

Case No.: 1277

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER OF charges of academic dishonesty filed on October 12, 2021

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

and

H [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Date: March 8, 2021, via Zoom

Members of the Panel:

Mr. Andrew Bernstein, Chair

Professor Michael Saini, Faculty Panel Member

Ms. Madison Kerr, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Mr. William Webb, 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:

Mr. H [REDACTED] Z [REDACTED]

A. Charges

1. On March 8, 2022, this Panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto (the “University”) against H█████Z█████ (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”).
2. Those charges were detailed in a letter to the Student dated October 12, 2021, as follows:
 - i. On or about December 1, 2020, you knowingly represented as your own an idea or expression of an idea, and/or the work of another, in Assignment 3 that you submitted for academic credit in GGRA02H3 (“Course”), contrary to section B.I.1(d) of the *Code*.
 - ii. In the alternative to charge 1, on or about December 1, 2020, 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 in connection with Assignment 3 that you submitted in the Course, contrary to section B.I.3(b) of the *Code*.
 - iii. On or about December 18, 2020, you knowingly represented as your own an idea or expression of an idea, and/or the work of another, in the final exam that you submitted for academic credit in the Course, contrary to section B.I.1(d) of the *Code*.
 - iv. In the alternative to charge 3, on or about December 18, 2020, 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 in connection with your final exam in the Course, contrary to section B.I.3(b) of the *Code*.

3. The Student was an undergraduate at the University of Toronto Scarborough Campus, in the Faculty of Arts and Science.

4. The Student did not attend the hearing. They were not represented by counsel. The Tribunal called the hearing to order at the scheduled 3:00 p.m. start time, through Zoom, a video-conferencing platform that has been used for Tribunal discipline matters throughout the COVID-19 Pandemic.

B. Notice and Hearing in the Student's Absence

5. As the Student did not attend the hearing, counsel for the Provost asked the Tribunal to find that the Student had been provided with proper notice of the hearing, and that the hearing should proceed in the Student's absence, under rule 17 of the Tribunal's *Rules of Practice and Procedure* ("Rules"), and section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the "Act").

6. Rule 17 and section 7 require that the Provost provide the Student with adequate notice of the hearing before we proceed in the Student's absence. These provisions do not require the Provost to prove that the Student actually received the notice. Rather, they require that the Provost establish that the University took reasonable steps to notify the Student of the charges against him and of the hearing. As explained below, we are satisfied that it did so.

(i) Rules relating to Service

7. The University's *Policy on Official Correspondence with Students* requires students enrolled at the University to maintain a current and valid postal address and an address for a University-issued email account in their ROSI records, to update their records when this

information changes, and to monitor and retrieve their mail and email on a frequent and consistent basis.

8. Rule 9 of the Tribunal's Rules states that charges, notices of hearing, disclosure and other materials may be served on students by a variety of means, including sending a copy of the document by courier to the student's mailing address contained in ROSI, sending a copy of the document to the student's e-mail address contained in ROSI, or by any other means authorized under the University's *Policy on Official Correspondence with Students*.

(i) Steps taken to effect service by the University and Discipline Counsel

9. This matter was first brought to the Student's attention when he was sent a resolution letter by the Office of the Vice Principal Academic and Dean. The letter was sent by e-mail on June 9, 2021. The Student did not respond to the letter, nor did he respond to the subsequent e-mail requests from the same office, sent on June 21 and 23, 2021.

10. Because the Student did not respond, the Office of the Vice-Principal Academic & Dean notified the Student by e-mail that his case would be forwarded to the Vice-Provost on July 7, 2021. Once again, the Student did not respond to this notice.

11. On October 12, 2021, the Student was served with the letter detailing the charges by e-mail.

12. On December 14, 2021, Assistant Discipline Counsel sent an e-mail to the Appeals Discipline Faculty Grievances Office (the "ADFG Office") asking for a hearing date. The Student was copied on this e-mail. The ADFG Office sent the Student an e-mail attaching the first Notice of Electronic Hearing on December 14, 2021. It specified a hearing on March 8,

2022, at 1:45 pm, via Zoom. Because one of the original panelists had to be replaced, a Revised Notice of Electronic Hearing for the same date and time was sent to the Student by e-mail on February 10, 2022. On February 15, 2022, a further Revised Notice of Electronic Hearing was sent by e-mail moving the time of the hearing to 3:15 pm, at the Chair's Request.

