

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on August 30,2022,

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 2019,*

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

- and -

J [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Date: April 4, 2023, via Zoom

Members of the Panel:

Sana Halwani, Chair

Professor Joseph Clark, Faculty Panel Member

Jennifer Chen, Student Panel Member

Appearances:

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

Ryan Shah, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Nusaiba Khan, Quasi-Judicial Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

J [REDACTED] Z [REDACTED]

I. Charges and Procedural History

1. The Trial Division of the Tribunal held a hearing on April 4, 2023, to address the following charges brought by the University of Toronto (the “University”) against J██████████Z██████████ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”):
 - a. On or about March 22, 2021, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in Quiz 3 in FSL105H5: Functional French — Novice (the “French Course”), contrary to section B.I.1(b) of the Code.
 - b. On or about April 8, 2021, you knowingly submitted academic work containing a purported statement of fact or reference to a source which has been concocted in a term paper titled “Social Media Use and Social Isolation, Mental Problems, and Self-esteem Among Young adults” (“Term Paper”) which you submitted in CCT110: Rhetoric and Media (“CCT Course”), contrary to section B.I.1.(f) of the Code.
 - c. In addition, and in the alternative to charges 1 and 2, 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, in connection with:
 - i. Quiz 3 in the French Course; and
 - ii. The Term Paper in the CCT Course.

II. Notice

2. The Student was not in attendance at the hearing and, as a result, Assistant Discipline Counsel addressed the issue of notice.
3. On review of the evidence, and on considering the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, 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. Affidavit of Lisa Devereaux, Director, Academic Success & Integrity at the University of Toronto Mississauga (“UTM”), describing the attempts made to schedule a Dean’s designate meeting (between July 2021 and August 2021), and attaching the Student’s academic record, contact information, and Student Web Services Activity Log;
 - b. Affidavit of Andrew Wagg, Manager, Incident Response at Information Security, Information Technology Services at the University, providing evidence of the last time someone accessed the email account ██████████@mail.utoronto.ca (the email address identified as the email address of the Student in their Repository of Student Information (“ROSI”) record). The last time someone logged into this email address was on March 2, 2022, after the emails sent by Ms. Devereaux; and
 - c. Affidavit of Natalia Botelho, a legal assistant at Paliare Roland Rosenberg Rothstein LLP, providing evidence of all the efforts to contact the Student about the charges and the hearing, prior to the hearing date including by email to the Student’s utoronto account, by phone to the Student’s telephone number listed in ROSI, and by courier to the Student’s address listed in ROSI.
5. As set out in rule 13 of the *Rules of Practice and Procedure*: “Charges, notices of hearing, disclosure material for use on motions or hearings, orders, and reasons for decision may be served on a student or sent to a student: [...] by e-mailing a copy of the document to the student’s e-mail address contained in ROSI, or to the students’ representative, if such representative has confirmed its authority to accept service, and service shall be effective on the day the document is sent by e-mail.” Repeated attempts were made to contact the Student at her e-mail address contained in ROSI, including sending the Notice of Electronic Hearing.
6. As set out in rule 21: “Where notice of a virtual hearing, an in-person hearing, a hybrid hearing, or a written hearing has been given to a party in accordance with this Part, and the party does not attend at or does not participate in the hearing, the panel may proceed in the absence of the party or without the party’s participation and the party is not entitled to any further notice in the proceeding.” This language was repeated in the Notice of Electronic Hearing emailed to the Student.

7. Although the evidence provided did not go so far as to confirm that the Student had received Notice of Hearing (because she never responded or acknowledged receipt), it is clear from the evidence that the Student was given reasonable notice under the *Rules of Practice and Procedure*. The University served the Student by email to her official ROSI email, and by courier, as well as seeking to reach the Student by phone. The University took many steps beyond what is strictly required by the University's *Policy on Official Correspondence with Students*.
8. The evidence indicates that the Student had not provided her actual mailing or permanent address, or her telephone number to the University (in ROSI). Both addresses were listed as [REDACTED], which is a commercial not a residential address. When businesses at that address were called, the one that was reachable did not have any records or information relating to the Student. In addition, the telephone number provided by the Student in ROSI was not in service.
9. Further, there was evidence provided to the Panel that the Student was aware of the allegations that led to the charges as she had had met with instructors in the relevant courses to discuss their concerns in April 2021. This case is similar to that in *The University of Toronto v. Y. L.* (Case No. 1239, March 17, 2022) ("Y.L."). Given the Student's interactions with the instructors concerning the allegations of academic misconduct, the Tribunal was satisfied that it was more likely than not that the Student had made a deliberate choice to avoid any official communications from the University. As the Panel in *Y.L.* stated: "That choice has consequences."
10. 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

