

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on February 5, 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 -

B [REDACTED] [REDACTED] D [REDACTED]

REASONS FOR DECISION

Hearing Date: June 12, 2017

Members of the Panel:

Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Ernest Lam, Faculty Panel Member
Mr. Sean McGowan, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Robert Sniderman, Student-at-law, Downtown Legal Services

In Attendance:

Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, Office of the Dean, U of T, Mississauga
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
Ms. Clara Ryu, Student-at-law, Downtown Legal Services (observer)

Not in Attendance

Ms. B [REDACTED] [REDACTED] D [REDACTED], the Student

1. The Trial Division of the University Tribunal was convened on June 12, 2017, to consider charges brought by the University of Toronto (the “University”) against Ms. B [REDACTED] D [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.

Charges

1. On or about July 16, 2014, 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 Test #2, which you submitted in support of your request for remarking in MGT120H5 (“Accounting Course”), contrary to Section B.I.1(a) of the *Code*.

2. In the alternative to paragraph 1, by submitting Test #2 in the Accounting Course, 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.

3. On or about March 18, 2015, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in a paper titled “EAB – House Arrest” (“Paper”) which you submitted for academic credit in SOC209H5 (“Law Course”), contrary to section B.I.1(d) of the *Code*.

4. In the alternative to paragraph 3, by submitting the Paper in the Law Course 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.

Particulars

The particulars of the offences charged are as follows:

5. At all material times you were a student registered at the University of Toronto Mississauga.

MGT120H5

6. In Summer 2014, you enrolled in the Accounting Course, which was taught by Professor Seguin.

7. On or about June 12, 2014, you wrote Test #2.

8. You received a mark of 14/45 on Test #2.

9. On or about July 16, 2014, you submitted a document to Professor Seguin for remarking which you claimed was your Test #2. You claimed that there was an addition error on the front page and that you were entitled to an additional six marks.

10. You forged or altered Test #2 and resubmitted that forged or altered document as your resubmitted Test #2.

11. You knew that the resubmitted Test #2 had been forged or altered and contained false information when you submitted it.

12. You knowingly submitted the resubmitted Test #2:

(a) understanding that the University of Toronto required evidence to be presented in order to obtain the additional marks you sought;

(b) with the intention that the University of Toronto rely on it in considering whether or not to provide you with the additional marks you requested; and

(c) in an attempt to obtain an academic advantage.

SOC209H5

13. In Winter 2015 you enrolled in the Law Course.

14. On or about March 18, 2015, you submitted the Paper in partial completion of the Course requirements.

15. You submitted the Paper knowing that it contained ideas, the expressions of ideas, and verbatim or nearly verbatim text from articles (the "Sources"), including but not limited to:

(a) "Studying the Characteristics of Arrest Frequency Among Paroled Youthful Offenders" downloaded at jrc.sagepub.com

(b) "Race and Probability of Arrest" found at:
<http://sf.oxfordjournals.org/content/81/4/1381.short>

(c) "Neighborhood Drug Arrest Rates: Are They A Meaningful Indicator of Drug Activity? A Research Note" found at:
<http://jrc.sagepub.com/content/40/2/123.abstract>

(d) "Examining Diffusion and Arrest Avoidance Practices Among Johns" downloaded from cad.sagepub.com

(e) "Psychiatric Hospital Capacity, Homelessness, and Crime and Arrest Rates" found at
<http://www.altmetric.com/details.php?domain=onlinelibrary.wiley.com&doi=10.1111/j.1745-1925.2006.00042.x>

16. You knowingly represented the work of another person, or persons, as your own, and you knowingly included ideas and expressions that were not your own, but were the ideas and expressions of other persons, which you did not acknowledge in the Paper.

17. For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in the Paper.

The Student's Plea

3. The Student was not present, apparently because a family member had become seriously ill. She was represented by Downtown Legal Services. Through her representative, the Student admitted charges 1 and 3. These admissions were reflected in a written Agreed Statement of Facts, which had been signed by the Student. With the permission of the Tribunal, the University withdrew the alternative charges 2 and 4.

The Evidence

4. The evidence before the Tribunal was presented by an Agreed Statement of Facts. The key portions are reproduced here without the documents referred to therein.

MGT120H5

1. In the 2014 Summer term, the Student enrolled in MGT120H5 – Financial Accounting, which was taught by Professor Catherine Seguin (“Accounting Course”). Students in the Accounting Course were required to obtain a mark of 63% to meet the requirements for entry into the Commerce Program.

