

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on March 10, 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 -

Y ■■■ Y ■■■

REASONS FOR DECISION ON PENALTY

Hearing Date: November 30, 2016

Members of the Panel:

Ms. Johanna Braden, Barrister and Solicitor, Chair
Professor Michael Evans, Faculty Panel Member
Ms. Yusra Qazi, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland, Barristers
Mr. Peter Wuebbolt, Barrister and Solicitor, Counsel for the Student
Ms. Y ■■■ Y ■■■, the Student

In Attendance:

Ms. Krista Osborne, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances
Mr. Sean Lourim, Technology Assistant, Office of the Governing Council
Ms. W ■■■ Z ■■■ (Mother of the Student)

1. On October 19, 2016, the Trial Division of the University Tribunal released its reasons for decision in this matter, finding that the University of Toronto (“the University”) had met the onus on it to prove that on or about August 11, 2015, Ms. Y■■■ Y■■■ (“the Student”) knowingly obtained unauthorized assistance to complete the final deferred examination (the “Exam”) for academic credit in ECO100Y1: Introduction to Economics (the “Course”), contrary to section B.I.1(b) of the *Code*.
2. The essence of the Tribunal’s finding was that during the Exam, the Student had looked at the test paper of the student sitting next to her (M.W.) and copied M.W.’s answers. The Tribunal concluded that, while it was possible that the Student and M.W. had colluded in advance to cheat on the Exam, it was just a likely that this was a crime of opportunity, and that once the Student realized she could see M.W.’s exam she decided to copy from it. The Student was moved once her copying was noted by the Exam invigilators. In sum, while this was not an especially sophisticated or carefully planned scheme of dishonesty, it was still cheating on a final examination.
3. On November 30, 2016, the Tribunal convened to determine the appropriate penalty.
3. No additional evidence was formally led, however, the Tribunal was advised of the following.

- (a) The Student has no previous discipline history.
- (b) She is 22 years old, and came to Canada with her family from China 10 years ago. She has a younger brother. She has embraced her arrival in Canada, including by attending university. The Student has been hampered by medical issues relating to anxiety, which led to the initial deferral of the Exam. Although the Student was originally enrolled in courses in the Fall 2016 session, she dropped those courses and has not been attending the University.
- (c) If the Student can resolve her medical issues, her hope is to return to classes beginning in the Summer of 2017.

The Submissions of the Parties

- 4. The University asked for a sanction that would include a grade of 0 in the Course, a suspension from the University for two years, a transcript notation for three years, and a recommendation for publication without the Student's name. The University submitted six prior decisions of the Tribunal, showing that the sanction requested was consistent with how other students at the University have been treated, and with the principles with respect to sanction more generally.
- 5. The Student accepted that the Course grade of 0 was appropriate, as well as publication with her name withheld. However, the Student submitted that the suspension should be for a period of one year, backdated to begin when she stopped attending classes, and that any transcript notation should end once the

suspension ended. The Student argued that a harsher sanction would be overly punitive and prejudicial in the circumstances, and was not required in order to ensure that the principles of penalty orders were satisfied.

Decision and Reasons for Decision

6. The Tribunal has considered the principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C* (November 5, 1976, Case No. 1976/77-3). 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.
7. At this Tribunal, cheating during exams, whether through the giving or receiving of unauthorized aid, generally results in a suspension of at least two years if it is a first offence, with a longer suspension often being ordered in subsequent offences. The exact length of suspension will depend on such factors as the student's cooperation, evidence as to mitigating factors, and the precise nature of the misconduct. See, for example, *University of Toronto and R* (June 6, 2014, Case No. 708); *University of Toronto and S* (February 8, 2012, Case No. 635); *University of Toronto and L* (November 3, 2008, Case No. 527); and *University of Toronto and L* (April 11, 2005, Case No. 2004/05-04).
8. Similarly, it is common at this Tribunal for transcript notations to last for a longer time than the suspension. This ensures that if the student returns to the

University following the suspension, administrators and others are alive to the student's history and can monitor the student's progress as may be appropriate. Transcript notations also ensure a returning student knows that he or she may be watched more closely, thereby encouraging the student to abide by the rules.

9. The Tribunal considered the University's submissions in light of its findings and the factors from *Mr. C., supra*.

(a) The character of the Student: the Student participated in this hearing at both stages, demonstrating a willingness to respect the University's processes. Although she does not get the mitigating credit that is typically awarded to students who admit misconduct before the Tribunal, the fact that the Student defended the charges is not to be held against her. This is her first offence. However, the circumstances of the offence show that the Student engaged in a deliberate effort to obtain unauthorized assistance during the Exam.

(b) The likelihood of a repetition of the offence: the Student's counsel urged that there was no reason to think that this offence would ever be repeated, and submitted the Tribunal should feel confident that the Student had been specifically deterred. This submission is somewhat at odds with the submission that the Student's medical condition played a role in the offence, and that her medical issue remains unresolved. While the Tribunal sincerely hopes the Student will not err in this fashion again, a significant period of suspension is required to bring the message home to her. A transcript notation that lasts for a

year beyond the suspension will ensure that the Student is monitored should she return to the University, and will assist in the prevention of any recurrence.

(c) The nature of the offence committed: the integrity of examinations is a cornerstone of academic life. Copying another's answers during an exam is profoundly unfair to other students, and poisons the entire premise of academic achievement and grading. The University spends considerable resources to ensure that examinations are fair. The Student's cheating in this case was perceived as obvious to the two invigilators who caught her.

(d) Any extenuating circumstances surrounding the commission of the offence: the Student's submissions at the penalty hearing included the submission that the Student has experienced medical issues, including anxiety. This is clear from the Student's ROSI record, which shows that the Student had successfully petitioned extensively for deferred examinations due to various acute health illnesses. The Tribunal recognizes that medical conditions can be a factor in academic misconduct. However, without clear and specific medical evidence at this hearing explaining the Student's illness and what role, if any, it might have played, the Tribunal does not perceive this as a mitigating factor so significant as to warrant a serious deviation from other, similar cases.

(e) The detriment to the University occasioned by the offence: fortunately, the Student's misconduct was detected quickly, thanks to the work of the Exam invigilators. However, any time the rules of an examination are breached, the reputation of the University is threatened.

- (f) The need to deter others from committing a similar offence: this is a key factor in any cheating case. It is important to send a clear message that surreptitious attempts to undermine the academic integrity of examinations will be taken very seriously. The Student's submissions did not adequately account for the need to impose a sanction that would deter cheating in others, especially others who may not have planned to cheat but find themselves succumbing to temptation.
10. The Tribunal recognized, as did the University, that this hearing began in July of 2016 and, through no fault of the Student, the imposition of the penalty was delayed for almost five months. Accordingly, the Tribunal determined that the suspension should be for a period of two years, but that timing of it should be deemed to have commenced when this hearing began on its merits.
11. In all of the circumstances, and with regard to the factors identified in the C. case, the Tribunal was satisfied that the appropriate sanction was as follows:
- (a) that the Student receive a final grade of zero in ECO100Y in Fall 2014-Winter 2015;
- (b) that the Student be suspended from the University from the first day of the hearing, July 8, 2016, to the day immediately prior to the start date of the Summer 2018 S Section;

(c) that the sanction be recorded on the Student's academic record and transcript until June 29, 2019, to the effect that she was sanctioned for academic misconduct; and

(d) 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 1st day of March, 2017



Johanna Braden