

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic misconduct filed on December 7, 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 N:

UNIVERSITY OF TORONTO (the “University”)

- and -

W ■ K ■ ■ ■ ■ S ■ (the “Student”)

REASONS FOR DECISION

Hearing Date: April 5, 2021, via Zoom

Members of the Panel:

Ms. Cynthia Kuehl, Chair
Professor Ian Crandall, Faculty Panel Member
Ms. Alice Zhu, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Sonia Patel, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

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

Not in Attendance:

The Student

1. The hearing of the Trial Division of the University Tribunal convened on April 5, 2021, via Zoom, to consider charges of academic dishonesty brought by the University against the Student under the *Code of Behaviour and Academic Matters, 1995* (the “Code”). The Student was informed of the charges by letter dated December 7, 2020 from Professor Heather Boon, Vice Provost, Faculty and Academic Life.

Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to commence at 5:45 p.m. The Panel waited until 6:00 p.m. before commencing the Hearing. The Student did not appear.
3. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “Act”) and Rule 17 of the *University Tribunal Rules of Practice and Procedure* (the “Rules”), a tribunal may proceed in the absence of a party provided that reasonable notice of an oral hearing has been given to the party in accordance with the Act and the Rules. Where a party does not attend the hearing and reasonable notice has been given, a party is not entitled to further notice.
4. Pursuant to Rule 9 of the Rules, a Notice of Hearing may be served on a student by various means, including by: sending a copy of the document by courier to the student’s mailing address contained in the Repository of Student Information (“ROSI”) or emailing a copy of the document to the student’s email address in ROSI. Students are responsible for maintaining a current and valid mailing address and University-issued email account on ROSI and are expected to retrieve mail and email on a frequent and consistent basis.
5. In this case, the Provost requested that the Panel proceed in the absence of the Student. For the reasons that follow, the Panel granted this request.
6. In support of its request, counsel for the Provost filed two affidavits. The affidavit of Justine Cox confirmed that a letter with the charges was served on the Student on December 7, 2020. The Panel was satisfied that, by this delivery, the Student was aware of the particulars of the allegations against him.
7. The affidavit of Sonia Patel affirmed March 26, 2021 set out the numerous steps to contact the Student through email at the address provided in ROSI, by

telephone and by LinkedIn. These communications indicated that counsel for the Provost wanted to review the process for the hearing and to discuss dates. Importantly, the affidavit evidence also established that service of the disclosure brief was effected on February 8, 2021; service of the Notice of Electronic Hearing was effected on March 22, 2021; and service of the affidavits to be used at the Hearing was effected on March 26, 2021. The Panel noted that the Student's online student portal was last accessed on March 4, 2021 and his email last accessed on March 23, 2021, after the date on which the Notice of Electronic Hearing was delivered.

8. In light of this evidence, the Panel was satisfied that the Student received the Notice of Electronic Hearing advising him that the hearing was scheduled for April 5, 2021, and that reasonable notice had been provided in accordance with the Rules and the Act. The Panel further noted that, given the Student's failure to respond to any communications from counsel for the Provost despite reasonable notice of the charges and of the Hearing being provided, there was no reason not to proceed in the absence of the Student in accordance with section 7(3) of the Act. Accordingly, the Panel proceeded to hear the case on its merits in the absence of the Student.

The Charges

9. At the material times, the Student was a registered student at the University of Toronto, Mississauga.
10. In the Charges, the Provost made the following seven allegations:
 - (i) On or about October 25, 2018, the Student knowingly represented as his own idea, and/or the work of another in his Op-Ed assignment that he submitted in partial completion of the requirements for POL200Y5Y, contrary to section B.I.1(d) of the *Code*.
 - (ii) On or about November 11, 2018, the Student knowingly represented as his own an idea, and/or the work of another in a Policy Brief assignment that he submitted in partial completion of the requirements for POL208Y5Y, contrary to section B.I.1.(d) of the *Code*.
 - (iii) On or about November 11, 2018, the Student knowingly submitted academic work containing a purported statement of fact or reference to a source which has been concocted in a Policy Brief assignment that he submitted in partial completion of the requirements for POL208Y5Y, contrary to section B.I.1(f) of the *Code*.