11. The evidence of the University on the charges was presented by way of affidavit from:
 - a. Catherine Phillips, a Sessional Lecturer in the Department of Language Studies at the University, who was the instructor for the French Course;
 - b. Rosa Hong, Associate Professor, Teaching Stream, in the Department of Language Studies at UTM, who is also the Chair's Designate for Academic Integrity, on behalf of the Chair of the Department. As Chair's Designate, she

is responsible for meeting with students who are alleged to have committed academic offences in courses within the Department of Language Studies on behalf of the Chair of the Department; and

- c. Elizabeth Peden, Sessional Lecturer of the Institute of Communication, Culture, Information and Technology at UTM, who was one of the instructors for the CCT Course.
12. The Student was a student in the French Course and the CCT Course in the Winter of 2021.
 13. 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 any questions. The Panel did have some questions for Professor Phillips, who was able to clarify her evidence relating to Quiz 3 in the French Course.

A. The French Course Quiz

14. The evidence regarding the French Course was provided by Professor Phillips.
15. The French Course is a beginner French course. Students are expected to have little to no knowledge of the French language when they enroll in the course. Quiz 3 was conducted using the University of Toronto's Quercus website. On Quiz 3, students were required to answer basic questions about French grammar and write basic compositions in French.
16. The syllabus for the French Course contained a section titled "Academic Honesty and Plagiarism." This section alerted students to the existence of the Code and advised students that it is an offence to submit "work that was done in conjunction with or by another student and passing it off as your own."
17. Another section of the syllabus, titled "Plagiarism will not be tolerated", advised students that they were expected to adhere to the Code regardless of the course delivery method. This section advised students of potential academic offences in the online learning context, including:
 - a. "Access unauthorized resources (search engines, chat rooms, Reddit, etc.) for assessments";

- b. "Using technological aids (e.g. software) beyond what is listed as permitted in an assessment";
 - c. "Post test, essay, or exam questions to message boards or social media";
 - d. "Creating, accessing, and sharing assessment questions and answers in virtual "course groups"; and
 - e. "Working collaboratively, in person or online, with others on assessments that are expected to be completed individually".
18. As the French Course was an online course, students were also provided with a document called "Academic Integrity in an Online Learning Class." This document listed several aids that were prohibited during tests, including "collaboration with anyone else in real-time or over a device."
19. Quiz 3, itself, included an academic integrity declaration, which asked students to confirm that they would not collaborate with others or use any translation tools during the quiz. In response to this academic integrity declaration, the Student answered "True."
20. While grading Quiz 3, Professor Phillips noticed several irregularities, summarized below.
21. **Part B Question 1 (verb conjugations):** The Student's answers to Questions 1.3.-1.7 were near identical to the answers submitted by two other students in the course: Y.Z. and S.Z. (the "Alleged Collaborators"). The similarities between the Student's answers and the Alleged Collaborators' answers were suspicious because these answers were all incorrect in an identical or near identical manner, and many of the errors were very unusual. For example, all three students incorrectly used an advanced verb tense that had not been taught in the course. The three students also failed to complete questions 1.5-1.8, which asked students to complete sentences and not simply conjugate the verbs.
22. **Part B Question 4 (composition):** The Student had to write a 50-word composition from the perspective of a travel agent and her composition also raised suspicions for a number of reasons. *First*, the level of the language in the composition was advanced. Yet, the French Course is a beginner French course. Further, the Student's performance on other assessments in the French Course suggests that she has an extremely limited understanding of the French language. Excluding Quiz 3, the Student had obtained a grade of 31% on her other assessments. *Second*, although the Student's composition was

written in advanced language and did not contain any mistakes, the composition did not fully address the requirements of Part B, Question 4. *Third*, the Student only used masculine adjectives in her composition to describe the speaker. This feature implies that the speaker in the Student's composition identifies as a man, despite the Student identifying as a woman.

