

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on January 21, 2016,

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*

BETWEEN:

UNIVERSITY OF TORONTO

- and -

S [REDACTED] L [REDACTED]

REASONS FOR DECISION

Hearing Date: June 20, 2016

Members of the Panel:

Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Ann Tourangeau, Faculty Panel Member
Ms. Vassilia (Julia) Al Akaila, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Alex Redinger, Student-at-law, Downtown Legal Services
Ms. Kasha Visutskie, Academic Integrity Officer, Faculty of Arts and Science

In Attendance:

Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances,
University of Toronto

Ms. S [REDACTED] L [REDACTED], Student

1. The Trial Division of the University Tribunal was convened on June 20, 2016, to consider charges brought by the University of Toronto (the "University") against Ms. S [REDACTED] L [REDACTED] (the "Student") under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 (the "Code").

The Charges and Particulars

2. The Charges and Particulars alleged against the Student are as follows:
 1. On or about April 30, 2015, you 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 any such forged, altered or falsified document, namely, a Petition which you submitted to request a deferred examination in NEW280Y1Y ("NEW280 Petition"), contrary to Section B.I.1(a) of the Code.
 2. On or about April 30, 2015, you 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 any such forged, altered or falsified document, namely, a copy of a funeral home webpage which you submitted in support of your NEW280 Petition, contrary to Section B.I.1(a) of the Code.
 3. On or about April 30, 2015, you 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 any such forged, altered or falsified document, namely, a letter which you submitted in support of your NEW280 Petition, contrary to Section B.I.1(a) of the Code.
 4. In the alternative to each of the charges in paragraphs 1, 2 and 3 above, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in NEW280Y1Y, contrary to section B.I.3(b) of the Code.

5. On or about August 24, 2015, you 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 any such forged, altered or falsified document, namely, a Petition which you submitted to request a deferred examination in ITA100Y1Y ("ITA100 Petition"), contrary to Section B.I.1(a) of the Code.

6. On or about August 24, 2015, you 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 any such forged, altered or falsified document, namely, a copy of a funeral home webpage which you submitted in support of your ITA100 Petition, contrary to Section B.I.1(a) of the Code.

7. On or about August 24, 2015, you 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 any such forged, altered or falsified document, namely, a letter which you submitted in support of your ITA100 Petition, contrary to Section B.I.1(a) of the Code.

8. In the alternative to each of the charges in paragraphs 5, 6 and 7 above, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in NEW280Y1Y, contrary to section B.I.3(b) of the Code.

A. Particulars

9. At all material times you were a student at the University of Toronto.

10. On April 30, 2015, you submitted the NEW280 Petition requesting the opportunity to write a deferred final examination in NEW280Y1Y.

11. As part of the NEW280 Petition, the University of Toronto required you to provide a petition form, a written statement to explain your need for the petition assistance, and to provide supporting documentation to confirm your stated reason for missing the final exam in NEW280Y1Y.

12. In your petition form, and in the written statement from you that accompanied it, you indicated that your reason for missing the NEW280 final exam and needing to write a deferred exam was because your paternal grandfather [REDACTED] had died on April 13, 2015, and that you had attended his funeral visitation at the time of the NEW280 final exam. To document this claim, you attached a printout of a funeral home webpage providing visitation and funeral service details for [REDACTED] [REDACTED] [REDACTED] [REDACTED] Obituary”).

13. You altered or falsified the information contained in the [REDACTED] [REDACTED] Obituary. You knew that the [REDACTED] [REDACTED] Obituary had been forged, altered or falsified and contained false information when you submitted it to the University.

14. On August 24, 2015, you submitted the ITA100 Petition requesting the opportunity to write a deferred final examination in ITA100Y1Y.

15. As part of the ITA200 Petition, the University of Toronto required you to provide a petition form, a written statement to explain your need for the petition assistance, and to provide supporting documentation to confirm your stated reason for missing the final exam in ITA100Y1Y.

16. In your petition form, and in the written statement from you that accompanied it, you indicated that your reason for missing the ITA100 final exam and needing to write a deferred exam was because your paternal grandmother [REDACTED] [REDACTED] had died on August 11, 2015, and that you had attended her funeral visitation at the time of the ITA100 final exam. To document this claim, you attached a printout of a funeral home webpage providing visitation and funeral service details for [REDACTED] (“[REDACTED] Obituary”).