- (iv) On or about May 15, 2019, the Student knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated April 5, 2019, which he submitted in support of his request for academic accommodation or relief in POL200Y5Y, contrary to Section B.I.1(a) of the *Code*.
- (v) On or about May 15, 2019, the student knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated April 18, 2019, which he submitted in support of his request for academic accommodation or relief in POL208Y5Y, contrary to Section B.I.1.(a) of the *Code*.
- (vi) On or about May 15, 2019, the student knowingly forged or in any other way altered or falsified a document or evidence by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated April 25, 2019, which he submitted in support of his request for academic accommodation or relief in POL214Y5Y, contrary to Section B.I.1.(a) of the *Code*.
- (vii) In addition and in the alternative to paragraphs 1 through 6 above, the student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, in connection with:
 - (a) the submission of his Op-Ed assignment in POL200Y5Y on or about October 25, 2018;
 - (b) the submission of his Policy Brief assignment in POL208Y5Y on or about November 11, 2018;
 - (c) the submission of a forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated April 5, 2019, in support of his request for academic accommodation or relief in POL 200Y5Y on or about May 15, 2019, contrary to Section B.I.3.(b) of the *Code*;
 - (d) the submission of a forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated April 18, 2019, in support of his request for academic accommodation or relief in POL208Y5Y on or about May 15, 2019, contrary to Section B.I.3(b) of the *Code*; and
 - (e) the submission of a forged, altered or falsified document, namely a Verification of Student Illness or Injury form dated April 25, 2019, in support of his request for academic accommodation or relief in POL214Y5Y on or about May 15, 2019, contrary to Section B.I.3.(b) of the *Code*.

11. The Provost advised that it would withdraw allegation seven if findings were made on allegations one to six. Ultimately, allegation seven was withdrawn.
12. Detailed particulars in support of the allegations was provided in the Charges.

The Evidence

13. The Panel received affidavit evidence from Emily Nacol, Assistant Professor in the Department of Political Science of the University of Toronto, Mississauga, and Professor for POL200Y5Y; Noel Anderson, Assistant Professor in the Department of Political Science of the University of Toronto, Mississauga, and Professor for POL208Y5Y; and Michelle Kraus, Associate Registrar, Academic Standards, Financial Aid and Advising of the Office of the Registrar of the University of Toronto, Mississauga. Professor Nacol, Professor Anderson and Ms. Kraus were affirmed and made available to the Panel to ask follow up questions on their affidavit evidence.
14. Professor Nacol's evidence focused on the Op-Ed assignment. She explained in her affidavit that, at the beginning of the course, she emphasized the importance of academic integrity, noting that a significant section of the POL200Y5Y syllabus specifically addressed academic honesty and plagiarism. Examples of plagiarism and warnings to the students as to what constitutes plagiarism were provided.
15. According to Professor Nacol, the Student submitted his Op-Ed assignment, which was worth 15% of his mark, via TURNITIN. Professor Nacol acknowledged that TURNITIN is a blunt instrument for detecting plagiarism and is used as an initial screen only. Where the TURNITIN originality report has a high similarity index to other sources in the TURNITIN database, she reviews the citations herself. In this case, she discovered that three full lines of the three-page Op-Ed assignment were nearly identical to the first lines of an online essay. The Student had not paraphrased the information, used quotation marks, or cited to the source. Her affidavit attached a copy of the Op-Ed assignment as well as the source document, with highlighting to show the degree of overlap.
16. Professor Anderson similarly emphasized to students the importance of academic integrity in his syllabus for POL208Y5Y. Like his colleague, he provided warnings about plagiarism, including examples of it.

