

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on October 14, 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 am. S.O. 1978, c. 88*

B E T W E E N:

**THE UNIVERSITY OF TORONTO**

- and -

S [REDACTED] P [REDACTED]

**REASONS FOR DECISION**

**Hearing Date:** April 13, 2022, via Zoom

**Members of the Panel:**

Ms. Sana Halwani, Chair

Dr. Wendy Rotenberg, Faculty Panel Member

Ms. Samantha Chang, Student Panel Member

**Appearances:**

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

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

**Hearing Secretary:**

Mr. Christopher Lang, Director, Office of Appeals Discipline and Faculty Grievances

**Not in Attendance:**

Ms. S [REDACTED] P [REDACTED]

## **I. Charges and Procedural History**

1. The Trial Division of the Tribunal held a hearing on April 13, 2022 to address the following charges brought by the University of Toronto (the “University”) against S [REDACTED] P [REDACTED] (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”):
  - a. On or about November 3, 2020, you knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in connection with Test 2 in CHM135H1 (the “Course”), contrary to section B.I.1(b) of the Code.
  - b. In the alternative, on or about November 3, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in Test 2 in the Course, contrary to section B.I.1(d) of the Code.
  - c. In the further alternative, on or about November 3, 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 2 in the Course, contrary to section B.I.3(b) of the Code.

## **II. Notice**

2. The Student was not in attendance at the hearing and, as a result, Assistant Discipline Counsel addressed the issue of notice.
3. On review of the evidence, and on considering the *Statutory Powers and Procedures Act*, Rules 9(b), 13, 14 and 17 of the University Tribunal’s *Rules of Practice and Procedure*, and the University’s *Policy on Official Correspondence with Students*, the Panel was satisfied that notice had been adequately provided to the Student and decided to proceed with the hearing despite her absence.
4. The evidence of notice included three affidavits as follows:
  - a. Affidavit of Samanthe Huang, an Administrative Assistant with the Appeals, Discipline and Faculty Grievances Office (“ADFG Office”), Office of the Governing Council, of the University, describing the steps taken by the ADFG to serve the Student with the charges and the Notice of Electronic Hearing for this matter and that no email bounce-backs were received;

- b. Affidavit of Kimberly Blake, a legal assistant at Paliare Roland Rosenberg Rothstein LLP, confirming that the mail.utoronto.ca email address is the current contact information for the Student on ROSI, and showing all the efforts to contact the Student prior to the first hearing date including by email to both the Student's utoronto and gmail accounts, by phone to the Student's number listed in ROSI and by courier to the Student's mailing and permanent address listed in ROSI; and
  - c. Affidavit of Andrew Wagg, a member of the University's Information Technology Services, providing evidence of the last time the Student's ROSI email address had been accessed.
5. Although the evidence provided did not go so far as to confirm conclusively that the Student had received the latest Notice of Hearing (because she never responded or acknowledged receipt), it is clear from the evidence that the Student was given reasonable notice under the *Rules of Practice and Procedure*. The University served the Student by email to both her official ROSI email and her known alternative email address, and by courier, as well as seeking to reach the Student by phone. The University took many steps beyond what is strictly required by the University's *Policy on Official Correspondence with Students*. Further the courier confirmation suggests that the Student did in fact receive notice.
6. As set out in Rule 17: "Where notice of an oral hearing, electronic hearing, or written hearing has been given to a person in accordance with this rule, and the person does not attend at or does not participate in the hearing, the panel may proceed in the absence of the person or without the person's participation and the person is not entitled to any further notice in the proceeding." This language was repeated in the Notice of Electronic Hearing emailed to the Student.
7. On this basis, the Panel was of the view that reasonable notice had been provided under the Rules and was content to proceed with the hearing in the Student's absence.

### **III. Summary of Evidence**

8. The evidence of the University on the charges was presented by way of affidavit from:
  - a. Kristine Quinlan, Assistant Professor, Teaching Stream, in the Department of Chemistry at the University, who was the course coordinator for the Course; and