17. You altered or falsified the information contained in the [REDACTED] Obituary. You knew that the [REDACTED] Obituary had been forged, altered or falsified altered and contained false information when you submitted it to the University.

18. You knowingly submitted the NEW Petition, the ITA Petition, the written statements in support of each, and the [REDACTED] Obituary and the [REDACTED] Obituary:

- a. understanding that the University of Toronto required evidence to be presented in the form of a petition in order to grant a deferral of each of the NEW280 final exam and the ITA100 final exam;
 - b. with the intention that the University of Toronto rely on them in considering whether or not to provide you with the deferred exams you requested; and
 - c. in an attempt to obtain an academic advantage in each of NEW280Y1Y and ITA100Y1Y.
3. The Member admitted Charges 1, 2, 3, 5, 6, and 7. In light of the Member's admissions (which the Tribunal accepted), the University sought and obtained leave to withdraw the alternative Charges 4 and 8.

The Evidence

4. The evidence before the Tribunal was presented by an Agreed Statement of Facts, which provided as follows.

1. This hearing arises out of charges of academic misconduct filed by the Provost of the University of Toronto (the "Provost") under the *Code of Behaviour on Academic Matters* ("Code"). For the purposes of this hearing, the Provost and S [REDACTED] L [REDACTED] ("Ms. L [REDACTED]") have prepared this Agreed Statement of Facts ("ASF") and a joint book of documents ("JBD"). The Provost and Ms. L [REDACTED] agree that:

- (a) each document contained in the JBD may be admitted into evidence at the Tribunal for all purposes, including to prove the truth of the document's contents, without further need to prove the document; and

- (b) if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.

Notice of hearing

2. Ms. L [REDACTED] admits that she received reasonable notice of the hearing. The notice of hearing is included in the JBD at Tab 1.

Charges and guilty plea

3. Ms. L [REDACTED] admits that she received a copy of the charge [REDACTED] filed by the Provost on January 21, 2016, which are found at JBD Tab 2. Ms. L [REDACTED] waives the reading of the charges filed against her, and pleads guilty to all 8 charges filed by the Provost.

4. If the Tribunal convicts Ms. L [REDACTED] on charges 1, 2 and 3, the Provost will withdraw the alternative charge 4, and if the Tribunal convicts Ms. L [REDACTED] on charges 5, 6 and 7, the Provost will withdraw the alternative charge 8.

5. Ms. L [REDACTED] first enrolled at the University of Toronto in Fall 2011. At the end of the Fall 2015 term she had accumulated 12.5 credits with a cumulative GPA of 2.21. A copy of Ms. L [REDACTED]'s academic record, dated June 20, 2016, is found in the JBD at Tab 3.

6. At all material times, Ms. L [REDACTED] was a student member of the University of Toronto, within the meaning of the *Code of Behaviour on Academic Matters*. Ms. L [REDACTED] acknowledges that the University Tribunal has jurisdiction over her and that the *Code of Behaviour on Academic Matters* applies to her conduct.

7. In Fall 2014/Winter 2015 Ms. L [REDACTED] was enrolled in NEW280Y1Y (the "NEW Course"). A copy of the NEW Course syllabus is found in the JBD at Tab 4.

8. Students in the NEW Course were required to write a final exam worth 30% of their final mark in the NEW Course on April 16, 2015. Ms. L [REDACTED] did not write the final exam in the NEW Course on April 16, 2015.

Petition filed on April 30, 2015

9. On April 30, 2015,, Ms. L [REDACTED] filed a petition to the Committee on Standing at the University of Toronto Faculty of Arts and Science ("Committee") in which she requested the opportunity to write a first deferred final exam in the NEW Course ("NEW Petition"). A copy of the NEW Petition file is included in the JBD at Tab 5.

10. By filing her NEW Petition, Ms. L [REDACTED] affirmed that she had provided accurate and complete information with the petition.

