

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on January 19, 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

BETWEEN:

**UNIVERSITY OF TORONTO (the “University”)**

- and -

**Y [REDACTED] W [REDACTED] (the “Student”)**

**REASONS FOR DECISION**

**Hearing Date:** May 5, 2021, via Zoom

**Members of the Panel:**

Mr. Simon Clements, Chair  
Professor Lynne Howarth, Faculty Panel Member  
Ms. Shirley Deng, 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

**Hearing Secretary:**

Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

**Not in Attendance:**

The Student

1. This Panel of the University Tribunal held a hearing on May 5, 2021 to consider the charges brought by the University against the Student under the *Code of Behaviour on Academic Matters, 1995* (“Code”). It is alleged that the Student falsified a University Verification of Student Illness or Injury form (“VOI”) in support of a late withdrawal without penalty from five courses, and submitted the same VOI to claim a tuition refund.

**A. Preliminary Issue: Proceeding in the Absence of the Student**

2. The hearing was scheduled to begin at 5:15 p.m. on May 5, 2021, via Zoom. At that time, Assistant Discipline Counsel (“Counsel”) advised that neither the Student nor a representative of the Student had responded to the Notice of Electronic Hearing. The hearing was adjourned until 5:30 p.m. to see if the Student would join the hearing.

3. When the Student had not joined the hearing by 5:30 p.m., Counsel made submissions on proceeding with the hearing in the absence of the Student. She advised the Tribunal that on January 19, 2021, the Office of the Vice-Provost, Faculty and Academic Life served the charges on the Student by email to the email address that the Student had provided in the University of Toronto Repository of Student Information (“ROSI”) being the Student’s utoronto account. Service of the charges was confirmed by the Affidavit of Service of Justine Cox affirmed January 27, 2021.

4. On April 12, 2021, Ms. Samanthe Huang, Administrative Assistant in the Office of Appeals, Discipline and Faculty Grievances (“ADFG”), emailed Counsel and the Student a Direction from the Chair that the Tribunal proposed to conduct this hearing electronically on May 5, 2021 at 5:15 p.m. and, if the Student wished to make submissions regarding an electronic hearing, those submissions should be delivered by April 16, 2021. No submissions were delivered by the Student.

5. Counsel then referred the Panel to the Affidavit of Andrew Wagg, sworn April 22, 2021 and marked as Exhibit 4. Mr. Wagg deposed that the last time someone logged in to the Student’s email account was on February 16, 2021 at 5:05 a.m. Mr. Wagg further deposed that the last time someone had accessed the Student’s email account was on April 19, 2021 at 1:17 p.m.

6. While Mr. Wagg was not able to state that it was the Student who had logged into the account or accessed the account, the person who did so required both the Student's username and password. Accordingly, Counsel submitted that there is good reason to believe that the person who logged in and/or accessed the account was the Student.

7. As of April 19, 2021, at 1:17 p.m. the Student would have seen in the inbox of his account the charges served on January 19, 2021, and the request for submissions on an electronic hearing sent on April 12, 2021 in which the Student was advised that subject to any submissions he may deliver, the electronic hearing would proceed on May 5, 2021 at 5:15 p.m., via Zoom.

8. Counsel submitted, therefore, that the Student was provided with all the relevant information that he required in order to participate in the hearing on May 5, 2021.

9. The University served the Student with the Notice of Electronic Hearing dated April 20, 2021, on April 20, 2021 at 5:58 p.m. This was after the last access to the Student's email account had been recorded. Accordingly, there is no evidence that the Student saw the Notice of Electronic Hearing.

10. Section 9(c) of the University Tribunal's *Rules of Practice and Procedure* ("Rules") provides that a Notice of Hearing may be served on a student by various means, including by emailing a copy of the document to the student's email address in ROSI.

11. Rule 17 states that where notice of an oral hearing has been given to a party and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and that party is not entitled to any further notice in the proceeding. In this case even though the Notice of Electronic Hearing was not served until after the last access to the Student's email account, the Student had already been advised of the charges against him, as well as the time and date of the electronic hearing.

12. Based on the Charges served on January 19, 2021 and the subsequent correspondence emailed to the Student on April 12, 2021, providing the date and time of the hearing, all of which was before April 19, 2021, the Panel concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Rules. The University's *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining a current

and valid postal address and email account in ROSI. The Office of ADFG served the Student with the Notice of Electronic Hearing on April 20, 2021 pursuant to the Rules. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

13. The Panel therefore determined it would proceed to hear the case on its merits in the absence of the Student, and the hearing proceeded on the basis that the Student was deemed to deny the charges made against him.

