

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on January 9, 2020,

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 1995* ("Code"),

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:

THE UNIVERSITY OF TORONTO (the "University")

- AND -

J [REDACTED] H [REDACTED] L [REDACTED] (the "Student")

REASONS FOR DECISION

Hearing Date: January 19, 2021, via Zoom

Panel Members:

Mr. Christopher Wirth, Chair
Professor Margaret MacNeill, Faculty Panel Member
Mr. Carlos Khalil, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Sonia Patel, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faulty Grievances

In Attendance:

The Student

Charges and Particulars

1. A Panel of the Trial Division of the University Tribunal convened on January 19, 2021 by videoconference to consider charges brought by the University against the Student under the University's *Code of Behaviour on Academic Matters, 1995* (the "Code"). The charges alleged against the Student as filed by the Provost on January 9, 2020 are as follows:

1. On or about October 29-31, 2019 you knowingly forged, or in any other way altered or falsified a document or evidence required by the University, and/or uttered, circulated or made use of such forged, altered or falsified document, namely, a Midterm exam that you submitted for re-grading in GGR308H1F, contrary to section B.I.1(a) of the *Code*.
2. In addition and in the alternative, on or about October 29-31, 2019, by submitting a Midterm exam which had been altered from its original form for re-grading in GGR3081HF, 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, contrary to section B.I.3(b) of the *Code*.

2. The particulars related to charges 1 and 2 are as follows:

- (a) At all material times, you were a student at the University of Toronto Faculty of Arts & Science.
- (b) In the Fall 2019 term you were enrolled in GGR308H1F (the "Course") which was taught by Professor Sarah Peirce.
- (c) Students in the Course were required to write a midterm exam on October 15, 2019. You attended and wrote the Midterm exam in the Course on that date ("Midterm Exam").
- (d) On or about October 29, 2019 your marked Midterm Exam was returned to you. You received a mark of 37.5 on your Midterm Exam.

- (e) On or about October 31, 2019 to November 8, 2019, you submitted a version of your Midterm Exam for re-grading to Professor Peirce (the “Altered Midterm”).
- (f) The Altered Midterm indicated that you earned a mark of 45.5 on your Midterm Exam.
- (g) You knowingly forged, altered or falsified the Midterm Exam after it had been graded and before you submitted the Altered Midterm to Professor Peirce for re-grading:
 - (i) in an attempt to obtain additional marks on the Midterm Exam;
 - (ii) intending that the University would rely on it; and
 - (iii) for the purpose of obtaining academic credit or other academic advantage.
- (h) You knowingly uttered, circulated and made use of the Altered Midterm knowing that it had been forged, altered or falsified when you submitted it to Professor Peirce for re-grading:
 - (i) in an attempt to obtain additional marks on the Midterm Exam;
 - (ii) intending that the University would rely on it; and
 - (iii) for the purpose of obtaining academic credit or other academic advantage.

The Student’s Position

3. The Student was present and denied the charges. As a result, the hearing proceeded on the basis that the University bore the burden of proving the charges on the balance of probabilities.

Overview

4. The University tendered the evidence of three witnesses: Ms. Sarah Peirce (“Professor Peirce”), the Assistant Professor whose course the Student was in, Ms. Kira Holland (“Ms. Holland”), the Teaching Assistant for that course and Ms. Laurie O’Handley (“Ms. O’Handley”), an Academic Integrity Specialist with the University’s Faculty of Arts and Science. Both Professor Peirce and Ms. Holland provided their evidence by affidavit, which were accepted by the Panel pursuant to Rule 61 of the University Tribunal’s *Rules of Practice and Procedure*, and were then available for cross-examination by the Student and for any questions from the Panel. The Student testified on her own behalf.
5. After careful deliberation, and having considered all the evidence, the Panel found that on the balance of probabilities the evidence is sufficiently clear, cogent and convincing to discharge the burden of proof on the University and found that the Student had committed academic misconduct.

The Evidence

6. The contents of the affidavits of Professor Peirce and Ms. Holland are set out below along with any relevant evidence from their cross-examinations and any questions from the Panel and a summary of the evidence of Ms. O’Handley. A summary of the most relevant evidence of the Student is also set out below.

a) Evidence of Ms. Holland

7. Ms. Holland’s affidavit provides as follows:
 1. I am a PhD Candidate at the University of Alberta. In Fall 2019, I was a Teaching Assistant (“TA”) in the Department of Geography & Planning 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.

