

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 19, 2023,

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 amended S.O. 1978, c. 88

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

X [REDACTED] M [REDACTED]

REASONS FOR DECISION

Hearing Date: January 16, 2024, via Zoom

Members of the Panel:

Simon Clements, Chair

Professor Dionne Aleman, Faculty Panel Member

Alexander Bowie, Student Panel Member

Appearances:

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

Sonia Patel, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

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

Not in Attendance:

X [REDACTED] M [REDACTED]

1. This panel of the University Tribunal held a hearing on January 16, 2024, to consider the charges brought by the University of Toronto (the “University”) against X██████ M██████ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”). It is alleged that the Student committed plagiarism on a paper submitted on July 27, 2021, contrary to section B.I.1(d) of the Code.

A. Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 1:45 pm on January 16, 2024. At that time, Assistant Discipline Counsel advised that neither the Student nor a representative of the Student had responded to the Notice of Virtual Hearing.

3. When the Student had not joined the hearing via the Zoom video conferencing platform (“Zoom”) at 1:45 pm, Assistant Discipline Counsel made submissions on proceeding with the hearing in the absence of the Student. She advised that on October 19, 2023, the charges were served on the Student by email to the email address of the Student which was the email address the Student had provided to the University in the University of Toronto Repository of Student Information (“ROSI”).

4. The University submitted the Affidavit of Natalia Botelho, a legal assistant at Paliare Roland Rosenberg Rothstein LLP (“Paliare Roland”) who described the efforts made by the office to contact the Student. On September 13, 2023, Ms. Sonia Patel, a lawyer at Paliare Roland, emailed the Student at the ROSI email to introduce herself and invite the Student to attend a phone call or virtual meeting to discuss the allegations. Ms. Patel sent a follow-up email to the Student at the ROSI email on September 20, 2023.

5. On October 19, 2023, the Office of the Vice-Provost, Faculty and Academic Life served the charges in this matter on the Student by email to the ROSI email.

6. On November 1, 2023, Ms. Patel emailed the Student a disclosure brief which was successfully delivered to the Student’s ROSI email address.

7. On November 22, 2023, Ms. Patel emailed the Student about scheduling a hearing date. She provided a list of available dates, including January 16, 2024, and asked the Student to advise her as soon as possible if they were not available on any of these dates. Ms. Patel advised

that if she did not hear back by November 27, 2023, she would request that a hearing be scheduled.

8. On November 29, 2023, the ADFG Office issued a Notice of Virtual Hearing for a hearing to take place via Zoom on January 16, 2024, at 1:45 p.m. The ADFG Office sent the notice to the Student at the ROSI email.

9. On December 13, 2023, the ADFG Office issued a Revised Notice of Virtual Hearing. The date and time of the hearing remained unchanged. The ADFG Office sent the notice to the Student at the ROSI email.

10. On January 4, 2024, Ms. Patel emailed the Student a copy of the affidavit of Professor Margaret Kohn. Ms. Patel stated that the Provost would rely on the affidavit at the hearing and asked the Student to let her know whether they intended to cross-examine Professor Kohn. The Student did not respond to this correspondence.

11. On September 15, 2023, Ms. Patel called the Student at the two personal phone numbers listed on ROSI. Ms. Patel was not able to reach the Student on either of these phone numbers.

12. On September 20, 2023, Janice Patterson, a legal assistant at Paliare Roland, tried to call the Student on the same numbers and was also unsuccessful.

13. Ms. Patel attempted to call the Student again on December 7, 2023, at the phone number listed with the Student's mailing address on ROSI. Ms. Patel received an automated message saying her call "could not be completed as dialled".

14. On December 7, 2023, Paliare Roland arranged for a courier to deliver a package to the Student at Shenghua North Road, No. 288, Chengdu, China 610000, the Student's address in ROSI. The courier package contained a letter from Ms. Harmer, copies of the Notice of Virtual Hearing and Charges in this matter. The courier was unable to confirm delivery to the address in ROSI with the postal code of 610000. However, the courier was able to access Chengdu with the postal code of 610003. Paliare Roland instructed the courier to attempt to deliver the package to 610003 instead. On December 8, 2023, the courier company confirmed the address.