11. Attached to Ms. L [REDACTED]'s NEW Petition was:

(a) a personal letter citing her grandfather's passing on April 13, 2015, followed by a viewing/visitation on April 16 from 5:00 p.m. to 8:00 p.m., and a funeral mass the following day; and

(b) a screenshot of a webpage from R.S. Kane Funeral Home "In Memory of [REDACTED] L [REDACTED] 2015", containing a photo and particulars of the death of [REDACTED] [REDACTED] on April 13, 2015, a visitation on April 16, 2015, 5:00 p.m. – 8:00 p.m., and a service on April 17, 2015 ("April 2015 Funeral Home Webpage").

12. The University accepted the supporting documents provided by Ms. L [REDACTED] [REDACTED] without confirming their authenticity, and granted Ms. L [REDACTED]'s request to write a deferred exam during the August exam period in the NEW Course.

13. Ms. L [REDACTED] wrote the deferred final exam in the NEW Course on August 13, 2015 at 7:00 p.m.

14. Ms. L [REDACTED] admits that she filed her petition knowing that it contained false information about her grandfather's death, when her grandfather did not die as described and there was no visitation of funeral for him as suggested by the supporting documents provided by Ms. L [REDACTED] with her NEW Petition.

15. Ms. L [REDACTED] further admits that she used information, including a photo, from an online funeral notice for [REDACTED] to prepare a false funeral notice in the April 2015 Funeral Home Webpage. A copy of a screenshot of a Funeral Home webpage for [REDACTED] [REDACTED] [REDACTED] is found in the JBD at Tab 6.

16. Ms. L [REDACTED] admits that she knowingly forged and falsified the April 2015 Funeral Home Webpage, and the information contained in her letter to the Registrar's and Petition office, and circulated those documents to support her request for an academic advantage.

Petition filed in August 2015

17. In Summer 2015 Ms. L [REDACTED] enrolled in ITA100Y1Y ("ITA Course"). A copy of the ITA Course syllabus is found in the JBD at Tab 7.

18. Students in the ITA Course were required to write a final exam worth 45% of their final mark in the ITA Course on August 13, 2015 from 2:00 p.m. to 5:00 p.m.

19. Ms. L [REDACTED] did not attend to write the final exam in the ITA Course on August 13, 2015.

20. On August 24, 2015, Ms. L [REDACTED] submitted a petition to the Committee seeking permission to write a deferred final examination in the ITA Course ("ITA Petition"). A copy of the petition file is included in the JBD at Tab 8

21. By filing her ITA Petition, Ms. L [REDACTED] affirmed that she had provided accurate and complete information with her petition.

22. Ms. L [REDACTED] stated in the personal statement accompanying her ITA Petition that:

...I missed my ITA100Y1 Y-Intro to Italian final examination on Thursday, August 13th, 2015 at 2:00-5:00 pm due to the death of my grandmother [REDACTED]. My grandmother from my father's side passed away Tuesday August 11th, 2015 and I attended her funeral viewing on Thursday August 13th, 2015 from 1:00-4:00 pm in Ajax, Ontario.

I also had another exam the same day on August 13th from 7:00-10:00 pm that I did write and did not miss because I was able to make it downtown in time to write that exam. I only missed the earlier afternoon ITA100Y1 exam due to time conflicts with the funeral viewing.

Her death has not yet been registered, therefore I am unable to provide a Death Certificate. However, my college Registrar informed me that it was acceptable to provide an Obituary/Funeral Notice instead. Therefore, I

provided a printed copy of my grandmother's *In Memoriam/Obituary* from the funeral home.

Therefore, I now unfortunately find myself resorting to filing a petition and I apologize immensely for requesting to do so. ...

23. In support of this ITA Petition, Ms. L [REDACTED] also submitted a screenshot of an Obituary for [REDACTED] [REDACTED] January 20, 1931-August 11th, 2015" ("Obituary"). Included in the Obituary was a photo, and a reference to the fact that [REDACTED] is survived by her husband: [REDACTED] ..." and "She was a proud grandmother to grandchildren ... S [REDACTED]" Funeral details were provided, including for a visitation on August 13th, 2015 from 1:00-4:00 pm.

24. The University did not accept the documents provided by Ms. L [REDACTED] in the ITA Petition, given that the Obituary provided in support of the ITA Petition referred to [REDACTED] [REDACTED]'s surviving husband [REDACTED] when Ms. L [REDACTED] had previously cited [REDACTED] [REDACTED]'s death in her NEW Petition.