2. In Fall 2019, I worked as a TA for the GGR308H1F: Canadian Arctic and Subarctic Environments course (the “Course”), taught by Professor Sarah Peirce. J [REDACTED] L [REDACTED] was a student in the Course.
3. By Fall 2019, I had previously worked as a TA for two years in the Department of Geography, Geomatics, and Environment at the University of Toronto Mississauga. I acted as a TA during the Fall 2017, Winter 2018, Summer 2018, Fall 2018, Winter 2019, and Summer 2019 terms. In all of these courses, I was responsible for grading assignments, tests, and exams.
4. As part of the Course requirements, students wrote an in-class midterm exam on November 8, 2019 (the “Exam”). Professor Peirce provided me with a detailed marking guide for the Exam, which I helped her to edit prior to the Exam.
5. At the end of the Exam, I collected the papers for grading. I was responsible for grading Parts 1-3 of the Exam as well as questions A and B of Part 4. Professor Peirce was then responsible for grading question C of Part 4 and tallying up the total marks for Part 4.
6. I graded the Exam with an erasable red pen. In the course of my review, I added checkmarks, comments, and corrections to student Exam papers. I also added the total number of marks that each student received per question in the body of the Exam, with a circle around the total.
7. I followed my usual grading process when marking the Exam. As part of this process, I mark by question, rather than Exam paper. For example, I would mark each students’ answer to question 5 of the Exam before moving on to mark question 6. I do this in order to reduce bias in my marking and to ensure that there is grading consistency between questions.
8. When I reached the end of Part 1, Part 2, or Part 3 of the Exam, I added up the marks for that part and wrote the sum on the front of the Exam booklet. Then, I moved on to the next part of the Exam. My usual process is to add up all of the marks twice to ensure accuracy and/or spot check random exam booklets to verify that the marks add up, although I do not have a specific recollection of what I did for this Exam.

9. After Parts 1-3 were marked, added up, and written on the front of each Exam booklet, I entered the marks for each student in an Excel spreadsheet (the "Holland Spreadsheet"). The Holland Spreadsheet shows the total marks that each student obtained for Parts 1-3 of the Exam. I used the addition function on Excel to double check my addition of the total grade on the front of the Exam booklet. I have attached a copy of the Holland Spreadsheet to my affidavit, redacted to remove the names and student numbers of other students in the Course, as **Exhibit A**.
10. As recorded on the Holland Spreadsheet, I gave Ms. L■■ 10 marks for Part 1 of the Exam, 7.5 marks for Part 2, and 7.5 marks for Part 3. I also recorded the sum of these 3 sections (25 marks) under the heading "Total", the grade out of 100 for Parts 1-3 (25 of 46 possible marks, or 54%) under the heading "MC+Short", and the total "interim" grade out of 100 before inclusion of a mark for Part 4 (25 of 62 possible marks, or 40%) under the heading "Total Score." I expected that Professor Pierce would complete the marking of Part 4 and calculate and record the final marks tallies with the marks for that Part included in the totals.
11. After I recorded all of the marks, I provided Professor Peirce with the Exam papers and the Holland Spreadsheet. Professor Peirce then marked the remainder of Part 4.
12. I took my usual careful steps to ensure that my marking of the Exams, and my recording of the marks earned by students, was as accurate as possible. I have reviewed the chart that is attached as Exhibit G to Professor Peirce's affidavit. I know that I am capable of making marking errors on Exams and it is always possible that I could have made an error with Ms. L■■'s Exam. However, having performed marking duties for eight other courses at the University of Toronto and one class at the University of Alberta, I have never experienced a student or an instructor bringing to my attention marking errors as many or as significant as reflected in the chart. In my experience, marking discrepancies have always been an issue of one or two points and almost always based on content, rather than the addition of marks. Given that the discrepancies in this case occurred in two separate parts of the Exam and, to my knowledge, no other students raised any concerns about the marking of their Exam, I do not believe that it is likely that I made all of the errors shown in the chart.

8. In cross-examination and in response to questions from the Panel, Ms. Holland's evidence was largely unchallenged but she did clarify that the date of the examination referred in paragraph 4 of her affidavit should be changed from November 2019 to October 2019 and that while she could not recall the specifics of the examination, when she went through it, she would have marked answers with a check mark for correct answers and then have written comments but that if the Student got the answer entirely correct, then she would just have made a checkmark without any comments.

b) Evidence of Professor Peirce

9. Professor Peirce's affidavit provides as follows:
1. I am an Assistant Professor, Teaching Stream, in the Department of Geography & Planning 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.
 2. In Fall 2019, I taught the course GGR308H1F: Canadian Arctic and Subarctic Environments (the "Course"). J ■■■■■ L ■■■ 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 by including the following passages in the Course syllabus beginning at page 6:

Academic integrity

Academic integrity is fundamental to learning and scholarship at the University of Toronto. Participating honestly, respectfully, responsibly, and fairly in this academic community ensures that the U of T degree that you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

The University of Toronto's Code of Behaviour on Academic Matters (<http://www.governingcouncil.utoronto.ca/policies/behaveac.htm>) outlines the behaviours that constitute academic dishonesty, the processes for addressing academic offences, and penalties that may be imposed. Potential offences include, but are not limited to:

[...]

