

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on February 6, 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 -

**S█████ K█████ (the “Student”)**

**REASONS FOR DECISION**

**Hearing Date:** May 1, 2020

**Members of the Panel:**

Ms. Johanna Braden, Barrister and Solicitor, Chair  
Professor Kimberley Widger, Faculty Panel Member  
Ms. Karen Chen, Student Panel Member

**Appearances:**

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

**Hearing Secretary:**

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

**Not in Attendance**

The Student

1. A panel of the Trial Division of the University Tribunal (the “Panel”) was convened on May 1, 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”).
2. In accordance with an Order made by the Chair of this Panel on April 21, 2020, this hearing was held electronically via Zoom. The documents which eventually formed the record for this hearing were sent to the Panel electronically in advance of the hearing. Participants were able to see and hear one another throughout. The Panel was able to watch witnesses give their evidence so that their credibility could be fairly assessed.

#### **Preliminary Issue 1: Proceeding in the Absence of the Student**

3. The hearing was scheduled to begin at 9:45 am. Neither the Student, nor a representative on behalf of the Student, were logged onto the Zoom link. The Panel waited until 10:00 am to start the hearing. The University then requested that the Panel proceed with the hearing in the Student’s absence.
4. Pursuant to Rule 16 of the *University Tribunal Rules of Practice and Procedure* (the “Rules”), notice of an electronic hearing must include the date, time, place and purpose of the hearing; a reference to the statutory authority under which the hearing will be held; information about the manner in which the hearing will be held; and a statement that if a person does not attend the hearing, the panel may proceed in the person’s absence. Rule 17 provides that where reasonable notice of an electronic hearing has been given to a person and that person does not attend the hearing, the Panel may proceed with the hearing in the party’s absence. The Rules conform to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “SPPA”).

5. Pursuant to Rule 9, a notice of hearing may be served on a student by various means, including by emailing a copy of the document to the student's email address contained in the University's Repository of Student Information ("ROSI").
6. The University's *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining on ROSI a current and valid mailing address and University-issued email account. Students are expected to monitor and retrieve their email on a frequent and consistent basis.
7. The onus of proof is on the University to establish that it provided the Student with reasonable notice of the hearing in accordance with these Rules.
8. In this case, the University provided evidence that the chronology related to service is as follows.
  - (a) On February 6, 2020 the Charges were sent to the Student's ROSI-listed email address.
  - (b) On February 7, 2020, a letter from the University's Office of Appeals, Discipline and Faculty Grievances regarding the Charges was sent to the Student via email and courier.
  - (c) On February 21, the office of the Assistant Discipline Counsel sent the Student a letter containing the University's disclosure of evidence. This was sent via email and a secure Dropbox link. Among other things, the letter stated, "My office and the University will continue to send you important communications about this matter via e-mail to your utoronto account. It is therefore essential that you regularly monitor your utoronto account and respond to all communications in a timely manner." Additionally, in his cover email to which the letter was attached, Assistant Discipline Counsel wrote, "If I do not hear

from you by Friday, February 28, 2020, we will schedule the hearing without further consultation.”

- (d) Also on February 21, 2020, the Student’s email account was accessed. It was not accessed again between February 21 and April 15 (the last date on which the Student’s email account was checked by the University).
  - (e) Originally this matter was scheduled to be an oral in-person hearing taking place on April 6. The original Notice of Hearing was sent to the Student via email on March 10, 2020.
  - (f) On March 16, 2020 the hearing date was vacated because of the Covid-19 pandemic. Multiple emails were sent to the Student, advising her of the vacated hearing date, the University’s subsequent request for an electronic hearing, the Panel Chair’s request for submissions on the issue of the manner of hearing, the Panel Chair’s eventual determination that an electronic hearing would be appropriate, and the Notice of Electronic Hearing dated April 23, 2020. The Student did not respond to any of these emails.
9. There is evidence the Student received actual notice of the Charges. There is no evidence the Student received actual notice of the hearing. However, the *Rules* do not require actual notice. The University can serve the Student, but cannot make the Student actually read what is served.
10. This hearing took place in the midst of a global pandemic that has shut down many parts of the world. Based on her mailing address, the Student may have returned to her home country of Pakistan. The Panel considered the possibility that there was a pandemic-related reason preventing the Student from accessing her email and/or participating in this hearing. However, as the Student apparently stopped accessing her email account altogether on February 21, 2020, the Tribunal was

satisfied it was more likely than not that the Student was deliberately avoiding her email and choosing to not participate in this process.

