

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 22, 2019

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

- and -

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AMENDED REASONS FOR DECISION

Hearing Dates: December 7, 2021, via Zoom

Members of the Panel:

Mr. Simon Clements, Chair

Dr. Chris Koenig-Woodyard, Faculty Panel Member

Ms. Julie Farmer, Student Panel Member

Appearances:

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

Mr. William Webb, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Ms. Nadia Bruno, Special Projects Officer, Appeals, Discipline & Faculty Grievances

Not in Attendance:

Ms. L ■■■■■ Y ■■ T ■■ L ■■■■

1. This panel of the University Tribunal held a hearing on December 7, 2021 to consider the charges brought by the University of Toronto (the “University”) against Ms. L [REDACTED] Y [REDACTED] T [REDACTED] L [REDACTED] (the “Student”) under the *Code of Behaviour on Academic Matters*, 1995 (the “Code”). It is alleged that the Student altered an examination answer booklet contrary to section B.i.1(a) of the Code.

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

2. The hearing was scheduled to begin at 1:45 pm on December 7, 2021. At that time, Assistant Discipline Counsel advised that neither the Student nor a representative of the Student had responded to the Notice of Electronic Hearing.

3. When the Student had not joined the hearing via the Zoom video conferencing platform (“Zoom”) at 1:45 pm Assistant Discipline Counsel made submissions on proceeding with the hearing in the absence of the Student. She advised on October 22, 2019, the charges were served on the Student by email to the email address of the Student which was the email address the Student had provided to the University in the University of Toronto Repository of Student Information (“ROSI”).

4. On September 27, 2021 Samanthe Huang of the office of Appeals Discipline and Faculty Grievances served the Student with the Notice of Electronic Hearing for a hearing on Tuesday, December 7, 2021 at 1:45 pm via Zoom. Ms. Huang provided the Student with the log in coordinates to access Zoom.

5. On November 16, 2021 Ms. Huang served a Revised Notice of Electronic Hearing which changed the faculty member of the Tribunal. There were no changes to the date or time of the hearing nor to the hearing being conducted over Zoom.

6. On December 1, 2021 Ms. Huang served the Student with a further Revised Notice of Electronic Hearing advising of a change to the Chair of the Tribunal. Once again, there were no changes to the date or time of the hearing or that it would take place over Zoom. All of the emails to the Student were sent to the email address that the Student had provided in ROSI. In her Affidavit of Service, Ms. Huang indicated that she did not receive a bounce back message indicating that her emails had not

been received. As of December 3, 2021, the date of Affidavit of Service was affirmed, Ms. Huang had not received response from the Student to any of her correspondence.

7. The University filed the Affidavit of Kimberly Blake affirmed on December 3, 2021. In her affidavit Ms. Blake indicates that on November 22 and November 24, 2021 she tried calling the Student at the telephone number which the Student had provided in ROSI. Each time the telephone rang a few times and then automated message said that person she was calling had a voicemail box that has not been set up. There was no opportunity to leave a voicemail message.

8. On November 22, 2021 Ms. Blake arranged to have a courier deliver a package at mailing address that the Student provided in ROSI. The package contained the Notice of Electronic Hearing and the charges in this matter, together with the zoom login details. The courier confirmed that this package was delivered successfully on November 25, 2021.

9. The University submitted the Affidavit of Mr. Andrew Wagg on November 23, 2021. Mr. Wagg is an Incident Report Architect in Information Security Information Technology Services at the University of Toronto. Information Technology Services manages the email accounts used by students. On November 23, 2021, Mr. Wagg was able to determine that the last time someone accessed the email account of the Student was on November 21, 2021.

10. Section 6 of the *Statutory Powers and Procedures Act* (the “Act”) states that the parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. Section 7(3) states that where reasonable notice of the hearing has been given to a party to a proceeding in accordance with the Act and the party does not participate in accordance with the notice, the tribunal may proceed without the party’s participation and the party is not entitled to any further notice in the proceeding.

11. Rule 9 of the *Rules of Practice and Procedure* of the University Tribunal states that the charges, notices of hearing, and disclosure maybe served on student by email or by courier. Rule 17 mirrors the provision in section 7(3) of the Act. Where notice of an electronic hearing has been given to the Student in accordance with the Rules and the Student does not attend hearing, the Tribunal may proceed in the absence of Student.

12. The University requested that the Tribunal proceed with this hearing in the absence of the Student.

13. Pursuant to Rule 9, a Notice of Hearing may be served on a student by various means, including by sending a copy of the document by courier to the student's mailing address in ROSI or by emailing a copy of the document to the student's email address in ROSI.

14. 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 on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

15. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.

