

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on November 25, 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 –

**K██████ Z██████ (the “Student”)**

**Hearing Date:** June 15, 2021, via Zoom

**Members of the Panel:**

Mr. Dean F. Embry, Chair  
Professor Mike Evans, Faculty Panel Member  
Ms. Syeda Hasan, Student Panel Member

**Appearances:**

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

**Hearing Secretary:**

Ms. Nadia Bruno, Special Projects Officer, Appeal, Discipline and Faculty Grievances

**Not in Attendance:**

The Student

## **I. CHARGES**

1. The Trial Division of the Tribunal held a hearing on June 15, 2021 to address the following charges brought by (the University against the Student under the *Code of Behaviour on Academic Matters* (the “Code”):
  1. On or about March 21, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in Test 4 in MAT137Y1 (the “Course”), contrary to section B.I.1(d) of the Code.
  2. In the alternative, on or about March 21, 2020, you knowingly obtained unauthorized assistance in connection with Test 4 in the Course, contrary to section B.I.1(b) of the Code.
  3. In the further alternative, on or about March 21, 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 Test 4 in the Course, contrary to section B.I.3(b) of the Code.
  4. On or about April 16, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in the final exam in the Course, contrary to section B.I.1(d) of the Code.
  5. In the alternative, on or about April 16, 2020, you knowingly obtained unauthorized assistance in connection with the final exam in the Course, contrary to section B.I.1(b) of the Code.
  6. In the further alternative, on or about April 16, 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 exam in the Course, contrary to section B.I.3(b) of the Code.

## **II. PRELIMINARY ISSUE: Proceeding in the Absence of the Student**

2. The Student was neither present nor represented. The University filed evidence that the Student was served with the charges by email at the email address provided by the Student to the University of Toronto in ROSI on November 25, 2020.
3. Further, the University filed evidence that on May 12, 2021 the Student was served with the Notice of Electronic Hearing, again via the email address provided in ROSI.

4. It should be noted that both the scheduling of the hearing and the hearing itself took place during the COVID-19 pandemic. On April 27, 2021, due to the physical restrictions necessitated by that pandemic, Assistant Discipline Counsel requested that the hearing proceed electronically. The Student was advised of this request by email and was given a deadline of May 12, 2021 to provide submissions in relation to this request. No reply from the Student was ever received and the hearing was ordered and scheduled to proceed electronically as above.
5. In addition to the above, the University filed evidence demonstrating that efforts were made to ensure the Student was aware of the hearing and in a position to attend. In addition to the service of documents outlined above, correspondence via email was sent to the Student which included invitations for discussion, efforts to arrange scheduling, disclosure of material and reminders of the hearing. All went unanswered.
6. Given the above, the Panel found that the Student was provided with reasonable notice and proper service as contemplated by sections 14 and 9 of the Tribunal's *Rules of Practice and Procedure* (the "Rules"). As such, the hearing proceeded in the Student's absence.

## **II. SUMMARY OF FACTS/PARTICULARS**

7. The Panel received affidavit evidence from Professor Asif Zaman who while not in attendance at the hearing was available to answer any questions should they arise.
8. At all material times the Student was enrolled in "MAT137Y – Calculus!". The allegations against the student related to two components of that course: Test 4 and the Final Exam. Counts 1-3 outlined above relate to Test 4. The remaining counts relate to the Final Exam. The allegations in relation to the two components of the course are broadly the same and it is ultimately alleged that the Student submitted answers in relation to both of these components that were not her own.
9. Both Test 4 and the Final Exam were conducted as 24-hour open book exams. Test 4 took place on March 19, 2020 and the Final Exam took place on April 15, 2020. The rules in relation to both of these exams contained the following:
  - Do NOT use any other aid or resource (online or offline) other than those authorized above.
  - Do NOT communicate with any person about the test other than a MAT137 teaching team member.

- Do NOT post answers anywhere online or otherwise.
  - Do NOT use the answers, solutions, term work, or notes of anyone else.
  - Do NOT have someone else write the exam for you.
10. After the exams in question were submitted the instructors and teaching assistants in the Course found a number of questions and answers from both Test 4 and the Final Exam on Chegg.com. Chegg.com is a subscription-based website that allows students to post problems to the site. A copy of the website was attached as an exhibit to the affidavit of Professor Asif Zaman. The website advertises that a subscription is \$14.95 a month and that subscribers can “take a photo of your question and get an answer in as little as 30 minutes.” It is clear that Chegg.com can and is used by students to cheat on assignments and exams.
  11. Specifically, in relation to the exams described above it was discovered that someone had posted questions from Test 4 and the Final Exam to Chegg.com during the 24-hour period of those exams. Further, answers for those questions were also posted on Chegg.com during those periods and in response to the questions being posted.
  12. An examination of the answers provided by the Student and those posted on Chegg.com revealed striking similarities. The differences between the answers provided by the Student and those posted on Chegg were largely cosmetic in nature. Contrastingly, the similarities were highly unusual and were unlikely to have happened by chance. For example, the manner in which the problems were solved and the steps taken in those solutions were the same and unusual. Further there appeared to be steps that were taken but that were missing from each set of answers. Both sets of answers, however, were missing the same steps. Finally, both sets of answer contained what Professor Zaman characterized as “nonsensical” portions. Again, both sets of answers contained the same nonsensical portions.

