

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on November 3, 2022,

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 -

S [REDACTED] K [REDACTED] K [REDACTED]

REASONS FOR DECISION

Hearing Date: June 8, 2023, via Zoom

Members of the Panel:

F. Paul Morrison, Chair
Professor Richard Day, Faculty Panel Member
Giselle Sami Dalili, Student Panel Member

Appearances:

Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Joseph Berger, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Samanthe Huang, Quasi-Judicial Coordinator & Hearing Secretary, Office of Appeals
Discipline and Faculty Grievances

Not In Attendance:

S [REDACTED] K [REDACTED] K [REDACTED]

1. On June 8, 2023, this Panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto (the "University") against S■■■■ K■■■■ K■■■■ (the "Student") under the *Code of Behaviour on Academic Matters, 1995* (the "Code").

A. CHARGES AND PARTICULARS

2. The Charges were as follows:
 1. On or about August 28, 2020, you knowingly obtained unauthorized assistance in connection with the final exam in AST101H1 (the "Course"), contrary to section B.I.1(b) of the Code.
 2. In the alternative, on or about August 28, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in the final exam in the Course, contrary to section B.I.1(d) of the Code.
 3. In the further alternative, on or about August 28, 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 the final exam in the Course, contrary to section B.I.3(b) of the Code.

Particulars of the offences charged are as follows:

1. At all material times, you were a student enrolled at the University of Toronto Scarborough.
2. In Fall 2019, you enrolled in AST101H1 (The Sun and Its Neighbours).
3. You sought and obtained permission to defer your final exam in the Course.
4. On August 28, 2020, you wrote the deferred final exam in the Course (the "Exam"). Due to the covid19 pandemic, the Exam was

administered online. You were permitted to consult with the course materials in completing the Exam; however, you were required to complete the Exam independently, without the assistance of any other sources, including other students.

5. You knowingly obtained unauthorized assistance on the Exam from another student, J S S (the "Other Student"), or others, and/or aided, assisted, abetted, counselled, procured or conspired with the Other Student or others to obtain unauthorized assistance on the Exam.
6. You submitted your answers to the Exam:
 - (a) to obtain academic credit;
 - (b) knowing that they contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including the Other Student; and
 - (c) knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the Other Student or others.
7. You knowingly aided, assisted, abetted, counselled, procured or conspired with the Other Student or others to commit the offence of plagiarism in the Exam.
8. You knowingly submitted the Exam with the intention that the University of Toronto Scarborough rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

B. PROCEEDING IN ABSENCE OF STUDENT

3. At the commencement of the hearing, counsel for the University requested an Order that the hearing proceed in the absence of the Student.
4. In support of such an Order, the University tendered and filed two Affidavits of Andrew Wagg and two Affidavits of Kimberly Blake. These Affidavits were

contained in a Book of Documents and Supplementary Book of Documents which were marked as Exhibit 1 and Exhibit 2 at the hearing.

5. The evidence in the aforementioned Affidavits was, in all respects, uncontradicted. The evidence detailed the contacts that representatives of the University had with the Student with respect to the pending charges and the scheduling and conduct of a hearing with respect to the charges.
6. By reason of such evidence and in submissions as to the request for the Order, counsel for the University submitted that the evidence established that the Student had received reasonable notice of the hearing and the date thereof.
7. The Panel carefully considered the evidence and counsel's submissions. The Panel was satisfied that the Student had received reasonable notice of the hearing. Indeed, the Panel concluded that the Student had received actual notice of the hearing and was aware of the date on which it was scheduled to proceed.
8. As a result, the Panel issued an Order that the hearing may proceed in the absence of the Student.

C. EVIDENCE AND FINDINGS

9. Counsel for the University filed two Affidavits in support of the prosecution. The first was the Affidavit of Ilana MacDonald, an Instructional Support Administrator in the David A. Dunlap Department of Astronomy and Astrophysics at the University. The second was the Affidavit of Sheryl Nauth, an Academic Integrity Assistant in the Office of the Vice-Principal Academic and Dean at the University (Scarborough). The evidence in both Affidavits was uncontradicted. Both Affidavits, together with Exhibits thereto, were contained in a Book of Documents tendered by counsel for the University and marked as Exhibit 3 at the hearing.
10. The following are salient extracts from the Affidavit of Ilana MacDonald:

2. In Fall 2019 S█████ K█████ K█████ (the "Student") was enrolled in the course AST101H1: The Sun and Its Neighbours (the "Course"). I have

attached a copy of the course outline to my affidavit as **Exhibit A**. I was not an instructor for the Course. The co-instructors for the Course were Dr. Renée Hložek and Dr. Jeremy Webb. I obtained the information regarding the Student and the final exam that is in issue in this matter from the instructors in the Course, my meeting with Dr. Jeremy Webb and the Student on September 22, 2020, and the file that the instructors from the Course submitted to the University of Toronto Scarborough's Academic Integrity Office.

6. Under the heading "Academic Integrity" (on page 8), the course outline emphasized the critical importance of academic integrity and provided a link to the University of Toronto's *Code of Behaviour on Academic Matters* ("Code"). The course outline noted that all students were expected to read and abide by the *Code*.
7. The Student sought and obtained permission to defer his Final Exam in the Course.
8. On August 28, 2020, the Student wrote the deferred final exam. Students were allowed to use Course materials on the final exam, but were required to write the exam alone, and without any other additional aids.
10. Upon review, the instructors determined that the answers that the Student had submitted to Question 4(b) and Question 6 of the final exam were very similar to the answers submitted by another student, J.S., who had also written the deferred final exam on August 28, 2020.
11. The Student received a total score of 36.5/43 on the deferred final exam. J.S. received a total score of 36/43 on the deferred final exam.
13. I have attached a copy of the Student's final exam answers with marker's comments to my affidavit as **Exhibit C**. I have attached a copy of J.S.'s final exam answers with marker's comments to my affidavit as **Exhibit D**.