11. In light of the evidence and the submissions of Assistant Discipline Counsel, the Panel was satisfied that the Student had been given reasonable notice of the hearing in compliance with the notice requirements of the *SPPA* and the *Rules*. The Panel decided to hear the case on its merits in the absence of the Student. The hearing proceeded on the basis that the Student was deemed to deny the Charges alleged against her.

### **The Charges**

12. Two sets of charges, with particulars, were laid against the Student, as follows.

**A. *Charges related to PHL 101***

1. On or about November 10, 2017, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay titled “If there is no free will, is it possible for actions to be right/wrong”, which you submitted in partial completion of the requirements for PHL 101, contrary to section B.I.1(d) of the *Code*.
2. On or about December 8, 2017, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay titled “Hume”, which you submitted in partial completion of the requirements for PHL 101, contrary to section B.I.1(d) of the *Code*.
3. In the alternative to each of the charges above, you 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 contrary to section B.I.3(b) of the *Code*.

Particulars related to these charges are as follows:

- (a) At all material times, you were a registered student at the University of Toronto Mississauga.
- (b) In Fall 2017, you were registered in PHL 101: Introduction to Philosophy.
- (c) On or about November 10, 2017, you submitted an essay in response to assignment #2, which was worth 17.5% of the final grade. Your essay contained ideas, the expression of ideas, and verbatim or nearly verbatim text from articles, textbooks, or other academic work, including but not limited to
  - (i) Free Will from the Stanford Encyclopedia of Philosophy,
  - (ii) “Determinism and Free Will in Science and Philosophy”, (TheGreatDebate.org),
  - (iii) Can Moral Responsibility Exist Without Free Will? (Hubpages.com),
  - (iv) S. Cave, “There’s no such thing as Free Will” The Atlantic, June 2016,
  - (v) P. Goetz, “Separate Morality From Free Will” (lesswrong.com), and
  - (vi) S. Harris, “Life Without Free Will” (SamHarris.org)
- (d) On or about December 8, 2017, you submitted an essay in response to assignment #3, which was worth 20% of the final grade. Your essay contained

ideas, the expression of ideas, and verbatim or nearly verbatim text from articles, textbooks, or other academic work, including but not limited to

- (i) the website Sparknotes.com, and
  - (ii) the website EssayMania.com
- (e) In the essays you submitted, you knowingly represented the work of other persons as your own, and you knowingly included ideas and expressions that were not your own, but were the ideas and expressions of other persons, which you did not acknowledge.
- (f) For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in the essays that you submitted.

**B. Charges related to SOC 100**

4. On or about March 8, 2019, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay titled "Realization" that you submitted in partial completion of the requirements for SOC 100, contrary to section B.I.1(d) of the *Code*.
5. In the alternative, you 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, contrary to section B.I.3(b) of the *Code*.

The particulars related to these charges are as follows:

- (a) At all material times, you were a registered student at the University of Toronto Mississauga.
- (b) In Winter 2019, you were registered in SOC 100: Introduction to Sociology.
- (c) During that term, you submitted an essay that was worth 20% of the final grade, which contained ideas, the expression of ideas, and verbatim or nearly verbatim text from articles, textbooks, or other academic work, including but not limited to an essay submitted by [another student, K.N.]
- (d) In your essay, you knowingly represented the work of other persons as your own, and you knowingly included ideas and expressions that were not your own, but were the ideas and expressions of other persons, which you did not acknowledge.
- (e) For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in each of the papers you submitted.

## **The Evidence**

### **(a) PHL 101**

- 13. For the first set of charges, the University tendered two affidavits of Professor Andrew Sepielli, who taught Introduction to Philosophy in the Fall academic term of 2017 (“PHL 101”). Professor Sepielli was present at the hearing and gave testimony through Zoom to affirm and expand upon his affidavit evidence.
- 14. Among other assignments, students in PHL 101 were required to complete independently one 3-4 page paper, worth 17.5% of the final grade in the course (“PHL Assignment 2”) and one 4-5 page paper, worth 20% of the final grade in the course (“PHL Assignment 3”). Students in PHL 101 were required to submit all



assignments via TurnItIn, an online service that the University routinely uses to detect plagiarism. This requirement was noted in the PHL 101 syllabus.

