

ADMINISTRATIVE LAW - CML 2312 C

PROFESSOR JOSEPH MAGNET

Spring, 2013

**Time: Six Hours
Open book - Take Home Exam**

INSTRUCTIONS:

- 1. ANSWER ALL QUESTIONS.**
- 2. QUESTION 1 COUNTS FOR 35%; QUESTION 2 COUNTS FOR 35%; QUESTION 3 COUNTS FOR 30% (10% for each of the three short questions).**
- 3. ALL ANSWERS MUST BE IN 12 PT TYPE AND MUST BE DOUBLE SPACED.**
- 4. ANSWERS TO QUESTIONS 1 AND 2 MUST NOT EXCEED TEN PAGES IN TOTAL. ANSWERS TO QUESTION 3 MUST NOT EXCEED THREE PAGES IN TOTAL. THE LENGTH MAXIMUM FOR THE WHOLE EXAM IS THIRTEEN PAGES.**

Good luck! Please accept all my best wishes for your success.

QUESTION 1 (35%)

Ethel Ericity is a student in the Faculty of Arts at the University of Northern Ontario. She took the final exam in Ethnic Literature, a course in which she was enrolled. The exam was closed book. The exam said in bold letters at the top of the exam “No Materials of Any Kind may be brought into the Examination Room.”

The examination proctor was the Dean of the Faculty, Dean Sandra Cook. Dean Cook replaced an administrative person who reported sick at the last minute; Dean Cook was the only available person around to fill in.

Ethel brought two books with her. These were in a satchel she carried around her neck and shoulder. They were obscured by Ethel’s jacket when she entered the room. During the exam, Dean Cook saw Ethel reading from the books. Dean Cook approached Ethel. The following conversation took place.

P: What are you doing?

EE: Writing the exam.

P: Where did you get those books?

EE: From the library.

P: You’ll have to give them to me and I am going to make a report.

The *Regulations* of the Faculty of Arts of the University of Northern Ontario are enacted pursuant to authority provided in the *University of Northern Ontario Act*. The *Regulations* enact a *Disciplinary Code*. The *Disciplinary Code* creates a Disciplinary Committee. The *Disciplinary Code* provides:

DEFINITION:

"Academic fraud is an act by a student which may result in a false academic evaluation of that student or of another student. Without limiting the generality of this definition, academic fraud occurs when a student commits any of the following offences:

- (a) plagiarism or cheating of any kind.

- (b) Submits a work of which the student is not the author, in whole or in part (except for duly cited quotations or references). Such work may include an academic paper, an essay, a test, an exam, a research report, and a thesis whether written, oral, or in another form.

SANCTION:

A student who has committed or attempted to commit academic fraud, or who has been a party to academic fraud, is subject in addition to other appropriate sanctions to the following sanction:

Expulsion from the University of Northern Ontario.

PROCEDURE:

Allegations of fraud are submitted in writing, together with supporting documentation, to the Dean of the Faculty in which the student is registered.

If the Dean or the Dean's representative decides that the allegation is founded:

- (a) the file is referred to the Disciplinary Committee of the Faculty which shall consist of at least three persons appointed by the Dean;
- (b) the Dean or Dean's representative informs the student, in writing, of the allegation made against him or her. The student also receives a copy of the allegation and of all supporting documentation, as well as a copy of this regulation.

The Disciplinary Committee may:

- (a) invite the student to present, in writing, within a prescribed time limit, any information or documents relevant to the allegation which has been made, and, if it deems it appropriate, invite the student to appear before the committee;
- (b) solicit any other information which it considers relevant to its inquiry.

On the basis of this documentation and information, and once the student has been given the opportunity to be heard in writing and/or in person, the Committee:

- (a) either decides that the allegation is not sufficiently founded and concludes that the file should be closed and no further action taken; or
- (b) concludes that the allegation is founded, in which case it prepares a summary report for the Dean, such report to include a recommendation for the appropriate sanction.

The student is informed by the Dean of the conclusions reached by the Disciplinary Committee and of the next procedural steps. The Dean informs the student that he or she may submit comments on the report of the Disciplinary Committee, provided that such comments are made in writing within ten (10) working days following the date at which the report was sent.

The report of the Disciplinary Committee, and, if applicable, the written submissions made by the student, are submitted to the Executive Committee of the Faculty, which either decides the sanction to be imposed or recommends it to the Senate Committee for the Study of Individual Cases as the case may be.

APPEAL:

A student who decides to appeal the decision of the Executive Committee of the Faculty, or its recommendation to the Senate Committee for the Study of Individual Cases, must so inform the Secretary of the University and provide the reasons for the appeal, within ten (10) days following the date at which the decision or recommendation was sent.

The Secretary of the University transmits the file to the Senate Committee for the Study of Individual Cases which:

- (a) may invite the student to appear before the Committee and/or submit in writing any information which the student considers relevant;
- (b) solicits any other information which it considers relevant;
- (c) annul or confirm the decision of the Executive Committee of the Faculty, or impose such sanction as it thinks warranted in the circumstances.

The decision of the Senate Committee for the Study of Individual Cases is final and cannot be appealed.

Following her conversation with Ethel, Dean Cook opened a file in which she placed a "*Report to the Dean*". This document stated:

Ms. Ethel Ericity was caught consulting with two library books during a closed book literature exam.

Dean Cook then referred the file to the Disciplinary Committee of the Faculty which consisted of three tenured professors whom Dean Cook appointed.

The Committee wrote to Ethel. It included a copy of the *Discipline Code* and the *Report to the Dean*. The Committee invited Ethel to submit in writing any information she had that she considered was relevant to the *Report*. It observed that the proceeding was serious, and could result in Ethel's expulsion from the University.

Ethel attempted to see the signatory of the Committee's letter in person, Professor Shef. She was told by Professor Shef's secretary that it was the policy of the Faculty not to grant in person interviews for cases of academic fraud.

Ethel submitted a letter to the Committee. She wrote:

I thought this was an open book exam, like all the others I took. I made an honest mistake for which I am sorry. I request permission to rewrite the exam after three weeks so I can prepare for the closed book exam which the Professor set and for which I am not presently ready.

The Committee found against Ethel on the count of academic fraud, and recommended that Ethel receive an F in the course.

Dean Cook transmitted the Report of the Disciplinary Committee of the Faculty and the Committee's recommendation to the Executive Committee of the Faculty. The Executive Committee decided that Ethel should receive a grade of F in the course.

Ethel appealed this decision to the Senate Committee for the Study of Individual Cases. She asked for an in person hearing. The Committee refused, citing Faculty policy. Ethel submitted in writing a more elaborate explanation of why she thought the exam was open book. She requested permission to rewrite the exam.

The Senate Committee denied Ethel's appeal and denied her request to rewrite the exam. The Senate Committee decided to impose a sanction of failing the semester.

Ethel Ericity consults you about the University proceedings. She says:

I didn't do anything wrong. This was supposed to be an open book exam. Please help me.

Advise Ms. Ericity.