- On tests and exams:
 - [...]
 - Submitting an altered test for re-grading.

[...]

All suspected cases of academic dishonesty will be investigated following procedures outlined in the *Code of Behaviour on Academic Matters*. If you have questions about what is or is not permitted in this course, please do not hesitate to contact me.

4. Students in the Course were required to write a midterm exam worth 20% of their final grade on October 15, 2019 (the “Exam”). The Exam was structured in four parts. Part 1 was a multiple-choice section, Parts 2 and 3 were short answer sections, and Part 4 was a long answer section.
5. Kira Holland, the Course Teaching Assistant (TA), was responsible for marking all of Parts 1-3 and part of Part 4 of the Exam. After Ms. Holland completed her allotted marking hours for the Exam, she provided me with the Exam papers. She also provided an Excel spreadsheet on October 24th, 2019 that contained the total marks earned for each of Part 1, Part 2 and Part 3 of the Exam (“Holland Spreadsheet”). I have attached the Holland Spreadsheet to my affidavit as **Exhibit B**.
6. I marked the remaining unmarked questions, including Question C of Part 4 in the Exam in question. All of the marks for the Exams were then recorded as follows:
 - (a) I recorded the total marks that each student received for Part 4 on the front page of the Exam booklet in red ink below Ms. Holland’s totals for Parts 1-3.
 - (b) I recorded the total Exam grade for each student on the front page of the Exam booklet and in the Quercus Gradebook.
 - (c) Marks were recorded in a separate spreadsheet independent of the Holland Spreadsheet (“Peirce Spreadsheet”). I did not make any changes to the Holland Spreadsheet provided.

7. The Peirce Spreadsheet contains a more detailed breakdown of marks than the Holland Spreadsheet. In addition to the total marks that each student received for each of Parts 1, 2, and 3, the Peirce Spreadsheet also shows the marks for Part 4 and the mark that each student earned for each question on the Exam. The Peirce Spreadsheet was created independently, with assistance from my spouse, by transcribing all of the marks from the physical Exam papers into Excel, so that I could carefully assess the difficulty of the Exam on a question-by-question basis. I have attached the Peirce Spreadsheet as **Exhibit C** to my affidavit.
8. Both Ms. Holland and I independently used an erasable red pen to mark the Exam.
9. I returned the graded Exams to students in the Course during the October 29, 2019 class. According to both the Holland Spreadsheet and the Peirce Spreadsheet, Ms. L■■ received 10 marks for Part 1, 7.5 marks for Part 2, 7.5 marks for Part 3. The Peirce Spreadsheet shows 10.5 marks for Part 4, for a total of 35.5 marks. This amounted to a grade of 57% on the Exam. Both the Holland Spreadsheet and Peirce Spreadsheet were created independently and contained grades transcribed directly from the Exam papers.
10. Each student in the Course, including Ms. L■■, received 2 bonus marks on the Exam because I felt after reviewing the marks that the Exam had been too difficult. As a result, my records and the front page of Ms. L■■'s Exam showed that she had received a total of 37.5 marks, for a grade of 60%. This is indicated on page 3 of the Peirce Spreadsheet and in black ink on the front cover of Ms. L■■'s Exam for Re-Marking.
11. On October 31, 2019, I received an email from Ms. L■■. In Ms. L■■'s email, she stated that while the total score for her Exam was correct, some parts of the Exam individually "might not be" correct. Ms. L■■ said that she could not attend my office hours but offered to send a picture of her Exam so that it could be corrected.
12. On the same day, I replied to Ms. L■■ and told her that it would be easiest for her to bring her Exam to class so that I could review it. I also offered to meet with Ms. L■■ by appointment in my office, outside of office hours. I have attached a copy of my email conversation with Ms. L■■ to my affidavit as **Exhibit D**.

