

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on October 20, 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

B E T W E E N:

**UNIVERSITY OF TORONTO (the “University”)**

- and -

**G [REDACTED] G [REDACTED] (the “Student”)**

**REASONS FOR DECISION**

**Hearing Date:** March 22, 2021, via Zoom

**Members of the Panel:**

Ms. Ira Parghi, Chair

Professor Gabriele D’Eleuterio, Faculty Panel Member

Ms. Elizabeth Frangos, Student Panel Member

**Appearances:**

Ms. Lauren Pearce, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Ms. Sonia Patel, Articling Student, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

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

**Not in Attendance:**

The Student

## **I. Introduction**

1. The Trial Division of the University Tribunal was convened on March 22, 2021 to consider charges brought against the Student by the University pursuant to the *University of Toronto Code of Behaviour on Academic Matters, 1995* (the “Code”) on October 20, 2020. The charges alleged that, on or about March 31, 2019, the Student knowingly represented the ideas of another, or the expressions of the ideas of another, as their own work in an assignment submitted in course POL200Y1Y.
2. The charges were as follows:
  - (a) On or about March 31, 2019, you knowingly represented the ideas of another, or the expressions of the ideas of another, as your own work in an assignment titled “Loke and Plato” (the “Essay”) that you submitted in partial completion of the course requirements in POL200Y1Y (the “Course”), contrary to section B.i.1(d) of the Code.
  - (b) In the alternative to the charges above, on or about March 31, 2019, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code to obtain academic credit or other academic advantage of any kind, contrary to section B.i.3(b) of the Code.

The particulars for the charges are as follows:

- (a) At all material times, you were a registered student at the University of Toronto, in the Faculty of Arts and Science.
- (b) In the winter 2019 academic term, you were enrolled in the Course.
- (c) Students in the Course were required to complete a Final Essay worth 30% of the final grade in the Course. On March 31, 2019, you submitted the Essay in satisfaction of this requirement.
- (d) You submitted the Essay knowing that it contained ideas, the expression of ideas, and verbatim or nearly verbatim text from online publications and academic articles which were not written by you, which you did not properly acknowledge in your Essay.
- (e) You knowingly submitted the Essay with the intention that the University of Toronto rely on it as containing your own ideas, expressions of ideas, or work in considering the appropriate academic credit to be assigned to your work.
- (f) You knowingly committed a form of cheating, academic dishonesty, or misconduct for the purposes of obtaining academic credit and/or other academic advantage.

## **II. Conduct of hearing in absence of Student**

3. The Student did not appear at the time scheduled for the commencement of the hearing. Nor did any representative of the Student. The Tribunal waited 15 minutes after the hearing was scheduled to commence to allow for the Student to appear. The Student still did not appear.
4. Counsel for the University then sought an order that the hearing be permitted to proceed in the Student’s absence. To proceed in the absence of the Student, the University was required to demonstrate that the Student had been given reasonable notice of the hearing.

5. The University's *Policy on Official Correspondence with Students* provides that students enrolled at the University must maintain current contact information in the University's record of academic history and student information ("ROSI"), and must update that information if it changes. Pursuant to Rule 9 of the Tribunal's *Rules of Practice and Procedures* ("Rules"), one of the ways in which a Notice of Hearing may be served on a student is via email to the student's email address in ROSI.
6. Under Rule 17 of the Rules and sections 6 and 7 of the *Statutory Powers Procedure Act* ("SPPA"), the Tribunal may proceed with an oral hearing in the absence of a student when reasonable notice of the hearing has been given to the student in accordance with the Rules or SPPA (as the case may be) and the student does not attend.
7. The University's evidence in respect of service and attempts to communicate with the Student was as follows:
  - (a) On October 20, 2020, the University's Office of the Vice-Provost, Faculty and Academic Life served the Student with the charges issued against them. These materials were served via email to the email address that the Student had provided to the University in ROSI (the Student's "ROSI email address").
  - (b) On December 8, 2020, counsel for the University sent various additional materials to the Student via email to the Student's ROSI email address. These materials included a letter from counsel, a disclosure brief relating to this matter, another copy of the charges, and a copy of the University's *Policy on Official Correspondence with Students*. The Student was informed that important documents and correspondence would be sent to their ROSI email address and was urged to monitor that email account and respond to all communications in a timely manner. The Student was told that they would be contacted to canvass potential dates for the hearing.
  - (c) On January 27, 2021, counsel for the University sent an email to the Student at their ROSI email address regarding the scheduling of the hearing. Counsel advised the Student that if counsel did not hear back from the Student by February 10, 2021 regarding their availability, counsel would proceed to book a date for the hearing.
  - (d) On that same date, counsel for the University sent a Facebook message to the Facebook profile in the name of the Student. In the message, counsel identified themselves and said that they had sent an important email to the Student's University email address. Counsel asked the Student to check that account and contact counsel at the Student's earliest convenience.
  - (e) On February 11, 2021, counsel for the University sent an email to the Student at their ROSI email address requesting that an electronic hearing be scheduled for March 22, 2021.
  - (f) On that same date, counsel for the University sent another Facebook message to the Facebook profile in the name of the Student, stating that counsel had sent an important email to the Student's University email address that related to charges filed against the Student under the Code. Counsel asked that the Student check that account and contact counsel at their earliest convenience.
  - (g) In addition, counsel for the University called the phone number that the Student had provided to the University in ROSI. An individual answered the phone. Counsel asked if they had reached the Student, identifying the Student by name. The individual asked who was calling. Counsel identified themselves and asked again if they had reached the Student.