25. Ms. L [REDACTED] further admits that she used information, including a photo, from an online obituary for [REDACTED] to prepare a false Obituary purporting to be about her paternal grandmother. A copy of a screenshot of an Obituary for [REDACTED] [REDACTED] is found in the JBD at Tab 9.

26. Ms. L [REDACTED] admits that she filed her ITA Petition knowing that it contained false information, and that she knowingly forged and falsified the Obituary and included false information in her accompanying personal statement, and circulated those documents to obtain an academic advantage.

General Admissions

27. With respect to all of the false information, forged or falsified documents that Ms. L [REDACTED] provided to the University, Ms. L [REDACTED] admits that she knowingly sent this false information:

- (a) in order to obtain an academic advantage;
- (b) to mislead the Committee and others at the University; and

- (c) expecting that the Committee would rely on this information to its detriment and would provide her with an academic advantage.

28. On November 24, 2015, Ms. L [REDACTED] met with Professor Donald Dewees, Dean's Designate for Academic Integrity, to discuss the allegations that she had violated the *Code of Behaviour on Academic Matters*. During this meeting, Ms. L [REDACTED] admitted that she had committed the academic offences described above.

29. Ms. L [REDACTED] acknowledges that she is signing this ASF freely and voluntarily, knowing of the potential consequences she faces. Ms. L [REDACTED] acknowledges that the Provost has provided her with no assurances regarding what sanction she may request the Tribunal to impose in this case.

Decision of the Tribunal on the Charges

5. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that one or more of the academic offences charged has been committed by the Student.
6. In this case, the Student admitted to 6 of the Charges. The Tribunal was satisfied that the Student's admissions were voluntary, informed and unequivocal. Further, the evidence contained in the Agreed Statement of Facts and accompanying documents clearly proved the admitted Charges.
7. In light of the Tribunal's finding, Charges 4 and 8 were withdrawn by the University.

Decision of the Tribunal on Penalty

8. There was some additional evidence on penalty, also admitted by way of an Agreed Statement of Facts on Penalty, which asked the Tribunal to accept as true the following additional facts:

1. Ms. L [REDACTED] was employed by Guildwood Village Animal Clinic, in Scarborough, from September 29 2013 to July 25 2015.
 2. Ms. L [REDACTED]'s employment at Guildwood Village Animal Clinic totalled 88.91 hours of work overall.
 3. Ms. L [REDACTED] was employed by Malvern Veterinary Hospital, in Scarborough, from February 24 2015 to April 30 2015.
 4. Ms. L [REDACTED]'s employment at Malvern Veterinary Hospital totalled 103.75 hours of work overall.
 5. Ms. L [REDACTED] was employed by Highland Creek Animal Clinic, in Toronto, from July 3 to August 15 2015.
 6. Ms. L [REDACTED] was employed by the Canadian National Exhibition Association ("CNE"), in Toronto, from August 2 2015 to September 7 2015.
 7. From August 2 to August 20 2015, Ms. L [REDACTED] worked for the CNE 6 days per week.
 8. From August 21 to September 7 2015, Ms. L [REDACTED] worked for the CNE 7 days per week.
 9. Ms. L [REDACTED]'s employment at the CNE totalled 157 hours of work overall.
9. There was a joint submission on penalty, in which both parties requested that this panel make an order as follows:
- (a) a final grade of zero in each of:
 - (i) NEW280Y1Y in the 2014 Fall and 2015 Winter term, and
 - (ii) ITA100Y1Y in the 2015 Summer term;

- (b) a four year suspension from the University to commence June 20, 2016, and to end June 19, 2020; and
 - (c) a notation of the sanction on her academic record and transcript to remain for five years until June 19, 2021.
10. The parties also submitted that it would be appropriate for the Tribunal to report this case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with the name of the student withheld.
11. The Tribunal considered the principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). While the determination of an appropriate penalty in every case by the Tribunal will depend on an individual assessment of these principles and factors, it is important to have general consistency in the Tribunal's approach to sanction so that students are treated fairly and equitably.
12. The Tribunal considered the factors and principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976).
- (a) The character of the Student: the Student attended at the hearing and made admissions of misconduct. She made these admissions to the Dean's Designate and to this Tribunal. The Tribunal recognizes these admissions are a sign the Student now takes responsibility for her misconduct. The Tribunal also recognizes that the Student had various part-time jobs at the time she engaged in this misconduct.
 - (b) The likelihood of a repetition of the offence: the Tribunal was concerned that the six admitted Charges involved not just one but two separate incidents of deliberate deception. A significant penalty is required to ensure specific deterrence.