- b. Thomas Mackay, Manager, Student Success & Academic Advising in the Registrar & Academic Advising Office at Victoria College at the University, who until March 12, 2021, was the Director, Faculty Governance, Faculty of Arts and Science (the “Faculty”) and oversaw the Academic Integrity (“SAI”) team in the Faculty. SAI is the office at the Faculty of Arts and Science that is responsible for investigating allegations of academic misconduct and arranging for students who are facing such allegations to meet with the Dean or Dean’s Designate in accordance with the process set out in the Code.
9. As the Student did not attend and was not represented at the hearing, the affiants were not cross-examined but would have been made available to the Panel if the Panel had any questions for them.
10. The Student was a student in the Course in the Fall of 2020. The Course is a first-year course, designed to provide a foundation in physical chemistry for students who intend to follow a science program, primarily in the Life or Health Sciences. Due to the pandemic the Course was administered online, including the tests for the Course.
11. Professor Quinlan provided evidence that the students in her course were made aware of the academic integrity expectations of the University, including that the use of unauthorized aids was a potential academic offence.
12. The second test in the Course (“Test 2”) was administered online on November 3, 2020 from 7:00 to 8:05 p.m. EST (the “Test Period”). The test was a multiple-choice test. The test instructions provided that Test 2 would take place from 7:00 to 8:00 p.m. To accommodate students who may have faced technical issues in initially accessing Test 2 (e.g. a lag), the instructors accepted any tests that students submitted by 8:05 p.m. However, students only had a total of 60 minutes to complete Test 2 within the Test Period.
13. Test 2 was open book, but the Course instructors and Professor Quinlan made clear to the students that they were not permitted to collaborate with one another during the test. In advance of Test 2, the Course instructors provided students with two information sheets about Test 2 on Quercus (the University’s online teaching and learning system). The first information sheet discussed what students were and were not permitted to consult during Test 2. The second information sheet clearly stated that students must complete Test 2 independently.

14. The Student submitted Test 2 on November 4, 2020 at 8:00pm EST and submitted the answer “I confirm” to the following academic integrity statement:
- a. In writing and submitting this test, I confirm that my conduct during it will adhere to the University of Toronto Code on Behaviour on Academic Matters. I confirm that I will NOT act in such a way that would constitute cheating, misrepresentation, or unfairness, including but not limited to: using unauthorized assistance, impersonating another individual, and committing plagiarism. [Emphasis added]
15. The Course instructors and Professor Quinlan found that several questions from Test 2 were posted to a website called Chegg.com, which is a subscription-based website that allows students to post problems to the site, which are then answered by so-called “experts”. Subscribers are also able to access the questions and answers posted by others on the site. The Chegg.com website advertises that a “Chegg Study” subscription costs \$14.95/month and will allow subscribers to “take a photo of your question and get an answer in as little as 30 mins” from an “expert”.
16. Chegg.com has an “Honor Code”, in which it states that its services are not intended to be used for any sort of cheating or fraud. Chegg.com permits instructors to request an “honor code investigation” for alleged violations of its “code”
17. SAI received notice from Professor Quinlan that a number of questions from Test 2 had been posted on Chegg.com during the Test Period. As a result, on November 5, 2020, Randy Boyagoda, Vice-Dean, Undergraduate at the Faculty of Arts & Science, submitted a request to Chegg.com for an investigation by the Chegg.com Honor Code Team. The University did not provide Chegg.com with the names of any of the students in the Course.
18. As part of the SAI’s investigation into the alleged academic misconduct, the Faculty of Arts and Science obtained data from Chegg.com that showed that a subscriber with the email address s████.p████@gmail.com posted the following questions to Chegg.com on November 3, 2020 within the test window:
- a. s████.p████@gmail.com posted Question ID 60264312 at 7:03 PM EST (4:03 PM PST);
  - b. s████.p████@gmail.com posted Question ID 60264359 at 7:04 PM EST (4:04 PM PST); and

- c. s████.p████@gmail.com posted Question ID 60264523 at 7:05 PM EST (4:05 PM PST).
19. The data showed that answers were uploaded to Chegg.com at the following times on November 3, 2020:
  - a. Question ID 60264312 was answered at 8:01 PM EST (5:01 PM PST);
  - b. Question ID 60264359 was answered at 7:11 PM EST (4:11 PM PST); and
  - c. Question ID 60264523 was answered at 8:10 PM EST (5:10 PM PST).
20. Therefore, only one of the questions was answered in the Test Period.
21. The Student Web Services Activity Log (“SWS Activity Log”) shows that s████.p████@gmail.com was the email address that the University had on record for the Student until January 15, 2021, when her email address on record was changed to her official University email address s████.p████@mail.utoronto.ca. The SWS Activity Log for the Student also shows that one of the IP addresses she used to log-into the Web Services was the same as the IP address of the subscriber who posted the questions to Chegg.com
22. Further, the evidence showed that the subscriber s████.p████@gmail.com listed their affiliation as being from the College of Southern Nevada and the Student’s academic record shows that she received 3.50 transfer credits from the College of Southern Nevada.
23. The Student answered the question that corresponds with Question ID 60264359 (Question 2 on the blank Test 2) correctly, but she answered the questions that correspond with Question ID 60264312 (Question 7 on the blank Test 2) and Question ID 60264523 (Question 14 on the blank Test 2) incorrectly.
24. On the basis of this investigation, on November 15 and 18, 2020, Professor Quinlan emailed the Student at the email address s████.p████@gmail.com requesting a meeting to discuss suspected academic misconduct on Test 2. Professor Quinlan stated that she had received some information from Chegg.com and had concerns about the potential use of an unauthorized aid during Test 2. On November 18, 2020, the Student responded from this same email address.

