

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on October 22, 2020

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 (the “University”)

- and -

D [REDACTED] B [REDACTED] (the “Student”)

REASONS FOR DECISION

Hearing Date: January 11, 2021

Members of the Panel:

Mr. Simon Clements, Chair

Dr. Chris Koenig-Woodyard, Faculty Panel Member

Ms. Alena Zelinka, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Ms. Sonia Patel, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Mr. Christopher Lang, Director, Appeals, Discipline & Faculty Grievances

Not in Attendance:

The Student

1. This panel of the University Tribunal held a hearing on January 11, 2021 to consider the charges brought by the University against the Student under the *Code of Behaviour on Academic Matters, 1995* (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 11, 2021 via Zoom. At that time, Assistant Discipline Counsel advised that neither the Student nor a representative of the Student had responded to the Notice of Hearing. The Student was given an additional 15 minutes to join Zoom, but he did not do so. The hearing then commenced at 2:00 pm. The Tribunal asked Assistant Discipline Counsel to make submissions on proceeding with the hearing in the absence of the Student.

3. Assistant Discipline Counsel advised the Tribunal that the following attempts had been made to provide notice of the charges and hearing to the Student:

- i. On October 22, 2020, the Office of the Vice-Provost, Faculty and Academic Life, served the charges on the Student by email to the email address that the Student had provided in the University of Toronto Repository of Student Information (“ROSI”) being the Student’s utoronto account.
- ii. Assistant Discipline Counsel referred the Tribunal to the Affidavit of Service of Justine Cox, dated October 22, 2020, confirming that the charges had been e-mailed to the Student’s utoronto email account.
- iii. On November 19, 2020, Ms. Nusaiba Khan, Administrative Assistant in the Office of Appeals, Discipline and Faculty Grievances (ADFG) sent Assistant Discipline Counsel and the Student a Direction from the Tribunal that the Tribunal proposed to conduct this hearing electronically and, if the Student wished to make submissions regarding an electronic hearing, those submissions should be delivered by November 26, 2020. No submissions were delivered by the Student.

- iv. On November 26, 2020, Ms. Khan then sent Assistant Discipline Counsel and the Student the Direction from the Tribunal that this matter would proceed electronically on January 11, 2021, at 1:45 pm.
- v. The delivery of both the November 19, 2020 and November 26, 2020 correspondence to the Student by email to his utoronto account was confirmed by an Affidavit of Service of Ms. Khan dated December 7, 2020, which was marked as Exhibit 1 in the hearing.
- vi. Assistant Discipline Counsel then referred the Tribunal to the Affidavit of Andrew Wagg, sworn December 10, 2020 and marked as Exhibit 4. Mr. Wagg deposed as follows:
 1. I am an Incident Report Architect at Information Security, Information Technology Services at the University of Toronto. As such, I have personal knowledge of the matters contained in this affidavit. Where my information is based on information and belief, I have stated the source of that information and that I believe it to be true.
 2. Information Technology Services provides many services to the University of Toronto, 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.
 3. 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.
 4. At the request of Robert Centa, Assistant Discipline Counsel for the University of Toronto, I checked the Microsoft records to determine the last time someone accessed the email account [\[listed in ROSI\]](#). In order to view the LastUserActionTime log, I ran a PowerShell script.
 5. I determined that, as of December 4, 2020, the last time someone accessed this e-mail account was on December 2, 2020, at 12:35 PM, local Toronto time.

- vii. While Mr. Wagg was not able to state that it was the Student who had logged in to the account, the person who did so required both the Student's username and password. Accordingly, Assistant Discipline Counsel submitted that there is good reason to believe that the person who logged in on December 2, 2020 was the Student. As of that date the Student would have seen in the inbox of his account the charges served October 22, 2020, the request for submissions on an electronic hearing sent on November 19, 2020, and the Direction from the Tribunal that the matter would proceed electronically sent on November 26, 2020, advising the Student that the hearing would take place on January 11, 2021.
 - viii. Assistant Discipline Counsel submitted, therefore, that the Student was provided with all the relevant information that he required in order to participate in the hearing on January 11, 2021.
 - ix. Finally, Assistant Discipline Counsel directed the Tribunal to the Student's phone number found in the Student Information System which was marked as Exhibit 3. Mr. Centa advised the Tribunal that he tried calling this number on the morning of January 11, 2021 and that the number was not in service.
4. As of the date of the January 11 hearing, the Student had not responded to any of the above-noted correspondence, even though it is more likely than not that it was the Student who logged in to the account on December 2, 2020.
5. The *Rules of Practice and Procedure* of the University Tribunal Rule 9 (c) provides that a Notice of Hearing may be served on a student by various means, including by emailing a copy of the document to the student's email address in ROSI.
6. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the "Act") and Rule 17 of the University Tribunal *Rules of Practice and Procedure* (the "Rules"), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

