or about September 10, 2019, the Student knowingly falsified statements about her purported work history in an application for a work-study position in the McFarlane lab for her BIO 98/D99 supervised study course, or she knowingly uttered, circulated, or made use of those falsified statements, contrary to section B.I.1(a) of the *Code*.

2. In the alternative, on or about September 10, 2019, the Student knowingly altered or falsified her academic record in an application for a work-study position in the McFarlane lab for her BIO 98/D99 supervised study course, or she uttered, circulated, or made use of that altered or falsified academic record contrary to section B.I.3(a) of the *Code*.

3. In the further alternative, on or about September 10, 2019, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud, or misrepresentation in order to obtain an academic advantage by making false statements about her purported work history in an application for a work-study position in the McFarlane lab for her BIO 98/D99 supervised study course contrary to section B.I.3(b) of the *Code*.

B. Charges related to Prof. Gazzarrini application

4. On or about September 12, 2019, the Student knowingly falsified statements about her purported work history in an application for a work-study position in the Gazzarrini lab for her BIO 98/D99 supervised study course, or she knowingly uttered, circulated, or made use of those falsified statements, contrary to section B.I.1(a) of the *Code*.

5. In the alternative, on or about September 12, 2019, the Student knowingly altered or falsified her academic record in an application for a work-study position in the Gazzarrini lab for her BIO 98/D99 supervised study course, or she uttered, circulated, or made use of that altered or falsified academic record contrary to section B.I.3(a) of the *Code*.

6. In the further alternative, on or about September 12, 2019, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud, or misrepresentation in order to obtain an academic advantage by making false statements about her purported work history in an application for a work-study position in the Gazzarrini lab for her BIO 98/D99 supervised study course contrary to section B.I.3(b) of the *Code*.

The Particulars:

1. At all material times, the Student was a student at the University of Toronto.
2. On September 10, 2019, the Student applied for a work-study position in the lab operated by Prof. Heather McFarlane. The Student stated that she had worked as a research assistant in the lab operated by Prof. Gazzarrini. This statement was false.
3. On September 12, 2019, the Student applied for a work-study position in the lab operated by Prof. Gazzarrini. The Student stated that she had worked as a research assistant in the labs operated by Prof. Boonstra and Prof. Mandrak. These statements were false.

4. The Student knew that the statements about her work history were evidence or information required by the University for the purposes of re-grading her term test at her request.
5. The Student knowingly circulated and made use of the false statements for the purposes of seeking a work-study position in a lab.
6. The Student knowingly circulated and made use of the false statements for the purpose of obtaining an academic advantage.

The Student's Plea

4. The Student, who was present at the Hearing, was represented by Meg Cormack, a Law Student with Downtown Legal Services. Through her representative, the Student admitted all charges. These admissions were reflected in a written Agreed Statement of Facts, which had been signed by the Student, dated April 15, 2020. The Panel was advised that if it finds the Student guilty of one charge from charges 1 to 3 and another charge from 4 to 6, the University would withdraw the alternative charges.

The Evidence

5. The evidence before the Panel was presented by an Agreed Statement of Facts ("ASF"), the contents which are outlined below. Where documents are referred to in the ASF, they are not reproduced in this Decision. However, the Panel reviewed the materials in the course of the Hearing and was satisfied that they supported the allegations outlined in the ASF. The following facts were established to the Panel's satisfaction.

A. The Student's Academic History

In Fall 2015, the Student registered at the University of Toronto Scarborough and began to complete courses towards an Honours Bachelor of Science in Human Biology and Health Studies. As of April 8, 2020, she has earned 18 credits, with a cumulative grade point average of 3.46. The Panel was advised the student had outstanding grades but was expected to receive enough credits to graduate. A copy of the Student's academic record, dated January 24, 2020, was put into evidence.

B. BIOB98/99: Supervised Introductory Research in Biology

The Student hoped to obtain a spot in BIOB98/99, Supervised Introductory Research in Biology (“Supervised Introductory Research”), in Fall 2019.

Supervised Introductory Research is a course designed to facilitate experience in ongoing laboratory or field research in biology. Supervision of the work in Supervised Introductory Research must be arranged by mutual agreement between a student and an instructor. Practically, this means that a student must obtain a placement in a faculty member’s lab in order to enrol in Supervised Introductory Research.