15. The degree of similarity between answers submitted by the Student and J.S. to questions 4(b) and 6 of the final exam, were highly suspicious to the Course instructors.
16. The Student's and J.S.'s answers to Question 4(b) were substantively identical. Both students received a mark of 1/2 on this question.
17. According to the instructors of the Course, both the Student and J.S. made the same error in their answer to Question 4(b). Specifically, both answers relied on an unfounded assumption that the energy source for the planets referenced in Question 4(b) was from a star.
18. The Student's and J.S.'s answer to Question 6 were also substantively identical. Both students received a mark of 1/3 on Question 6.
19. For their answers to Question 6, both students identified three identical factors they would anticipate, in order for an exomoon to support life: (1) presence of liquid water; (2) the tidal effects; and (3) the presence of atmosphere.
20. There was nothing in Question 6 that specified that students should answer the question by listing exactly three factors.
21. Additionally the explanations for the three factors provided by both students were very similar.
 - Both students explained that the presence of water was an important for determining if an exomoon could support life, without offering further explanation.
 - Both students referenced the presence of atmosphere as an important element to supporting life, without significant further explanation.
 - Both students referenced tidal effects as an important element of determining if an exomoon can support life.

- Both students explained that tidal effects allow the moon to tolerate/withstand plate tectonics.
- Both students articulated that the above factor regulates or controls the moon's temperature.

22. According to the Instructors of the Course, both students made the same errors in their analysis for Question 6. According to the Instructors:

- The presence of liquid water would not be visible if observing an exomoon;
- The presence of an atmosphere would not be visible if observing an exomoon; and
- Multiple moons would be required in order to fully understand the resonance of tidal effects.

23. On September 22, 2020, Professor Jeremy Webb and I both met with the Student regarding alleged academic offences.

24. The matter was forwarded to the Department of Astronomy and Astrophysics and ultimately to the University of Toronto Scarborough's Academic Integrity Office.

11. Salient extracts from the uncontradicted Affidavit of Sheryl Nauth are the following:

3. My office received a report from Professors Jeremy Webb and Renée Hložek alleging possible academic misconduct on the deferred final exam (the "Final Exam") by two students, S█████ K█████ K█████ (the "Student") and J█████ S█████ ("S█████") in the 2019 Fall Session course AST101H1: The Sun and its Neighbours (the "Course").
4. The allegations against both the Student and S█████ were based on similarities in the answers the Student and S█████ had submitted for questions 4(b) and 6 of the Final Exam.

A. Resolution of Allegations against J S S

5. The allegations of academic misconduct against S were resolved at the divisional level. S admitted to the use of unauthorized assistance on the Final Exam and was given a sanction of a grade of zero (0%) for the Final Exam and a one-year notation of this sanction to be placed on their academic record and transcript for one year. I have attached S's signed admission to my affidavit as **Exhibit A**.
12. Ms. Nauth's Affidavit also contained in detail the record of contacts or attempted contacts by representatives of the University with the Student. On a number of occasions in 2022, the Student was offered an opportunity to accept proposed penalties for the offence in question, but the Student did not respond to such overtures.
13. The Panel carefully considered all of the evidence presented at the hearing. It was particularly noteworthy that the Other Student, J S S ("S"), executed in writing a formal admission to the offence of using unauthorized assistance on the exam and accepted a sanction for such academic misconduct. Also noteworthy were the very close similarities between the answers by the Student on the exam and the answers by the Other Student, S on the same exam. On the basis of the evidence, the Panel readily concluded that the Student was guilty of the Charges.
14. Accordingly, the Panel issued a finding of Guilt on Charge 1, a violation of B.I.1(b) of the Code. In accordance with the University's undertaking, on the finding of guilt with respect to Charge 1, Charges 2 and 3 were withdrawn.

D. SANCTION / PENALTY

15. Counsel for the University addressed the Panel with submissions as to the appropriate penalty with respect to conviction of the Student of Charge 1.
16. The Panel carefully considered the submissions received and pertinent authorities. The Panel accepts that it is well established that plagiarism and the use of

unauthorized third-party sources are serious offences that strike at the heart of academic integrity. General deterrence is an important factor in these cases.

17. The Panel also accepts that it is appropriate for similar offences to be deterred by similar sanctions in such circumstances. The use of unauthorized outside sources is unfair to other students whose evaluation depends on their own hard work and attention to their studies. It undermines the integrity of the University evaluation process and the honesty that must underlie the teaching and learning relationship. The penalty must be sufficient to deter others from similar misconduct.
18. Recognizing these principles, the Tribunal issued the following Order.

E. ORDER

19. The Tribunal issued the following Order:
 - (a) **THAT** the hearing may proceed in the Student's absence;
 - (b) **THAT** the Student is guilty of one count of knowingly obtaining unauthorized assistance in any academic examination or term test or in connection with any other form of academic work, contrary to section B.I.1(b) of the Code;
 - (c) **THAT** the following sanctions shall be imposed on the Student:
 - (i) a final grade of zero in the course AST101H1 in Fall 2019;
 - (ii) the Student will be suspended from the University of Toronto from the date of the Tribunal's Order until April 30, 2025; and
 - (iii) this sanction will be recorded on the Student's academic record and transcript for a period of three years from the date of the Tribunal's order; and
 - (d) **THAT** this case be reported to the Provost, with the Student's name withheld, for publication of a notice of the decision of the Tribunal and the sanctions imposed.

DATED at Toronto, this 11th day of August, 2023.

Original signed by:

F. Paul Morrison, Chair
On behalf of the Panel