2. A copy of the course outline for the Accounting Course (“Accounting Course Outline”) is included in the JBD at Tab 4. The Student admits that she received a copy of the Accounting Course Outline.

3. The academic requirements for the Course included two term tests, each worth 25% of the Accounting Course mark. The Accounting Course Outline advised students that:

- Term tests will be returned and taken up in the tutorial following the test on June 3rd for Test #1 and June 17th for Test #2. Papers taken out of the tutorial classroom will NOT be remarked.

- Solutions to both term tests will be posted on the web soon after it is written. ... Students must bring a copy of the solutions with them to their tutorial the week following the test ...

4. The Student wrote Term Test #2 on June 12, 2014. Term Test #2 consisted of thirteen multiple choice questions – Part A, and three problems – Parts B, C and D. The front page of Term Test #2 again reminded students that the test would be handed back and the marking key taken up on June 17 (“Tutorial”), and that papers would not be accepted for remarking if taken out of the Tutorial classroom. A copy of the Student’s Test #2 is included in the JBD at Tab 5.

5. Term Test #2 was marked by three Teaching Assistants, with Part A marked by M.S, Part B marked by A.N, and Parts C and D marked by R.T.H.N. A.N. also double-checked the addition of the total marks on the front page of the tests.

6. Term Test #2 and its solutions were posted to Blackboard on June 16, 2014. A screenshot of the Blackboard post is included in the JBD at Tab 6.

7. The Student attended the Tutorial on June 17, 2014 where the solutions for Term Test #2 were reviewed and discussed. She spoke with the tutorial assistant A.N. at length at that Tutorial about finding additional marks in her test paper.

8. On July 2, 2014, the Student sent an email to A.N. asking when the final marks for the Accounting Course final exam would be available. She told him that she had done very badly on Term Test #2, receiving a mark of 32, and that in order to get the required mark of 63 in the Accounting Course to permit her to meet the Commerce entry requirement she needed a 75% on the final exam in the Accounting Course. She asked A.N. if there was any way she could get 63% in the Accounting Course. A.N. responded that she would need to speak to Professor Seguin as she was the only person who could increase her grade. The Student then asked A. N. to put in a good word for her with Professor Seguin. A copy of that email correspondence between the Student and A.N. starting on July 2, 2014 is included in the JBD at Tab 7.

9. The Student sent a similar email to Professor Seguin on July 3, 2014, explaining that she really needed to get 63% in the Accounting Course. The email exchange

between the Student and Professor Seguin on July 3 and 4, 2014 is included in the JBD at Tab 8.

10. On July 12, 2104, the Student sent another email to Professor Seguin in which she indicated that her mark for Term Test #2 had been entered incorrectly “as it was not added up right on the front page”. She asked if it could be fixed. Professor Seguin asked the Student to drop off her Term Test #2 for a re-check. A copy of the Student’s email correspondence with Professor Seguin on July 12, 2014 and Professor Seguin’s response of July 14, 2014 is included in the JBD at Tab 9.

11. The Student then advised Professor Seguin that she was leaving the country and asked if she could send a scanned copy of her Term Test #2. Professor Seguin told her she would need to see the original hard copy, and asked her why she hadn’t brought the mark issue up at the Tutorial. The Student responded that she was in a rush and hadn’t looked over the test properly while at the Tutorial. A copy of the email exchange between the Student and Professor Seguin on July 14 and 15, 2014 is included in the JBD at Tab 10.

12. The Student submitted her Term Test #2 for re-marking on July 16, 2014, together with a handwritten note written by her (“Note”). The Note claimed that the Student’s mark for the multiple choice questions in Part A should have been 8 rather than 6, and that 4 marks had not been counted in Part C. A copy of the Note is included in the JBD at Tab 11.

13. After learning from A.N. that he had spoken at length with the Student at the Tutorial about the possibility of additional marks, Professor Seguin told the Student that she would not accept her Term Test #2 for re-marking.

14. The Student advised Professor Seguin that she believed A.N. was mistaken, and denied having spoken with him at the Tutorial. She further attempted to clarify that she wasn’t claiming that she had “earned more marks in a certain place, there is just an addition error that needs to be corrected”. A copy of this email from the Student on July 17, 2014 is included in the JBD at Tab 12.

15. The Student also contacted A.N. on July 17, 2014, and suggested that their conversation about additional marks had taken place after Term Test #1, and not after Term Test #2. She told him that “after the second test we did not have any conversation”, and asked him to “please try to remember that and let the professor know”. A copy of the Student’s email of July 17, 2014 to A.N. is included in the JBD at Tab 13.