C. Application to Professor Heather McFarlane’s Lab

On September 10, 2019, the Student emailed Professor Heather McFarlane to apply for a position in her lab so that she could enrol in Supervised Introductory Research. A copy of the Student’s September 10, 2019 email was submitted as evidence.

In the September 10, 2019 email, the Student indicated that she had worked as a research assistant in Professor Sonia Gazzarrini’s lab. The Student admitted that this statement is false. She has never worked as a research assistant in Professor Gazzarrini’s lab. The Student acknowledged that she expected Prof. McFarlane to rely on that statement and view her application more favourably because of it.

The Student admitted that she knowingly:

- a) falsified statements about her purported work history and made use of those statements in her application to Professor McFarlane’s lab in order to try and gain a position in Supervised Introductory Research, contrary to section B.I.1(a) of the *Code*;
- b) altered or falsified her academic record in her application to Professor McFarlane’s lab in order to gain a position in Supervised Introductory Research, contrary to section B.I.3(a) of the *Code*; and
- c) engaged in a form of cheating, academic dishonesty or misconduct, fraud, or misrepresentation in order to gain academic advantage by making false statements about

her purported work history in her application to Professor McFarlane's lab in order to gain a position in Supervised Introductory Research, contrary to section B.I.3(b) of the *Code*.

D. Application to Professor Sonia Gazzarrini's Lab

On September 12, 2019, the Student emailed Professor Sonia Gazzarrini to apply for a position in her lab so that she could enrol in Supervised Introductory Research. The Student attached her resume and transcript to the email. A copy of the Student's September 12, 2019 email and its attachments were tendered as evidence.

The resume that the Student attached to her September 12, 2019 email indicated that she had worked in Professor Nicholas Mandrak's lab between September 2017 and April 2018. It also indicated that she had worked in Professor Rudy Boonstra's lab between September 2018 and February 2019. The Student admitted that these statements are false. She worked in Professor Boonstra's lab for a short period but was terminated. She has never worked in Professor Mandrak's lab. The Student admitted that she expected Prof. Gazzarrini to rely on these statements and view her application more favourably because of them.

The Student admitted that she knowingly:

- a) falsified statements about her purported work history and made use of those statements in her application to Professor Gazzarrini's lab in order to gain a position in Supervised Introductory Research, contrary to section B.I.1(a) of the *Code*;
- b) altered or falsified her academic record in her application to Professor Gazzarrini's lab in order to gain a position in Supervised Introductory Research, contrary to section B.I.3(a) of the *Code*;
- c) engaged in a form of cheating, academic dishonesty or misconduct, fraud, or misrepresentation in order to gain academic advantage by making false statements about her purported work history in her application to Professor Gazzarrini's lab in order to gain a position in Supervised Introductory Research, contrary to section B.I.3(b) of the *Code*.

E. Dean's meeting

On January 9, 2020, the Student met with Dean's Designate Professor Nick Cheng, to discuss the allegations of academic misconduct against her. During the meeting, the Student admitted to submitting false information in order to bolster her application for a position in either Professor McFarlane or Professor Gazzarrini's lab. She took responsibility for her actions and acknowledged that they constituted academic offences.

F. Acknowledgements

14. The Student acknowledged that:

- a) the Provost had provided her with the opportunity to obtain legal representation, and that she had obtained that representation;
- b) that the Provost had not made any promises to the Student regarding what penalty would be requested for the Tribunal to impose in these circumstances; and
- c) she signed the Agreed Statement of Facts freely and voluntarily, knowing of the potential consequences she faced.

Decision on the Charges

6. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that one or more of the academic offences charged has been committed by the Student.

7. In this case, the Student admitted to all of the Charges. The Panel was satisfied that the Student's admissions were voluntary, informed and unequivocal. Further, the evidence contained within the Agreed Statement of Facts proved that the Student was guilty of two counts of the academic offence of knowingly falsifying evidence required by the University or knowingly uttering, circulating, or making use of that falsified evidence, contrary to section B.I.1(a) of the *Code*.

8. In light of the Panel's Decision to convict on these charges, charges 2, 3, 5 and 6 were withdrawn by the University.

Submissions on Penalty

9. There was a Joint Submission on Penalty, in which both parties requested that the Panel make an order including the following sanctions:
- a) a suspension from the University for three years commencing from the day the Tribunal makes its Order; and
 - b) a notation of the sanction on her academic record and transcript for four years from the day the Tribunal makes its Order; and
10. The parties also submitted that it would be appropriate for the Tribunal to report this case to the Provost for publication of a notice of the Decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with the name of the Student withheld.
11. There was a Joint Book of Authorities that provided guidance in the range of penalties and considerations for joint submissions on penalty.