13. The University filed an affidavit by an employee of its Information Technology Services department, indicating that the Student last checked their e-mail on October 15, 2021. This is contrary to a student's obligation to check their e-mail regularly, contained in the Code.

14. Assistant Discipline Counsel also attempted to contact the Student, by arranging for an administrative assistant at Paliare Roland to call the Student's number on ROSI. The assistant did not reach the Student and received no response. Assistant Discipline Counsel e-mailed the Student twice on December 6 and 14, 2021, and received no response. In addition, Assistant Discipline Counsel called the ROSI-indicated number on January 5, 2022, and Paliare Roland sent a courier package including the Notice of Electronic Hearing to the Student's ROSI-indicated address and sent subsequent revised notices to the ROSI-indicated address.

15. The Student has not responded to any of these efforts to contact him, nor contacted counsel for the Provost.

16. Whether or not the Student actually received the notice provided is not the question we need to answer. The Student has an obligation to keep his information up to date in ROSI, and check his e-mail. The Student's failure to do so does not affect the validity of the notice, which was properly provided in accordance with the Tribunal's Rules. The Tribunal therefore ordered that the hearing should proceed in the Student's absence.

C. Liability

17. The following summarizes our reasons for concluding that the Student violated the Code and therefore committed an offence.

(a) Background

18. The Student was enrolled in GRA02H3 (the “Course”) in the fall of 2020, with Professor Tessaro.

19. The grading scheme for the Course required tutorials (10%), three assignments (10%, 15% and 20%), complete academic integrity modules (5%) a mid-term test (15%) and a final exam (25%). The syllabus clearly stated that student assignments should be submitted via Quercus, and that they would be automatically filed in through Turnitin.com, which detects possible plagiarism. The syllabus also contained a lengthy section on plagiarism. Students were also required to complete the academic integrity module by September 28, 2020, which had a specific section about plagiarism.

(i) First Assignment

20. The first assignment was due on October 6, 2020. Professor Tessaro was concerned that parts of the assignment had been plagiarized. The Student met with the Chair’s designate, Professor Susannah Bunce and admitted to plagiarism. The Chair’s designate sent the Student a follow-up e-mail and recommended that they attend the UTSC Writing Centre to discuss writing and citation issues, and provided the link to the online appointment system. The Chair’s designate also informed the Student that they should consult the library’s guide on academic integrity and citations.

(ii) Third Assignment

21. The third assignment was due on December 1, 2020. Students were specifically told to reference their sources including those from course readings. Turnitin.com returned a similarity index of 36% with 26% linked to www.fao.org, the Food and Agricultural Organization of the UN. Specific similarities were noted with an article “COVID-19 and the risk to food supply chains: How to Respond?”

(iii) The Final Exam

22. The final exam was due on December 18, 2020. It was open book and students were permitted to consult their own notes. However, the Exam instructions clearly stated that students were required to paraphrase and warned “do not plagiarize by using answers directly from my slides or verbatim from what I said in lecture.” However, Turnitin.com returned a similarity index of 27% on the final exam. There were strong similarities with an article “A new twenty-first century science fore effective epidemic response” published in *Nature* on 6 November 2019. The Student did not attribute the resource on his final exam.

(b) Did the Student Commit Plagiarism?

23. The panel has reviewed the evidence and concluded that the Student committed plagiarism – in particular, the Student’s answers to both the Third Assignment and the Final Exam contain both directly copied and paraphrased sentences from other sources, without citing those sources. The Provost provided us with several comparisons between the Third Assignment and the article “COVID-19 and the risk to food supply chains: How to respond?” (cited in paragraph 21 above). The Student referenced a second article “Without food, there can be no exit from the pandemic” (*Nature*, Comment 23 April 2020), by the same author, but does not use the same text as the first article. There is also some copying from this second article in the Third

Assignment. It is clear from the comparisons, which are at exhibit G and H of the affidavit of Professor Susannah Bunce, that the Student copied many of sentences, and paraphrased others without citation.