16. Professor Seguin asked each of the 3 TAs who had marked Term Test #2 to review the Student’s term test #2 paper to confirm whether or not the handwriting on the Student’s paper was their handwriting. Each of them denied that it was theirs. Professor Seguin further compared the ink used by and the handwriting of the markers on seven other students’ Term Test #2 papers, and concluded that these were not the same as those on the Student’s re-submitted paper.

17. A chart showing the Student’s marks in the Accounting Course is included in the JBD at Tab 14.

18. The Student was invited to attend a meeting with the dean’s designate on November 10, 2014 to discuss an allegation that she had altered answers on her marked Term Test #2 and then submitted it for re-marking in an attempt to gain extra marks. That meeting was rescheduled to February 27, 2015 at the Student’s request. In January, 2015, the Student retained Downtown Legal Services, and the meeting was rescheduled again to March 6, 2015.

19. The Student attended a meeting with the Dean’s Designate on March 6, 2015. At that time she admitted that she had obtained a blank copy of Term Test #2 from Blackboard and had forged her re-submitted Term Test #2 in order to get an additional 3 marks in the Accounting Course, to raise her final mark from 60 to 63. A written statement that the Student provided at that meeting is included in the JBD at Tab 15. A copy of an Admission of Guilt Form signed by the Student on March 6, 2015 at that meeting is included in the JBD at Tab 15A.

20. The Student admits that she knowingly altered her answers to Term Test #2 before resubmitting it for remarking by re-writing it, adding answers and marks that had not been on her term test on June 12, 2014 when the test was written, but which were

added after she received her answer paper back at the Tutorial and the solutions were made available to her. She admits that she did so for the purpose of obtaining an academic advantage in the Course.

21. The Student admits that she forged, altered or falsified and circulated or made use of an altered or falsified Term Test contrary to section B.I.1(a) of the *Code* and that she is guilty of charge #1 of the Charges.

SOC209H5

22. In Winter 2015 the Student enrolled in SOC209H5 – Current Issues in Law and Criminology (“SOC Course”), which was taught by Professor Goodman.

23. The SOC Course evaluations included a requirement that students submit an Expanded Annotated Bibliography which required students to write a critical summary and analysis of six articles chosen by them on a particular topic (“SOC Paper”). The SOC Paper was worth 25% of the final SOC mark. A copy of the course outline for the SOC Course is included in the JBD at Tab 16.

24. Students were given information about expectations of academic integrity, and in particular about plagiarism and writing resources (see page 10 of the SOC Course Outline at Tab 16).

25. On March 18, 2015, the Student submitted her SOC Paper entitled “EAB – House Arrest”. A Turnitin analysis revealed that her SOC Paper had a 40% similarity index. A copy of the Student’s SOC Paper with the Turnitin analysis is included in the JBD at Tab 17.

26. Students in the SOC Course had access to their Turnitin report at the time they submitted their SOC Paper. Students therefore had the opportunity to fix errors with regards to plagiarism after seeing their Turnitin report providing they submitted their SOC Paper early enough to have time to fix any errors.

27. Professor Goodman compared the Student’s SOC Paper against internet sources identified by Google which revealed that the Student’s SOC Paper had

approximately one third or more of the text copied almost verbatim from the articles she had selected to write about. A highlighted copy of the Student's SOC Paper is included in the JBD at Tab 18. Correspondingly highlighted copies of six web articles from which the Student plagiarized portions of her SOC Paper are included in the JBD at Tabs 18A through 18F ("Sources").

28. The Student's total mark in the SOC Course without the SOC Paper was 47.61.

29. The Student attended a meeting with the Dean's Designate to discuss the allegation that she had plagiarized portions of her SOC Paper on November 26, 2015. The Student admitted at that meeting that she had plagiarized her SOC Paper. A copy of an Admission of Guilt form signed at that meeting is included in the JBD at Tab 19.

30. The Student admits that she:

- (a) included verbatim or nearly verbatim excerpts from the Sources in the SOC Paper;
- (b) failed to attribute those verbatim or nearly verbatim excerpts appropriately using citations, quotation marks or other appropriate means;
- (c) represented in the SOC Paper the ideas of another person, the expression of the ideas of another person, or the work of another person as her own; and
- (d) committed plagiarism, contrary to section B.I.1(d) of the *Code*.

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 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 that the Student committed two acts of academic dishonesty.

