

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on December 10, 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 am. S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

Y [REDACTED] L [REDACTED]

REASONS FOR DECISION

Hearing Date: August 20, 2021, via Zoom

Members of the Panel:

Ms. Alexi Wood, Chair
Dr. Pascal van Lieshout, Faculty Panel Member
Ms. Julie Farmer, Student Panel Member

Appearances:

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

Hearing Secretary:

Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals Discipline and Faculty Grievances
Ms. Nadia Bruno, Special Projects Officer, Office of Appeals Discipline and Faculty Grievances

Not In Attendance:

Ms. Y [REDACTED] L [REDACTED]

A. OVERVIEW

1. On August 20, 2021, a Panel of the University Tribunal convened by videoconference to hear the University of Toronto's (the "University") allegations that Y■■■■ L■■ (the "Student") violated the *Code of Behaviour on Academic Matters* (the "Code"). By letter dated December 10, 2020, the charges against the Student were that:

- a. On or about April 16, 2020, the Student knowingly represented as her own an idea or expression of an idea or work of another in the final exam in MAT137Y1 (Calculus!) (the "Course"), contrary to section B.I.1(d) of the Code.
- b. In the alternative, on or about April 16, 2020, the Student knowingly obtained unauthorized assistance in connection with the final exam in the Course, contrary to section B.I.1(b) of the Code.
- c. In the further alternative, on or about April 16, 2020, the Student 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.
- d. The particulars related to the charges are as follows:
 - (i) At all material times the Student was a student enrolled at the University of Toronto Faculty of Arts & Science.
 - (ii) In Fall 2019 and Winter 2020, the Student enrolled in the Course.

- (iii) Students in the Course were required to write a final exam, worth 20% of their final grades. Due to the Covid 19 pandemic, the final exam was administered as a 24-hour online exam. The only aids to which students were allowed to refer were their own notes, their own term work, course videos, all other official course materials, the textbook and WolframAlpha.
- (iv) On or about April 16, 2020, the Student submitted her final exam in the Course.
- (v) The Student submitted the final exam:
 - (a) to obtain academic credit;
 - (b) knowing that it contained ideas, expressions of ideas or work which were not her own, but were the ideas, expressions of ideas or work of others, including the author(s) 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 Source”); and
 - (c) knowing that she did not properly reference the ideas, expressions of ideas or work that she drew from the Chegg Source or from others.
- (vi) The Student knew that the Chegg Source was not an authorized source to which she was allowed to refer in completing the final exam.

- (vii) The Student knowingly obtained unauthorized assistance from the Chegg Source or from others.
 - (viii) The Student knowingly submitted her final exam with the intention that the University of Toronto rely on it as containing her own ideas or work in considering the appropriate academic credit to be assigned to her work.
2. Assistant Discipline Counsel advised that if the Panel found that the Student committed the offence in paragraph 1(a), the University would withdraw the charges in paragraphs 1(b) and 1(c).
3. The Student did not attend the hearing. After hearing the evidence called and submissions made by Assistant Discipline Counsel, the Panel found that the Student committed an offence contrary to section B.I.1(d) of the Code, in that the Student knowingly represented an idea or expression of an idea or work of another as her own.
4. The Panel ordered that:
- a. the Student receive a final grade of zero in the course MAT137Y1 in Fall 2019 and Winter 2020;
 - b. the Student be suspended from the University of Toronto from August 20, 2021, for a period of 2 years, ending on August 19, 2023, to run concurrently with the Student's academic suspension;
 - c. a notation of the sanction appear on the Student's academic record and transcript from August 20, 2021, for a period of 3 years, ending on August 19, 2024; and

- d. the 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.

B. SERVICE

5. Section 6 of the *Statutory Powers Procedure Act* ("SPPA")¹ requires reasonable notice of the hearing be provided to the parties. Rule 9 of *The University Tribunal Rules of Practice and Procedure* (the "Rules") provides for the methods of service of documents, including charges and notices of hearing. This includes personal service, sending a copy of the document by courier to the student's mailing address contained in the Repository of Student Information ("ROSI"), or sending a copy of the document by email to the email address contained in ROSI.

6. The University's *Policy on Official Correspondence with Students* requires that students provide the University with their current postal and email address through ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

7. Section 7 of the SPPA and rule 17 of the Rules allow this tribunal to proceed in the absence of a student where notice has been given. When proceeding in the absence of a student, the University must demonstrate it took reasonable steps to notify the student of the charges and of the hearing. The University does not need to prove actual notice.²

8. The Student was neither present nor represented.

¹ RSO 1990, c S.22

² *The University of Toronto and O.E.R.* (Case No 981, March 4, 2019) at para 37.

