

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on August 2, 2017

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*

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

A [REDACTED] A [REDACTED]

REASONS FOR DECISION

Date of Hearing: December 8, 2017

Members of the Panel:

Ms. Breese Davies, Barrister and Solicitor, Chair
Professor Louis Florence, Faculty Panel Member
Mr. Daniel Lazzam, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Mr. A [REDACTED] A [REDACTED], the Student (via Skype)

In Attendance:

Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty Grievances
Professor Wanda Restivo, Dean's Designate, University of Toronto Scarborough
Mr. Sean Lourim, IT Support, Office of the Governing Council

Introduction

1. A hearing before the University Tribunal (the "Tribunal") was convened on December 8, 2017 to consider the Charges (as defined below) against the Student, A [REDACTED] A [REDACTED] (the "Student").
2. The student appeared at the hearing by way of video-link.

The Charge

3. The charges against the Student (the "Charges") are as follows:
 - (a) On or about March 22, 2017, you knowingly represented as your own an idea or expression of an idea or work of another in a term paper that you submitted in PHLD05H3 (Advanced Seminar in Ethics: Morality and War) (the "Course"), contrary to section B.I.1(d) of the Code.
 - (b) In the alternative, on or about March 22, 2017, you knowingly obtained unauthorized assistance in connection with a term paper that you submitted in the Course, contrary to section B.I.1(b) of the Code.
 - (c) In the further alternative, on or about March 22, 2017, 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 term paper that you submitted in the Course, contrary to section B.I.3(b) of the Code.

Finding on the Offence

4. The hearing proceeded on the basis of an Agreed Statement of Facts (the "ASF"), which was marked as Exhibit 1. The parties also presented a Joint Book of Documents (the "JBD") that is referred to in the ASF, which was marked as Exhibit 2. A summary of the agreed facts follows.
5. From Fall 2010 to Winter 2017, the Student was a student at the University of Toronto Scarborough Campus ("UTSC").

6. In Winter 2017 the Student enrolled in PHLD05H3 - Advanced Seminar in Ethics: Morality and War (the "Course"), which was taught by Professor Julia Nefsky. Students in the Course were given the following information in the Course syllabus about the University's expectations regarding academic integrity:

Academic Dishonesty: Academic integrity is essential to the pursuit of learning and scholarship in a university, and to ensuring that a degree from the University of Toronto is a strong signal of each student's individual academic achievement. As a result, the University treats cases of cheating and plagiarism very seriously. The University of Toronto's Code of Behaviour on Academic Matters (<http://www.governingcouncil.utoronto.ca/policies/beaveac.htm>) outlines the behaviours that constitute academic dishonesty and the processes for addressing academic offences. If you have questions or concerns about what constitutes appropriate academic behaviour or appropriate research and citation methods, you are expected to seek out additional information on academic integrity from your instructor or from other institutional resources (see <http://www.utoronto.ca/academicintegrity/>).

A copy of the Course syllabus is included in the JBD at Tab 4.

7. The Course required students to submit a term paper on April 12, 2017, which was worth 50% of the Course grade. Students were given a choice of three topics, or could write on a topic of their choosing. The Assignment Sheet reminded students of the importance to be consistent, accurate and thorough with citations as follows:

Citations: Any standard citation method is acceptable (APA, MLA, *Chicago Manual of Style*). But, whatever style you use, it is important to be consistent, accurate and thorough with your citations.

A copy of the assignment sheet setting out the requirements for the paper is included in the JBD at Tab 5.

8. The Student chose topic #3 from the Assignment Sheet, which asked students to explain the account of an author, Jeff McMahan, of liability to attack and recommended that students use examples in their explanation.

9. On or about April 12, 2017, the Student submitted his paper entitled “Liability to Attack” (the “Paper”). Professor Nefsky reviewed the Paper and found the examples that the Student included in the Paper stood out from the rest of the Paper as being relatively sophisticated. The Paper also contained jargon that was not taught in the Course (e.g., “fact-relative” and “evidence-relative”). Professor Nefsky conducted Google searches of some of the terms used in the examples and identified two sources, which contained similar ideas: (a) *Moral Liability to Self-Defense: Challenging Jeff McMahan’s Fact-Relative Account*” by Kory James Paul Jeffrey, which was a thesis submitted to the Department of Philosophy at Queen’s University in conformity with the requirements for the degree of Master of Arts in 2012; and (b) *Liability, Proportionality, and the Number of Aggressors* by Jeff McMahan (collectively, the “Sources”).

10. Professor Nefsky reviewed the Sources in more detail and determined that the ideas that the Student used in his Paper were the same or similar to those used in the Sources without appropriate citation. A highlighted copy of the Student’s Paper is included in the JBD at **Tab 7**. Highlighted excerpts of the Sources are included in the JBD at **Tabs 7A and 7B**. The highlighting at Tab 7 corresponds to the same or similar ideas found in Tabs 7A and 7B.

11. Following deliberations and based on the ASF and the JBD, the Panel concluded that the first charge (as outlined in paragraph 3 above) had been proven with clear and convincing evidence on a balance of probabilities, and accepted the guilty plea of the Student in respect of that charge. The Panel advised the parties of its finding on the charges at the hearing. On the basis of the finding made by the Panel, the University withdrew the alternative charges.

Penalty

12. The University and the Student submitted an Agreed Statement of Facts on Penalty (the “ASF on Penalty”), which was marked as Exhibit 3.

