

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on July 13, 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 am. S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO (the “University”)

- and -

C ■■■ E ■■■ B ■■■ (the “Student”)

REASONS FOR DECISION

Hearing Date: March 26, 2021, via Zoom

Members of the Panel:

Ms. Sana Halwani, Chair

Professor Michael Saini, Faculty Panel Member

Ms. Parsa Mahmud, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

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

Not in Attendance:

The Student

I. Charges and Procedural History

1. The Trial Division of the Tribunal held a hearing on March 26, 2021 to address the following charges brought by the University against the “Student” under the *Code of Behaviour on Academic Matters, 1995* (the “Code”) (alternative charges have been omitted):
 - a. On or about April 21, 2020, the Student knowingly represented as her own an idea or expression of an idea or work of another in a paper submitted in SMC430H1 (the “Course”), contrary to section B.I.1(d) of the Code.
 - b. On or about April 28, 2020, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a paper that the Student had altered and submitted in the Course, contrary to section B.I.1(a) of the Code.
 - c. On or about April 28, 2020, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a screenshot purportedly containing the document properties for a paper that the Student submitted in the Course, contrary to section B.I.1(a) of the Code.

II. Notice

2. The Student was not in attendance at the hearing and, as a result, counsel for the University addressed the issue of notice.
3. On review of the evidence, and on considering the *Statutory Powers and Procedures Act*, Rules 9(b), 13, 14 and 17 of the University Tribunal’s *Rules of Practice and Procedure*, and the University’s *Policy on Official Correspondence with Students*, the Panel was satisfied that notice had been adequately provided to the Student and decided to proceed with the hearing despite her absence.
4. The evidence of notice included three affidavits as follows:
 - a. An affidavit of Nusaiba Khan, Administrative Assistant with the ADFG Office, enclosing email correspondence showing that the Student had requested an adjournment of her February 8, 2021 hearing; that request was granted; the

Tribunal provided new dates for the hearing; the Chair of the Panel gave the Student until February 16, 2021 to respond and provide her availability, and cautioned that different considerations would go into considering any subsequent adjournment request. The Student failed to respond in the time given and the hearing was set for March 26, 2021. No further correspondence was received from the Student by either the Tribunal or the University's counsel.

- b. Two affidavits of Kimberly Blake, a legal assistant at Paliare Roland Rosenberg Rothstein LLP, showing all the efforts to contact the Student prior to the first hearing date and confirming that the mail.utoronto.ca email address is still the current contact information for the Student on ROSI; and
 - c. Two affidavits of Andrew Wagg, a member of the University's Information Technology Services, providing evidence that the last time the Student's ROSI email address had been accessed was on February 9, 2021, after the direction of the Chair and warning to respond was provided, but before the revised Notice of Hearing had been sent.
5. Although the evidence of Mr. Wagg did not go so far as to confirm that the Student had received the latest Notice of Hearing, it is clear from the evidence that the Student was aware of the proposed date for the hearing and failed to communicate with the Tribunal or University counsel about that date – whether to confirm it or ask for an alternative date – despite being given ample opportunity to do so after her request for an adjournment was granted.
 6. On this basis, the Panel was of the view that reasonable notice had been provided under the Rules and was content to proceed with the hearing in the Student's absence.

III. Summary of Evidence

7. The Student submitted a paper in the Course (the "Original Paper"). That paper was found to contain plagiarism. When confronted with the allegation of plagiarism the Student stated that she had mistakenly submitted a rough draft and sent another version of the paper to Professor Parker that she stated was the final draft (the "Purported Final Paper"). The metadata in the Purported Final Paper showed that the paper had been substantially revised after the discussion with Professor Parker. The Student also provided a screenshot of

document properties that purported to show that the paper had last been modified on the date it was originally submitted and not after (the “Purported Screenshot”). That Purported Screenshot did not match the actual document properties of the Purported Final Paper.

8. The evidence of the University on the charges was presented by way of affidavit from:
 - a. Felan Parker, Assistant Professor, Teaching Stream, Book and Media Studies, St. Michael’s College at the University, who was the instructor for the Course; and
 - b. Elizabeth Cowper, Professor Emeritus in the Department of Linguistics at the University and Dean’s Designate for Academic Integrity with Student Academic Integrity (“SAI”), Faculty of Arts and Science, at the University.
9. As the Student did not attend and was not represented at the hearing, the affiants were not cross-examined but were made available to the Panel for questions.
10. With respect to each of the charges, the salient evidence for each of the charges is as follows.

A. Plagiarism in Original Paper

11. The first charge facing the Student is a plagiarism charge.
12. Professor Parker provided evidence that the students in his course were made aware of the academic integrity expectations of the University.
13. Despite those clear expectations, the Original Paper, which was submitted on April 21, 2021, included passages that were verbatim or near verbatim excerpts from three online sources. None of those sources were cited in the Original Paper. Taken together, those passages amount to a little over one page of a nine-page paper.
14. When this issue was referred to the Provost, the Student told the Dean’s Designate that the Original Paper contained plagiarism but that it was submitted in error and that she had intended to submit the Purported Final Paper.