7. The University requested that the Tribunal proceed with this hearing in the absence of the Student.
8. 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.
9. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.
10. Based on the Charges served on October 22, 2020, and the subsequent correspondence emailed to the Student providing the date and time of the hearing, all of which was before December 2, 2020 when an individual logged in to the Student's e-mail account, the Tribunal concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules.
11. On December 7, 2020, Ms. Khan served the Notice of Electronic Hearing by e-mail to the Student's utoronto account. This letter provided the Student with the following Zoom log in details:

Please find attached the Notice of Electronic Hearing regarding your academic discipline matter. An electronic hearing has been scheduled to proceed on Monday January 11th , 2021 at 1:45 P.M. (EST). Pursuant to section 5.2 of the *Statutory Powers Procedures Act, R.S.O., c. S. 22* and the *Rules of Practice and Procedure*, (Part 8, R. 47), a hearing may proceed in electronic format. Your hearing will be conducted using the Zoom video conferencing platform. Please join the Zoom videoconference by clicking the meeting URL: <https://zoom.us/j/99393307667> or by entering the Meeting ID: 993 9330 7667. Should you wish to dial in, please use the one-tap mobile number by dialing +14388097799, followed by the Meeting ID (Canada).

12. This communication with the Student came after the December 2, 2020 login to the Student's account, and there is no evidence before the Tribunal that this communication was read by the Student. However, the communication demonstrates that the University attempted to provide the Student with the access that he needed to participate in this hearing electronically.

13. 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 him.

B. The Charges and Particulars

14. The Charges and Particulars were detailed in a letter to the Student dated October 22, 2020 and are set out below:

1. On or about March 18, 2019, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay titled "Waste Management: Comparing Mexico City, Mexico to Beijing City, China" ("Essay") that you submitted for academic credit in POL346Y5Y 2018(9) (the "Course"), contrary to section B.I.1(d) of the Code.

2. In the alternative to the above charge, 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 Essay you submitted in the Course, contrary to section B.I.3(b) of the Code. The particulars related to the charges are as follows:

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

(b) The Course was taught by Professor Sara Hughes. The Course requirements included that you submit an essay for academic credit, which was worth 25% of the final grade in the Course. On March 18, 2019, you submitted your essay.

(c) You knowingly represented the work of another person as your own, including but not limited to: (i) D.A. de la Rosa et al. "Total gaseous mercury and volatile organic compounds measurements at five municipal solid waste disposal sites surrounding the Mexico City Metropolitan Area" *Atmospheric Environment* 40 (2006) 2079-2088. 018 (ii) E. Godoy, "The waste mountain engulfing Mexico City" *The Guardian*, January 9, 2012. (iii) N. Michell, "How Mexico City has turned garbage into fuel" *Cities Today* January 18, 2013.

(d) You knowingly included in your submission ideas and the expressions of ideas that were not your own, but those of another person, were the ideas, expressions of ideas, and verbatim or nearly verbatim text of another person, which you did not acknowledge.

(e) For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in the Essay.

C. The Evidence

15. The University called the evidence of Professor Sara Hughes by Affidavit affirmed on December 23, 2020 and marked as Exhibit 5. Rule 61 of the Rules provides that affidavits may be received by the Tribunal as good evidence. Assistant Discipline Counsel noted that the time for service which is specified in Rule 72 (b) had been complied with. Additionally, Professor Hughes was available to answer any questions from the Tribunal. She remained in the Zoom waiting room. Having reviewed the Affidavit of Professor Hughes and the Exhibits attached thereto and having heard the submissions of Assistant Discipline Counsel based on the evidence, the Tribunal determined that it had no questions for Professor Hughes and she was excused from the hearing.