13. The Student has two prior academic offences.

14. In Winter 2011, the Student enrolled in POLA51H3 (Critical Issues in Canadian Democracy) ("POLA51"), which was taught by Professor Christopher Cochrane. The Student submitted an essay entitled "Politics Essay" (the "POL Essay"), which was worth 30% of his final grade in POLA51. On review, Professor Cochrane determined that two passages from the POL Essay had been taken verbatim or nearly verbatim from a posting on answers.yahoo.com.

15. Pursuant to Minutes of Settlement entered into between the Student and the Provost, the Student received a reduction in his final grade of 60% (which is two times the value of the work in issue) in POLA51, and the sanction was recorded on the Student's academic record and transcript for a period of two years, until September 30, 2014.

16. On October 2, 2012, Professor Eleanor Irwin, Dean's Designate, sent a letter to the Student confirming the sanction. In her letter, Professor Irwin included the following warning to the Student:

A copy of this letter and the Minutes of Settlement will be placed in your student file, and in the event of any further offence under the Code, will be consulted. A further offence will automatically result in a far more severe penalty.

I trust it is clear that the University regards with great seriousness all acts of academic dishonesty and why they cannot be tolerated. I hope you have learned from this unfortunate experience and nothing similar will happen again.

17. In Fall 2014, the Student enrolled in PHLC20H3 (Topics in Theory of Knowledge) ("PHLC20"), which was taught by Professor Sonia Sedivy. On or about November 19, 2014, the Student submitted the second essay (the "PHL Essay"), which was worth 30% of his final grade in PHLC20. On review, Professor Sedivy determined that there were several passages in the PHL Essay that were taken verbatim or nearly verbatim from two online sources (Reality Conditions and Wikipedia).

18. On March 23, 2015, the Student met with Professor Wayne Dowler, Dean's Designate. Professor Dowler imposed a sanction of a zero in the course, a suspension

from the University for one year commencing May 1, 2015, and a transcript notation to graduation.

19. On March 27, 2015, Professor Dowler sent a letter to the Student confirming the sanction. In his letter, Professor Dowler included the following warning to the Student:

A copy of this letter will be placed in your student file, and in the event of any further offence under the Code, it will be consulted.

I trust it is clear that the University regards with great seriousness all acts of academic dishonesty and why they cannot be tolerated. I hope you have learned from this unfortunate experience and nothing similar will happen again.

20. The Parties filed a Joint Submission on Penalty (the "JSP"). In the JSP, the parties submitted that the Tribunal should impose the following sanctions on the Student:

- a) a final grade of zero in PHLD05H3 in Winter 2017;
- b) a suspension from the University of Toronto, to start from the date the Tribunal makes its order until April 30, 2021; and
- c) a notation of the sanction on Mr. A [REDACTED]'s academic record and transcript from the date the Tribunal makes its order to April 30, 2023, or until graduation, whichever is earlier.

21. The parties also submitted that this case should be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the Student withheld.

22. In effect, the parties are recommending a suspension of 3 years and 4 months. The notation will remain on the Student's record for 5 years and 4 months or until he graduates, whichever is earlier.

23. Counsel for the University provided submissions on the high threshold required for a Tribunal to deviate from a joint submission on penalty. As set out in the Discipline Appeals Board decision in *The University of Toronto and M. A.* (Case No. 837, December

22, 2016), a joint submission on penalty “may be rejected by a panel only in circumstances where to give effect to it would be contrary to the public interest or would bring the administration of justice into disrepute” (para 24).

24. Counsel for the University provided the Panel with a number of cases in which a student was found guilty of plagiarism and had committed two or more prior academic offences. In each case, the student received a suspension in the range of three to five years and a notation was placed on the student’s academic record for a lengthy period of time – ranging from four to seven years; see, for example, *The University of Toronto and N.A.* (Case No. 661, February 29, 2012), *The University of Toronto and S.P.* (Case No. 654, August 9, 2012), *The University of Toronto and L.W.* (Case No. 625, February 13, 2013) and *The University of Toronto and A.S.* (Case No. 835, October 12, 2016), *The University of Toronto and S.M.* (Case No. 819, June 8, 2016), *The University of Toronto and O.E.* (Case No. 923, August 30, 2017). These cases suggest that the joint submission on penalty presented by the parties in this case is not outside the range of what has been imposed in comparable cases.

25. In the Panel’s view, the joint submission in this case is reasonable, although at the low end of what is reasonable in the circumstances. Were it not for the joint submission on penalty presented by the parties and the direction given by the Discipline Appeals Board about the limited circumstances in which joint submissions are to be rejected, the Panel may well have imposed a more serious penalty in this case, including recommending expulsion.

26. The Panel was particularly concerned about the seriousness of the offence and the fact the Student has been found guilty of plagiarism twice in the past in very similar circumstances.

27. There are, however, mitigating factors to that the Panel also considered. In particular, the Student cooperated fully in the process and entered a guilty plea to the charge. He also entered into the ASF and JSP, demonstrating his willingness to take responsibility for his conduct and his insight into his conduct. In his submissions to the

Panel, the Student advised that he understands the seriousness of his conduct and appreciates the importance of education. The Student apologized to the Panel for his conduct.

28. Having regard to the above, and based on its review of similar cases presented by counsel, the Panel agreed that the recommended sanctions are appropriate in the circumstances, and made the following order:

- a) a final grade of zero in the course PHLD05H3 in Winter 2017;
- b) a suspension from the University of Toronto from the day the Tribunal makes its order until April 30, 2021;
- c) a notation of the sanction on his academic record and transcript from the day the Tribunal makes its order to April 30, 2023, or until graduation, whichever is earlier; and
- d) 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 5th day of March, 2018,



Ms. Breese Davies, Co-Chair