17. Professor Anderson explained that the Policy Brief assignment was due November 6, 2018 and was worth 10% of his mark. Students were specifically instructed to cite “any and all sources consulted, using a consistent citation style.” Upon submission of the Student’s Policy Brief assignment via TURNITIN, the TURNITIN originality report indicated a 57% similarity index to other sources in the TURNITIN database. The Student quoted verbatim from secondary sources but did not use quotation marks; copied text from secondary sources near verbatim (i.e., by only changing a few words); and included a quotation on page 4 of the Policy Brief assignment purportedly from a slideshow done by Professor Anderson that does not appear in the slideshow itself.
18. Professor Anderson’s affidavit (the “Anderson affidavit”) included the two articles that had matching texts, as well as a highlighted copy of the Policy Brief assignment in support of the allegations of plagiarism. In his oral evidence, Professor Anderson also noted that the Student had cited source material in some of the footnotes (e.g. footnotes 9 and 10) but those citations were different than other material that Professor Anderson had identified as the likely source of the content. By way of example, the Student cited to Brzezinski, 2014 on the first page of his paper, whereas Professor Anderson traced the language in the paper to an article by Houda (Exhibit E to the Anderson affidavit). Houda does not cite Brzezinski. This happened a few times in the paper. From this, the Provost alleged that the Student had concocted those references, that is the Student made up the source altogether. Professor Anderson, however, testified that he did not check the secondary sources that were cited by the Student to see if they were in fact made up. Professor Anderson met with the Student, but this issue was not raised with him.
19. Finally, the affidavit of Michelle Kraus provided detailed evidence with respect to the process to obtain Verification of Student Illness or Injury forms (“VOI”). Ms. Kraus explained that illness can be an acceptable reason for missing a final exam, and accommodations can be made if a petition and VOI are submitted. Documentation must be submitted in support of the VOI to demonstrate that a physician was consulted on the day of the missing examination or immediately thereafter i.e. the next day.

20. Ms. Kraus indicated that the Student wrote one final exam in April 2019 and submitted six petitions/VOIs to defer four other final exams as follows:
 - (a) A VOI for POL355Y, which was signed by Dr. Ramton Samie, seeking to defer the Student's exam due to the illness. This VOI appeared to be valid and was accepted;
 - (b) A petition to defer the exam in POL208Y due to illness, which was submitted on April 21, 2019 without supporting documentation. It was granted on condition that the supporting documentation would be provided;
 - (c) A petition to defer the exam in POL200Y due to illness, again submitted without supporting documentation and granted on condition that the documentation would be provided;
 - (d) A petition to defer the POL214Y exam due to illness, again submitted without any supporting documentation and granted on condition that the documentation would be provided;
 - (e) A second deferral of the POL355Y exam, which was subsequently cancelled; and
 - (f) A petition for a second deferral of the POL208Y exam, together with a VOI dated April 30, 2019 signed by Dr. Samie. That petition was also granted allowing the student to write a second deferred exam during the August special deferred exam period.
21. On May 15, 2019, three additional VOIs were submitted to the Office of the Registrar in an envelope bearing the Student's handwritten name, his student number and the date. These VOIs purported to be the supporting documentation for the conditional deferrals. These VOIs indicated that the Student had met with Dr. Keith Wong on April 5, 18, and 25, 2019 and contained what was purported to be Dr. Wong's signature and stamp from St. Michael's Hospital.
22. Upon investigation by the University, it was determined that the registration number for Dr. Wong listed on the VOIs actually belonged to another physician, Dr. Tony Zhong. When Dr. Zhong's office was contacted, they confirmed that Dr.

Zhong does not practice at St. Michael's Hospital and accordingly would not have met with the Student at that Hospital on those dates. The Hospital could not find anything under the Student's name, in the absence of a health card number.