Prior Offence

12. There was only one previous offence provided to the Panel. On June 9, 2017, Prof. M.E Irwin, Dean's Designate for Academic Integrity, University of Toronto Scarborough, wrote to the Student to impose a mark of zero on an assignment in BIOB12. The Student had admitted to obtaining unauthorized assistance on an assignment worth 8.5% of the final grade in the course. In Prof. M. E. Irwin's letter, the Student was advised she had committed an offence contrary to s. B.i.1(b) of the *Code*.

Decision on Penalty

13. As noted by Counsel for the University, there is a high threshold required for a Tribunal Panel to deviate from a joint submission on penalty. The Decision from the Discipline Appeals Board in *The University of Toronto and M. A.* (Case No. 837, December 22, 2016) affirms that *R. v. Anthony-Cook*, 2016 SCC 43 applies with respect to joint submissions on penalties for joint submissions on penalties at a Tribunal. That is, the Tribunal should impose a penalty jointly submitted unless doing so "would be fundamentally contrary to the interests of the University community and objectively unreasonable or unconscionable" (para. 29).

14. *M.A, supra.* outlined the need for certainty when the parties come to an agreement on penalty. This Hearing was held at the beginning of the Covid-19 pandemic. As submitted by Counsel for the University, this makes the need for certainty greater than in the ordinary course. As such, this factor was strongly considered by the Panel.

15. Further, it should be noted that the Student was represented by Ms. Cormack from Downtown Legal Services (“DLS”). Counsel for the University rightly submitted that Law Students from DLS are experts in the defence of academic discipline allegations. They regularly appear before the Tribunal and are acutely aware of the processes and precedents of the Tribunal.

16. As such, it is expected the parties came to the proposed joint submission with full consideration of what was appropriate in the circumstances of the Student and the offences committed.

17. The Panel considered the factors and principles relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). The factors outlined for the Tribunal were as follows.

- a) The character of the Student: the Student was remorseful for her actions. She immediately took responsibility and apologized for her actions in writing. Even in her prior offence, she admitted guilt readily. The Student advised the Panel that she was sad for what she had done, acknowledging her guilt and responsibility.
- b) The likelihood of a repetition of the offence: the Student had completed her courses, pending her final grades for the 2020 Winter Semester. Upon graduation, the likelihood of re-offending is eliminated. Further, the Student indicated that she would not repeat academic dishonesty in the future.
- c) The nature of the offence committed: all academic dishonesty is serious. While this was not a situation of falsifying school records, the falsification of work history to enter a program is no less dishonest.
- d) Any extenuating circumstances surrounding the commission of the offence: The Student had a cumulative GPA of 3.46 as of January 2020. The reason for falsifying her work history was due to the fact she was unable to get into a wet lab by conventional means. This frustration caused her

to make poor choices out of desperation. It is clear the Student is hard-working and capable of managing academic work.

- e) The detriment to the University occasioned by the offence: other than casting a shadow on the prestige of the University, the involved professors had to consult with each other. But for the diligence of the professors, the Student's dishonesty may have gone undiscovered.
- f) The need to deter others from committing similar offences: deliberate dishonesty must always be denounced and deterred in order to protect the academic integrity of the University.

14. In addition to the factors from the Mr. C. case, **supra**, the Panel considered other cases of this Tribunal in similar circumstances of falsifying information. The cases provided demonstrate that the penalty proposed is within the range of related offences. The proposed penalty would not bring the administration of justice into disrepute and would not otherwise be contrary to the public interest. It strikes a fair balance between the mitigating and aggravating factors.

16. In all of the circumstances, the Tribunal is satisfied that the following Order is appropriate:

- a) That the Student is guilty of two counts of the academic offence of knowingly falsifying evidence required by the University or knowingly uttering, circulating, or making use of that falsified evidence, contrary to section B.I.1(a) the *Code of Behaviour on Academic Matters*;
- b) The penalty imposed will be:
 - (i) a suspension from the University for three years commencing from April 27, 2020 and ending April 26, 2023; and
 - (ii) a notation of the sanction on her academic record and transcript for four years from April 27, 2020 and ending April 26, 2024.
- c) That this case shall be reported to the Provost for publication of a notice of the Decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 27th day of July, 2020



Ms. Lori Anne Thomas, Panel Chair