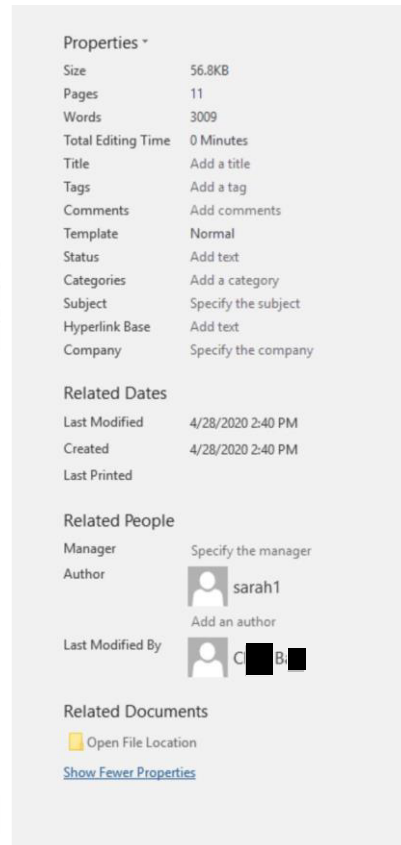
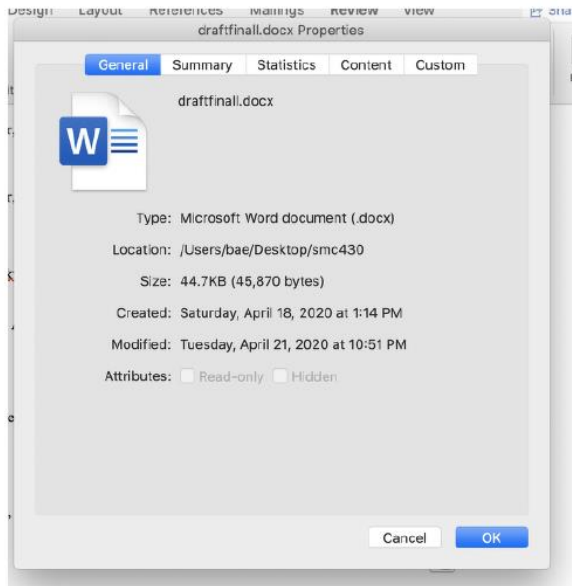
B. Alteration in the Purported Final Paper

15. The second charge facing the Student is a charge of forging, altering or falsifying a document, namely the Purported Final Paper.

16. After the Student submitted the Original Paper, Professor Parker emailed the Student on April 27, 2021, told her that he had issues with the academic integrity of the paper, and asked to speak with her about it. In that email he did not identify the parts of the Original Paper that were at issue.
17. The Student and Professor Parker spoke on April 28, 2021, and thereafter the Student sent him Microsoft Word and PDF versions of the Purported Final Paper. The Purported Final Paper contained substantial changes from the Original Paper and when Professor Parker turned on the track changes in the Word version he was able to see the dates of the changes and that they were all made on April 28, 2020.
18. When questioned about this discrepancy by the Deans' Designate, the Student suggested that she made few additional edits after she realized that she had originally submitted the wrong paper. This explanation is undermined by the fact that all of the changes made between the Original Paper and the Purported Final Paper bear a date of April 28, 2020.

C. Purported Screenshot

19. The third charge facing the Student is a charge of forging, altering or falsifying a document, namely the Purported Screenshot.
20. When the Student provided the Purported Final Paper to Professor Parker, she also provided the Purported Screenshot in an effort to show that the paper was last modified on April 21, 2020, before she submitted the Original Paper.
21. However, Professor Parker provided evidence that the actual document properties of the Purported Final Paper show that the paper was last modified on April 28, 2020 (consistent with the dates of the revisions discussed above).
22. The Purported Screenshot (left) and the document properties snapshot provided by Professor Parker (right) are reproduced here:



23. When questioned by the Dean's Designate about the discrepancy in the Purported Screenshot and the document properties of the Purported Final Paper, the Student denied modifying the document properties in the Purported Screenshot, but had no explanation for the discrepancy.

IV. Finding on Charges

24. Following deliberation and based on the affidavit evidence and the documents in the University's Book of Documents (re: Finding of Offence), the Panel concluded there was clear and convincing evidence, on a balance of probabilities, that the Student:

- a. used the words of another without proper attribution in the Original Paper, and admitted to the plagiarism in her meeting with the Dean's Designate;
- b. altered the Purported Final Paper by revising the paper substantially after the due date while representing that it was completed prior to the due date; and

- c. falsified the Purported Screenshot by representing that it was the screenshot of the Purported Final Paper when it was not.
25. Although the Panel could not know whether the Student had herself altered the Purported Final Paper and falsified the Purported Screenshot (as she could have elicited the help of another person), it was clear that the Student had circulated or made use of those records.
26. The charges were therefore proven, and the Student was found guilty.