16. In this case, the University provided reasonable notice to the Student. The Student provided the University with her mailing address, email address, and phone number effective January 7, 2015. In 2019 and 2020 the Student was contacted at the email address she had provided to the University regarding scheduling of the hearing in respect of the academic discipline charges. There was correspondence between the Student and Assistant Discipline Counsel in respect to the Student obtaining legal representation. In 2019 and 2020 the Student responded to emails which had been sent to the address on record. The last correspondence to Assistant Discipline Counsel was dated May 13, 2020 at which time the Student stated that she was still looking for a lawyer to assist her with this matter, but the pandemic was making it difficult to look for a lawyer.

17. The Notice of Electronic Hearing had been served on the Student by email on September 27, 2021 and again on November 16, 2021 when there was a change in panel members. The Notice of Electronic Hearing was also served by courier and the package was picked up on November 25, 2021 by an individual with the same first name as the Student. Finally, the Student last logged into her email account on November 23, 2021 at which time she would have been able to read the Notice of Electronic Hearing which had been served on September 27 and November 16, 2021.

18. For these reasons the Tribunal finds that reasonable notice has been given to the Student by two valid means of service, and the Student has failed to attend the hearing via Zoom. The Tribunal 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 her.

B. The Charge and Particulars

19. The Charges and Particulars were detailed in a letter dated October 22, 2019 and are set out below:

- i. On or about December 14, 2018, you knowingly personated “Ivy Jiang” at a final exam in CSC108H1F, contrary to section B.i.1(c) of the Code.
- ii. On or about December 14, 2018, you knowingly forged or in any other way altered or falsified your final exam in CSC108H1F, which was a document or evidence required by the University, or you knowingly uttered, circulated or made use of that forged, altered or falsified document, contrary to section B.i.1(a) of the Code.
- iii. In the alternative to charges 1 and 2, on or about December 14, 2018, 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 a final exam in CSC108H1F, contrary to section B.i.3(b) of the Code.

Particulars

- (a) At all material times, you were a registered student at the University of Toronto, Faculty of Arts and Science.
- (b) In the Fall 2018 academic term, you were enrolled in CSC108H1F.
- (c) Students in CSC108H1F were required to write a final exam which was worth 50% of the final grade in the course.
- (d) On December 14, 2018, you attended to write the final exam in CSC108H1F.

- (e) Prior to submitting your final exam, you knowingly wrote the name “Ivy Jiang” and the student number “1003 416 423” on the front cover of your exam booklet, which were a fictitious name and student number.
- (f) You added this false information to your final exam to make it appear as if your final exam had been written by someone else, and your completed final exam had been misplaced by the University.
- (g) You knowingly circulated and made use of the false information contained in your final exam intending that the University would rely on it and for the purpose of obtaining an academic advantage, namely, an exam deferral.

20. Assistant Discipline Counsel advised the Tribunal that the University is proceeding on charge 2 and will withdraw charges 1 and 3.

C. The Evidence

21. The University filed the Affidavit evidence of Professor Jennifer Campbell affirmed on November 26, 2021. Professor Campbell is a Professor in the Department of Computer Science and was the course coordinator for course CSC 108H1F (the “Course”). In her Affidavit Professor Campbell explained that in each of the examination rooms, invigilators were required to count the number of exam booklets that they collect and cross-reference that number against the number of students in the room and the number of students who had signed in when attendance was taken. Invigilators were required to perform this count several times. If there were any discrepancies, invigilators were required to inform Professor Campbell who stated that she did not receive any such reports.

22. When all the examinations had been reviewed, Professor Campbell found one completed examination booklet with identifying information that did not match any student enrolled in the Course or at the University. This examination booklet was marked with the name “Ivy Jiang” and with the student number “1003 416 423” (the “Jiang Exam”).

23. The Jiang Exam received a mark of 6.5 out of 70.

24. On December 17, 2018, Professor Smith who is an Associate Professor who assisted Professor Campbell, emailed the Computer Science Undergraduate Office to request that they look up the student

name and the student number on the Jiang Exam. The Undergraduate Office could not find any student with the student number “1003 416 423”, or any student with the name “Ivy Jiang”. Professor Smith also requested that the Undergraduate Office search the student number “1005 416 423” because there was some ambiguity as to whether the first handwritten “3” on the Jiang Exam was a “3” or a “5”. The Undergraduate Office confirmed that there was no student with the student number “1005 416 423”.

25. Professor Smith and Professor Campbell also reviewed the exam sign-in sheets and the class list for the Course, but there was no student with the name “Ivy Jiang” or the student numbers “1003 416 423” or “1005 416 423”. Professor Smith and Professor Campbell cross-referenced the number of examination booklets that they had in their possession with the counts that the invigilators had performed on the date of the exam, and they found that there were no discrepancies.