## **B. The Charge and Particulars**

14. The Charges and Particulars were detailed in a letter dated January 19, 2021 and are set out below:

1. On or about May 28, 2020, you knowingly altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such altered or falsified document, namely, a University of Toronto Verification of Student Illness or Injury Form (“VOI”), dated May 28, 2020, which you submitted in support of your petition requests for a late withdrawal without academic penalty from courses LIN102H5F 2019(9), MAT135H5F 2019(9), MGM101H5F 2019(9), LIN101H5S 2020(1), and MAT102H5S 2020(1) (the “Courses”) contrary to section B.I.1(a) of the Code.
2. In the alternative to charge #1, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind, which violated section B.I.3(b) of the Code.
3. On or June 1, 2020, you knowingly altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such altered or falsified document, namely, a VOI dated May 28, 2020, which you submitted in support of your petition to the Fees Consideration Committee requesting a tuition fee refund in the Courses, contrary to section B.I.1(a) of the Code.

## **C. The Evidence**

15. The University submitted the affidavit of Ms. Kitty Lo affirmed on April 7, 2021 who was, at the material time, Assistant Registrar of Academic Standards & Petitions in the Office of the Registrar at the University of Toronto Mississauga (“UTM”). In her affidavit, Ms. Lo set out the facts that the University relied upon in bringing the charges. Ms. Lo’s affidavit explained that the Office of the Registrar facilitates student requests to withdraw from courses past the deadlines set out in the UTM calendar. If a student is unable to complete a course due to illness or injury, they may submit a petition

for late withdrawal without academic penalty. The student must submit a VOI to the Office of the Registrar in support of their petition, within 72 hours of the petition request. Only a physician who has seen the student is permitted to complete the VOI.

16. On May 28, 2020, the Student submitted a petition for late withdrawal without academic penalty in each of his five 2019-2020 courses: LIN102H5F, MAT135H5F, MGM101H5F, LIN101H5F, and MAT102H5S (the “Petition Requests”). Under the “reasons” heading of the Petition Requests, the Student stated: “I talked to my advisor Violet Grofsics. She suggest [sic] me to apply for late withdrawal. I was in a depression for a long time. lost both of my grandparents in a month. And I went to see the physician.”

17. Later, on May 28, 2020, the Student submitted a VOI by email to the Office of the Registrar in support of the Petition Requests. The VOI was purportedly signed by Dr. Panayiotis Iracleous at Centenary Hospital, Scarborough Health Network. Dr. Iracleous’ College of Physicians and Surgeons of Ontario number was listed as 82933. Under the physician comments field, the VOI noted that the Student was “here for confirmed depression. There was paranoia, fright of ideas, episodes of thought control.” The VOI also stated that the Student needed increased rest and a reduced workload.

18. On June 1, 2020, the Student submitted a request for a refund of his Winter 2020 tuition fees by email to the Fees Consideration Committee at the Office of the Registrar. In support of his request, the Student explained that he had seen a psychologist who suggested that the Student “rest for a while.” The Student attached the same VOI that he had submitted in support of the Petition Requests.

19. Ms. Lo advised that the Registrar’s Office contacted Centenary Hospital to confirm that Dr. Iracleous had completed and signed the VOI. On June 24, 2020, Dr. Iracleous informed the Health Information Management office of Centenary Hospital that he had not filled out the VOI and that none of the writing on the VOI, including the signature, belonged to him. Centenary Hospital relayed this information to Ms. Lo’s office by email.

20. The Student did not participate in the hearing, and none of the evidence relating to the falsification of the VOI was challenged. The Panel, therefore, accepts the evidence of the University

that the Student submitted a false VOI in support of the petitions to withdraw from the courses and for the refund of fees.

21. The University also submitted the Affidavit of Ms. Lisa Devereaux Manager of Academic Integrity & Affairs at the Academic Integrity Unit (“AIU”) in the Office of the Dean at UTM, affirmed on March 17, 2021. Ms. Devereaux was also present at the hearing and the Tribunal had the opportunity to question Ms. Devereaux.

