

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on November 16, 2020

**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 -

**D [REDACTED] K [REDACTED] (the “Student”)**

**REASONS FOR DECISION**

**Hearing Date:** April 27, 2021, via Zoom

**Members of the Panel:**

Mr. Douglas F. Harrison, Chair

Professor Margaret MacNeill, Faculty Panel Member

Ms. Yerin Lee, Student Panel Member

**Appearances:**

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

Krista Kennedy, Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

**Not in Attendance:**

The Student

## Charges and Hearing

1. The Trial Division of the Tribunal held a hearing by videoconference on April 27, 2021, to address the following charges brought by the University against the Student under the *Code of Behaviour on Academic Matters, 1995* (the “Code”), which were set out in a letter to the Student dated November 16, 2020:
  1. On or about December 18, 2019, you knowingly used or possessed an unauthorized aid in the final exam in CHM136H1F (“CHM136”), contrary to section B.I.1(b) of the Code.
  2. In the alternative, on or about December 18, 2019, 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 the final examination in CHM136, contrary to section B.I.3(b) of the Code.
  3. On or about April 7, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in the final short answer assignment you submitted in BIO130H1S (“BIO130”).
  4. In the alternative, on or about April 7, 2020, you knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in connection with the final short answer assignment you submitted in BIO130, contrary to section B.I.1(b) of the Code.
  5. In the further alternative, on or about April 7, 2020, 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 the final short answer assignment you submitted in BIO130, contrary to section B.I.3(b) of the Code.

Particulars of the offences charged are as follows:

1. At all material times you were a student enrolled at the University of Toronto Faculty of Arts & Science.  
*CHM136*
2. In Fall 2019 you were enrolled in CHM136.
3. On December 18, 2019, you wrote the final examination in CHM136.
4. During the final examination, you were found in possession of an iPhone, which was turned on. The iPhone was an unauthorized aid.
5. You knew that you were not permitted to be in possession of an iPhone during the final examination.

*BIO130*

6. In Winter 2020, you enrolled in BIO130.
7. Students in BIO130 were required to submit a final short answer assignment (the “Assignment”), worth 15% of their final grades. The Assignment was administered online as a 24-hour take-home assignment on April 6-7, 2020. Students were allowed to use the course materials (i.e., lecture videos, lecture notes and textbook); however, they were not permitted to use any other aids.
8. On or about April 7, 2020, you submitted your Assignment.
9. You submitted the Assignment:
  - a. To obtain academic credit;
  - b. Knowing that it contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including the authors of answers that were posted on Chegg.com, which is a website that allows subscribers to post questions on the site and to view questions and answers posted on the site (the “Chegg Sources”); and
  - c. Knowing that you did not properly reference the ideas, expressions of ideas or work that drew from the Chegg Sources or from others.
10. You knowingly obtained unauthorized assistance in the Assignment from the Chegg Sources or from others.
11. You knowingly submitted the Assignment with the intention that the University of Toronto rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

**Service**

2. The Student did not attend the hearing. In order to proceed with the hearing in the Student’s absence, the Tribunal therefore had to determine if reasonable notice was given to the Student, as required by s. 6 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (“SPPA”) and by Rule 13 of *The University Tribunal Rules of Practice and Procedure* (the “Rules”).
3. Counsel for the University presented affidavit evidence from Nusaiba Khan, Kimberly Blake, Andrew Wagg, Obianuju Umenyi and Melody Neumann. This evidence, as outlined below, demonstrated that all relevant materials in this matter were delivered to the Student via email to the Student’s contact email address as recorded in the University’s Repository of Student Information (“ROSI”).