23. At a meeting held with the Student and the Dean's Designate for Academic Integrity at UTM at which Ms. Kraus attended, the Student admitted that he had plagiarised the Op-Ed assignment and signed an Academic Integrity form admitting that he was guilty of committing an academic offence. He also admitted to plagiarising the Policy Brief assignment, and signed an Academic Integrity form admitting he was guilty of committing an academic offence.
24. The Student denied that he had submitted to the Office of the Registrar the VOIs purportedly signed by Dr. Wong. He claimed not to know how the Wong VOIs were delivered to the Office of the Registrar. He could not explain why anyone would submit medical notes with his name, student number and exam dates, or how they would even have that personal information. He claimed that the only VOIs he ever submitted were from Dr. Samie. Of note, however, those VOIs were not in support of his petitions to defer POL208Y, POL200Y or POL214Y and no other supporting documentation was submitted in support of those deferrals.

Decision of the Tribunal on Charges

25. Having considered all the evidence heard during the hearing and the affidavit evidence, the Panel found the Student committed academic offences, in that he represented as his own an idea and/or the work of another in both the Op-Ed assignment and the Policy Brief assignment. The Panel noted that the Student had admitted that he had engaged in plagiarism.
26. The Panel, however, was not satisfied that the Provost had demonstrated on a balance of probabilities that a reference to a source in the Policy Brief assignment had been concocted. While the Panel agrees that the Student cited a different source for the ideas cited than the articles identified by Professor Anderson, the Panel is troubled by the fact that no one checked the sources cited by the Student to ensure that the same or similar information was not contained in that material as well. For an allegation of concoction to be proven on a balance of probabilities, the Provost needed to demonstrate that the source that was cited could not be valid. Thus, while there were other clear instances of plagiarism that were

established and for which the Student had made admissions, the separate allegation of concoction was not sufficiently proven.

27. As a result, the Panel found that the Provost had established allegations 1 and 2, but not allegation 3.
28. The totality of the evidence supported findings in respect of allegations 4, 5 and 6, namely that the Student made use of forged, altered or falsified documents in support of his request for exam deferral from the three courses, contrary to section B.I.1.(a) of the Code.
29. In particular, the Panel accepted that the Wong VOIs were not signed by Dr. Wong nor by Dr. Zhong, and were likely falsified. While the Panel understands that, had the Student attended the hearing, he would have likely denied that he had delivered the Wong VOIs to the Registrar's office (as that is what he advised at the Dean's hearing), there is simply no one else who would have had the necessary information or motivation to do so. It is important to note that the requests for deferrals had been conditionally granted pending receipt of relevant documentation. If the Wong VOIs were not submitted by the Student, then the Student failed to ever support the required documentation for his petitions. The Panel does not accept that to be a likely situation; rather, it is a more likely and reasonable inference that the Student had falsified those documents in support of his deferral request.
30. Accordingly, the Panel found that the Provost had established allegation 4, 5 and 6.
31. Having been advised of these findings, the University withdrew allegation 7.

Penalty

32. The Provost sought the following penalties:
 - (a) A final grade of zero in POL200Y5Y, POL208Y5Y, and POL214Y5Y, in the 2018-2019 term;
 - (b) A suspension from the University for five years from the date of this order; and

- (c) A notation of the sanction on the student's academic record and transcript for six years from the date of this order.
- 33. The University also sought as part of the order that the case 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.
- 34. The Provost called no further evidence in support of the penalty.

Decision of the Tribunal and Penalty

- 35. The Panel heard submissions regarding the appropriateness of the penalty and reviewed relevant past decisions of the Tribunal submitted by the University. It carefully considered the factors set out in *University of Toronto and Mr.C.* (File Number 1976/77-3; dated November 5, 1976), as follows:

- (a) The character of the Student

As the Student did not participate in the proceeding, there is no evidence before the Panel regarding the Student's character other than the facts relating to this offence. Those facts were concerning, given that these were multiple incidences of plagiarism, as well as falsification of documentation.