23. When Professor Phillips met with the Alleged Collaborators to discuss her concerns, they denied the allegations and stated that they had completed Quiz 3 independently. Professor Phillips maintained her concerns and referred the matter up to the Department level.

B. Investigation Involving Other Students

24. Professor Hong provided evidence that she met with both S.Z. and Y.Z. (the Alleged Collaborators) as the Chair's Designate for Academic Integrity. She met on April 23, 2021, with both S.Z. and Y.Z. to discuss allegations that they obtained unauthorized assistance in connection with Quiz 3 of the French Course in Winter 2021.

25. During the meeting, S.Z. made the following admissions:

- a. He created a group chat with two other students in the French Course for the purpose of obtaining assistance on Quiz 3 in the French Course;
- b. He collaborated with two other students in this group chat to answer questions on Quiz 3 in the French Course; and
- c. He committed an academic offence on Quiz 3 in the French Course.

26. In her meeting, Y.Z. admitted the following:

- a. Immediately before the meeting, S.Z. advised her that he admitted to committing an academic offence on his Quiz 3 in the French Course in his meeting with Professor Hong;
- b. She was a member of a group chat containing two other students in the French Course that was created for the purpose of obtaining unauthorized assistance on Quiz 3 in the French Course;

- c. She collaborated with two other students in this group chat to answer questions on Quiz 3 in the French Course; and
 - d. She committed an academic offence on Quiz 3 in the French Course.
27. Neither student specifically implicated the Student in this group chat, but the common mistakes indicates that the Student was the third student in the chat.

C. The CCT Course Term Paper

28. The evidence regarding the CCT Course was provided by Professor Peden, who was an instructor in the course.
29. Students in the CCT Course were required to submit a 10-page academic paper, which was worth 25% of their final grade. This was the Term Paper at issue.
30. The syllabus for the CCT Course contained a section titled “Academic Integrity”. This section alerted students to the existence of the *Code of Behaviour on Academic Matters* and advised students that it is an academic offence to make up sources or facts in one’s academic work.
31. In the Term Paper, the Student argued that social media use is responsible for social isolation, mental health problems and self-esteem issues among young adults. To make this point, the Student cited a variety of research papers that identify the existence of such a relationship between social media use and wellness in young adults.
32. Professor Peden’s teaching assistant reviewed the term papers submitted in CCT110 and advised her that they were concerned about the Student’s use of sources in the Term Paper.
33. Professor Peden then reviewed the Term Paper and the sources cited in it. She found that the description of two sources in the Student’s term paper did not accurately reflect the contents actually contained in these sources: the Dang Source and the Yavich Source.
34. Professor Peden found the Student’s reference to these two sources in the Paper to be misleading:
- a. The Student cited the Dang Source as establishing the relationship between social media use and anxiety and depression. However, the Dang Source does not

discuss social media at all. Instead, the Dang Source is concerned with the physiological effects of social isolation on mice.

- b. The Student cited the Yavich Source as discussing the phenomenon of “social comparison” and the effects of social media use on “social comparison.” However, the term “social comparison” is not used in the Yavich Source. The Yavich Source describes a research study that examines the relationship between reported Facebook usage patterns and loneliness by students at Ariel University in Israel. (The Student did appropriately cite the Yavich Source in two other passages of the Term Paper related to social media use by young adults).
35. In April 2021, Professor Peden met with the Student to discuss her concerns with the Term Paper.

IV. Finding on Charges

36. The first charge facing the Student is a charge that the Student cheated on Quiz 3 in the French Course. As is described below, the Panel found the Student guilty of this first charge.
37. The second charge facing the Student is a charge that the Student fabricated sources for the Term Paper in the CCT Course. As is described below, the Panel found the Student guilty of this second charge.
38. The burden is on the University to prove charges on a balance of probabilities.
39. The Course syllabi in both the CCT Course and the French Course were clear that fabrication of sources and collaboration during tests were potential academic offences.
40. There is therefore no question that the Student knew or ought to have known that such actions would be academic offences. The primary question for the Panel therefore was whether the Student did in fact cheat in Quiz 3 and/or concoct sources in the Term Paper.
41. 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 did commit the offences with which she was charged.