15. On December 12, 2023, the courier company requested a phone number for the recipient. Paliare Roland provided the three phone numbers in the Student's ROSI. The next day, the

courier company advised that they had been unable to reach the recipient at the phone numbers provided.

16. On December 18, 2023, the courier company advised that they had made repeated delivery attempts but had been unable to deliver the package.

17. Ms. Botelho affirmed that as of January 9, 2024, Paliare Roland had not received any communication from the Student.

18. The University submitted the Affidavit of Mr. Andrew Wagg who is the Manager, Incident Response at Information Security, Information Technology Services at the University of Toronto.

19. Information Technology Services provides many services to the University, including management of the email accounts used by students. To access an email account one needs to input both the user's login id and the password for that account. The Microsoft 365 Exchange portal automatically records the last time someone accessed a particular university-issued email account. This is denoted with the code "LastUserActionTime". The LastUserActionTime log only updates when someone logs in to a university-issued email account.

20. On January 4, 2024, Mr. Wagg checked the portal records to determine the last time someone accessed the email account of the Student and determined that the last time someone accessed that account was on January 3, 2024 at 4:17 p.m., local Toronto time.

21. Section 6 of the *Statutory Powers and Procedures Act* (the "Act") states that the parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. Section 7(3) states that where reasonable notice of the hearing has been given to a party to a proceeding in accordance with the Act and the party does not participate in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

22. Rule 13 of the University Tribunal's *Rules of Practice and Procedure* (the "Rules") states that the charges, notices of hearing, and disclosure material may be served on a student by email or by courier. Rule 21 mirrors the provision in section 7(3) of the Act. Where notice of an

electronic hearing has been given to the Student in accordance with the Rules and the Student does not attend hearing, the Tribunal may proceed in the absence of Student.

23. The University requested that the Tribunal proceed with this hearing in the absence of the Student.

24. Pursuant to rule 13, 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 in ROSI or by emailing a copy of the document to the student's email address in ROSI.

25. The University's *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining a current and valid postal address and email account on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

26. The onus of proof is on the University to demonstrate that it provided the Student with reasonable notice of the hearing.

27. In this case, the University provided reasonable notice to the Student. The Student provided the University with a mailing address, email address, and phone numbers. The office of Assistant Discipline Counsel utilized all these means of communication to try and contact the Student, all to no avail.

28. The Notice of Virtual Hearing had been served on the Student by email on November 29, 2023, and again on December 13, 2023, when there was a change in panel members. Someone last logged into the email account of the Student, using an ID and password presumably known only to the Student on January 3, 2024, at which time the Student would have been able to read the Notice of Virtual Hearing and would have known that the hearing was to take place over Zoom on January 16, 2024.

29. For these reasons the Tribunal finds that reasonable notice has been given to the Student by valid means of service, and the Student has failed to attend the hearing via Zoom. The Tribunal therefore determined it would proceed to hear the case on its merits in the absence of the Student, and the hearing proceeded on the basis that the Student was deemed to deny the charges made against them.

B. The Charge and Particulars

30. The Charges and Particulars were detailed in a letter dated October 19, 2023, and are set out below:

1. On or about July 27, 2021, you knowingly represented as your own an idea or expression of an idea or work of another in a paper you submitted in POLB72 (the “Course”), contrary to section B.I.1(d) of the Code.
2. In the alternative, on or about July 27, 2021, you knowingly obtained unauthorized assistance in connection with a paper you submitted in the Course, contrary to section B.I.1(b) of the Code.
3. In the further alternative, on or about July 27, 2021, 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 a paper you submitted 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 Summer 2021, you enrolled in the Course.
3. On or about July 27, 2021, you submitted a paper in the Course, entitled “essay.doc”, which was worth 40% of your final grade in the Course (the “Essay”).
4. You submitted the Essay:
 - (a) to obtain academic credit;
 - (b) knowing that it 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 authors of the following articles:
 - (i) Gardner, David, “Thomas Hobbes and Niccolo Machiavelli: A Comparison”, E-International Relations (2010 Sep 1), online: <https://www.e-ir.info/2010/09/01/thomas-hobbes-and-niccolo-machiavelli-a-comparison/>

(ii) Stewart, Duncan, “Thomas Hobbes”, The Stanford Encyclopedia of Philosophy (Spring 2021 Edition), Edward N. Zalta (ed.), online: <https://plato.stanford.edu/archives/sum2022/entries/hobbes/>

(iii) Williams, Garrath, “Thomas Hobbes: Moral and Political Philosophy”, Internet Encyclopedia of Philosophy, online: <https://iep.utm.edu/hobmoral/> (the “Sources”)

(c) knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the Sources.