25. On November 19, 2020, Professor Quinlan met with the Student over Zoom to discuss the matter. The matter was subsequently forwarded to the SAI office at the Faculty of Arts and Science.

#### **IV. Finding on Charges**

26. The first charge facing the Student is a charge that the Student used or possessed an unauthorized aid or obtained unauthorized assistance in connection with Test 2 in the Course. As is described below, the Panel found the Student guilty of this first charge, and the two alternative charges were withdrawn. Thus, only this first charge will be discussed.

27. The burden is on the University to prove charges on a balance of probabilities.

28. The Course syllabus was clear that although Test 2 was “open book” students were to complete the test independently and that the use of unauthorized aids during tests was a potential academic offence.

29. There is therefore no question that the Student knew or ought to have known that use of a website like Chegg.com during the Test Period would be an academic offence. The primary question for the Panel therefore was whether the Student did in fact access Chegg.com during the Test Period.

30. The evidence presented at the hearing and summarised above shows that it was more likely than not that it was the Student who posted questions from Test 2 and viewed answers on Chegg.com.

31. The Chegg.com subscriber used the Student’s email address, from one of the Student’s IP addresses, to post questions from Test 2 during the Test Period, and to view answers. Further, of the three questions posted, the Student only answered correctly the one question that was answered during the Test Period.

32. Following deliberation and based on the affidavit evidence and the documents in the University’s Book of Documents (re: Finding of Offence), the Panel concluded there was clear and convincing evidence, on a balance of probabilities, that the Student obtained unauthorized assistance in connection with Test 2 by posting questions to Chegg.com.

33. Posting the questions is sufficient for a finding of guilt because attempts to commit the offences in the Code are themselves offences: “B.II.2 - Every member who, having an

intent to commit an offence under this Code, does or omits to do anything for the purpose of carrying out that intention (other than mere preparation to commit the offence) is guilty of an attempt to commit the offence and liable upon conviction to the same sanctions as if he or she had committed the offence.”

34. In this case, there is also sufficient evidence to conclude that the Student obtained an answer to one of the posted questions, and thus actually obtained unauthorized assistance.

35. The charge was therefore proven, and the Student was found guilty.

36. On finding the Student guilty of the first charge, the two alternative charges were withdrawn.

#### **V. Finding on Penalty**

37. Once the Panel had made a determination on the charges, no additional evidence was provided as any evidence relevant to penalty had been previously provided.

38. The University requested the following penalty for this offence:

- a. a final grade of zero in the course CHM135H1 in Fall 2020;
- b. a suspension from the University of Toronto from the date of this order for a period of 3 years; and
- c. a notation of the sanction on their academic record and transcript from the date of this order for a period of 4 years.

39. The University also requested 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.

40. To support this proposed penalty, Assistant Discipline Counsel made submissions on the following:

- a. The Provost’s Guidance on Sanctions
- b. The typical penalty for cases of unauthorized assistance; and



- c. Relevant factors in determining the appropriate sanction.

**A. Provost's Guidance**

- 41. The Provost's Guidance states that 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 a prior offence, as is the case with the Student. However, the Guidance also states that the Provost will request that the Tribunal recommend that a student be expelled where the student has submitted academic work that the student has purchased, in whole or in part, unless that student has demonstrated through her or his cooperation, or otherwise, that a lesser penalty is appropriate.
- 42. Assistant Discipline Counsel presented this case as being in between those two situations. Although a typical first offence penalty is two years, this case has a significant aggravating factor of the use of Chegg.com which is a commercial service. The Student, however, did not purchase an entire essay, for which the Provost would seek expulsion.
- 43. The three years of suspension requested by the Provost is in line with this Guidance.