13. I met with Ms. L■■ in my office on November 8, 2019 to discuss the Exam. At this meeting, Ms. L■■ provided me with what she claimed was the Exam that she had received back in class on October 29, 2019 (“Exam for Re-marking”). She described concerns that she had with the possible inaccuracy of some of the marks recorded on her Exam for Re-marking. I have included a copy of the Exam for Re-marking, with my changes made as a result of my discussion with Ms. L■■ as described below, as **Exhibit E** to my affidavit.
14. The front cover of Ms. L■■’s Exam for Re-marking listed the following marks breakdown in red pen, totalling 35.5 marks out of 62 possible marks, or 57%:
 - (a) Part 1 (“MC” or multiple choice) = 10 marks;
 - (b) Part 2 = 2.5 marks;
 - (c) Part 3 = 12.5 marks; and
 - (d) Part 4 = 10.5 marks.
15. This page also showed the 2 bonus marks that Ms. L■■ and all other students in the Course received, written in black ink as “+2” with a black circle around the notation and the adjusted total grade of 37.5 also shown in black ink.
16. At our meeting, Ms. L■■ explained that while the front page of her Exam for Re-Marking indicated that she had received only 2.5 marks for Part 2, the total of the marks given for each question in Part 2 added up to 10.5 marks. We reviewed Part 2 together and confirmed that Ms. L■■’s math was correct on the basis of the individual marks written in red ink with a red circle around each one for each of the five questions in Part 2. On this basis, I agreed to increase Ms. L■■’s Exam mark from 35.5 to 43.5 to reflect the 8-mark change that Ms. L■■ had identified. I therefore struck out the total of 35.5 marks that I had previously written in red ink on the front cover of Ms. L■■’s Exam for Re-marking and wrote a revised mark of 43.5 in black ink.
17. I also crossed out the final total of 37.5 marks, which accounted for the 2 bonus marks given to all students, that I had previously written in black ink on the front cover of Ms. L■■’s Exam. I wrote a revised final total of 45.5 marks out of 62

possible marks, also in black ink. I added in Ms. L■■'s new Exam grade on the basis of these changes, which was 73.4%, circled in black ink.

18. Ms. L■■ also asked me to review the mark that she received on one of the questions on her Exam as she thought that the mark may have been too low. I told Ms. L■■ that I would retain the Exam for Re-Marking to review it again following our meeting and adjust the total grade further if needed. Following the meeting with Ms. L■■ and prior to an additional review, I recorded the mark change on Quercus, to show 45.5 marks.
19. After I met with Ms. L■■, I undertook a more careful review of the Exam for Re-marking. Upon additional review, a number of further anomalies were observed that caused me concern. It appeared that some comments made by Ms. Holland and/or I had been erased and/or whited out. In addition, it appeared that marks had been changed for some of the answers using a red pen similar to the one used by Ms. Holland and I.
20. It then became apparent to me that several marks for individual questions in Parts 2 and 3 were different between the Exam for Re-marking and the record of marks on the Peirce Spreadsheet, so that the Exam for Re-marking showed a total of 8 additional marks not reflected in the Peirce Spreadsheet. In particular:

Question	Exam for Re-marking	Peirce Spreadsheet	Difference
Part 2, Q. i	3	1.5	+1.5
Part 2, Q. iv	3	1.5	+1.5
Part 3, Q. 18	1	0	+1
Part 3, Q. 20	4.5	1.5	+3.0
Part 3, Q. 21	2.5	1.5	+1.0

21. In addition, the marks shown on the front cover of the Exam for Re-marking for Parts 2 and 3 did not correspond to the marks recorded for Ms. L■■'s Exam on each of the Holland Spreadsheet and Peirce Spreadsheet. Similarly, the marks recorded in the body of the Exam for Re-marking did not add up to the total marks

listed on the front cover of the Exam for Re-marking or to the Holland Spreadsheet and Peirce Spreadsheet. In particular:

Part	Cover of Exam for Re-marking	Internal Exam for Re-marking	Peirce Spreadsheet	Holland Spreadsheet
Part 1	10	10	10	10
Part 2	2.5	10.5	7.5	7.5
Part 3	12.5	12.5	7.5	7.5
Part 4	10.5	10.5	10.5	n/a
Total	35.5 + 2	43.5	35.5 + 2	n/a

22. On a black and white photocopy of the Exam for Re-marking, I highlighted in yellow to indicate where I suspected that words had been erased or whited out and changes had been made. I also added comments detailing my suspicions in red. I circled in red the comments that I had added to the Exam for Re-marking during my meeting with Ms. L■■ on November 8, 2019. I have attached a copy of the Exam for Re-marking with my highlighting and annotations to my affidavit as **Exhibit F**.
23. I attach a chart summarizing the various differences between the marks in the Exam for Re-marking and those originally recorded in the Peirce Spreadsheet, and as recorded in the Parts 1, 2, and 3 totals in the Holland Spreadsheet, to my affidavit as **Exhibit G**.
24. Pending further review, I changed Ms. L■■'s mark on Quercus back to the mark of 37.5 marks on November 8th, which was the original 35.5 plus the 2 bonus marks given to everyone in the Course. I have attached a copy of Ms. L■■'s Quercus Gradebook History for the Course to my affidavit as **Exhibit H**.
25. I do not recall any other students in the Course raising concerns about the grading of their Exam or calculation of marks. I have reviewed my emails from this time and do not have any requests from other students in the Course to review their Exams or schedule a meeting with me.

