



**DECISION OF THE ADJUDICATOR  
STUDENT NON-ACADEMIC MISCONDUCT**

BETWEEN

[REDACTED]  
APPELLANT

AND

RYAN FLANNAGAN  
ASSOCIATE VICE-PRESIDENT STUDENT EXPERIENCE  
RESPONDENT

JUNE 2019

Adjudicator: Dr. Cheryl Collier, Associate Vice-President Academic (Acting)

Appellant: self-represented

Respondent: self-represented

**DECISION**

**Facts:**

On April 5<sup>th</sup>, the Associate Vice-President, Student Experience rendered a decision in the case involving a student complainant in the Law School and an employee at the Community Legal Aid Clinic, [REDACTED] and her allegation of a transgression of Section 3 b(ii) of the Student Code of Conduct by another student in the Law School and employee of the Community Legal Aid Clinic, [REDACTED], during the fall term of 2018. The AVP Student Experience drew on the evidence provided through the investigation of the allegations by Dr. Dabieli Arbex, the Academic Integrity and Student Conduct Officer in the Student Experience Office. Dr. Arbex's investigation included interviews and written submissions from both [REDACTED] and [REDACTED] as well as interviews with six additional witnesses close to the case. On the balance of probabilities, the AVP Student Experience found that there was sufficient evidence of transgression of Section 3 b(ii) of the Student Code of Conduct and in particular that "the respondent's [REDACTED] behaviour in this matter (specifically in making false accusations against the complainant) constitutes harassment toward the complainant [REDACTED]." The AVP Student Experience assessed a sanction as part of his decision which included a 16-month censure and an additional request that an apology to the complainant be sent via the AVP Student Experience's office. If the apology was not submitted via the AVP Student Experience's office (or was deemed insufficient) within a six-month time frame, the censure would be extended by 6 months to a total of 22 months.

██████████ requested an appeal of the decision and sanction on the grounds that 1) there was a serious procedural error in the processing of the complaint which was prejudicial to the appellant, 2) there is new evidence, not available at the time of the earlier decision, which casts doubt on the correctness of the decision, and 3) the Associate Vice-President, Student Experience's decision is clearly unreasonable or unsupported on the evidence.

The appeal of the sanction decision was granted on May 7, 2019 on the third ground regarding the potential that the decision was unreasonable or unsupported due to lack of evidence. Ground 1) regarding potential procedural error and ground 2) regarding new evidence, were both rejected by the Adjudicator due to insufficient reasoning and clarity in the appeal submission documents provided by ██████████. In the May 7 decision regarding the appeal and in reference to the decision to allow the appeal on ground three only, the Adjudicator directed the appellant to "read the ground carefully and to provide all relevant information in support of that ground in a logical, clear and concise fashion. He should restrict his comments to 'the evidence' and to ensure that all of his arguments are well-explained. For example, when he asserts that ██████████ 'entire statement' was 'not considered', he must make a clear case establishing the extent of this assertion."

**Submissions:**

In the initial appeal, ██████████ writes that the AVP Student Experience drew "conclusions [that] are unsupported and unreasonable." However, the initial appeal is not clear on which conclusions are unsupported by the evidence nor does he provide clear evidence that establishes any unsupportedness in the original evidence gathered. The initial appeal also is not clear on which conclusions in the decision were "unreasonable" or how unreasonable is determined other than to broadly state that "assertions" were "unfair" and that conclusions were not "shown by a balance of probabilities". At the end of the appeal, the appellant offers a brief apology to ██████████ and then requests that "the requirement that I apologize be delayed until this matter is properly adjudicated." The inclusion of the apology as part of the appeal document is but one example of a lack of clarity of submission. ██████████ also includes a letter from ██████████ as additional evidence in the initial appeal. This letter does not provide any additional or relevant witness testimony to the case directly but does assert the "genuine[ness of] concerns" that ██████████ had with ██████████. The addition of this letter and its ability to establish unreasonable or unsupportedness of the decision is not well-explained.

The overall lack of clarity in this initial appeal submission prompted the directive above to the appellant by the Adjudicator for stronger clarity, evidence, and explanation of arguments made in his appeal submission on ground three.

On May 17, ██████████ submitted additional documents in support of his original appeal including a transcript of a text conversation with ██████████ which ██████████ admits ██████████ had "explicitly refused to consent" to being shared as evidence, but that according to ██████████ "reduces the credibility of ██████████ prior statements" which were provided with ██████████ previous permission and agreement. The information in the conversation is not well-explained and the text conversation itself is not clear on authorship and is generally hard to follow. This information is problematic on a number of fronts (including the fact that it was submitted without agreement from ██████████) and does not support the appellant's appeal case in its entirety.

██████████ also includes a record of a group text conversation to "show one of the ways in which I heard that people at the law school were discussing the then-confidential information about ██████████ complaint against me in public" which he initially considered to be "immaterial to the original complaint made against him". It is not clear how this is relevant to this appeal and again, the entirety of the submission is not well-explained in reference to the arguments surrounding unreasonable or unsupportedness of the AVP Student Experience's original decision.

Finally, ██████████ identifies that he does not have evidence to support assertions that the AVP Student Experience made in regard to his character. The Adjudicator is not clear on the relationship to the character references made by the AVP Student Experience in the original decision and the actual evidence of the decision

other than to perhaps offer potential explanation. The appeal should deal with the evidence provided in the case and should clearly demonstrate the unreasonableness and/or unsupportability of the decision accordingly.

**Adjudicator's Decision:**

In regard to the potential ground three that the Associate Vice-President, Student Experience's decision is clearly unreasonable or unsupportable on the evidence, the original appeal was found to allude to this potential but to not clearly make a case in this regard on the basis of the evidence provided by the investigation. The additional information provided by the appellant after further direction from the Adjudicator does not provide a clear, logical, and concise narrative that establishes unreasonableness or unsupportability on the evidence from the investigation.

In regard to the sanction, it does not appear to be either unreasonable or unsupportable based on the evidence. The appeal documents do not directly address the sanction imposed in the decision other than to offer to adhere to part of that sanction (the apology) in the initial appeal.

In conclusion, the Adjudicator does not find sufficient evidence to have been provided in support of ground three for appeal by [REDACTED]. As such, the appeal in its entirety is denied.

Signed: this 17th day of June 2019



Dr. Cheryl Collier  
Adjudicator,  
Associate Vice-President Academic (Acting)  
Professor of Political Science