**B. Similar Cases**

- 44. The three-year suspension is also in line with similar cases presented by Assistant Discipline Counsel. While the Panel is not bound by any of these decisions, they are helpful in assisting the Tribunal in treating like cases alike.
- 45. The cases provided to us involved use of unauthorized aids including a number of cases involving Chegg.com. The cases varied with respect to whether the students had prior offences, whether they participated in the proceeding, and whether there was an Agreed Statement of Facts and/or a Joint Submission on Penalty. To summarize them briefly:
  - a. Penalties ranged from two to three years for students with and without priors.
  - b. When there was no commercial aspect proven—i.e. when there was no evidence that the student paid for a subscription themselves—the penalty tended to be on the lower two-year end of the range.
  - c. Where there were priors, the penalty tended to be on the higher three-year end of the range.

46. Here, the Student did not have any priors but the commercial aspect was proven. As described in the *University of Toronto v. S.E.C.* (Case No.1215, January 13, 2022), this commercial aspect is an important consideration for penalty (at paras 72-73):

Further, in today's online world, it is easy for students to find new ways to access unauthorized assistance and so any sanction must denounce cheating on tests and deter others in order to protect the academic integrity of the University. Students must understand that this kind of misconduct will have serious repercussions, so that they will be dissuaded from the temptation to consider cheating.

The Panel accepted the University's submission that by using Chegg.com, a paid commercial subscription service, the Student committed a more serious form of academic misconduct, and that while normally the sanction for the first offence would be a two year suspension, the Panel was satisfied that the circumstances of this case combined with this aggravating factor while considering the range of sanctions provided by prior decisions of this Tribunal in similar circumstances, a three year suspension of the Student from the University was appropriate.

**C. Relevant Factors under *Mr. C.***

47. Finally, Assistant Discipline Counsel made submissions on the factors to be considered in penalty as set out in the *University of Toronto v. Mr. C.* case (Case No.: 1976/77-3, November 5, 1976).
48. The Student in this case has not participated at any stage of the process. The Student has therefore not shown any remorse, not presented any character evidence and not raised any mitigating or extenuating factors to warrant a more lenient sanction.
49. The Panel did note that there was some evidence in the record of mitigating factors. In email correspondences with Professor Quinlan, the Student mentioned that she was experiencing family issues, mental health issues and hardships related to Covid. However, the Panel did not have any details of the situation, and the University was not able to test those statements because the Student did not attend. On that basis, the Panel gave the mitigating factors identified in the email limited weight.
50. The Covid-19 pandemic was also presented as a factor that could create extenuating circumstances as this offence was committed in November 2020. The pandemic has certainly created more stress for all of us, including students, and the Panel did take that into account.

51. With respect to the likelihood of repetition of the offence, the Student has no prior academic offences but also did not express any remorse (as she did not appear). This factor was therefore treated as neutral.

52. With respect to the nature of the offence, this offence is very serious because there is an element of deliberation and purposeful dishonesty in carrying it out. As stated by the Panel in the *University of Toronto v. T.J* (Case No. 1102, November 5, 2021) “the Covid-19 pandemic has amplified the importance of trust. Online learning provides more opportunities for students to cheat. [...] By cheating on his exam, the Student undermined the grades-based system of evaluation and broke the honour code that is essential to modern learning.”

53. With respect to the need to deter others, we again echo the words of the Panel in the *University of Toronto v. T.J.* case:

cheating on exams must always be denounced and deterred in order to protect the academic integrity of the University. In today’s online world, it is all too easy for students to find new outlets for unauthorized assistance. Students must understand that this kind of misconduct will have serious repercussions, so that they will be dissuaded from the temptation to cheat when under pressure.

54. Taking all of these submissions into consideration, the Panel imposed the requested penalty.

## **VI. Decision of the Panel**

55. At the conclusion of the hearing on penalty, the Panel conferred and made the following order:

- a. that the Student is guilty of one count of knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance in connection with Test 2 in CHM135H1, contrary to section B.I.1(b) of the Code;
- b. that the following sanctions shall be imposed on the Student:
  - i. a final grade of zero in the course CHM135H1 in Fall 2020;

- ii. a suspension from the University of Toronto from the date of this order for a period of 3 years; and
  - iii. a notation of the sanction on their academic record and transcript from the date of this order for a period of 4 years; and
- c. 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, May 16, 2022

Original signed by:

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Ms. Sana Halwani, Chair  
On behalf of the Panel