15. On November 10, 2017, the Student submitted PHL Assignment 2, entitled “If there is No Free Will, Is It Possible for Actions to be Right/Wrong?”, via TurnItIn. The TurnItIn report for the Student’s PHL Assignment 2 indicated that it was 36% similar to internet sources, publications, and student papers on TurnItIn’s database. Professor Sepielli was informed of the similarities by his Teaching Assistant and verified them himself.
16. On November 21, 2017, Professor Sepielli emailed the Student, writing that he would like to schedule a meeting to discuss her PHL Assignment 2. The Student did not respond. On December 7, 2017, Professor Sepielli emailed the Student again, writing that he wanted to meet to discuss her PHL Assignment 2. Again, the Student did not respond.
17. On December 8, 2017, the Student submitted PHL Assignment 3, entitled “Hume”, via TurnItIn. The TurnItIn report for the Student’s PHL Assignment 3 indicated that it was 45% similar to internet sources and student papers in the TurnItIn database.
18. On December 11, 2017, Professor Sepielli sent an email to the Student asking to meet about PHL Assignment 3. The Student did not respond. On January 30, 2018, Professor Sepielli reported both instances of the Student’s suspected plagiarism.

**(b) SOC 100**

19. For the second set of charges the University tendered the affidavit of Professor Jayne Baker, who taught Introduction to Sociology in the Winter 2019 academic term (“SOC 100”). Professor Baker was present at the hearing and gave testimony through Zoom to affirm and expand upon her affidavit evidence.

20. Among other assignments, students in SOC 100 were required to complete independently an essay worth 20% of the final grade in the course (the “Sociology Essay”). Students in SOC 100 were required to submit all assignments via TurnItIn, an online service that the University routinely uses to detect plagiarism. This requirement was noted in the SOC 100 syllabus.
21. On March 8, 2019, the Student submitted the Sociology Essay, entitled “Realization”, via TurnItIn. The TurnItIn report for the Student’s Sociology Essay indicated that it was 21% similar to a paper that a different University student (“K.N.”) had previously submitted to the University (the “K.N. Essay”).
22. Professor Baker made three attempts to contact the Student in March of 2019. All went unanswered. Professor Baker also contacted the student K.N. The Panel accepted hearsay evidence from Professor Baker that K.N. told her he had given the K.N. Essay to some friends, including the Student.

### **Decision of the Tribunal on the Charges**

23. The University bears the burden of proving on a balance of probabilities that the Student knowingly represented as her own an idea or expression of an idea and/or the work of another. The requirement that the Student act “knowingly” is made out if the Student ought reasonably to have known that she represented as her own an idea or expression of an idea and/or the work of another. The evidence must be clear, cogent and convincing.
24. As to the PHL 101 Charges, the Panel carefully reviewed the two assignments submitted by the Student, the TurnItIn reports and the excerpts from the source materials as detected by the TurnItIn reports.

- (a) The Student's PHL Assignment 2 contained multiple verbatim or nearly verbatim passages from six different internet sources. While some of the impugned passages were relatively benign descriptions of basic concepts, others were more significant thefts of another's words and ideas. The Student did not cite, paraphrase or attribute these other sources. She did not reference the source material or use any method to indicate that she had borrowed words, phrases and ideas from others.
  - (b) Before she submitted PHL Assignment 3, the Student knew that Professor Sepielli wanted to speak to her about her PHL Assignment 2. Although his emails to the Student apparently did not use the word "plagiarism", the Student knew that he wanted to discuss her work. Instead of reaching out to Professor Sepielli to find out what his concerns were, the Student submitted another assignment - PHL Assignment 3 - which involves arguably more plagiarism than PHL Assignment 2.
  - (c) The Student's PHL Assignment 3 contained verbatim or nearly verbatim passages from seven different internet sources. One source - a Sparksnote Study Guide - is a significant source of what can only be described as obvious plagiarism. It was clear to the Panel from a review of the source material and the Student's essay that the Student's essay contains verbatim and nearly verbatim text from the Sparksnote Study Guide. The Student did not cite, paraphrase or attribute these sources appropriately or at all. She did not reference the works or use any method to indicate appropriately that she had taken verbatim or nearly verbatim text from other sources.
25. As to the SOC 100 Essay, the Student purported to write an essay entitled "Realization", about how watching a friend's father in Canada cook a meal and clean the dishes sparked a realization about the difference between gender roles in Canada and her home country of Pakistan. The K.N. Essay - submitted during an earlier academic term - describes how, on a visit to his home country of Pakistan,