(a) First, she falsified the marks on her test and then made use of the false test to try to get a better grade in her Accounting Course than she was entitled to. When first confronted she continued to lie and tried to undermine the reliability of a teaching assistant. She soon recanted, and admitted her misconduct. On March 10, 2015, she wrote a letter to be considered in the Dean's Review, where she promised that she would never cheat again.

(b) Despite her promise to never cheat again, on March 18, 2015 - while she awaited the results of the Dean's Review of her falsified test - the Student submitted a paper for her Law Course that was plagiarized in significant respects from multiple sources.

7. In light of the Tribunal's finding, Charges 2, and 4 were withdrawn by the University.

Submissions on Penalty

8. There was a joint submission on penalty, in which both parties requested that the Tribunal make an order including the following sanctions:

(a) A final grade of zero in:

(a) MGT120H5 in the 2014 Summer term; and

(b) SOC209H5 in the 2015 Winter term;

(b) A suspension from the University for a period of three years, commencing on June 13, 2017 and ending on June 12, 2020;

(c) A notation on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct for a period of four years, commencing on June 13, 2017 and ending on June 12, 2021; and

9. 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.

Decision of the Tribunal on Penalty

10. The Tribunal is aware of the value in respecting and deferring 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 balancing of interests has occurred.

11. The Tribunal considered the factors and principles relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). The most significant factors for the Tribunal were as follows.

- (a) The character of the Student: although the Student did not personally attend the hearing, she did have representation and made admissions through her representatives and in writing. The Tribunal recognizes that by admitting her guilt the Student has taken responsibility for her actions and demonstrated remorse. These are her first academic offences.
- (b) The likelihood of a repetition of the offence: the Tribunal was very concerned that the misconduct in this case involved two incidents of dishonesty. The second came on the heels of the first, just after the Student had written a seemingly heart-felt letter claiming to have learned her lesson and promising to never cheat again. A significant penalty is required to ensure specific deterrence for this Student.
- (c) The nature of the offence committed: all academic dishonesty is serious. The falsified test – which the Student tried to resubmit for grading a month after she

had received her mark - shows a degree of calculation and deliberation. She persisted with her lie for some time. The plagiarized paper also shows elements of planning and deliberation. She took from multiple sources that she failed to properly attribute, such that this cannot be explained as an accident, an oversight or even an error in judgment.

- (d) Any extenuating circumstances surrounding the commission of the offence: there was a letter from the Student entitled "Personal Statement", setting out the stress she had been under at home and at school when she falsified her test paper and resubmitted it. The value of this Personal Statement is diminished by the Student's own actions in committing a second act of academic dishonesty a week after she submitted the Personal Statement for the Dean's consideration. The Panel accepts that the Student was under stress, and felt a degree of desperation. However, that is the case for many students who cheat. It does little to mitigate the deliberate and sustained nature of the Student's dishonesty.
- (e) The detriment to the University occasioned by the offence: on this point, the Tribunal was especially troubled by the Student's efforts to drag her teaching assistant into her dishonest scheme to submit a falsified test for remarking.
- (d) The need to deter others from committing similar offences: deliberate dishonesty must always be denounced and deterred in order to protect the academic integrity of the University.

12. In addition to the factors from the *C.* case, the Tribunal considered other cases of this Tribunal in similar circumstances. The University submitted a Book of Authorities including five cases from this Tribunal of offences involving falsified tests submitted for re-grading and plagiarism. No two cases are identical, and the Tribunal is not bound by past decisions. However, the Tribunal strives to develop a consistent body of case law so that students are treated fairly and equitably.

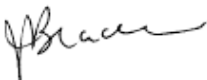
13. The joint submission in this case was squarely within the range of sanctions imposed in similar cases. It does not bring the administration of justice into disrepute and is not

otherwise contrary to the public interest. It strikes a fair balance between the mitigating and aggravating factors.

14. In all of the circumstances, the Tribunal is satisfied that the following Order is appropriate:

1. That the Student is guilty of one count of forgery and one count of plagiarism contrary to sections B.I.1(a) and (d) of the *Code of Behaviour on Academic Matters*;
2. That the Student receive a final grade of zero in:
 - (a) MGT120H5 in the 2014 Summer term; and
 - (b) SOC209H5 in the 2015 Winter term;
3. That the Student be suspended from the University for a period of three years, commencing on June 13, 2017 and ending on June 12, 2020;
4. That the sanction be recorded on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct for a period of four years, commencing on June 13, 2017 and ending on June 12, 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 sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 26th day of July , 2017



Ms. Johanna Braden, Panel Chair