9. The University filed evidence regarding service and attempts to contact the Student.

That evidence included:

- a. On December 10, 2020, the Office of the Vice-Provost, Faculty and Academic Life served the charges in this matter on the Student by email to the email address the Student provided in ROSI.
- b. On December 11, 2020, Nusaiba Khan, an Administrative Assistant with the Appeals, Discipline and Faculty Grievances Office (“ADFG Office”) served the Student with a letter containing the charges against her. Ms. Khan sent the letter by email to the email address the Student provided in ROSI.
- c. On June 22, 2021, Samanthe Huang, an Administrative Assistant with the ADFG Office emailed the Student and Assistant Discipline Counsel, advising that the hearing would proceed on August 20, 2021. The email invited the Student to make submissions on the form of proceeding by June 29, 2021. This email was sent to the email address the Student provided in ROSI.
- d. The Student did not respond to Ms. Huang’s email. On July 5, 2021, Ms. Huang emailed the Student and Assistant Discipline Counsel the Chair’s Order that the hearing proceed electronically on August 20, 2021. This email was sent to the email address the Student provided in ROSI.
- e. On July 6, 2021, Ms. Huang served the Student with the Notice of Electronic Hearing for the hearing on August 20, 2021. The email was sent to the email address the Student provided in ROSI.

- f. On August 12, 2021, Kimberly Blake, Legal Assistant to Tina Lie, Assistant Discipline Counsel, called the phone number that the Student had provided in ROSI. Ms. Blake spoke to the Student. She advised the Student that there was a hearing scheduled for August 20, 2021, and advised the Student to check her mail.utoronto.ca email address. The Student said she would check her email address.
10. None of the emails was returned and there was no bounce back received to any of the emails.
11. The University also filed evidence from Andrew Wagg, an Incident Report Architect at Information Security, Information Technology Services at the University. Mr. Wagg stated that the Student's mail.utoronto.ca email was last accessed on September 22, 2020, which is before any of the documents were served by email.
12. The University is not required to provide actual notice, and this Panel finds that there was no actual notice provided. However, this Panel finds that the University has demonstrated that it took reasonable steps to notify the Student of the charges and of the hearing.
13. The University emailed the Student the required documents to the email address in ROSI. Ms. Blake called the Student, told her about the hearing, and suggested the Student check her email account. While the Student is required to check her email account, the address was not accessed after September 2020, before the documents at issue were sent. In addition, while the Student was told of the hearing during a phone call, that is not service. The University did not serve the Student personally or by courier, which are the other two

options for service under the Rules. This Panel therefore cannot conclude that the Student had actual notice of the hearing. However, the University complied with the Rules and while it could have sent hard copies of the documents by courier to the mailing address on file, it took reasonable steps to notify the Student of the hearing.

14. The Panel therefore determined it would proceed to hear the case on its merits in the Student's absence.

C. LIABILITY

15. At all material times, the Student was a student registered at the University. As of the Winter 2021 term, the Student had earned 2 credits and had a GPA of 0.36.

16. The Student started at the University in the fall of 2019. In March 2020, in response to the global Covid 19 pandemic, the University moved to online teaching and the University approved a credit / no credit scale for courses in the Winter 2020 term.

17. In the Winter 2020 term, which is the term in which the Student took the Course, she received three "F" marks and one "D-" mark. In the Fall 2020 term, she received three "F" marks and two "IPR's". In the Winter 2021 term, she received all "F" marks and was academically suspended for one year.

The Final Exam

18. The University filed the affidavit of Asif Zaman, an Assistant Professor in the Department of Mathematics at the University. At the request of the Panel, Dr. Zaman also testified at the Hearing.

19. Dr. Zaman was the course coordinator for the Course. The Course is a first-year course and is a prerequisite for upper-level calculus courses. Students in the Course were reminded of the importance of academic integrity.

20. As a result of the Covid 19 pandemic, the Course was moved online in March 2020. In addition, the nature of the assignments changed to reflect the virtual nature of the Course.

21. The Course's final exam was an online, open book exam, worth 20% of the final mark (the "Final Exam"). Students were given 24 hours to submit their answers. The instructions clearly stated that students were only allowed to refer to their own notes and term work, the course videos, all other official course materials, the textbook, and WolframAlpha. Students were expressly told that during the exam period they were not allowed to:

- a. use any other aid or resource (online or offline);
- b. post answers anywhere online or otherwise;
- c. use answers, solutions, term work or notes from anyone else; and
- d. have someone else write the exam for them.

22. The Student submitted her answers to the Final Exam on April 16, 2020.

Chegg.com

23. Dr. Zaman provided evidence about Chegg.com. He testified that Chegg.com is a subscription-based website that allows students to post problems, which are then answered by so called "experts."

24. Dr. Zaman also testified that instructors and teaching assistants found a number of the Final Exam questions posted on Chegg.com in the 24-hour period students were given to complete the Final Exam. Model answers to these problems were also posted on Chegg.com (the “Chegg Answers”).

The Student’s Copied Answers

25. Dr. Zaman testified that the Student’s answers to the final exam questions 15(a), (b), (c), 16(a) and (b) (the “Copied Answers”) were substantially similar to the Chegg Answers.