### **III. ARGUMENT OF THE UNIVERSITY**

13. The University argues that given the myriad of different ways a student could solve the problems on the exams the only way to explain the similarities between the Student’s answers and those posted to Chegg.com is that the Student took the answers from Chegg.com or was given the answers by someone who had accessed them from Chegg.com. In doing so, the University argues, the Student committed the offences charged.

#### **IV. FINDINGS OF THE PANEL**

14. The Panel agrees that similarities between the answers of the Student and those found on Chegg.com show, on a balance of probabilities, that the Student somehow came into possession of the answers posted on Chegg.com and copied them in order to formulate the answers she ultimately submitted.
15. It must be noted that the evidence does not show that the Student was the one who posted the questions on Chegg.com or that she received the answers from Chegg.com. Indeed, there is no evidence that the Student has a subscription to Chegg.com. All that can be said is that the Student directly or indirectly came into possession of those answers and improperly relied on them.
16. Given the above, the Panel finds the Student guilty of two counts of knowingly representing an idea or expression of an idea or work of another as his own, contrary to section B.I.1.(d) of the Code.

#### **V. SANCTION**

17. The University submitted that an appropriate sanction was a mark of zero in the course, a three-year suspension and a four-year notation of the sanction. The University provided thorough and helpful authorities of similar cases to justify this sanction and asked the Panel to consider the nature of the offence as well as the character of the Student.
18. The Code contains the “Provost’s Guidance on Sanctions” in Appendix “C”. Section B.8(b) provides that at the Tribunal level “absent exception circumstances, the Provost will request that the Tribunal...suspend a student for two years for any offence involving academic dishonesty, where a student has not committed any prior offences”.
19. In the present case the University points to a number of factors that they say call for a higher sanction than that contemplated in the Code. Namely, the University notes that the Student failed to participate in the process before this Tribunal. The University argues that this non-participation goes to the character of the Student and that there is no evidence of remorse, mitigating circumstances or any acknowledgement on the Student’s part that this sort of behavior will not be repeated. Further, the University notes, there was a financial or commercial aspect to these offences that elevates their seriousness. Finally, the University notes that the behavior in this matter was repeated, having taken place in relation to two different tests on March 21 and April 16, 2020.


20. The Panel disagrees that the Student's non-participation can be used as an aggravating factor. Without knowing the reasons that motivate the Student's non-participation the Panel is unable to come to any conclusion regarding the Student's character based on that non-participation. While a failure to participate robs the Student of the ability to present evidence of remorse or mitigating factors that may reduce a sanction, the non-presentation of that evidence is not itself an aggravating factor that can be used to increase sanction.
21. Similarly, while it may be true that a Student's assurance that the behavior in question will not be repeated may act as a mitigating factor there is no onus on a Student to provide such assurances such that an absence is an aggravating factor. Even in the absence of assurances from the Student it cannot be assumed that future offences are more likely simply because the present offences occurred.
22. With regard to the "commercial aspect" of the offences, as above, on the evidence we are unable to conclude that the Student was a subscriber to Chegg.com or that she was aware that the answers she used were gotten from that site. As such, the commercial nature of the site, disconnected from the proven conduct of the Student, cannot be used as an aggravating factor.
23. Finally, although the behavior in question was repeated, two factors must be kept in mind. Although teaching staff reached out to the Student prior to the second offence there is no evidence that she reviewed this correspondence. Therefore, it has not been shown that the Student repeated the behavior after being notified that it was unacceptable. Second, it must be noted that both offences took place in the initial weeks of the COVID-19 pandemic as lockdowns swept Ontario. It is reasonable to assume that the global upheaval during those weeks had a negative effect on the Student. In those circumstances we do not feel the repeated nature of the behavior during this period is a significant aggravating factor.
24. However, given the nature of the offence and in the absence of any mitigating factors we find that a substantial sanction is an appropriate one. Plagiarism strikes at the very heart of academic integrity and therefore attracts a significant sanction. Therefore, a final grade of zero, two-year suspension and three-year notation is appropriate.

**VI. ORDER OF THE PANEL**

25. At the conclusion of the hearing, the Panel conferred and made the following order:

1. **THAT** the Student is guilty of two counts of knowingly representing an idea or expression of an idea or work of another as her own, contrary to section B.I.1.(d) of the *Code*;
2. **THAT** the following sanctions shall be imposed on the Student:
  - (a) a final grade of zero in the course MAT137Y1;
  - (b) a suspension from the University of Toronto from the date of this order for a period of two years, ending on June 15, 2023; and
  - (c) a notation of the sanction on her academic record and transcript from the date of this order for a period of three years, ending on June 15, 2024; and
3. **THAT** this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

Dated at Toronto, this 13th September, 2021



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Dean Embry, Chair

On behalf of the Panel