- (b) The likelihood of a repetition of the offence

The Student did not have a prior record of academic offences. However, the offences were not isolated incidents. Given the Student did not attend the hearing, the Panel is unable to make any further findings regarding the likelihood of repetition of offence in the future.

- (c) The nature of the offence committed

The Panel noted that the very serious and deliberate nature of these offences, and the detriment to the University as well as the broader community. The University must be able to trust that its students are submitting legitimate documentation in support of accommodation and late withdrawal requests. When students abuse that trust, they risk the ability of other students, in future, to obtain that type of accommodation.

- (d) Any extenuating circumstances surrounding the commission of the offence

There is no evidence before the Panel of mitigating extenuating circumstances. While the Student did admit guilt with respect to the plagiarism charges, there was no explanation as to why he engaged in that conduct.

(e) The detriment to the University occasioned by the offence

The Panel accepts that not only was the University's trust in students harmed, but its placement in the broader community is affected in these circumstances. Here, the Student implicated two medical professionals, including Dr. Zhong whose name has been previously used in similar cases. This has the effect of undermining the integrity of those medical professionals, and is profoundly unfair to them. It denigrates the relationship that the University has with the greater community, and undermines the procedure that the University has for assessing and granting accommodations.

(f) The need to deter others from committing a similar offence

General deterrence is an important factor in these cases. Given the number of relevant cases, it is apparent that the misuse and falsification of VOIs is an ongoing issue at the University for which there must be deterrence. It is also recognized that plagiarism strikes at the heart of academic integrity. Accordingly, it is appropriate to send a strong message to students that this type of misconduct will be treated very seriously.

36. The determination of an appropriate penalty depends on the assessment of the principles and factors in light of the individual circumstances in this case. There should also be a general consistency in the approach of a Panel to sanction, so that students are treated fairly and equitably. Accordingly, the Panel carefully considered the reasonable range of penalty dispositions as set out in the various authorities put before it by the University.
37. The University noted that the starting point for penalty is a two-year suspension plus a three-year notation. However, the chart of cases provided by the University demonstrates that, where there has been repeated conduct with multiple charges, as here, the penalty will be much more significant.
38. Having regard to the cases presented by the University and its submissions, as well as the relevant factors outlined above, the Panel agreed that a mark of zero,

significant length of suspension and a notation of the sanction on the academic record and transcript were all appropriate. The Panel recognized the various serious nature of the offences and the number of them. However, as this was the student's first offence, the Panel concluded that applying the maximum period of suspension of five years was not appropriate and would not be consistent with the outcomes in the authorities presented.

39. Accordingly, the Panel concluded that the suspension from the University should be for a period of four years, with a notation on the academic record for five years. Such a lengthy suspension should have the effect of sending a clear message that this type of conduct will not be tolerated, while recognizing that this was the Student's first (and hopefully, only) time before this Tribunal.
40. Accordingly, at the conclusion of the hearing, the Panel made the following order:
 - (i) **THAT** the hearing may proceed in the absence of the Student.
 - (ii) **THAT** the Student is guilty of:
 - (a) two counts of plagiarism, contrary to section B.I.1.(d) of the Code; and
 - (b) three counts of knowingly forging, altering, or falsifying a document or evidence required by the University, or uttering, circulating, or making use of any such forged, altered, or falsified document, contrary to section B.I.1.(a) of the Code.
 - (iii) **THAT** the following sanctions shall be imposed on the Student:
 - (a) a final grade of zero in POL200Y5Y, POL208Y5Y, and POL214Y5Y, in the 2018-2019 term;
 - (b) a suspension from the University for four years from the date of this order; and
 - (c) a notation of this sanction on the Student's academic record and transcript for five years from the date of this order.
 - (iv) **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 24th day of June, 2021.

Original signed by:

Ms. Cynthia Kuehl, Chair

On behalf of the Panel