A. Charge 1: Unauthorized Assistance

42. The primary evidence with respect to the charge of unauthorized assistance is the evidence of Professor Phillips about the suspicious similarities between the answers of the Student and the Alleged Collaborators in Part B Question 1, including the same errors in the same places, the unusual use of an advanced verb tense, and the common failure to complete certain questions. The Panel agrees with Professor Phillips that it is highly unlikely that the Student and her Alleged Collaborators answered these questions independently.
43. In addition, the Panel is persuaded by the admission of the Alleged Collaborators that a group chat was set up to enable unauthorized collaboration. Although the evidence provided by Professor Hong is hearsay, the *Statutory Powers and Procedures Act* deems hearsay to be admissible (s. 15). While admissible, the Panel must still be convinced of the reliability of the statements made by the Alleged Collaborators to Professor Hong. Since the Alleged Collaborators made admissions which resulted in them having worse academic outcomes, the Panel is persuaded that the evidence is reliable, and that the group chat described by S.Z. and Y.Z. did indeed exist and included a third student.
44. Although the Student was not specifically identified by the Alleged Collaborators, it is highly unlikely that there would have been a different third student involved.
45. With respect to Part B Question 4, the advanced level of the composition and other issues noted by Professor Phillips lead the Panel to conclude that the more likely explanation is that the Student did not write the composition in that part of Quiz 3.
46. In cases like these, it is not necessary to prove the exact mechanism by which the cheating occurred. The burden is on the University to prove that it was more likely than not that the Student received unauthorized assistance. The Panel is of the view that there is sufficient evidence to conclude that the Student obtained unauthorized assistance during Quiz 3.

B. Charge 2: Concocted Sources

47. With respect to the second charge of concocted sources, the University must prove on a balance of probabilities that the Student knew or ought to have known that the source or sources were being misrepresented. Students who misrepresent sources are seeking to give their work a “patina of academic rigour” (see *The University of Toronto v. M.A.* (Case

No. 971, November 28, 2018)). The offence captures conduct that is intended to generate a layer of credibility or academic rigor that is not actually present in the work submitted.

48. The Panel was of the view that the evidence provided on the Dang Source was very persuasive. The Dang Source describes a research study that examines the relationship between social isolation in mice and the presence of a protein called HINT1 in their bodies. In the Term Paper, the Student cited the Dang Source for the proposition that “there is clear evidence that addiction to social media and overuse of social media for extended periods of time can lead to anxiety and depression.” Further, the Student stated that in the study reported in the Dang Source “they discovered that social media exert influence on individual’s social anxiety indirectly, mediated by social comparison and self-esteem.” The Dang Source is clearly concocted.

49. The Panel was less persuaded by the evidence relating to the Yavich Source. The Student appropriately cited the Yavich Source in two passages in the Term Paper, but then appeared to misrepresent it in a third passage. The Student was not present to explain their actions, but counsel for the University appropriately conceded that it was possible that the Student had made a mistake.

50. In any case, to be made out, the charge of concoction does not require more than one source to be concocted. Without deciding whether the Yavich Source was concocted, the Panel concluded that the Student had knowingly submitted academic work containing a purported statement of fact or reference to a source which has been concocted.

51. The first two charges were therefore proven, and the Student was found guilty.

52. On finding the Student guilty of the first two charges, the third alternative charge was withdrawn.

V. Finding on Penalty

53. Once the Panel had made a determination on the charges, additional evidence was provided to the Panel with respect to sanction. The University introduced a second affidavit of Lisa Devereaux, which provided evidence that the Student has committed one prior academic offence in ENV100Y5Y (The Environment) (“ENV100”) in Fall 2020.