4. Delivery by email to a student's email address as recorded in ROSI is permitted and is considered valid service for a hearing before this Tribunal by virtue of Rule 9(c) of the Rules. It is not necessary to physically deliver materials to effect valid service, although that is another option under Rule 9. Students are apprised of the fact that the University and its divisions may use email for delivering official correspondence to them in accordance with the *University's Policy on Official Correspondence*. This Policy also directs that students are responsible for maintaining and advising the University of their current email address through ROSI.
5. In the present case, the Office of the Vice-Provost, Faculty and Academic Life emailed the Student a copy of a letter to him from Professor Heather Boon, the University's Vice-Provost, Faculty & Academic Life, attaching the charges, on November 16, 2020. The email was sent to the Student's email address listed in ROSI. This email address has been listed in ROSI as the Student's contact email since January 2017.
6. The University's Student Academic Integrity ("SAI") office had exchanged a few emails with the Student earlier in 2020, using the Student's email address listed in ROSI. Professor Charly Bank, Dean's Designate for Academic Integrity, emailed the Student at that email address on February 24, 2020 about an allegation of academic misconduct in CHM136. After a follow up email on March 11, 2020, the Student responded, on March 11, 2020, to say that he wanted to meet "anytime before March 19".
7. On March 12, 2020, SAI responded to the Student, recommending that he meet with an academic advisor at St. Michael's College before deciding how to proceed. The Student responded on March 16, 2020, to ask how he could resolve the situation, stating, "If I still can proceed to a meeting I would like to have one as soon as possible."
8. The next day, on March 17, 2020, Laura Ferlito, Associate Director, Academic Integrity & Petitions at the Office of the Faculty Registrar, Faculty of Art & Science, responded by email to the Student to ask that he connect with SAI after he had discussed the matter with his College Registrar's office.
9. Two days later, on March 19, 2020, the Student's ROSI email account was accessed by someone, at 7:19 p.m. Mr. Wagg, an Incident Report Architect with the University's Information Security, Information Technology Services department, advised that this is the last time the account was accessed.
10. SAI did not hear further from the Student and sent a follow up email to him, to his ROSI contact email, on August 31, 2020, concerning the allegation of academic misconduct in CHM136. No response was received.

11. Meanwhile, back on May 6, 2020, Professor Tony Harris, Associate Chair Undergraduate of the University's Department of Cell & Systems Biology, emailed the Student at his ROSI contact email, regarding allegations of academic misconduct in the Final Assignment of BIO130. Professor Harris proposed that he would forward the case directly to the Dean's Office in order for it to be assessed by a Dean's Designate as soon as possible, which would allow the matter to be concluded more quickly and give the Student the opportunity to discuss his circumstances with a Dean's Designate. However, Professor Harris also advised that the Student could ask for a meeting with an instructor. Professor Harris asked the Student to respond to this email as soon as possible, and in event by 5:00 p.m. on May 8, 2020, failing which Professor Harris would have the option of forwarding the matter to the Dean of the Faculty of Arts & Science. Professor Harris did not receive a response from the Student.
12. On August 25, 2020, SAI emailed the Student, at his ROSI contact email, concerning the allegation of academic misconduct in the BIO130 Final Assignment. In this email, Professor Francois Pitt, Dean's Designate for Academic Integrity, told the Student that he could meet with Professor Pitt to discuss that matter, including a possible sanction that would resolve it. However, Professor Pitt also recommended to the Student that he should meet with an academic advisor at the St. Michael's College Registrar's Office, for support in "navigating the academic integrity process". Professor Pitt asked for a response from the Student by September 4, 2020.
13. Having not received a response from the Student, SAI sent the Student a follow up email on September 9, 2020, requesting a response to Professor Pitt's email by September 17, 2020.
14. On September 24, 2020, emails were sent to the Student, at his ROSI contact email address, by Professor Bank and by Professor Pitt to advise the Student that the CHM136 matter and the BIO130 matter, respectively, would be forwarded to the Vice-Provost.
15. Following the above-mentioned November 16, 2020 email enclosing the charges, Tina Lie, a lawyer with Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland"), acting as Assistant Discipline Counsel for the University, emailed the Student a number of times:
  - (a) November 24, 2020, introducing herself and advising the Student that she would be sending him, by email, important documents and information regarding the hearing of the charges; encouraging the Student to retain legal counsel; and inviting the Student to contact her to discuss resolution;
  - (b) January 8, 2021, enclosing the University's disclosure brief of documents in the University's possession that may be relevant to this matter, as well as another copy of the charges, a copy of the *University's Policy of Official Correspondence with Students* and summaries of the evidence the University anticipated calling at the

hearing, and advising the Student that important documents and correspondence would be sent in future to his contact email address;

- (c) February 8, 2021, requesting that the Student contact her by no later than February 12, 2021, to advise of his availability on four dates she proposed for the hearing, which she anticipated the university would ask to be held by videoconference in light of the restrictions imposed by the ongoing pandemic; and
- (d) February 17, 2021, advising the Student that having not heard from him, she intended to schedule his hearing for April 27, 2021, that she would be requesting that the hearing proceed by videoconference, and that if he did not attend the hearing once it was scheduled that it may take place in his absence without further notice to him.