22. On October 19, 2020, the Student attended a meeting via Zoom with Professor Catherine Seguin, Dean’s Designate at UTM. Ms. Devereaux was present at this meeting and took the Minutes which were filed as Exhibit 7 during the hearing. The Minutes had not been attached as an Exhibit to Ms. Devereaux’s affidavit, but were obtained by Counsel and were provided to the Panel during the hearing and were admitted into evidence pursuant to rules 64 and 65 of the Rules. On a review of the Minutes, the Panel finds that the contents of Ms. Devereaux’s Affidavit and the Minutes are consistent.

23. At the commencement of the meeting the Dean’s Warning was given to the Student pursuant to section C.i.(a) 6 of the Code, which states:

“Before proceeding with the meeting, the dean shall inform the student that he or she is entitled to seek advice, or to be accompanied by counsel at the meeting, before making, and is not obliged to make, any statement or admission, but shall warn that if he or she makes any statement or admission in the meeting, it may be used or receivable in evidence against the student in the hearing of any charge with respect to the alleged offence in question. The dean shall also advise the student, without further comment or discussion, of the sanctions that may be imposed under section C.i.(b), and that the dean is not obliged to impose a sanction but may instead request that the Provost lay a charge against the student. Where such advice and warning have been given, the statements and admissions, if any, made in such a meeting may be used or received in evidence against the student in any such hearing.”

24. Accordingly, the admissions that the Student made at the meeting are admissible in evidence before the Tribunal.

25. At the meeting, the Student explained that he had lost both of his grandparents the previous year and that this had a significant impact on him. The Student said that when he told this to an advisor at the Office of the Registrar, they informed him that he could apply for late withdrawal from his courses and provided him with the necessary information to do so.

26. The Student also explained that he had not seen a doctor but knew that he needed documentation from a physician in order to apply for late withdrawal. He told this to a friend who offered to have someone fill out a VOI for him. The Student stated that he believed that as long as he did not use the VOI to avoid tests or exams, this was fine. The Student accepted his friend's offer and submitted a forged VOI to the Office of the Registrar in support of his petition for late withdrawal.

27. The Student admitted that he did not go to Centenary Hospital in Scarborough on November 18, 2019, was not examined by Dr. Iracleous on that date, and that he did not see another health care provider or physician on that date. He admitted that he had committed an academic offence by knowingly providing a forged document to the University.

28. Based on the evidence, including the admission of the Student that he had submitted a false VOI in support of his petition to withdraw from the five courses and his request for a refund of fees for the five courses, Counsel advised the Panel that if the Panel was to find the Student guilty of charges 1 and 3, the University would withdraw charge number 2.

#### **D. Decision**

29. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student.

30. The Student was charged with an offence under section B.I.1(a) of the Code, that he knowingly used a falsified document in support of his petition to withdraw from five courses and for a refund of fees. The Student admitted that he submitted the falsified VOI, which was supplied to him by a friend for these purposes. That evidence is admissible against him in this proceeding and accordingly the Panel finds the Student guilty of charges 1 and 3.

#### **E. Penalty**

31. The matter continued with a hearing on the appropriate sanction. The University requested that the Panel make an Order that the following sanctions be imposed on the Student:

- a) a final grade of zero in each of the following courses: (i) LIN102H5F (2019(9)), (ii) MAT135H5F (2019(9)), (iii) MGM101H5F (2019(9)), (iv) LIN101H5S (2020(1)), and (v) MAT102H5S (2020(1));
  - b) a suspension from the University for two years from the date of this order;
  - c) a notation of this sanction on his academic record and transcript for three years from the date of this order; and
  - d) that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.
32. To provide guidance to students facing a hearing at the Tribunal, section B.8 of Appendix C to the Code outlines recommended sanctions in the absence of special circumstances. The sanctions sought in this case are consistent with that recommendation.
33. In determining penalty, the Panel was asked to consider the factors set out in *University of Toronto and Mr. C.* (Case No. 1976/77-3; November 5, 1976), long recognized as the leading decision on sentencing principles. These factors are:
- a) the character of the person charged;
  - b) the likelihood of 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 by the offence; and
  - f) the need to deter others from committing a similar offence.
34. Counsel submitted that in addition to these basic principles, there should be some measure of uniformity or proportionality in the sentencing process so that there are similar sentences imposed for offences committed in similar circumstances – in other words, that like cases should be treated alike. Penalties imposed on students at the University should preserve and ensure fairness by avoiding



disproportionate sentences so there are not wide swings or inconsistencies between like offences and like offenders.