26. In addition, I trust Ms. Holland's grading of the Exam, the accuracy of the Holland Spreadsheet, and the feedback that she provided to students. Overall, I found Ms. Holland to be an experienced TA and grader in the time that I worked with her. Her insights during the administration of the Course were helpful and led me to trust in her capabilities as a TA. I am not aware of any students raising concerns directly to Ms. Holland about issues with the grading of their Exam.
 27. I met with Ms. L■■ in the presence and office of the Department of Geography & Planning Undergraduate Counsellor, Kathy Giesbrecht, to discuss the Exam on November 12, 2019. Following our meeting, I submitted a report to the Student Academic Integrity office.
10. In cross-examination, Professor Peirce's evidence was also largely unchallenged and not undermined in any material way. The Panel had no questions for Professor Peirce.

c) Evidence of Ms. O'Handley

11. Ms. O'Handley identified the Student's record (Tab 3 of the University's Book of Documents (Re: Finding of Offence)), which showed that she had registered with the University in 2015 and that as of January 8, 2021, she had obtained 17.5 credits of the 20 needed to graduate. Ms. O'Handley was not cross-examined nor did the Panel have any questions for her.

d) Evidence of the Student

12. The Student testified on her own behalf.
13. She indicated that on October 29, 2019 she received her test back and reviewed it and saw that the internal marks did not match up with the top page mark and she had questions with respect to the comments which had been written on her test. As a result, she e-mailed Professor Peirce and asked how it could be reviewed.
14. A meeting was arranged for November 8, 2019, at which time she met with Professor Peirce at her office. At this meeting, the Student pointed out to

Professor Peirce the difference between the internal mark and the mark at the top of the page of the test and Professor Peirce agreed to change the mark but asked to keep the paper for her review.

15. Four days later, she again met with Professor Pierce to further discuss the examination. In the meeting was also present the undergraduate counsellor. They mentioned they were concerned about the examination. The Student denied having changed it.
16. In cross-examination, the Student indicated that she had been at the University from the Fall of 2015 to the Winter of 2017 and that she had to leave between 2017-2019. On her return, she had a slightly different name and e-mail address, although her Student number had not changed. The Fall of 2019 was the first set of mid-term exams that she wrote following her return to the University.
17. When she wrote the examination on October 15, 2019, she used a black pen on the examination and she confirmed that there were no changes. As a result, the Student denied making any changes and indicated that someone else must have made them and that any error in the marking had to be done by someone else.
18. The Student confirmed that when she received her test back, the marks were indicated as follows:

Part 1	10
Part 2	2.5
Part 3	12.5
Part 4	10.5
	35.5 + 2
Total	37.5

19. At the time, when she received her test book back, she did not know that Professor Peirce's and Ms. Holland's mistake was based upon their spreadsheet.

20. It was put to the Student that now that Professor Peirce's and Ms. Holland's spreadsheet can be reviewed, it is clear that although one mark could be increased and the other should be decreased they would cancel each other out and arrive back at the same original mark of 35.5.
21. In that context, the Student then denied that in her original meeting with Professor Peirce she asked for additional marks. Rather, she testified that she was only seeking clarification on comments on the paper saying that there were some that she did not understand.
22. The Student indicated that she knew she only had two weeks to make a request to have her mark changed but despite this and the date she e-mailed Professor Peirce, she continued to deny that she was asking to have her mark reviewed despite the calculation discrepancies she was indicating and testified that she was only seeking to discuss the comments with the Professor. However, she did acknowledge that there were no time constraints on when Professor Peirce's comments could be reviewed, but denied sending e-mails to the Professor in order to get her exam re-marked within the two weeks.
23. The Student denied being happy when the Professor in their meeting increased her mark.
24. It was suggested to the Student that if she had been permitted to send in the exam to the Professor by photograph as she initially requested, rather than meeting with her in person, and had the Professor increased the mark, she would have accepted it. The Student again denied seeking a higher mark and indicated that she was just asking for clarification of the comments.
25. With respect to the portions of the answers which had been whited out, the Student maintained that it had all been done during the examination. She also indicated that the reason she whited out a more fulsome answer with respect to the questions on page 64 of the Book of Documents was because she was concerned she would lose marks if she wrote too much, because it had happened

to her on another exam. The Student maintained that while she never lost marks for answers which she crossed out, she had lost marks for writing too much, so that was the reason why she whited out part of her answer.