26. There was only one student in the Course who signed in as present for the exam, but who did not submit a completed examination booklet—the Student.

27. The Student signed in as present for the exam at the BN-3 location.

28. Professor Campbell states that when she reviewed the Jiang Exam, she noticed that the identifying information on the Jiang Exam appeared as though it had been erased and re-written. Professor Campbell also noticed that the student number on the Jiang Exam (1003 416 423) contained some of the same numbers in the same location as the Student’s student number.

29. The University filed the Affidavit of Arin Minasian affirmed on November 27, 2021. Mr. Minasian was one of the invigilators in the examination room where the Student wrote the exam. To take attendance, Mr. Minasian explained that he and another invigilator walk from student to student. Each student was required to provide their student card to either Mr. Minasian or to the other invigilator. They then located the student’s name on the sign-in sheet and watched the student write their signature next to their name. Mr. Minasian attached the sign in sheet as an exhibit to his Affidavit which shows that the Student signed the sign in sheet next to her name.

30. As a result of the anomaly arising from the Student having signed in as being present at the exam, but no examination booklet with her name on it being located, and there being an examination

booklet with the name of Ivy Jiang on it who is not a student at the University, the University asked the Student to attend a meeting to provide an explanation for what occurred during the exam. The University filed the Affidavit of Christina Di Matteo affirmed November 30, 2021 who is a University administrator who was present at this meeting and made notes. Ms. Di Matteo stated that on July 3, 2019, the Student met with Professor William Ju, Dean's Designate for Academic Integrity, to discuss the allegation of academic misconduct with respect to her exam. During the meeting, the Student stated that she attended the exam, signed in as present, wrote the exam, and handed in her examination booklet to an invigilator.

31. Professor Ju explained that the Course instructor could not locate a completed examination booklet in her name. However, the Course instructor found one completed examination booklet with identifying information that did not match any student enrolled in the Course or at the University. Professor Ju showed the Student the Jiang Exam, which was marked with the name "Ivy Jiang" and with the student number "1003 416 423". Professor Ju pointed out several oddities with the Jiang Exam, including the fact that it appeared as though the identifying information on the Jiang Exam had been erased and re-written.

32. The Student denied that the Jiang Exam was her exam. She claimed that she did not know what had happened to her exam. She explained that she would not submit an exam with a different name and student number because it would not benefit her. Professor Ju suggested to the Student that she might benefit from handing in an exam with a different name and student number if she believed that she would receive a poor grade on the exam. The Student continued to deny that the Jiang Exam was her exam.

33. Finally, Ms. Diane Kruger was called to give evidence. Ms. Kruger was affirmed and her updated C.V. was marked as Exhibit 4. Ms. Kruger is a Forensic Document Examiner. She completed her training in 1985. She is a member of the Canadian Society of Forensic Science, the American Society of Questioned Document Examiners, and the American Academy of Forensic Sciences. The bulk of her work is on identifying signatures and handwriting. Her work includes the issue of the authorship of a document and recovering information from a document. Ms. Kruger has published in this field and has testified 83 times in Court and before tribunals.

34. Ms. Kruger was tendered as an expert qualified to provide evidence on forensic document examination. The Tribunal accepted Ms. Kruger as an expert and Assistant Discipline Counsel proceeded with her examination.

35. The original examination booklet (aka the Jiang Exam) that is the subject matter of this proceeding was marked as Exhibit 5. Ms. Kruger personally examined Exhibit 5 and subjected it to various non-destructive tests. Ms. Kruger testified that a name, student ID, and student number which had originally been written on the cover of Exhibit 5 had been erased and replaced. The front cover of Exhibit 5 bears the Student Name “Ivy Jiang” the ID “jiangiv6” and the Student Number 1003416423. Ms. Kruger testified that she was not provided with the name of the student who had submitted Exhibit 5.

36. Ms. Kruger testified that she tried to recover the erased writing by visual inspection under various light sources and by microscopic inspection. However, because the erasures were so thorough, she was not able to recover the erased writing. What erased writing could be discerned was very faint and fragmented. All fields on the cover of Exhibit 5 had erased writing. In the field for family name, Ms. Kruger believed that an upper case “L” and a lower case “y” appeared to have been erased. In the first name field, it appeared that the lower-case letters “ssa” had been erased and there was no new writing on top of where these letters had been.

D. Decision of the Tribunal

37. 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.