16. On February 17, 2021, Krista Kennedy, Administrative Clerk & Hearing Secretary of the University's Appeals, Discipline and Faculty Grievances ("ADFG") Office, emailed both Ms. Lie and the Student to advise that Provost had requested to schedule a hearing in this matter, and to advise that the Chair of this tribunal had issued a direction that subject to any submissions by the Student as to why the hearing should proceed in person and not by Zoom (which submissions had to be received by 11:00 a.m. on February 24, 2021), the hearing would proceed via Zoom on April 27, 2021.
17. Having heard nothing from the Student by the deadline, the Chair made a direction that the hearing proceed electronically, as permitted by Rule 47 of the Rules and by the provisions of the SPPA, on April 27, 2021, at 9:45 a.m. This direction was emailed to the Student on February 25, 2021, by Nusaiba Khan, an Administrative Assistant with the ADFG Office.
18. On April 8, 2021, Ms. Khan served the Student with the Notice of Electronic Hearing (the "Notice") by sending him a copy by email to his email address listed in ROSI. Ms. Khan's email included the coordinates for the Student to access the Zoom videoconference for the hearing.
19. On April 12, 2021, Ms. Khan emailed Ms. Lie and the Student to schedule a time to conduct a test of the Zoom videoconferencing platform.
20. Neither Ms. Lie nor Ms. Khan received any communication from the Student in response to any of their emails and they did not receive any bounce back messages indicating that any of their emails to him could not be delivered.
21. In addition to the above-noted emails, Kimberly Blake, a legal assistant at Paliare Roland, assisting Ms. Lie, sent the Student, via FedEx, a courier package on April 21, 2021, to the street address in Vancouver, B.C., that the Student had provided in ROSI as his mailing address. This package contained a letter from Ms. Lie, the Notice, a copy of Ms. Khan's April 8, 2021, email with the Zoom

coordinates, and the charges. As of the afternoon of April 22, 2021, the package was “Ready for recipient pickup” at a FedEx facility in Vancouver, following an unsuccessful attempt to deliver the package to the designated street address.

22. Ms. Blake also attempted to call the Student, on April 22, 2021 at approximately 12:50 p.m., at the phone number the Student provided in ROSI. Ms. Blake received a recording that the number she was trying to reach was not assigned.
23. The Panel convened at 9:45 a.m. on April 27, 2021, in accordance with the Notice. The Panel then waited 15 minutes to allow the Student or a representative of the Student to appear. By 10:00 a.m., neither the Student nor a representative appeared. At that point, the Panel concluded, based upon the foregoing evidence and the aforementioned applicable provisions of the Rules and the SPPA, that the Student had received reasonable notice of the hearing and of the charges, and therefore ordered that the hearing proceed in his absence, as permitted by s. 7(3) of the SPPA and Rule 17 of the Rules.

### **Facts**

24. In support of the charges, Counsel for the University tendered the affidavits of Mr. Umenyi and Ms. Neumann, referenced above, the contents of which are described below. These affidavits were emailed to the Student by Ms. Lie on April 19, 2021. In her email, Ms. Lie invited the Student to advise her by April 22, 2021, whether he wished to cross-examine any of the affiants. Ms. Lie did not receive any communication from the Student in response and did not receive any bounce back message indicating that her email to him could not be delivered. Both affiants were in attendance during the hearing and addressed questions from the Panel.

#### **(a) CHM136**

25. The Student was enrolled in Life Sciences within the Faculty of Arts & Science, at St. Michael’s College. In the 2018-19 academic year, he had taken nine courses, obtaining one grade of D+, one D, one D- and six F’s. In the 2019-20 academic year, he continued with first-year courses, on academic probation.
26. One of the courses taken by the Student in the Fall 2019 term was CHM136, Introductory Organic Chemistry I.
27. The final exam in CHM136, set for three hours, took place on the morning of December 18, 2019. The front page of the exam booklet indicated that the only aids allowed during the exam were unboxed molecular models. In addition, a periodic table was attached to the back of the exam. The front page also listed a number of reminders, including, “Turn off and place all cell phones, smart watches, electronic devices, and unauthorized study materials in your bag under your desk. **If it is left in your pocket, it maybe an academic offence.**” [emphasis added]