5. By taking ideas, expressions of ideas or work from the Sources or other third parties without appropriate attribution, you knowingly obtained unauthorized assistance from the Sources or other third parties in connection with the Essay.

6. You knowingly submitted the Essay 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.

C. The Evidence

31. The University filed the Affidavit evidence of Professor Margaret Kohn affirmed on January 4, 2024. Professor Kohn is a Professor and the Graduate Chair in the Department of Political Science at the University of Toronto Scarborough (“UTSC”).

32. One of the courses offered by the Department of Political Science in Summer 2021 was POLB72H3Y: Introduction to Political Theory (the “Course”). The Course was taught online by Dr. Igor Shoikhedbrod, who no longer works at UTSC.

33. The Student was a student in the Course.

34. The Course syllabus informed students that they “should familiarize themselves with the university’s policy on plagiarism. Plagiarism is a serious academic offence and will be dealt with accordingly.” Students were instructed to read the University of Toronto’s policy on plagiarism and provided with a link to the UTSC Academic Advising & Career Centre plagiarism tutorial. Finally, the syllabus noted that if students had “any doubts about whether [they were] committing plagiarism, [they should] please inquire with [their] instructor and/or teaching assistant(s).”

The Essay

35. Students in the Course were evaluated on the basis of, among other things, a 1,500-word comparative essay due on July 27, 2021. The essay was worth 40% of the final grade in the Course.

36. Students were instructed to write an essay response to one of two comparative questions or prompts. The instructions also reminded students that this was not a research essay and that they were prohibited from using secondary texts or sources. This is an exegetical essay and not a research essay. Exegesis is the careful reading and interpretation of texts. Students were told: “You should write your exegesis using only the required course text. We are not looking for some other author’s reading of the assigned texts; we are looking for your reading of the texts. No secondary texts or sources are to be used.”

[Emphasis in original]

37. Under “Required Course Text & Bibliography”, the instructions for the essay reiterated that references were to come “only” (emphasis in original) from the Course text, Michael L. Morgan (ed.), “Classics of Moral and Political Theory”, 5th ed (Indianapolis: Hackett, 2011). The instructions stated: “No other sources are to be used.”

38. The Student submitted their essay on or around July 27, 2021 (the “Essay”). The Essay did not cite any sources.

39. The Essay was submitted to Turnitin, a website which detects plagiarism. Turnitin flagged the Essay with a 61% similarity index to other sources in the Turnitin database. Turnitin identified a number of passages from the Essay that were identical or near identical to the text of two online sources, neither of which were the Course text, the only permitted source:

(a) David Gardner, “Thomas Hobbes and Niccolo Machiavelli: A Comparison”, E-International Relations (2010 Sep 1), online: <https://www.e-ir.info/2010/09/01/thomas-hobbes-and-niccolo-machiavelli-a-comparison/>; and

(b) Williams, Garrath, “Thomas Hobbes: Moral and Political Philosophy”, Internet Encyclopedia of Philosophy, online: <https://iep.utm.edu/hobmoral/>

40. Dr. Shoikhedbrod, the Course instructor, submitted a report attaching the Turnitin report and alleging that an academic offence had occurred. In her capacity as Chair, Professor Kohn reviewed the allegation and report and agreed with Dr. Shoikhedbrod's conclusion that several sentences from the Essay appeared to have been taken verbatim or near verbatim from the online sources identified by Turnitin. In her affidavit, Professor Kohn provided side by side examples of identical or near identical wording from the sources and the Student's essay.