The individual again asked counsel's identity and then hung up the phone. Counsel called back and attempted to explain the purpose of the call, but the individual hung up before counsel could offer the explanation.

- (h) On February 12, 2021, I issued a Direction in which I invited the Student to file submissions by 10:00 am on February 19, 2021 regarding the University's request that the hearing proceed electronically. A copy of this Direction and accompanying email correspondence from the University was sent to the Student via email to their ROSI email address on that same date.
  - (i) On February 19, 2021, having received no submissions from the Student or anyone on their behalf, I issued a Direction that the hearing was to proceed electronically. A copy of this Direction was provided to the Student via email to their ROSI email address.
  - (j) On February 22, 2021, the Student was served with a Notice of Electronic Hearing and was provided with a Best Practice Guide and instructions relating to the Zoom platform that would be used to conduct the electronic hearing. These materials were sent to the Student via email to their ROSI email address.
  - (k) On March 11, 2021, counsel for the University again called the phone number that the Student had provided to the University in ROSI and received a message from the operator indicating that the person whom counsel had called was not taking calls. The line then disconnected. Counsel tried again soon afterward and received the same operator's message.
  - (l) As of March 11, 2021, the Student had not replied to any of the emails or Facebook messages from counsel for the University or otherwise contacted counsel's office. Nor had counsel received any "bounce back" messages indicating that their emails to the Student could not be delivered.
8. In light of the totality of the evidence regarding the efforts made to provide notice to and otherwise communicate with the Student, the Tribunal concluded that reasonable notice of the hearing had been provided to the Student in compliance with the Rules and the SPPA. An order permitting the hearing to proceed in the Student's absence was therefore granted.

### **III. Liability**

9. Because the Student was not present, the hearing proceeded on the basis that the Student denied the charges against them. The onus was on the University to establish on a balance of probabilities that the Student had committed the offences charged.
10. The Tribunal received evidence from Professor Clifford Orwin, who taught the course POL200Y1Y: Political Theory, during which the Student's alleged academic misconduct occurred. Professor Orwin's evidence was as follows:
- (a) The syllabus for the course informed students that "[p]lagiarism is a serious academic offence" and urged them to familiarize themselves with the University's policy on plagiarism.

- (b) The syllabus for the course also instructed students to read “six or seven times” a series of paragraphs on the importance of academic integrity. Those paragraphs emphasized that the University “treats cases of academic misconduct very seriously” and excerpted various sections of the Code, including the provision that “[u]sing someone else’s ideas or words without appropriate acknowledgment” constitutes a potential academic offence.
  - (c) The assignment in respect of which the alleged offence occurred involved an essay on the subject of John Locke and Plato. The Student submitted his essay, entitled “Loke and Plato,” via Turnitin.com on March 31, 2019. The Turnitin.com Original Report indicated that the Student’s essay had a 41% similarity index to other sources in the Turnitin.com database.
  - (d) In light of the Originality Report from Turnitin.com, Professor Orwin reviewed the Student’s essay more closely. He observed that the essay cited only the original works of Locke and Plato and not any outside sources. Despite this, however, in Professor Orwin’s assessment, “significant portions” of the essay appeared to closely match portions of two outside sources that were identified by the Turnitin.com Originality Report.
11. Professor Orwin’s evidence about his review of the Student’s essay was thoughtful, comprehensive, and specific. His evidence closely mapped over ten passages of the Student’s essay, many of them lengthy, onto the two outside sources, showing in detail where the essay passages repeated the language of the outside sources. Taken together, these passages comprised a significant portion of the essay. The Tribunal noted that in none of the ten passages under discussion did the Student paraphrase the outside sources; rather, the Student consistently reproduced the language of the outside source verbatim or nearly verbatim. The Student did not use quotation marks in any of the passages to indicate that they were quoting the words of another source. Nor did the Student ever cite either of the outside sources or indeed any sources at all, beyond the original works of Locke and Plato. All this was clear from even a cursory comparison of the essay to the outside sources. It was made even clearer by the review undertaken by Professor Orwin.
  12. The Tribunal found Professor Orwin’s evidence to be highly persuasive. It made clear the glaring similarities between the language of the uncredited outside sources and that of the Student’s essay. It also demonstrated the consistent failure of the student to paraphrase the outside sources, quote from them, or cite to them.
  13. No evidence was tendered on behalf of the Student.
  14. Having considered all of the evidence in the hearing, the Tribunal concluded that, on the balance of probabilities, the Student was guilty of one count of knowingly representing the ideas of another, or the expressions of the ideas of another, as the Student’s own work in the essay, contrary to section B.i.1(d) of the Code.
  15. In light of the Tribunal’s finding on this charge, the second charge, relating to knowingly engaging in academic misconduct not otherwise described in the Code contrary to section B.i.3(b) of the Code, was withdrawn.