K.N. tried to explain to his Pakistani family how men in Canada are expected to participate more in cooking and cleaning than men in Pakistan are. Both the Student and K.N. note that the Canadian vision of gender parity in household tasks is resisted by Pakistani women, who believe that women should cook and clean because men work all day. The premises of both essays are strangely similar, but there is more.

- (a) Meaningful chunks of the K.N. Essay are repeated verbatim in the Student's SOC 100 Essay, including key phrases, and the exact same basic attempts to cite source material.
  - (b) The fundamental ideas underpinning both essays are the same. The only attempt the Student has made at originality is to make changes that are required to reflect the difference in gender between the Student and K.N.
  - (c) Although it was not determinative, the Panel also considered Professor Baker's evidence that K.N. had told her that he had given his essay to the Student, who was a friend of his. The Panel recognized that this was hearsay evidence, which could not be tested through cross-examination or questions from the Panel. On the whole, the Panel found this evidence reliable. K.N.'s statement was against his own interest - he effectively admitted to enabling the Student in her commission of an academic offence. Further, it is corroborated by the overwhelming similarity between the two essays. It defies logic that the similarities are by chance. The Student must have seen K.N.'s Essay before writing her own. While this charge of plagiarism was proven without the hearsay evidence (the overlap is simply too significant), the hearsay evidence helped contextualize the offence.
26. In sum, having considered the burden and standard of proof and the evidence, the Panel finds it is more likely than not that the Student is guilty of Charges 1, 2 and 4. The plagiarism in this case extends beyond the simple repetition of basic facts.

Without any attribution of any source material whatsoever, the Student held out as her own the words, phrases and ideas of others. In her SOC 100 Essay, the entire premise of what appears to be a personal essay has been taken from another student's paper.

27. If the Student did not know this was an academic offence, she reasonably ought to have known. Certainly by the time of the SOC 100 Essay - more than a year after her two PHL 101 assignments were reported for further investigation - the Student must have known that she was plagiarizing. She cannot have reasonably believed that she could take another student's paper and apply only modest modifications.
28. As Charges 3 and 5 were in the alternative, they were withdrawn by the University.

### **Decision of the Tribunal on Penalty**

29. The University sought the following sanctions:
  - (a) a final grade of zero in courses PHL 101 and SOC 100;
  - (b) a suspension from the University for three years from the date of the hearing;
  - (c) a notation of this sanction on the Student's academic record and transcript until four years from the date of the hearing; and
  - (d) a report 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.
30. The Tribunal considered the factors and principles relevant to sanction as set out by this Tribunal in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976).

- (a) The character of the Student: there were no other academic offences on the Student's record. Her grades were poor. The Student did not attend the hearing. The Student made no effort to respond to the multiple outreach efforts of the University. While this is not held against the Student, it does mean that the Tribunal has no information about the Student's character other than what is revealed by the record before us.
- (b) The likelihood of repetition of the offence: the Student seemed unable or unwilling to learn from her mistakes. Even taking the most charitable view possible of the Student's first instance of plagiarism (that, despite the warnings and resources available to her, she may not have actually understood the need to properly cite her sources), the Student failed to respond to her professor's multiple attempts to meet and discuss the shortcomings of her work. Each episode of plagiarism was worse than the previous one. There is nothing in the record to suggest that the Student is remorseful or repentant.
- (c) The nature of the offence committed: the plagiarism ranged from relatively mild acts of copying to more blatant thefts of ideas. None of it could be described as accidental or inadvertent. For the two PHL Assignments, the Student must have gone to some effort to cobble together a variety of copied-and-pasted excerpts from multiple internet sources. For the SOC 100 Essay, the Student simply took another's essay and tweaked it slightly before passing it off as her own. There is no evidence the Student purchased any of the essays, which would be a significant aggravating factor.
- (d) Any extenuating circumstances: the Student declined to participate in this hearing. There may have been exceptional, mitigating facts that might have caused the Panel to make a more lenient order, however, without the Student's participation, there is no evidence of extenuating circumstances for the Panel to consider.
- (e) The detriment to the University caused by the misconduct: plagiarism strikes at the very heart of academic integrity. Falsely representing another's words and ideas as your own undermines the entire purpose of university education.