28. In addition, at the outset of the exam, an invigilator told the students what aids were allowed and what aids were unauthorized.
29. A little more than an hour after the CHM136 final exam began, one of the invigilators found that the Student was in possession of an iPhone, which was turned on. The iPhone had been in the Student's jacket. The Student volunteered the iPhone, which was confiscated for the duration of the exam. Following the exam, the Student acknowledged in writing that he had brought an unauthorized aid into the exam and admitted that he had committed an academic offence under the Code. The iPhone was returned to him at the end of the exam.
30. The student's acknowledgement is only of the fact that they were in possession of the unauthorized aid, not that they made any use of it. There is, in fact, no evidence that the Student made any use of his iPhone during the exam.

**(b) BIO130**

31. One of the courses taken by the Student in the Winter 2020 term was BIO130, Molecular & Cell Biology.
32. Because of the COVID-19 pandemic, the final exam in BIO130 was replaced by an online, 24-hour take-home Final Assignment. The announcement of this change was posted on March 8, 2020, on Quercus, the University's online portal (also referred to as a learning management software platform) through which students can access course materials (and did so pre-pandemic). The announcement, which was also emailed to the entire BIO130 class, stated that during the assignment students would be permitted to "use their notes, textbook, or any course materials they wish", and that they were "expected to complete [the Final Assignment] on their own without collaborating or consulting other people".
33. The Final Assignment was administered on April 6-7, 2020. Announcements relating to it were posted on Quercus and emailed to the students in the course on March 30, April 3, and April 6, 2020. The announcements noted the importance of academic integrity.
34. The March 30 2020, announcement referred to the Code and the expectation that students would be familiar with its content. Reference was made to the fact that potential offences relevant for the Final Assignment included: "Obtaining ... unauthorized assistance on this assignment" and "Falsifying any information in ... [a] document, or record required by the University".
35. The April 3, 2020 announcement to students in the course stated, in part: "You are allowed to use your lecture notes and textbook (including e-text) but **any online resources outside of the course are not**

**allowed.** There will be an Academic Integrity statement that you must complete for your assignment to be marked.” [emphasis added].

36. The April 6, 2020 announcement reminded students “to use your lecture notes and textbook/e-text only”.

37. The Final Assignment was made available to students on April 6, 2020. Question 1 of the Final Assignment required students to complete an academic integrity statement.

38. The Student submitted his answers to the Final Assignment on April 7, 2020, online, through Quercus. The Student completed the academic integrity statement in which he stated,

By signing this Statement, I, ..., fully agree to abide to the Code of Behaviour on Academic Matters. I will not commit academic misconduct, and am aware of the penalties that may be imposed if I commit an academic offence.

39. During the 24-hour period that the students in the course were given to complete the Final Assignment, instructors and teaching assistants in the course found a number of the questions and answers posted on Chegg.com. This is a subscription-based website that allows students to post problems that are then answered by so-called experts. Subscribers can also access questions and answers posted by others to the site.

40. In order to determine if students had consulted the Chegg Sources during the Final Assignment, the instructors and teaching assistants searched for key phrases, misspellings and incorrect answers from the Chegg Sources answers across students’ Final Assignments.

41. Based on those searches, similarities were found between the answers that the Student had provided to Questions 2, 3, 5, 7, 9, 10 and 11, and answers in the Chegg Sources.

42. Professor Neumann, who is an Associate Professor, Teaching Stream, in the University’s Department of Cell & Systems Biology, discussed the matter with Professor Daphne Goring, the instructor for the second part of BIO130. Professor Neumann and Professor Goring considered the similarities between the Student’s answers and the answers in the Chegg Sources to be suspicious and unlikely to be coincidental because:

- (a) The Student’s answer to Question 2 included very similar language to the Chegg Sources answer, including references to “alpha helixes” of the plasma membrane, which were not required to answer the question;

