

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on January 11, 2021.

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 (the “University”)

- and -

M [REDACTED] H [REDACTED] (the “Student”)

REASONS FOR DECISION

Date of Hearing: April 19, 2021, via Zoom

Members of the Panel:

Ms. Erin Dann, Chair

Professor Lynne Howarth, Faculty Panel Member

Mr. Branden Cave, 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

Mr. Jean-Pierre D'Angelo, Downtown Legal Services, Representative for the Student

Hearing Secretary:

Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances,
University of Toronto

Not in Attendance:

The Student

Charges and Hearing

1. This Panel of the University Tribunal held a hearing, by Zoom, on April 19, 2021 to consider the charges brought by the University against the Student under the *Code of Behaviour on Academic Matters, 1995* (the “Code”).
2. The charges against the Student are as follows:
 - (a) On or about January 10, 2020, the Student knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in connection with a make-up test written in POL242Y5Y 2019(9) (the “Course”), contrary to section B.I.1(b) of the *Code*.
 - (b) In the alternative, on or about January 10, 2020, the Student knowingly did or omitted to do something for the purpose engaging 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 final examination in the Course, contrary to section B.I.3(b) of the *Code*.
3. In brief, the allegations are as follows: At the material times, the Student was a registered student at the University of Toronto Mississauga and was enrolled in the Course. On January 10, 2020, the Student wrote a make-up test. The Student knew she was not permitted to use or possess any unauthorized notes during the test. Nevertheless, the Student was found to be in possession of index cards, that contained information relevant to the Course, during the make-up test.
4. The Student did not appear at the hearing but was represented by Downtown Legal Services, who was present. At the outset of the hearing, Mr. D'Angelo, a law student at Downtown Legal Services, confirmed that he had informed instructions to proceed in the Student’s absence. Ms. Patel on behalf of the University had no objection to proceeding in the absence of the Student, who is currently living in another time zone.
5. The hearing proceeded on the basis of an Agreed Statement of Facts (the “ASF”) contained within a Joint Book of Documents (the “JBD”) presented by the parties. The Panel reviewed the documents in the JBD before and during the course of the hearing to be satisfied that they supported the facts agreed to in the ASF. A summary of the agreed facts follows.

Evidence and Findings

6. The Student first registered as a student at the University of Toronto Mississauga (“UTM”) in Fall 2015. In Fall 2019, the Student enrolled in the Course, which was taught by Randy Besco.
7. The Student received permission to write a make-up test in the Course on January 10, 2020. She was not permitted to have any aids with her during the test. The Student was the only person writing the make-up test. Approximately 20 minutes into the test, the Student raised

her hand to ask the invigilator a question. When the invigilator approached, the Student asked whether she was allowed to use a calculator for the test. The invigilator asked in response, “what does it say on the top of the test.” The invigilator then reached for the test to turn to the first page and two index cards slid out of the test paper and onto the desk.

8. A copy of the index cards was included in the JBD. The Student admitted that she prepared the cards and that they contained material relevant to the Course and the make-up test. The Student further admitted that she knew she was not permitted to have the index cards with her during the make-up test.
9. The Student immediately accepted responsibility. On January 10, 2020, she sent an email to the invigilator apologizing for the incident. On October 8, 2020, she met with Professor Catherine Seguin, Dean’s Designate for Academic Integrity at UTM. The Student was accompanied by counsel. During the meeting, she admitted knowingly possessing unauthorized aids (the index cards) during the make-up test. The Student also provided Professor Seguin with a written statement. The written statement was included in the JBD. In it, the Student acknowledged committing an academic offence and expressed remorse for her conduct. She also explained the serious mental health issues she was experiencing at the time of the make-up test, and the significant consequences she faced given her immigration status in Canada.
10. Following deliberations and based on the admissions made by the Student, the ASF and the materials in the JBD, the Panel concluded that the first charge 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 was advised that if the Tribunal convicted the Student on that charge, the University would withdraw the second charge (the alternative charge) and that charge was so withdrawn.

Penalty

11. The Student and University submitted a Joint Submission on Penalty (“JSP”) in support of the following penalty:
 - (a) A final grade of zero in POL242Y5Y;
 - (b) A suspension from the University from April 30, 2021 to April 30, 2024; and
 - (c) A notation of the sanction on her academic record and transcript from the day the Tribunal made its order to April 30, 2025.
12. The parties also submitted that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the name of the Student withheld.
13. As the Tribunal has stated in many cases, absent exceptional circumstances, panels are expected to accept and implement joint statements 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 25).

14. In the Panel’s view, the joint submission in this case is reasonable and appropriate. In arriving at this decision, the Panel took into consideration the nature of the offence, the detriment to the University occasioned by the offence, the need to deter other students from acting in a similar manner, the character of the Student, and the circumstances surrounding the commission of the offence.
15. This is a serious offence. Cheating on a test is profoundly unfair to other students. As this Tribunal has previously noted, “the integrity of examinations is a cornerstone of academic life” (*The University of Toronto and Y.Y. (Case No. 851, March 1, 2017(Sanction))*).
16. Moreover, this was not the Student’s first academic offence. On November 25, 2019, the Student was sanctioned for submitting altered documents in a petition for special consideration in four courses. She received a final grade of zero in each of the four courses, a 12-month suspension and a 12-month notation on her academic record and transcript. Given that the Student had been sanctioned in relation to academic misconduct just two months prior to the make-up test, her decision to bring in the authorized aids cannot be characterized as a one-time lapse in judgment.
17. However, there were also important mitigating factors to consider. The Student admitted guilt at the earliest opportunity and has cooperated throughout the process, including entering into the ASF and JSP. These actions demonstrate insight and remorse, as did the Student’s written statement to Professor Seguin.
18. Furthermore, the Student tendered evidence, which the Provost did not challenge, in support of the JSP. That evidence included a letter from the Student’s doctor relating to the migraine symptoms experienced by the Student on January 10, 2020 and a letter from a doctor at the UTM Health and Counselling centre dated September 15, 2020. The letter from the counselling centre describes the Student as experiencing significant mental health symptoms at the time of the offence.
19. Finally, as an international student, the suspension from the University will have significant consequences for the Student’s immigration status.
20. In all of the circumstances, and having reviewed the cases provided by the parties in support of the JSP, at the conclusion of the hearing, the Panel issued the following Order, which is hereby confirmed:
 - (a) **THAT** the Student is found guilty of one count of using or possessing an unauthorized aid contrary to section B.I.1(b) of the *Code of Behaviour on Academic Matters*;
 - (b) **THAT** the Student shall receive a final grade of zero in POL242Y5Y;

- (c) **THAT** the Student be suspended from the University from April 30, 2021 to April 30, 2024;
- (d) **THAT** a notation shall be placed on the Student's academic record and transcript from the date of the order to April 30, 2025; and
- (e) **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.

Dated at Toronto this 16th day of July, 2021.



Erin Dann, Chair

On behalf of the Panel