- (f) The need for general deterrence: this is a significant concern. While TurnItIn and similar tools make detection easier, it is a sad fact that the University must devote so many resources to uncovering plagiarism. Students must understand how important it is that they cite, paraphrase and attribute the work of others properly.

31. Although the Panel is not bound by previous cases of this Tribunal, and while each case must be decided on its own facts, it is useful for like cases to be treated alike so that all parties can come to hearings with a reasonable expectation of what kind of penalty they can expect based upon the findings. The Panel reviewed four cases involving acts of plagiarism submitted at this hearing by the University. In all four cases, students received a grade of zero for the affected courses, as a direct and appropriate consequence of the misconduct. In all cases, students received a three-year term of suspension and a four-year notation. However, those cases refer to other plagiarism cases where there is more variation in sanction. In *University of Toronto and B.S.* (Case No. 697 December 17, 2013) the Tribunal summarized the jurisprudence as follows (at paragraph 26):

It is clear that many students who are convicted of a first offence of plagiarism receive a suspension of two years. However, there are some who receive lighter penalties where there are mitigating factors (e.g., *L.O.* [Case 557; November 3, 2009], *K.(L).X.* [Case 597; May 31, 2010] \_ where the students were suspended for 18 months due to the relatively minor acts), and some who receive longer suspensions when aggravating factors are present (e.g., *S. K.* [Case 595; October 12, 2010] and *M.W.E.L.* [Case 551; January 7, 2010] \_ 3 years where the acts were deliberate and there appears to have been some attempts to mislead or evade responsibility, either before the Panel or in dealing with the Faculty).

32. A two-year suspension is, as a general rule, the threshold sanction for an act of deliberate dishonesty such as plagiarism. We have found the Student plagiarized three times. This requires a harsher suspension, and the three-year range is appropriate. However, the Panel also noted as follows:

- (a) The two PHL charges occurred when the Student was in her first term of university. They took place almost 2.5 years before this hearing.

- (b) The original hearing date had to be vacated because of Covid-19, and not through any fault of the Student.
  - (c) The Student was given a year's academic suspension following the Winter 2019 term. A three-year suspension from the date of the hearing would mean that, at best, the Student would not be able to return until the Summer term of 2023, more than 5 years after the first instances of plagiarism.
33. In all the circumstances, the Panel determined that the appropriate period of suspension was 2 years and 8 months, so that the Student can theoretically return to the University for the Winter academic term in 2023. We believe the sanctions ordered are fair, proportional and appropriate.

### **The Tribunal's Order**

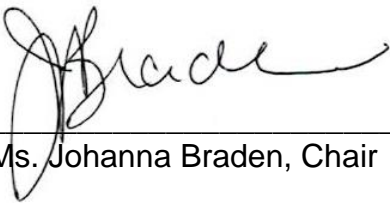
34. This Panel of the Tribunal made an order as follows.
- 1. **THAT** the hearing may proceed in the absence of the Student;
  - 2. **THAT** the Student is found guilty of three counts of knowingly representing as her own an idea, or expression of an idea, and/or the work of another in essay assignments which she submitted for academic credit in PHL 101 and SOC 100, contrary to section B.i.1(d) of the *Code of Behaviour on Academic Matters*;
  - 3. **THAT** the following sanctions shall be imposed on the Student:
    - (a) a final grade of zero in the courses PHL 101 and SOC 100;
    - (b) a suspension from the University commencing the day the Tribunal makes its order and ending on December 31, 2022; and



(c) a notation of the sanction on her academic record and transcript commencing the day the Tribunal makes its order and ending on December 31, 2023; and

4. **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

A handwritten signature in black ink, appearing to read "J. Braden", written over a horizontal line.

Ms. Johanna Braden, Chair