- (b) The Student's answer to Question 3 was very similar to the Chegg Sources answer, including failing to answer the question based on the three types of transporters (as was required by the question). In addition, in the electronic version of the assignment that the Student submitted, there was an icon in his answer that appeared to be a small square with a diagonal arrow icon. When Professor Neumann put her cursor over the icon, it linked to a Chegg.com web page.
  - (c) The Student's answers to Question 5 were identical to the Chegg Sources answers, including the same incorrect answers for Questions 5(d) and (f).
  - (d) The Student's answers to Question 7 were identical to the Chegg Sources answers and were incorrect. In addition, in the course there had been no discussion of any specific kinesins for this process, but yet the Student made specific mention of kinesin-1 and kinesin-2 in his answer.
  - (e) The Student's answers to Question 9 were correct, but virtually identical to the Chegg Sources answers. The Student's reference to "irreversible deformation" (which was contained in the Chegg Sources answer) was unusual because it was not a concept that was discussed in the course.
  - (f) The Student's answers to Questions 10 and 11 were virtually identical to the Chegg Sources answers and did not specifically address the questions. In addition, the "cdc2 kinase" protein, which was in both the Student's answer to Question 11 and the Chegg Sources answer, was not discussed in the course.
43. In addition, the instructors and teaching assistants did not identify a significant number of students who answered the questions in the same incorrect way as the Student did and as found in the Chegg Sources. In Professor Neumann's view, this demonstrated that the Student had used the Chegg Sources, because if these had been common mistakes, she would have expected that they would have identified a large number of students who gave these same answers (which was not the case).

### **Finding on Charges**

#### **(a) CHM 136**

44. With respect to CHM136, the Student was charged under s. B.I.1(b) of the Code, by which it is an offence to knowingly be in possession of an unauthorized aid in a final exam. A finding of possession of an unauthorized aid does not require any evidence that the unauthorized aid was used during the final exam.

45. In this instance, the Student was discovered in the exam in possession of an iPhone, which was in his jacket and turned on. He signed an acknowledgement that he was in possession of an unauthorized aid in the CHM136 final exam, namely that iPhone. He knew or ought to have known that he could not have an iPhone in his jacket during the exam. The Student did not appear at the hearing to explain why he had an iPhone in his jacket when he had received written and oral instructions to place any such device under his desk. The Student's admission of possession is sufficient to meet the requirements of the offence, but the Tribunal in any event finds the evidence presented by the University sufficiently demonstrates that the Student knowingly possessed an unauthorized aid in the final exam, and that he had no justification for doing so.
46. Therefore, the Tribunal finds that the Student did commit the offence of knowingly using or possessing an unauthorized aid in a final exam, contrary to s. B.I.1(b) of the Code.

**(b) BIO 130**

47. With respect to BIO130, the Student was charged under s. B.I.1(d) of the Code, by which it is an offence to knowingly represent as one's own any idea or expression of an idea or work of another in any academic examination or term test, i.e., to commit plagiarism.
48. In this instance, it is clearly evident that the Student copied answers from the Chegg Sources, given the similarities in his answers and those found on the website, the unusual commonalities between the two (especially in referencing concepts not discussed in the course), and the icon link to the Chegg.com webpage found in his submitted answer. The Student had received ample warning that use of the Chegg Sources was not permitted during the Final Assignment, yet he quite obviously used them, and did so without attribution. He knew or ought to have known he was not permitted to use the Chegg Sources.
49. In addition, Professor Neumann testified that the Final Assignment was sufficiently difficult that it could have taken students the full 24-hour period to complete it. Question 2 alone was designed to take about two hours to complete. However, the Student was found to have spent only 211 minutes (about three-and-a-half hours) working in his entire Final Assignment document. The Student did not appear at the hearing to explain this (or anything else).
50. Based on the foregoing, this panel is satisfied that the Student knowingly made extensive use of the Chegg Sources to complete the Final Assignment. The time he spent working on the document is not commensurate with how long a student would spend if they were completing it on their own without outside assistance, and the inclusion of the icon link in his submitted answer makes it clear that this was a cut and paste job.

51. Therefore, the Panel finds that the Student did commit the offence of knowingly representing as his own, ideas and work of another in a final exam, contrary to s. B.I.1(d) of the Code.

### **(c) Withdrawal of Alternative Charges**

52. Upon these findings, Counsel for the University advised that the University was withdrawing the alternative charges, as set out in paragraphs 2, 4 and 5 of the charges (see para. 1, above).