University's Submissions

26. Counsel for the University submitted that the evidence clearly established that the Student had committed the academic offences charged, but advised that if the Panel were to make a finding of guilt with respect to the charge concerning section B.I.1(a) of the Code, the University would then withdraw the second charge concerning section B.I.3(b) of the Code, which was alleged in the alternative.
27. In that regard, counsel for the University submitted that the evidence clearly established that the Student altered her exam in order to obtain a higher mark, and that it was simply incredible for the Student to state that she could care less about getting a higher mark as what student would not want to receive a higher mark and the increase the Student received from 60% to 70% was a large one. The Student's evidence in this regard was not credible and made no sense as why would she have bothered to have the paper reviewed, if she was not seeking a higher mark.
28. In that regard, for there to have been 8-9 mistakes made by the two markers means either that Professor Peirce and Ms. Holland did a bad job or what was more likely is that the Student altered the exam afterwards. In that regard both Professor Peirce and Ms. Holland both separately recorded a mark of 7.5 for Part 2 and for Part 3, so it would be difficult to conclude that they were both wrong. What is more likely is that the Student got her paper back, did not like her mark, and changed Part 2 to reduce it from 7.5 to 2.5 and Part 3 to increase it from 7.5 to 12.5.
29. With respect to the Student's e-mail found in page 57 of the Book of Documents, she said that she knew that any request for correction to the marks had to be done within two weeks, but then said that it did not matter whether she got a higher mark and that she just wanted to clarify some of the comments. In that regard,

she first offered to take pictures of the exam and send them to Professor Peirce rather than meeting with her in person.

30. The Student's marks were clearly changed from what the marks were on the spreadsheet and therefore it was likely that comments had been erased and check marks added by the Student to support that.
31. It was clear from Professor Peirce's evidence where the changes have been made by the Student that they were deliberate changes made by her for her benefit in order to obtain a good mark and the fact that no other students complained about their marks also undermines the Student's credibility.
32. As a result, counsel for the University submitted that it had met its onus of proving the allegations against the Student on the balance of probabilities.

The Student's Submissions

33. The Student denied the allegations and submitted that she did not make the changes which she is being accused of and that she just wanted to address some of the comments on the exam and learn from her mistakes and improve and that she was not seeking to have her marks increased, as that was not important to her. It was the final examination which was important, not the mid-term examination.
34. She further submitted that she wanted an in-person meeting to discuss the issues, did not know who had made the mistake in the marking and that there were a number of people involved in that and that she did not know that the red pen was erasable and did not change or falsify her exam to get a benefit.

University's Reply

35. In reply, counsel for the University pointed out that the mid-term examination mark counted towards 20% of the Student's final mark in the course, whereas the final exam counted towards 30% of the mark and so it is not accurate for the Student

to suggest that it was the final that was important and not the mid-term. Given their respective portions of the final mark, both were important.

Standard of Proof

36. The onus is on the University to establish, based upon clear and convincing evidence on a balance of probabilities, that the academic offences charged have been committed.

Decision of the Tribunal

37. Based on the evidence and the submissions by counsel for the University and the Student, the Student was found guilty of one count of altering and/or making use of a falsified document, contrary to section B.I.1(a) of the Code.
38. Given this finding, the University withdrew the allegation with respect to section B.I.3(b) of the Code.

Reasons for Decision

39. The Panel accepted the evidence of Professor Peirce, Ms. Holland and Ms. O'Handley. Their evidence was straightforward, internally and externally consistent, and essentially untouched in cross examination. The Panel rejected the evidence of the Student as it lacked credibility because it was not always consistent and given the essential implausibility of the Student's version of events.
40. In that regard, in the Panel's view, it was simply implausible that both Professor Peirce and Ms. Holland would make 8-9 mistakes similar in their marking of the Student's examination and that both of them would make identical errors entering those marks on the Peirce and Holland spreadsheets. To the contrary, given Professor Peirce's and Ms. Holland's evidence, and given the documentation provided to the Panel, it was much more plausible and likely that the Student had modified her examination paper in order to persuade Professor Peirce to give her a better mark.

41. In the Panel's view, the Student's evidence was simply implausible and lacked credibility. In that regard, the Student admitted that she had a certain timeframe within which to seek a re-marking of her exam by Professor Peirce, but that there was no such time limit with respect to asking the Professor to review any comments she had made on it. Despite admitting this, and the fact that she then sent an e-mail to Professor Peirce on October 31, 2019 in which she stated to Professor Peirce:

“My midterm score total add up is correct but some parts individually itself might not be. I could not make it to your office hours. Do I show you by taking pictures or any other ways to show you?”