16. In her affidavit, Professor Hughes deposed:

1. I am an Assistant Professor in the School for Environment and Sustainability at the University of Michigan. Until September 2019, I was an Assistant Professor at the University of Toronto. As such, I have personal knowledge of the matters set out in this affidavit. Where

my information is based on information and belief, I have stated the source of that information and that I believe it to be true.

A. The Course

2. In the 2018-2019 academic year, I taught POL346Y5Y: Urban Politics (the “Course”). [The Student] was a student in the Course. I have attached a copy of the Course syllabus to this affidavit as Exhibit A.

3. At the beginning of the Course, I emphasized to students the importance of academic integrity. The Course syllabus included a section titled “Academic Honesty” on page 5 that stated:

It is the responsibility of each student to be able to demonstrate the originality of his or her work. Failure to properly reference figures, concepts, and quotations that are not your own will result in academic penalties, as required by the University of Toronto’s policy on plagiarism. At a minimum, for every assignment, the sources of all data and ideas must be properly referenced using a standard academic referencing style such as Chicago, APA, or MLA. If you are unclear about what constitutes plagiarism or how to reference sources, please visit: <http://www.writing.utoronto.ca/advice/using-sources/how-not-toplagiarize>

4. The link in this passage directed students to a University of Toronto resource on common citation errors and strategies to avoid plagiarism. I have attached a screenshot of this web page to my affidavit as Exhibit B.

5. The Course syllabus also included a full-page section titled “A Warning About Plagiarism” on page 15 which read, in part:

Plagiarism is an academic offence with a severe penalty. It is essential that you understand what plagiarism is and that you do not commit it. In essence, it is the theft of the thoughts or words of others, without giving proper credit. You must put others’ words in quotation

marks and cite your source(s). You must give citations when using others' ideas, even if those ideas are paraphrased in your own words. Plagiarism is unacceptable in a university. What the university calls "plagiarism", non-university institutions might call "fraud".

[...]

The following are some examples of plagiarism:

[...]

3. Using words, sentences, or paragraphs written by someone else and failing to place quotation marks around the material and reference the source and author. Using either quotation marks or reference alone is not sufficient. Both must be used!

[...]

Ignorance of the rules against plagiarism is not a defense; students are presumed to know what plagiarism is and how to avoid it. Students are especially reminded that material taken from the web must be quoted and cited in the same manner as if it came from a book or printed article.

If you are not sure whether you have committed plagiarism, it is better to ask a faculty member or teaching assistant than risk discovery and be forced to accept an academic penalty. Plagiarism is cheating. It is considered a serious offence against intellectual honesty and intellectual property. Penalties can be severe, ranging from a mark of "0" for the assignment or test in question, up to and including expulsion from the university.

B. The Assignment

6. Students in the Course were required to submit a research paper worth 25% of their final grade by March 18, 2019 (the "Assignment"). The instructions for the Assignment required students to compare two cities of the student's choice in the context of an area of urban politics. Students were required to use both scholarly and non-scholarly sources and

to cite those sources using the Chicago citation style. I required students to submit their papers through the turnitin.com website.

7. [The Student] submitted his Assignment on March 21, 2019, through Turnitin. I have attached a copy of [the Student] 's Assignment to my affidavit as Exhibit C.

8. Turnitin flagged the Assignment as having a 22% similarity index. I have attached the Turnitin Originality Report to my affidavit as Exhibit D.

9. After seeing the Turnitin Report, I reviewed the Assignment. I discovered that [the Student] had copied full sentences of the Assignment almost verbatim from outside sources (the "Sources"), with only a few words changed or re-ordered. While [the Student] referenced the Sources, he did not indicate that many of the sentences in the Assignment were copied through the use of quotation marks, as required.

10. I have attached a highlighted copy of the Assignment ("Highlighted Assignment") to my affidavit as Exhibit E.

11. The highlighted and lettered portions of the Highlighted Assignment correspond to the highlighted passages in the Sources, which are marked by letters that correspond to those in the Highlighted Assignment. I have attached highlighted [sic] copies of the Sources to my affidavit as Exhibit F.