#### **IV. Penalty**

16. On the issue of sanction, counsel for the University requested that the Student receive a mark of zero in the course, be suspended for two years, and receive a three-year notation on their transcript.
17. The Tribunal considered previous decisions it had rendered in cases involving academic misconduct of this nature. In those decisions, the imposed sanctions were consistent with the one sought by the University in this case. Of note, the Tribunal's decisions offer considerable support for the proposition that conviction of a single count of plagiarism (as is the case here), in which the student has no prior academic offences (as here) and does not cooperate with the University process (as here), generally results in a sanction consisting of a final grade in the course of zero, a two-year suspension, and a three-year transcript notation (e.g. *University of Toronto and O.E.* (Case No. 676, March 18 2013), *University of Toronto and J.H.C.* (Case No. 741, March 20, 2014), *University of Toronto and F.A.* (Case No. 766, June 16, 2015), *University of Toronto and Y.G.* (Case No. 802, September 28, 2015), *University of Toronto and C.D.* (Case No. 872, January 24, 2017), *University of Toronto and O.R.* (Case No. 981, March 4, 2019), *University of Toronto and J.A.* (Case No. 1109, January 22, 2021)).
18. The Tribunal therefore concluded that the sanction sought by the University was consistent with the case law and would further some sense of uniformity or proportionality so that similar penalties are imposed on offences committed in similar circumstances. This Tribunal has upheld the importance of this principle in many decisions, including recently in *University of Toronto and J.A.* (Case No. 1109, January 22, 2021) (see para. 30).
19. The Tribunal also considered the principles and factors relevant to sanction as articulated in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976). The Tribunal determined that these factors supported the imposition of the sanction sought by the University here. The Tribunal observed the following:
  - (a) Because the Student did not participate in the hearing, there was no evidence before the Tribunal as to any extenuating circumstances that might have weighed in the Student's favour by mitigating or explaining their conduct.
  - (b) Likewise, because the Student did not participate in the hearing, there was no evidence before the Tribunal as to the character of the Student, other than the facts relating to this offence.
  - (c) The offence is serious in nature and causes great detriment to the University and its students. A number of Tribunal decisions (e.g. *University of Toronto and Y.G.* (Case No. 802, September 28, 2015)) have observed that plagiarism corrodes academic integrity at the University and undermines the relationship of trust between the University and its students. For these reasons, plagiarism is considered in the cases to be a very serious offence that warrants a serious penalty.
  - (d) There is a strong need to deter others from committing a similar offence, for many of the reasons noted above. This type of offence poses a grave threat to the integrity of the University's processes for evaluating students, is profoundly unfair to other students, and jeopardizes the University's reputation.

20. In all of the circumstances, the Tribunal was satisfied that the appropriate sanction was the one sought by the University.

**V. Order**

21. At the conclusion of the hearing, the Tribunal made the following order:

1. THAT the hearing may proceed in the absence of the Student;
2. THAT the Student is guilty of one count of knowingly representing an idea or expression of an idea or work of another as their own, contrary to section B.i.1(d) of the Code;
3. THAT the following sanctions shall be imposed on the Student:
  - a. a final grade of zero in the course POL200Y1Y;
  - b. a suspension from the University of Toronto from the date of this Order for a period of two years, ending on March 21, 2023; and
  - c. a notation of this sanction on their academic record and transcript from the date of this Order for a period of three years, ending on March 21, 2024;
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 24<sup>th</sup> day of June, 2021.



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Ira Parghi, Chair

On behalf of the Panel