- (c) The nature of the offence committed: this was a deliberate, careful, detailed, and repeated fabrication of documents, undertaken for the sole purpose of misleading the University and gaining academic advantage. The Student was initially successful in deceiving the University. It was only when she dared to repeat the offence that she was caught.
- (d) Any extenuating circumstances surrounding the commission of the offence: the Student's representative submitted that the Student's part-time work provided context for the academic misconduct. He submitted that the Student had significant additional responsibilities through her employment, which added to her commuting burdens. The Tribunal did not rely heavily on this evidence, and did not find it particularly helpful in explaining how and why the Student resorted to her calculated scheme of deception. The Tribunal did consider that this was the Student's first academic offence. The Tribunal accepts that by admitting her misconduct, the Student has shown remorse and responsibility.
- (e) The detriment to the University occasioned by the misconduct: the Student's actions threaten to undermine a laudable and important system of accommodation put in place by the University. By fabricating the deaths of her grandparents, the Student took advantage of the University's accommodation processes in a callous and cynical manner.
- (f) The need to deter others from committing similar offences: deliberate falsification must always be denounced and deterred.
13. In addition to considering the factors from *Mr. C., supra*, the Tribunal considered other cases of this Tribunal in similar circumstances: *University of Toronto and H [REDACTED] K [REDACTED]* (Case No. 775, December 1, 2014); *University of Toronto and M [REDACTED] C [REDACTED]* (Case No. 733, September 11, 2014); *University of Toronto and S [REDACTED] F [REDACTED]* (Case No. 702, April 15, 2013); *S [REDACTED] F [REDACTED] and University of Toronto* (Case No. 690 - Appeal, October 20, 2014); *University of Toronto and S.M.* (Case No. 696, September 12, 2013); *University of Toronto and S [REDACTED]*

A [REDACTED] [REDACTED] A [REDACTED] (Case No. 674, January 25, 2013); and *University of Toronto and P.P.* (Case No. 642, June 10, 2011). These cases show the range of sanctions that have been imposed in cases where students have forged documents in order to obtain academic accommodations. While certain aspects of the sanction are consistent across all cases (a final grade of zero for the affected course or courses), there is some variation in the length of suspension ordered, depending on the particular circumstances of the student and the particular balance of aggravating and mitigating factors. The high end of the range for a suspension is 5 years, and the low end is 2 years. The joint submission proposed by the parties in the present case is fairly within that range.

14. The Tribunal also considered that it ought to defer to joint submissions. While the Tribunal retains the discretion to reject joint submissions in appropriate cases, the fact that adversarial parties have been able to agree on the appropriate sanction is a good indication in and of itself that the appropriate balance of interests has occurred. The Tribunal found the proposed sanction was in the range of sanctions imposed in other cases, and was fair and reasonable in light of the factors and principles relating to sanctions generally.
15. In all of the circumstances, and with regard to the factors identified in the C. case, the Tribunal is satisfied that the following Order is appropriate:
 1. **THAT** Ms. L [REDACTED] is guilty of six counts of forgery contrary to section B.I.1(a) of the *Code of Behaviour on Academic Matters*;
 2. **THAT** Ms. L [REDACTED] receive a final grade of zero in each of:
 - (a) NEW280Y1Y in 2014 Fall and 2015 Winter term, and
 - (b) ITA100Y1Y in the 2015 Summer term;

3. **THAT** Ms. L [REDACTED] be suspended from the University for a period of four years, commencing on June 20, 2016 and ending on June 19, 2020;
4. **THAT** the sanction be recorded on Ms. L [REDACTED]'s academic record and transcript to the effect that she was sanctioned for academic misconduct for a period of 5 years, commencing on June 20, 2016 and ending on June 19, 2021; and
5. **THAT** this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the student withheld.

Dated at Toronto this 16th day of August, 2016



Ms. Johanna Braden, Panel Chair