42. The Student denied that by making such a request and then ultimately meeting with Professor Peirce, she was seeking to have Professor Peirce review her marks and was only seeking to review with Professor Peirce the comments she had made on it.

43. Further, when pressed, the Student denied that she was happy that Professor Peirce had increased her mark, which only further added to the Student's lack of credibility and to the implausibility of her evidence.

44. As well, the Student had originally asked to submit her exam paper to Professor Peirce by taking pictures of it as she could not attend Professor Peirce's office hours. In the Panel's view, this suggested that the Student was hoping that she could persuade the Professor to revise her mark relying upon pictures taken of the exam rather than affording the Professor an opportunity to review the original of it. This as well undermined the Student's credibility.

45. Further, on page 64 of the Book of Documents, it clearly appeared that parts of the red check marks started under the whiteout which indicates that the whiteout was added by the Student after the red check marks were already there and supports the finding that the Student altered the document.

46. Lastly, the Student's explanation as to why she whited out the more fulsome answer to the questions on page 64 of the Book of Documents was implausible.
47. As a result, the Panel was satisfied on the balance of probabilities based upon sufficiently clear and convincing evidence, that the University had established that the Student had changed her examination booklet to revise the marking total on page 1 of it to decrease the total for Part 2 from 7.5 to 2.5 and to increase the point total for Part 3 from 7.5 to 12.5, in an attempt to persuade Professor Peirce to increase her mark. In order to support this, the Student made changes to the answers and the marks recorded in her exam booklet found on pages 63, 64, 80, 81 and 82 in the Book of Documents, to make a number of changes including changing the marks, adding check marks and additional information to her answers, removing other check marks and crossing out or whiting out answers, all to suggest that she should have received a higher mark for Part 2 than had been recorded on the cover of her exam booklet. In so doing, the Student hoped that Professor Peirce would increase her mark for Part 2 from 2.5 to 10.5 and not notice that the Student's total for Part 3 had been increased from 7.5 to 12.5 and thereby increase the Student's total mark for the exam from 35.5 to 43.5, plus the additional 2 bonus marks which Professor Peirce had given to all students.
48. As a result, the Panel was satisfied that the Student committed academic misconduct contrary to section B.1.1(a) of the Code by forging, altering and falsifying her mid-term exam in GGR308H and by circulating and making use of it by submitting it for re-grading, in an attempt to obtain additional marks on it, knowing that the University would rely upon it and for the purpose of obtaining academic credit and advantage.

Sanction

The University's Evidence

49. Ms. Sonia Patel, Articling Student, testified and identified the Book of Documents from a previous set of charges, which the University had brought against the Student (see below), which was then entered into evidence as an Exhibit.

The University's Submissions

50. Counsel for the University submitted that the proper sanction to be imposed on the Student should be:
- a) a final grade of zero in GGR308HIF in Fall 2019;
 - b) a four-year suspension from the University commencing on January 19, 2021 ending on December 31, 2025;
 - c) the sanction be recorded for a period of five years on the Student's academic record and transcripts to the effect that she was sanctioned for academic misconduct, commencing on January 19, 2021 and ending on December 31, 2026;
 - d) the Tribunal should order that this case 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.
51. Counsel for the University drew to the attention of the Panel a prior decision of the Tribunal involving the Student, namely *University of Toronto and H.L.* (Case No. 869, May 1, 2017 (Finding) and August 2, 2017 (Sanction)) where the Student had previously been found to have committed an academic offence and submitted that this was a unique situation where a student commits another academic offence immediately upon her return from the sanction from the first offence. As a result of the earlier decision, the Student has been suspended until April 30, 2019 from the University and so September 2019 was her first set of classes since her suspension. In that regard, she committed an academic offence right away on her first set of exams which was an aggravating factor.

52. In addition, an aggravating factor is that a student has called into question the integrity of the marking process.
53. Normally this type of academic offence would lead to a two-year suspension. The fact that the Student had been previously subject to a sanction of a two-year suspension, along with a note on her academic record, did not stop her from committing her elaborate ruse, which was strikingly similar to her first academic offence. In that regard, she has now been found to have committed the same academic offence a second time but just for a different course.
54. Counsel for the University reviewed with the Panel the principles and factors relevant to sanction as set out in the *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976). In that regard, counsel for the University indicated that given the likelihood of the repetition of this conduct by the Student, it required that she be subject to a significant period of suspension to bring it home to her as the prior sanction including the two-year suspension did not work.
55. In that regard, following a first offence which normally brings a two-year suspension, a subsequent offence leads to a three-year one, but given the aggravating factors in the case at hand, it was submitted that a four-year suspension was warranted. With the first suspension having been concluded at the end of April of 2019, after the Student came back following that suspension in the Fall of 2019, despite the previous panel's thoughts that the original two-year suspension would have provided her with sufficient motivation not to re-offend, the first suspension apparently had no impact on the Student.
56. Further, there were no mitigating factors present and given the need to deter the Student from such further conduct and given how rare it was for this type of academic misconduct to occur a second time, it was frankly shocking and required a higher sanction.
57. Counsel for the University also provided the Panel with other prior decisions of the Tribunal:

University of Toronto and X.L. (Case No. 924, June 20, 2018);
University of Toronto and L.Y. (Case No. 883, July 11, 2017);
University of Toronto and B.D. (Case No. 845, July 26, 2017);
University of Toronto and O.S. (Case No. 824, June 15, 2016);
University of Toronto and Z.M. (Case No. 632, November 10, 2011); and
University of Toronto and F.M. (Case No. 522, May 5, 2009).

58. These decisions demonstrate that this type of academic offence attracts at least a two-year suspension and that repeated offences can attract a three-year, and where appropriate, a four-year suspension.
59. Counsel for the University also submitted that the Student's conduct threatened to undermine the University's academic credibility and that hopefully by imposing a four-year suspension, the Student will finally learn from this.

The Student's Submissions

60. The Student submitted that she never wanted more marks and did not switch papers as was found in the earlier decision. She could not admit her conduct if she did not do it, but could not explain how the marks were recorded as they were. The Student suggested that it is possible that the Professor and Ms. Holland, the teaching assistant would have made mistakes and that she could not accept the penalty being sought by the University, rather, she could only agree to a zero on the examination.

University's Reply

61. Counsel for the University submitted that the Student's submission showed that she had learnt nothing from the earlier decision and that this should be taken into consideration in penalty as well as she was again giving the same explanation for her conduct as she did the first time.

Sanction Decision

62. After deliberations, the Tribunal ordered that the following sanctions shall be imposed on the Student:
- (a) a final grade of zero in GGR308H1F in Fall 2019;
 - (b) a four-year suspension from the University commencing on January 19, 2021 and ending on December 31, 2025;
 - (c) the sanction be recorded for a period of five years on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct, commencing on January 19, 2021, and ending on December 31, 2026.
63. The Tribunal further orders 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.
64. An Order was signed at the hearing by the Panel to this effect.

Reasons for Sanction

65. The Panel considered the principles and factors relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976), namely:
- (a) the character of the person charged;
 - (b) the likelihood of a 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 occasioned by the offence; and
 - (f) the need to deter others from committing a similar offence.

66. At this Tribunal, cheating on exams, generally results in a minimum suspension of at least two years if it is a first offence and three years if it is a second offence. 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. However, this is a second offence and no such mitigating factors are present in the current case. Although, the Student does not benefit from the mitigating credit that is typically awarded to students who admit misconduct before the Tribunal, the fact that she defended the charges is not to be held against her.
67. The Student did not provide the Panel with any character evidence and so the Panel was left with only the evidence that the Student has now been twice found to have cheated on examinations.
68. In considering the likelihood of a repetition of the offence, this is a second offence by the Student and was committed shortly after her previous suspension was completed. There has been no expression of remorse by the Student who still denies having committed an offence. A significant period of suspension is therefore required to bring the message home to her.
69. In considering the nature of the offence committed, cheating attacks the integrity of examinations is a cornerstone of academic life and for which, the University spends considerable resources to ensure that they are fair.
70. There are not any extenuating circumstances surrounding the commission of the offence.
71. In considering the detriment to the University occasioned by the offence, it must be reminded that the University undertakes significant and expensive measures to protect the integrity of its examinations and this kind of misconduct is a reminder of why the University must go to these lengths.
72. Finally, it is important to send a clear message that surreptitious attempts to undermine the academic integrity of examinations will be taken very seriously and

as this is a cheating case, a key consideration is the need to provide general deference to others in order to deter them from committing a similar offence.

73. The Panel considered these factors in light of what has been ordered in previous similar cases. While the determination of an appropriate penalty in every case 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.
74. As a result, the Panel was satisfied that given that this is the Student's second offence for essentially the same conduct, which was committed immediately following her return from her suspension for the first offence, given that the Student has failed to learn from her first offence and given the lack of mitigating factors, the sanction proposed by the University was appropriate in the circumstances.

Dated at Toronto, this 4th day of May, 2021



Christopher Wirth, Chair

On behalf of the Panel