38. The Student was charged with an offence under Section B.I.1(a) of the Code, which reads:

It shall be an offence for a [...] student [...] knowingly: to forge or in any other way alter or falsify any academic record, or to utter, circulate or make use of any such forged, altered or falsified record, whether the record be in print or electronic form.

39. The submission of Assistant Discipline Counsel is that the evidence shows on a balance of probabilities that the Student attended the examination, wrote her name on the examination booklet

(Exhibit 5), and during the course of the examination erased her name and wrote on Exhibit 5 the name and student number of a fictitious person – Ivy Jiang. The Student had signed in to the examination room and the evidence of the invigilators is that the number of examination booklets match the number of students who were in the room. The Student in question is the only student who signed in as being present who's examination booklet was unaccounted for. There is no doubt that there is writing on this examination booklet that has been erased. The fact that the letters “ssa” were visible on the examination booklet means that it is more likely than not that the Student's first name had been written on Exhibit 5 before it had been erased. This alteration of the examination booklet represents forgery or falsification of a document required by the University contrary to Section B.I.1(a) of the Code.

40. The Tribunal finds that there is no other reasonable explanation for the Student being present at the exam, but there is no examination booklet with her name on it. The only reasonable explanation is that when the Student realized she was going to fail this exam, she erased her name and student number and replaced them with the name and student number of the fictitious Ivy Jiang. The Student is guilty of forging or in any other way altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.I.1(a) of the Code.

E. Penalty

41. The matter continued with a hearing on the appropriate sanction. The University requested that the Tribunal make an order that the Student be given a mark of zero in the course, a suspension from the University for two years and a notation on her transcript for 3 years.

42. Appendix “C” to the Code provides guidance to students on sanctions. Where a finding of guilt has been made contrary to the Code, where there have been no prior offences a student should expect to receive a zero in the course, a 2 year suspension and a 3 year notation. The University filed several authorities dealing with similar offences involving the falsification of documents. The most relevant of these authorities was the case of the *University and S.N.* (Case No. 710, October 1, 2014). The student in that case falsified a Scantron sheet which is the equivalent to an examination booklet containing the student's answers, by removing his name from the Scantron sheet to claim that he had not written the examination. In the *University of Toronto and S.N.* the student had no prior offences.

A sanction of a zero in the course, a 2 year suspension and a 3 year notation was made. There are no exceptional circumstances that would warrant deviating from that sanction in this case.

43. In addition, Assistant Discipline Counsel reviewed the Mr. C factors, *University of Toronto v. Mr. C. (Case No. 1976/77-3, November 5, 1976)* and applied them to the present case in relation to the proposed sanction. Here, the Student initially participated in the discipline process, at least to the extent of exchanging e-mails with Assistant Discipline Counsel in 2019 and 2020 but stopped communicating with Assistant Discipline Counsel in May 2020 and did not attend the hearing. Regarding character, there is no evidence of remorse, nor any evidence that she will not reoffend. There is no evidence of extenuating circumstances. In the Dean's meeting when confronted with all the evidence, the Student continued to deny that she had written the name Ivy Jiang on her examination booklet. Because of the Student's failure to attend the hearing, the Tribunal has been provided with no comfort that the Student has reflected or reassessed her behaviour, or has insight into her conduct.

44. Regarding the nature of the offence, Assistant Discipline Counsel submitted that the forgery or falsification of an academic record is an offence of the utmost seriousness because such falsification both undermines the credibility of the University and of other students who have legitimately earned their degrees. The Tribunal agrees with this submission. It was evident from the evidence of Professor Campbell and Mr. Minasian, that those invigilating and marking the exam went to great lengths to protect the integrity of the examination process.

45. Finally, there is a need for general deterrence of this conduct.

F. Conclusion

46. The Tribunal finds that the Student is guilty of the academic offence of altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.I.1.(a) of the Code.

47. The Tribunal orders that the following sanctions be imposed on the Student:

1. the hearing may proceed in the Student's absence without further notice to her;

2. the Student is guilty of one count of knowingly forging or in any other way altering or falsifying a document or evidence required by the University, or uttering, circulating or making use of such forged, altered or falsified document, contrary to section B.I.1.(a) of the Code;
3. the following sanctions shall be imposed on the Student:
 - a. a final grade of zero in the course CSC108H1F in Fall 2018;
 - b. a suspension from the University of Toronto from the date of this order for a period of 2 years, ending on December 6, 2023; and
 - c. a notation of the sanction on their academic record and transcript from the date of this order for a period of 3 years, ending on December 6, 2024; and

48. The Tribunal also orders that the case be reported to the Provost for publication of a notice of this decision and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 8th day of March 2022

Original signed by:

Mr. Simon Clements, Chair
On behalf of the Panel