35. The Panel was provided with the following chart summarizing similar cases of falsification of a VOI as the basis of the University's submissions on penalty:

<b>Tab</b>	<b>Case</b>	<b>Particulars</b>	<b>Priors</b>	<b>ASF/JSP</b>	<b>Sanction</b>
4	X.T. 2020	Forged VOI for late withdrawal from course	None	No/No	0 in course 2 year suspension 3 year notation
5	Y.M. 2020	Forged VOI to excuse absence from course presentation	None	No/No	0 in course 2 year suspension 3 year notation
6	M.C. 2014	Forged medical certificate for deferral of exam	None	No/No	0 in course 2 year suspension 3 year notation
7	Y.L. 2019	Forged VOI for deferral of 2 exams	x1	No/No	0 in courses 3 year suspension 4 year notation
8	K.Y. 2016	2 forged VOIs for late submission of assignment	x1	Yes/Yes	0 in course 3.3 year suspension Notation to graduation
9	F.Y.H 2015	Altered VOI to excuse student from test and plagiarism	x1	Yes/Yes	0 in course ~3 year suspension Notation to graduation

36. The present case is analogous to those cited by the University. This was a first offence. The Student did not participate in the hearing. There was no agreement between the Student and the University on an agreed statement of facts nor was there a joint submission on penalty.

37. The Panel was referred to *University of Toronto v. X.T.* (Case No. 1080, September 29, 2020) where the Mr. C Factors were discussed by the Tribunal at paragraph 36 of the Reasons for Decision.

Counsel relied in particular on the reasoning articulated with respect to factors (c), (e), and (f) reproduced here and with which this Panel agrees:

c) **The nature of the offence committed.** The Panel took into consideration the serious and deliberate nature of the offences and the detriment to the University. Forgery is considered a serious offence, especially in these circumstances. Given the size of the University, and the fact that the University is unable to verify every single medical note submitted to Instructors, the University must be able to trust that the Students are submitting legitimate Verification of Student Illness or Injury forms and that requests for accommodate are legitimate.

[...]

e) **The detriment to the University occasioned by the offence.** The Panel understood and accepted the University's concerns that the Student's conduct in forging medical notes implicated medical professionals, and undermined the integrity of those charged with providing those medical notes, as well as the University's procedure for assessing and granting accommodations to its students.

f) **The need to deter others from committing a similar offence.** General deterrence is an important factor in these cases. The Panel accepts that the University and the Tribunal must send a strong message to other students that such misconduct is considered a serious offence.

38. The Student has not participated at any stage of the hearing process. There is accordingly no evidence before the Panel of (a) good character, (b) likelihood of repetition of the offence, or (d) mitigating or extenuating circumstances. The Panel did, however, consider the fact that the Student admitted to the offence in the Dean's Meeting and he was cooperative with the discipline process up to that point but this did not amount to an exceptional circumstance which would cause the Panel to deviate from the recommended sanctions as provided in the Code, nor from the sanctions imposed in similar cases.

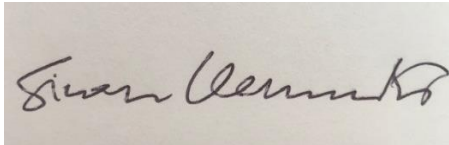
## **F. Conclusion**

39. The Tribunal deliberated and concluded that having regard to all the circumstances of this offence, including its deliberate and serious nature, and having regard to the need to treat students

fairly and equitably and to achieve a degree of consistency in imposing sanctions, the Panel accepted the recommendation of sanction made by the University and imposes the following sanction:

- a) A final grade of zero in each of the following courses:
  - a) LIN102H5F (2019(9)),
  - b) MAT135H5F (2019(9)),
  - c) MGM101H5F (2019(9)),
  - d) LIN101H5S (2020(1)), and
  - e) MAT102H5S (2020(1));
- b) A suspension from the University for two years from the date of the order; and
- c) A notation of this sanction on the Student's academic record and transcript for three years from the date of the order; and
- d) That this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the student withheld.

Dated at Toronto this 26<sup>th</sup> day of July, 2021

A handwritten signature in black ink, appearing to read "Simon Clements", is written on a light-colored rectangular background.

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Simon Clements, Chair  
On behalf of the Panel