12. While almost all of the Sources are available online, I am no longer able to find the full version of an article titled "Trend: Mexico City's new approach to solid waste management" written by Angeles Rodriguez in 2017. It is possible that this web page has since been deleted. I have attached a partial version of this article in place of the full article as Tab E of Exhibit F.

13. Based on my comparison of the Assignment and the Sources, I concluded that, in my view, [the Student] had included verbatim and nearly verbatim text in his Assignment without appropriate attribution.

14. I met with [the Student] to discuss my concerns on April 1, 2019. Following our meeting, I forwarded the case to the Chair of the Department of Political Science for further action.

D. Submissions

17. In reviewing the evidence of Professor Hughes, it is clear that the warning that plagiarism was an academic offence was highlighted to the Student. Professor Hughes provided the Student with a link to a resource entitled “How Not to Plagiarize” and the Course syllabus also included a full-page section titled “A Warning About Plagiarism”. It was made abundantly clear in these resources that when utilizing source material it was not sufficient to simply acknowledge the source by noting the source in brackets (which the Student did in this case) but that the academic requirement was that “you must put others’ words in quotation marks” and that the failure to do so constituted plagiarism and was an academic offence.

18. Professor Hughes provided the Tribunal with a highlighted copy of the Assignment, as well as highlighted copies of the sources cited in the Assignment which demonstrated that the Student took verbatim or nearly verbatim wording from the sources without proper attribution. The “Warning about Plagiarism” to which the Student was directed in the course syllabus clearly stated that plagiarism included “using words, sentences, or paragraphs written by someone else and failing to place quotation marks around the material and reference the source and author. Using either quotation marks or reference alone is not sufficient. Both must be used!”.

19. It was submitted by the University that the Student knew or ought to have known that he was required to place quotation marks around the material he was quoting from his sources. Through the syllabus Professor Hughes had explained the University’s expectations and warned the Student about what plagiarism is and the consequences of committing plagiarism. She also linked the Student, through the syllabus, to the resources on how to avoid plagiarism.

20. A review of the Student’s Assignment shows that the Student, in fact, knew how to correctly cite his source material. On page 4 of his Assignment (Exhibit E, page 83 of Professor Hughes’ Affidavit) the Student placed quotations around the words he had taken from the source and then cited

the source and the paragraph from which the quotation had been taken. As Assistant Discipline Counsel asserted, the fact that the Student thereafter did not follow the rules “crosses the line from poor academic practice to clear academic misconduct”.

21. The University submitted that the Student committed the offence of plagiarism by taking another’s expression of the idea without appropriate paraphrasing or reproducing the words in quotation marks. By so doing, the Student “quilted together the words of another and attempted to present them as his own”. Having had the opportunity to compare the Student’s Assignment with the source material, the Tribunal agrees with this submission. It was clear to the Tribunal that Professor Hughes set out her expectations and those of the University. The Student demonstrated that he knew how to correctly reference a source, but for the balance of his 14-page Assignment he failed to do so and, thus, committed plagiarism.

22. The Tribunal found that the Student is guilty of plagiarism contrary to section B.I.1(d) of the Code. As the Tribunal has found the Student guilty on Charge 1 of the Charges, the University has agreed to withdraw Charge 2.

E. Penalty

23. The matter continued with a hearing on the appropriate penalty.

24. In determining penalty, the Tribunal was asked to consider the Mr. C. factors (Case No. 1976/77-3, November 5, 1976) long recognized as the leading decision on sentencing principles. These factors are:

- (a) the character of the person charged;
- (b) the likelihood of repetition of the offence;
- (c) the nature of the offence committed;
- (d) any extenuating circumstances surrounding the commission of the offence;

(e) the detriment to the University by the offence; and

(f) the need to deter others from committing a similar offence.

25. Assistant Discipline Counsel submitted that in addition to these basic principles, there should be some measure of uniformity or proportionality in the sentencing process so that there should be similar sentences imposed for offences committed in similar circumstances – in other words, that like cases should be treated alike. Penalties imposed on students at the University should preserve and ensure fairness by avoiding disproportionate sentences so there are not wide swings or inconsistencies between like offences and like offenders, recognizing there is never a like offence or a like offender. Having said that, there should not be rigid rules or formulas applied in the sentencing process.