V. Finding on Penalty

27. Once the Panel had made a determination on the charges, we were provided with evidence of the Student's academic record and prior academic offences. With respect to the latter, the Student had two prior offences as follows:
- a. Plagiarism in an assignment worth 7.5% in March 2018. The Student admitted guilt to this offence, and it was dealt with at the department level by way of a mark of 0 for the relevant assignment.
 - b. Plagiarism of an assignment worth 4% in March 2019. Professor Cowper met with the Student to address this offence and she admitted guilt. The offence was therefore dealt with at the Divisional level, and the sanction imposed was a mark of 0 on the relevant assignment, a further mark reduction of 4% on the course, and a transcript notation that is still in place until August 2021.
28. With respect to her academic record, the Student is one credit short of graduation and was last enrolled in the summer 2020 term at the University.
29. The University requested the following penalty for this now third offence:
- a. a final grade of zero in the course SMC430H1 in Winter 2020;
 - b. a suspension from the University of Toronto from the date of the Panel's order until December 31, 2025 (just under five years); and
 - c. a notation of the sanction on her academic record and transcript from the date of the Panel's order until graduation or December 31, 2026, whichever is later.

30. The University also requested that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.
31. This is the maximum penalty that the Code allows the Tribunal to impose as expulsion can only be recommended by the Tribunal.
32. Counsel for the University provided the Panel with a series of similar cases to consider. While the Panel is not bound by any of these decisions, they are helpful in assisting the Tribunal in treating like cases alike.
33. The cases provided to us by counsel for the University involved plagiarism only or plagiarism and other associated offences. The cases also varied with respect to whether the students had prior offences, whether they participated in the proceeding, and whether there was an Agreed Statement of Facts and/or a Joint Submission on Penalty. To summarize them briefly, the plagiarism only cases – most of which involved prior offences – resulted in suspensions in the three-to-four-year range. The plagiarism cases involving forgeries or altered documents resulted in penalties ranging from a three-year suspension to expulsion.
34. Counsel for the University made submissions on the factors to be considered in penalty as set out in *Mr. C. case (Case No.: 1976/77-3, November 5, 1976)*.
35. The Student in this case has not participated at any stage of the process. The Student has therefore not shown any remorse, not presented any character evidence and not raised any mitigating or extenuating factors to warrant a more lenient sanction. Indeed, the evidence shows an element of deliberation with these offences. The Student kept digging the hole deeper for herself by submitting the Purported Final Paper and the Purported Screenshot, and by lying to Professor Cowper. This behaviour and the prior offences show a pattern of resorting to dishonesty and there is no evidence that the Student has any insight or remorse.
36. With respect to the likelihood of repetition of the offence, the Student's record includes two prior plagiarism offences, increasing in severity. These prior offences and sanctions did not deter the Student from re-offending. And when confronted with a third apparent instance of plagiarism, she did not respond with honesty or remorse but continued to turn to dishonesty. The Student does not appear to have learned her lesson and that is a factor that the Panel ought to take into account.

37. With respect to the forgery, alteration or falsification offences, these offences are at the most serious end of the spectrum because there is an element of deliberation and purposeful dishonesty in carrying them out. Such offences are rarely committed inadvertently or carelessly. In this case, the Panel was provided with evidence of the significant alterations that the Student made to her paper before she re-submitted it to Professor Parker. She also falsified the document properties to further her lie. The cover-up here can be seen as even more serious than the original misconduct. The University needs to deter students from turning to falsification when faced with a charge of academic misconduct.
38. With respect to the plagiarism, such conduct undermines the teaching and learning missions of the University. The University needs to be able to trust that the work being submitted is in fact the work of the students who submit them. Plagiarism is a constant threat to the University especially with the increased use of online sources.
39. Based on the circumstances of this case and the comparator cases, counsel for the University suggested that the Provost would have been justified in requesting a recommendation for expulsion, particularly give the multiple charges, falsification of documents, prior offences, and lack of any mitigating circumstances. However, given the Student is only one credit short of a degree, the Provost requested a suspension of just under five years.
40. Taking all of the evidence and submissions into consideration, the Panel accepted this recommendation and imposed the requested penalty.


VI. Decision of the Panel

41. At the conclusion of the hearing on penalty, the Panel conferred and made the following order:
 - a. that the Student is guilty of one count of knowingly representing an idea or expression of an idea or work of another as her own, contrary to section B.I.1(d) of the Code;
 - b. that the Student is guilty of two counts of knowingly forging or in any other way altering or falsifying a document or evidence required by the University, or uttering,

circulating or making use of such forged, altered or falsified document, contrary to section B.I.1(a) of the Code;

- c. that the following sanctions shall be imposed on the Student:
 - i. a final grade of zero in the course SMC430H1 in Winter 2020;
 - ii. a suspension from the University of Toronto from the date of this order until December 31, 2025; and
 - iii. a notation of the sanction on her academic record and transcript from the date of this order until graduation or December 31, 2026, whichever is later; and
- d. that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

DATED at Toronto, April 28, 2021



Sana Halwani, Chair

on behalf of the Panel