26. Dr. Zaman testified that he found the Copied Answers suspicious and concluded that the Student copied them from Chegg.com. The Student’s answers to questions 15(a), 16(a) and 16(b) were correct, but the solution sets took the same steps as the Chegg Answers. Dr. Zaman’s evidence was that there were multiple ways to solve the problems. It was highly unlikely that the Student solved the problems using the exact same steps as those taken in the Chegg Answers.

27. Dr. Zaman testified that while the answer to question 15(a) was correct, it contained a line in the middle of the solution that did not make sense in context. That line also appeared in the Chegg Answers.

28. Dr. Zaman testified that the Student’s answer to 15(b) was incorrect and contained the same error as the Chegg Answers. The Student’s answer to 15(c) took the same steps as the Chegg Answers and also contained the same errors in solution.

29. Dr. Zaman explained that while there are multiple ways to solve each problem, it would be incredibly unlikely for each step to match exactly line by line.

Finding of Liability

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

31. The Panel reviewed the handwritten answers provided by the Student and compared them to the handwritten Chegg Answers. The handwritings did not match. The Panel therefore concludes that the Student was not the author of the Chegg Answers.

32. The Panel concludes that the University has established that the Student copied the Copied Answers from Chegg.com and is guilty of academic misconduct as outlined in the charges at paragraph 1(a) of these Reasons. As a result of this finding, the University withdrew the charges outlined in paragraph 1(b) and 1(c) of these Reasons.

D. PENALTY

33. The University sought the following penalty:

- a. The Student receive a final grade of zero in the course MAT137Y1 in Fall 2019 and Winter 2020;
- b. The Student be suspended from the University of Toronto from August 20, 2021, for a period of 2 years, ending on August 19, 2023;
- c. A notation of the sanction appear on the Student's academic record and transcript from August 20, 2021, for a period of 3 years, ending on August 19, 2024; and

- d. The 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.

34. Assistant Discipline Counsel submitted that this penalty is in keeping with past decisions of this Tribunal and appropriately considers the six factors outlined in *University of Toronto and Mr. C.* (Case No 77-3, November 5, 1976) which are:

- 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.

35. While no evidence was filed on the issue of penalty, Assistant Discipline Counsel submitted that under the first three factors, the Student had not responded to any correspondence and had not participated in the proceedings. She submitted that there was no evidence before the Panel to demonstrate that the Student was willing to accept responsibility for her actions. Similarly, the Student had not provided any evidence regarding extenuating circumstances.

36. With respect to the last three factors, Assistant Discipline Counsel submitted that plagiarism is a serious offence “that strikes at the heart of academic integrity,”³ It requires a strong sanction that reflects the harm caused and conveys the seriousness of the misconduct to others.

37. Assistant Discipline Counsel argued that the penalty sought is in keeping with similar cases of this Tribunal. In *University of Toronto and D.K.*,⁴ the student used an unauthorized aid in an exam and accessed Chegg.com. In that case, it was the student’s first offence and the student did not participate in the proceeding. The student received a zero in the course, a two-and-a-half-year suspension, and a notation was made on the student’s transcript to graduation.

38. In *University of Toronto and J.H.*,⁵ the student plagiarized an assignment. It was the student’s first offence, and the student did not participate in the hearing. The student received a zero in the course, a two-year suspension, and a three-year notation.

39. Assistant Discipline Counsel also submitted that the Panel ought to consider the commercial nature of Chegg.com as an aggravating factor in penalty.

40. The Panel finds that while there is no evidence before it on which it can conclude that the student purchased the Chegg.com subscription, the Panel has found that the Student intended to and did access Chegg.com. At the time of the hearing, the Student was already on academic suspension, but chose not to participate in the hearing. Moreover, the Student did not contact Assistant Discipline Counsel or the ADFG Office even after she spoke with

³ See *University of Toronto and D.K.* (Case No 1119, July 21, 2021) at para 70.

⁴ Case No 1119, July 21, 2021.

⁵ Case No 1077, November 2, 2020.

Ms. Blake. She chose not to participate in the hearing and to forgo her opportunity to provide evidence on mitigation for penalty.

41. That said, the Panel is mindful of the fact that these events occurred during the Covid 19 global pandemic and that the Student is a foreign student. The Student has not accessed her mail.utoronto.com email account since September 2020. While there is no evidence before the Panel to explain this, the Panel is mindful of the fact that it was at that time six months into the ongoing global pandemic. The penalty sought is not at the high end of the range, and, in light of the surrounding circumstances, appropriately so.

E. CONCLUSION

42. This Panel orders that:

- a. the Student receive a final grade of zero in the course MAT137Y1 in Fall 2019 and Winter 2020;
- b. the Student be suspended from the University of Toronto from August 20, 2021, for a period of 2 years, ending on August 19, 2023 to run concurrently with the Student's academic suspension;
- c. a notation of the sanction appear on the Student's academic record and transcript from August 20, 2021, for a period of 3 years, ending on August 19, 2024; and
- d. the 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 on this 29th day of November 2021.

Original signed by:
Ms. Alexi Wood, Chair
On behalf of the Panel