54. The University requested the following penalty for the offences relating to Quiz 3 and the Term Paper:

- a. a final grade of zero in FSL105 in Winter 2021;
- b. a final grade of zero in CCT110 in Winter 2021;
- c. a suspension from the University of Toronto from the date of this order for a period of 3 years; and
- d. a notation of the sanction on their academic record and transcript from the date of this order for a period of 4 years.

55. 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.

56. To support this proposed penalty, Assistant Discipline Counsel made submissions on the following:

- a. The Provost's Guidance on Sanctions
- b. The typical penalty for similar cases; and
- c. Relevant factors in determining the appropriate sanction.

A. Provost's Guidance and Prior Offence

57. The Provost's Guidance states that the Provost will request that the Tribunal suspend a student for two years for any offence involving academic dishonesty, where a student has not committed a prior offence.

58. Other Panels have commented on the appropriateness of that sanction, and on the impact of a prior offence on that sanction (see *The University of Toronto v. M. H. H.* (Case No. 521, January 12, 2009)) ("M.H.H."):

We agree that a two year suspension appears to be the threshold for a first time offence but in this particular instance, we have concluded that a three year suspension is warranted having regard to the Student having been found guilty of a second count of plagiarism.

59. As in *M. H. H.*, the Student here had a prior offence. On January 28, 2021, the Student admitted that she had committed plagiarism on a term test worth 25% of her final grade in ENV100. For this offence, the Student received a sanction of a grade of zero on her term test and a 12-month notation on her academic transcript (from January 28, 2021, to January 27, 2022).

B. Similar Cases

60. The three-year suspension is also in line with similar cases presented by Assistant Discipline Counsel. While the Panel is not bound by any of these decisions, they are helpful in assisting the Tribunal in treating like cases alike.

61. The cases provided to us involved unauthorized aids, plagiarism, and concocted sources. The cases varied with respect to whether the students involved 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:

- a. Penalties ranged from two to three years for students with and without priors.
- b. Where there were priors, the penalty tended to be on the higher three-year end of the range.

62. The three-year penalty proposed by the University was therefore in line with past similar cases.

C. Relevant Factors under *Mr. C.*

63. Finally, Assistant Discipline Counsel made submissions on the factors to be considered in penalty as set out in *The University of Toronto v. Mr. C.* (Case No.: 1976/77-3, November 15, 1976).

64. The Student in this case had not participated at any stage of the process. The Student had therefore not shown any remorse, not presented any character evidence, and not raised any mitigating or extenuating factors to warrant a more lenient sanction. This failure to participate was therefore a neutral factor.

65. With respect to the likelihood of repetition of the offence, the Student has a prior academic offence, and there is therefore a need for specific deterrence. This prior offence is an aggravating factor that justifies a greater sanction.

66. With respect to the nature of the offence, the need to deter others, and the detriment to the University, we echo the words of the Panel in the *University of Toronto v. H.W.* (Case No. 1179, March 7, 2022):

The Mr. C case and those which follow it each note the importance of the University as an educational institution and a degree-granting body, and emphasize that members of the public must be able to rely on the academic integrity of the University's evaluation processes. Using unauthorized aids is cheating and allowing cheating to go unsanctioned is unfair to the other students who abide by and follow the rules and regulations. If not sanctioned, cheating undermines the value of all of the University's degrees.

67. Taking all these submissions into consideration, the Panel imposed the requested penalty.

VI. Decision of the Panel

68. At the conclusion of the hearing on penalty, the Panel conferred and made the following order:

- a. The hearing may proceed in the absence of the Student;
- b. The Student is guilty of one count of obtaining unauthorized assistance, contrary to B.I.1(b) of the *Code of Behaviour on Academic Matters*, and one count of concocting references, contrary to B.I.1(f) of the *Code of Behaviour on Academic Matters*;
- c. The following sanctions shall be imposed on the Student:
 - i. a final grade of zero in FSL105 in Winter 2021;
 - ii. a final grade of zero in CCT110 in Winter 2021;
 - iii. a suspension from the University for a period of 3 years from the date of the order; and

iv. a notation of the sanction on the student's academic record and transcript for a period of 4 years from the date of the order;

d. 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, May 24, 2023

Original signed by:

Sana Halwani, Chair
On behalf of the Panel