### **Sanction**

53. Section C.ii.(b) of the Code sets out that the Tribunal may impose a range of sanctions on a student who has been convicted under the Code, ranging from an oral reprimand to a five-year suspension or, more severely, a recommendation to the President of expulsion or to Governing Council of cancellation of a degree. The Tribunal may also order that any sanction it imposes be recorded on the student's academic record and transcript for a period of time and may also report any case to the Provost, who may publish a notice of the decision and sanction in the University newspapers (without identifying the student by name).

54. In this instance, the University sought an Order that the Student receive a final grade of zero in both CHM136 and BIO130, and a two-year suspension, along with a notation on the Student's record and transcript for three years and a report to the Provost for publication.

55. This request was in part based on sanctions handed down by the Tribunal in previous cases, the Provost's Guidance on Sanctions (Appendix "C" to the Code, but which I note are not binding on this tribunal), and also on the factors laid down by this Tribunal in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) ("*Mr. C*").

56. Counsel for the University advised that the University considered the two offences committed by the Student in this instance to be concurrent offences, i.e., two first-time offences, not subsequent offences.

57. This is a case that warrants a review of the foundational principles laid down in the *Mr. C* case and their application to the facts respecting the Student. The reasons for decision in *Mr. C* set out factors that a tribunal should consider when imposing a sanction:

- (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.

58. With respect to factors (a) and (d), character and extenuating circumstances, respectively, there is little evidence. While he admitted he was in possession of the iPhone during the CHM136 exam, the Student then failed to participate in the matter beyond responding to a couple of emails from SAI early on, before being charged. He did not respond to multiple attempts by the University and its counsel to contact him. There is no evidence of remorse or insight, no evidence of a willingness to take responsibility for his actions and no evidence of a willingness to learn from his mistakes. There is no evidence of any extenuating or mitigating circumstances.
59. With respect to factor (b), likelihood of repetition, the University submits that it believes there is such a likelihood, given that when he left the CHM136 exam in December 2020, the Student knew he had committed an offence. In March 2021, when contacted by SAI about the matter, he initially responded to ask for a meeting. However, he then stopped responding, and a mere three weeks later, he committed the other offence during the BIO130 exam. There is therefore no evidence that he learned from his earlier mistake. To the contrary, the evidence demonstrates not just a likelihood of repetition but actual repetition.
60. With respect to factors (c), (e) and (f), the nature of the offence, the detriment to the University and the need for deterrence, respectively, the offence of plagiarism, as the Student has committed with respect to the BIO130 exam, is an extremely serious offence that harms the institution and the academic process. It is among the most serious breaches of academic integrity; it is theft of another's work and can be seen as an attempt to defraud the University. The possession of an unauthorized aid in a final exam, in particular an iPhone, is also a serious matter for the University given the difficulty in detecting such devices and the harm that can come to the academic process from being able to make unauthorized access them during an exam. The associated penalty must act as general deterrent against this behaviour.
61. Counsel for the University directed the Panel to a number of previous decisions of the University Tribunal on the issue of sanctions in cases of plagiarism.
62. In *University of Toronto v. B.S.* (Case No.697, January 17, 2014 (Sanction)), the student, a first-time offender, was found to have committed extensive plagiarism. Virtually all of the student's paper in a second-year geography course was knowingly and deliberately plagiarized, and he attempted to deny it at the hearing. Because of the seriousness of the offence and a lack of mitigating circumstances, the student was suspended for three years and a notation was placed on his record and transcript for three-and-a-half years or until he graduated, whichever came first. He also received a zero grade in the course.
63. As was the case in the present case, the student in *University of Toronto v. O.R.* (Case No. 981, March 4, 2019), was charged with plagiarism but chose not to participate in the hearing. The student was

found by the tribunal to have committed the offence having submitted an essay in a first-year communications technology course that was substantially the same as essays submitted by two other students in that course. Noting that the Discipline Appeal Board stated in *University of Toronto v. D.B.* (Case No. 451; August 28, 2007) that it is “important that students are treated fairly and equitably when receiving a sanction, and that there is general consistency in the approach of Tribunals in imposing them”, the Tribunal in *University of Toronto v. O.R.* (Case No. 981, March 4, 2019), following earlier cases, gave the student a zero grade in the course, a two-year suspension and a three-year notation.