26. The Tribunal was provided with the following chart summarizing similar cases of plagiarism as the basis of the University’s submissions on penalty:

Case	Page	Date	Chair	Offence	Value of work	Priors/ ASF/JSP	Penalty
B.S.	17	Jan. 2014	Schabas	Plagiarism x1	20%	No/No/No	0 in the course 3-year suspension 3.5-year notation
F.A.	31	June 2015	Kraicer	Plagiarism x1	8%	No/No/No	0 in the course 2-year suspension 3-year notation
G.E.	42	April 2015	Tsao	Plagiarism x1	15%	No/No/No	0 in the course 2-year suspension 3-year notation
HS.M	47	Feb.2015	Tsao	Plagiarism x1	15%	No/No/No	0 in two courses 2-year suspension

							3-year notation
C.D.	51	Jan. 2017	McDowell	Plagiarism x1	20%	No/No/No	0 in the course 2-year suspension 3-year notation
Y.Z.	59	Aug. 2017	Wirth	Plagiarism x1	15%	No/No/No	0 in the course 2-year suspension 3-year notation
L.E-S.	67	Jan. 2019	Zborovski	Plagiarism x1	15%	No/No/No	0 in the course 2-year suspension 3-year notation

27. The present case is analogous to those cited by the University. The charge is of a single act of plagiarism. In this case the Assignment was worth 25% of the grade for the course. This was a first offence. The Student did not participate in the hearing. There was no agreement between the Student and the University on an agreed statement of facts nor was there a joint submission on penalty.

28. The Tribunal was referred to *B.S.* (Case No. 697 Reasons for Sanction, January 17, 2014), where the *Mr. C.* factors in the plagiarism context were discussed by the Tribunal at paragraphs 17-19 of the Reasons for Decision:

17) The seriousness of the offence of plagiarism has, of course, been well-recognized, and the need for a significant sanction in order to condemn and deter it is necessary. It has been suggested that, due to the internet, plagiarism is increasingly prevalent, although at the same time it may be more easily detected. (See, e.g., *S.B.* at para 26.) Both elements certainly existed in this case — as we saw a student effectively cut and paste large portions of articles, including footnotes which gave it away, from the internet, and an instructor who was also able to use the internet to identify the misconduct.

18) The seriousness of the offence means that, absent mitigating factors, the sanction must reflect the harm caused and convey the seriousness of the misconduct to others. As the Discipline Appeal Board stated in D.S. at para 39: "Plagiarism strikes at the core of academic integrity, so important to a University. The sanction must also act as a general deterrent." Similarly, in K.W.K. L. (Case No. 544; September 1, 2009), at para 19, a panel of this Tribunal expressed concern that the penalty for plagiarism must have a deterrent effect. And in M.M. (Case No. 543; January 28, 2010), the Tribunal stated at para. 9:

All the cases, as well, give voice to the detriment to the University which is occasioned by the undermining of its credibility and academic mission through offences such as plagiarism, and the need for general deterrence which goes beyond, for example, a zero in the course for the person in question. The cases cite the need for a message to the University community that penalties imposed by tribunal in relation to such serious offences will not be a licence to commit such offences.

19) In this case, the plagiarism was significant. With the exception of the opening paragraph, **virtually all of the student's paper was plagiarized, knowingly and deliberately. This is not a case of forgotten quotations, or negligent note-taking, but of deliberate academic misconduct.** In this regard, it is similar to X.P.Z. (Case No. 547; September 10, 2009), in which **the plagiarized material "comprised virtually all of the submitted paper."** (para. 18) (emphasis added).

29. The same can be said in this case regarding the extent of the plagiarism by the Student in the Assignment.

30. The Student has not participated at any stage of the hearing process. There is accordingly no evidence before us of mitigating or extenuating circumstances, good character, remorse or insight.

F. Conclusion

31. The Tribunal deliberated and concluded that having regard to all the circumstances of this offence, including its deliberate and serious nature, and having regard to the need to treat students "fairly and equitably" and to achieve a degree of consistency in imposing sanctions, this panel of the Tribunal unanimously accepted the recommendation of sanction made by the University and imposes the following sanction:

- (a) a final grade of zero in the course POL346Y5Y 2018(9);
- (b) a suspension from the University for two years from the date of this order; and
- (c) a notation of this sanction on his academic record and transcript for three years from the date of this order.

32. 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 2021



Simon Clements, Chair