24. The Final Exam was open book. Students were specifically told that they could use any sources but that they were required to paraphrase. However, the Student's answer to question 2 on the final exam copies extensively from an article called "A new twenty-first century science for effective epidemic response) by Juliet Bedford et. al. Although the student refers to the article, they do not cite it. More problematically, their answer copies all its ideas from this article, including several lines of verbatim and near verbatim text without quoting it. Again, the Provost has provided a comparison (at exhibit L of Professor Bunce's affidavit) which establishes the extent of the copying and near-copying.

25. On the basis of our review of the Third Assignment, the Final Exam and the articles identified by the Provost, we have concluded that on a balance of probabilities, the Student knowingly represented their own idea or expression of an idea of another, contrary to section B.I.1(d) of the *Code*, in both the Third Assignment and the Final Exam.

D. Sanction

26. The Provost sought an order imposing the following sanctions on the Student:

- (a) a zero in GGRA02H3;
- (b) a suspension from the University for three years from the date of the order; and
- (c) a notation on their transcript for the three-year suspension period, and an additional year after the suspension is completed.

27. In determining the sanction, the Panel has considered the factors set out in the decision *University of Toronto and Mr. C. factors* (Case No. 1976/77-3, November 5, 1976). This is the leading decision on sentencing principles. Counsel for the Provost submitted a book of authorities, and referred to several cases in argument in addition to *Mr. C*. We were taken to the cases of *The University of Toronto and N.A.*, (Case No. 1186, September 21, 2021), *The University of Toronto and W.L.J.* (Case No. 815, January 19, 2016), *The University of Toronto and R.W.* (Case No. 896, May 17, 2017), *The University of Toronto and Y.Y.* (Case No. 1055, January 13, 2021) and *The University of Toronto and S.K.* (Case No. 1031, November 11, 2019), in which the students were found to have committed a similar academic offence, and given the same penalty.

28. After deliberation, the Tribunal ordered the penalty that the Provost requested. However, we adjusted it so that the suspension began on January 1, 2022, and will end January 1, 2025, with the notation lasting until January 1, 2026. We did so because there appeared to be a substantial delay between the incident itself and the scheduling of this hearing, and also to ensure consistency, to prevent students with identical sanctions experiencing different effective lengths because of the way the suspension falls with respect to registration deadlines. Although such an adjustment has historically been rare, we would note that there are a few cases that employ it for these reasons – see *University of Toronto and X.Y.* (Case No. 1147) at para. 32 *University of Toronto and G.L.* (Case No. 1262) at para. 47, *University of Toronto and S.K.* (para. 32) (Case No. 1063) at para. 32. Provost’s counsel has a lot of control over when these matters come up for a hearing. There is nothing wrong with that, nor is there anything wrong with counsel selecting a date that is convenient to them in light of their undoubtedly heavy caseload. However, counsel’s convenience should not be permitted to have an adverse impact on when the student may re-enroll, and we believe that these types of adjustments can be a fair and equitable response to

scheduling issues. Moreover, because the Student has not enrolled in the Winter Semester 2022, they will have three clear years away from the University, if they chooses to re-enroll when their suspension is over.

29. The penalty is consistent with the authorities from this Tribunal listed in paragraph 27, above, which ordered similar penalties for a first offence 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. Although these authorities are not binding on us, it is important that this Tribunal renders decisions that are consistent, so that the treatment a student receives is not dependent on the panel the student draws.

30. For these reasons, the Tribunal accepted the Provost's submissions on sanction, and (subject to the adjustment on timing) signed an order at the hearing imposing the following sanctions on the Student:

- (a) a grade of zero in GGRA02H3
- (b) a suspension from the University for three years, commencing January 1, 2022 and ending on January 1, 2025;
- (c) a notation be placed on the Student's academic record and transcript for four years commencing on January 1, 2022 and ending January 1, 2026;
- (d) the case shall be reported to the Provost, for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.

Dated at Toronto, this 9th day of June, 2022.

Original signed by: _____
Mr. Andrew Bernstein, Chair
On behalf of the Panel