64. Counsel for the University submitted that in the present case, the use by the Student of the Chegg.com website should be taken into account as an aggravating factor with respect to sanction. The website is a subscription-based service costing \$14.95 per month. Therefore, this case should be seen as a similar one to cases involving the purchase of essays, which the University considers to be one of the most serious academic offences.
65. This panel was directed to *University of Toronto v. J.W.* (Case No. 1082; August 23, 2019). In that case, the student admitted that he had purchased a film review and submitted it as his own work in an introductory film studies course. The Tribunal there noted, at para. 20, that a review of earlier, relevant cases, “demonstrates a consensus that purchasing and submitting purchased work for academic credit is among the most egregious offences a student can commit.” The Tribunal there also took note of the following passage from the *University of Toronto v. S.C, N.H. & M.K.* case (Case Nos. 596; 597; 598; November 23, 2011(Appeal)):

First, in taking these steps, there is clear evidence of intention, deliberation and knowing deception, both in the planning, managing and completion of the offence, all of which occurs over a period of time, as in this case. As well, the act of paying for the services of another in this context, introduces a commercial element into the relationship of a student with the university, a factor very distant from the core values of an academic institution, where individual effort, intellectual thought and hard work are the hallmarks.

66. Here, there is no evidence that the Student personally paid for access to the Chegg Sources, or that he had himself submitted questions to the website. However, there was payment involved by someone that allowed the Student to, in the end, access information from the website. Counsel for the University submitted that this Panel should take this into account in determining the appropriate sanction.
67. On the question of sanction for the offence of being found in possession of an unauthorized aid, i.e., an iPhone that was turned on, in the CHM136 exam, counsel for the University directed this panel to a number of cases. For present purposes, one of these cases is particularly instructive: *University of*

*Toronto v. H.L* (Case No. 886, March 16, 2017). In this case, the student was found in possession of an iPhone during a final exam in a second-year algebra course. While there was no evidence the student had used the phone to assist him with writing the exam, the tribunal there nonetheless noted, at para. 16:

The conduct in this case was serious. The use of unauthorized aids such as personal devices is difficult to detect and accordingly, and particularly in light of evolving technology, poses a significant threat to the integrity of the evaluation process of the University.

68. The Tribunal also noted that the student had failed to participate in the disciplinary process and failed to offer any response to mitigate or explain his conduct. The student, a first-time offender, was given a zero grade in the course, a two-year suspension and a three-year notation.
69. In the present case, the Student admitted to bringing an iPhone into a final exam. Given the ease with which one can hide an iPhone and thereby potentially make improper use of it in an exam, thereby significantly harming the integrity of the University's evaluation process. Any sanction must, in the view of this Panel, be severe enough to deter others from considering breaching the prohibition on using unauthorized aids in a final exam.
70. It is also the case here that the Student, not long after admitting to having breached the Code by knowingly bringing the iPhone into the exam, chose to knowingly submit answers on another final exam that had been taken from a commercial website. As noted above, there wasn't a likelihood of repetition of offending the Code – there was in fact repetition. And not of an offence that could be attributed to inadvertence or to a choice made in the heat of the moment, but of an offence that involves planning, deliberation and conscious execution, and that is among the most serious of all forms of academic misconduct - one that strikes at the heart of academic integrity, plagiarism. It does not go too far to say that plagiarism is not only theft but also fraud, and therefore the sanction for engaging in it must not only recognize that, but also must create a strong deterrent against its commission by others.
71. Notably this Student was on academic probation when he submitted his BIO130 exam. And he chose not to participate in this process. He passed up the opportunity to present the Panel with any evidence of mitigation or extenuating circumstances.
72. The Student's actions demonstrate a complete lack of academic integrity, which in the conclusion of the Panel warrant more severe sanctions than those requested by the University.
73. Therefore, the Panel makes the following order:
  - (a) The Student shall receive a final grade of zero in both CHM136 and BIO130, academic year 2019-20;

- (b) The Student shall be suspended from the University for a period of two-and-a-half years, commencing on April 27, 2021, and ending on October 26, 2023;
- (c) The sanction shall be recorded on the Student's academic record and transcript from April 27, 2021, until such time as the Student graduates from the University; and
- (d) The case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.

Dated at Toronto, this <sup>21st</sup> day of July, 2021.



---

Douglas F. Harrison, Chair

On behalf of the Panel