41. A third source document, Stewart, Duncan, "Thomas Hobbes", The Stanford Encyclopedia of Philosophy (Spring 2021 Edition), Edward N. Zalta (ed.), online: <https://plato.stanford.edu/archives/sum2022/entries/hobbes/> was later identified as also containing text that was identical or near identical to passages from the Essay. Once again, in her Affidavit, Professor Khon provided a side-by-side comparison of the wording of the essay and the Duncan article showing that they were nearly identical.

42. Based on the extensive overlap between the Essay and the three online sources described above, Professor Kohn believed that the Essay constitutes plagiarism and referred the matter to the Office of the Dean and Vice-Principal (Academic) at UTSC for further action.

D. Decision of the Tribunal

43. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student.

44. The Student was charged with an offence under section B.I.1(d) of the Code, because they knowingly represented as their own an idea or expression of an idea or work of another.

45. The submission of Assistant Discipline Counsel is that the evidence shows on a balance of probabilities that the Student plagiarised from the sources to complete the essay. The amount and nature of overlap between the essay and the sources is too extensive to be a coincidence. The Student must have known that they were representing the work of others as their own.

46. The Tribunal finds that there is no other reasonable explanation for the preparation of the essay. The Student clearly cut and pasted extensive passages from three sources with minor editing and grammatical changes. There is no originality to the Student's work. The course

syllabus clearly stated that no outside sources were to be used. The Student clearly violated that direction. The Student is guilty of plagiarism, contrary to section B.I.1(d) of the Code.

E. Penalty

47. The matter continued with a hearing on the appropriate sanction. The University requested that the Tribunal make an order that the Student be given a mark of zero in the course, a suspension from the University for two years and a notation on their transcript for three years.

48. Appendix “C” to the Code provides guidance to students on sanctions. Where a finding of guilt has been made contrary to the Code, where there have been no prior offences a student should expect to receive a zero in the course, a two-year suspension and a three-year notation. The University filed several authorities dealing with similar offences involving plagiarism. Assistant Discipline Counsel referred to ten decisions of this Tribunal. In nine of those decisions a two-year suspension was made. In the tenth case the suspension was three years. There are no exceptional circumstances that would warrant deviating from a two-year suspension and three-year notation in this case.

49. In addition, Assistant Discipline Counsel reviewed the Mr. C. factors, *University of Toronto v. Mr. C.* (Case No. 1976/77-3, November 5, 1976) and applied them to the present case in relation to the proposed sanction. Here, the Student has not engaged in the discipline process in any way. The Student has not responded to any communications from Assistant Discipline Counsel or her office. The Student did not attend the hearing. Regarding character, there is no evidence of remorse, nor any evidence that the Student will not reoffend. There is no evidence of extenuating circumstances. Because of the Student’s failure to attend the hearing, the Tribunal has been provided with no comfort that the Student has reflected or reassessed their behaviour, or has insight into their conduct.

50. Regarding the nature of the offence, Assistant Discipline Counsel submitted that the plagiarism is an offence of the utmost seriousness. As stated in the *University of Toronto v. F.A.* (Case No. 766, June 16, 2015) at para 37, plagiarism “undermines the relationship of trust, learning and teaching between all students and the University. The grave threat that plagiarism poses to the core of academic integrity warrants a strong penalty. In addition, the sanction must serve as an effective general deterrent to others, as plagiarism is an ongoing and significant issue

for the University.” Finally, there is a need for general deterrence of this conduct. See the *University of Toronto v. B.C.* (Case No. 697, January 17, 2014 (Sanction)) at para 14, “[p]lagiarism is a serious offence. It strikes at the heart of the integrity of academic work, and cannot be tolerated by an academic institution. Students know this.”

F. Conclusion

51. The Tribunal finds that the Student is guilty of the academic offence of plagiarism, contrary to section B.I.1(d) of the Code.

52. The Tribunal makes the following Order:

1. The hearing may proceed in the absence of the Student;
2. The Student is guilty of one count of plagiarism, contrary to section B.I.1(d) of the Code;
3. The following sanctions shall be imposed on the Student:
 - i. a final grade of zero in POLB72H3Y in Summer 2021;
 - ii. a suspension from the University for two years from the date of the order;
and
 - iii. a notation of the sanction on the Student’s academic record and transcript for three years from the date of the order.
4. 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 19th day of March 2024

Original signed by:

Simon Clements, Chair

On behalf of the Panel