

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 12, 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**

- and -

**Y [REDACTED] L [REDACTED]**

**REASONS FOR DECISION**

**Hearing Date:** May 17, 2022, via Zoom

**Members of the Panel:**

Ms. Indira Stewart, Chair  
Professor Glen Jones, Faculty Panel Member  
Ms. Amal Shah, Student Panel Member

**Appearances:**

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

**Hearing Secretary:**

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

**Not in Attendance:**

Ms. Y [REDACTED] L [REDACTED]

1. This panel of the University Tribunal (the “Tribunal”) held a hearing on May 17, 2022 to consider the charges brought by the University of Toronto (the “University”) against Ms. Y■■■■ L■■ (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”).

2. The Student was enrolled in Course FAH281H5F at the University, entitled “Introduction to Islamic Art and Architecture” (the “Course”). The charges alleged that the Student was part of a group of approximately 15 students who obtained unauthorized assistance while completing an online quiz for the Course.

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

3. The hearing was scheduled to begin at 1:45 p.m. Neither the Student nor a representative of the Student attended. The parties recessed until approximately 2:00 p.m. to allow the Student some additional time, but the Student never attended.

4. Assistant Discipline Counsel, Ms. Lie, made submissions on proceeding with the hearing in the absence of the Student. She filed affidavits sworn by (a) Samanthe Huang, Administrative Assistant, Appeals, Discipline and Faculty Grievances, Office of the Governing Council, (b) Kimberly Blake, Legal Assistant, Paliare Roland Rosenberg Rothstein LLP and (c) Andrew Wagg, Incident Report Architect, Information Technology Services, University of Toronto. These affidavits set out the following attempts that were made to provide notice of the charges and the hearing to the Student:

- i) In March 2021, the Academic Integrity Unit (“AIU”), Office of the Dean at the University of Toronto Mississauga (“UTM”) contacted the Student by email regarding the allegation of academic misconduct in the present case. The email address used was the one assigned to the Student by the University (a utoronto.ca account). The address was provided by the Student in the University’s Repository of Student Information (“ROSI”). The Student met with the Dean’s Designate for Academic Integrity on March 15, 2021.

- ii) On October 12, 2021, the Office of the Vice-Provost, Faculty and Academic Life, served charges on the Student via email to the Student's utoronto email address.
- iii) On October 13, 2021, Ms. Huang, for the Office of Appeals, Discipline and Faculty Grievances (the "ADFG Office"), University of Toronto, served the Student with a letter regarding the charges that were filed against her. She also included copies of the charges, the Code, the *Rules of Practice and Procedure* and a pamphlet for Downtown Legal Services, a clinic that provides *pro bono* legal representation to students. These documents were served by email to the Student's utoronto email address. Ms. Huang did not receive a "bounce back" message to this email.
- iv) On October 15, 2021, Assistant Discipline Counsel sent the Student an email introducing herself and advising that important documents and correspondence would be forthcoming via the Student's utoronto address. She further sent the Student a disclosure letter, a disclosure brief and a copy of the University's *Policy on Official Correspondence with Students* to the Student's utoronto address on January 26, 2022.
- v) On March 28, 2022, Assistant Discipline Counsel emailed the Student at her utoronto address about scheduling a hearing date. Assistant Discipline Counsel advised that if she did not hear back by April 4, 2022, she would request a hearing date be scheduled. The Student did not respond to this email.
- vi) On April 5, 2022, Assistant Discipline Counsel emailed the Student advising that she would request a hearing be scheduled for May 17, 2022 at 1:45 p.m. On this same date, Assistant Discipline Counsel emailed the ADFG Office to request a hearing be scheduled for the above-noted date and time. The Student was copied on this email at her utoronto address.

- vii) On April 6, 2022, the ADFG Office issued a Notice of Electronic Hearing to take place via Zoom on May 17, 2022 at 1:45 p.m. The ADFG Office served the Student, via email, with this Notice together with copies of the October 13, 2021 letter including charges and enclosures. The Student was advised that the hearing would be conducted via Zoom and information was provided to access the hearing via videoconference. The email was again sent to the Student's utoronto address and, again, no "bounce back" message was received.
- viii) On May 5, 6 and 10, 2022, Assistant Discipline Counsel emailed additional disclosure to the Student at her utoronto address, in addition to copies of the affidavits of the Provost's witnesses.
- ix) On May 9, 2022, a courier, arranged by Assistant Discipline Counsel, attempted to deliver a package to the Student. The package contained a letter from Assistant Discipline Counsel and a cover email from the ADFG Office with attached copies of the Notice of Electronic Hearing and charges in this matter. The package was successfully delivered to the permanent address listed in ROSI for the Student; at 1:16 p.m. the package was signed for by what appeared to be the building's concierge. A second attempt to deliver the package to the Student's mailing address, as listed in ROSI, was unsuccessful as the location in question was a commercial rather than a residential building.
- x) Also on May 9, 2022, Andrew Wagg of the University's Information Technology Services used the Microsoft 365 Exchange portal to determine the Student's utoronto email account was last accessed on March 31, 2022 at 5:05 a.m. Eastern Standard Time.
- xi) In addition to the above, efforts were made by an administrative assistant at Assistant Discipline Counsel's law firm to contact the Student via telephone on May 6 and May 10, 2022. Those efforts were unsuccessful.

5. As of May 11, 2022, in the case of the ADFG Office, and May 13, 2022, in the case of Assistant Discipline Counsel, the Student had not responded to any of the above-noted correspondence.

6. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “Act”) and Rule 17 of the Tribunal’s *Rules of Practice and Procedure* (the “Rules”), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice of the proceeding.

7. Pursuant to Rule 9 of the Rules, 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.

8. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing. It is important to note that *reasonable* notice, rather than *actual* notice is the requirement.

9. The Tribunal was satisfied that multiple attempts were made to provide notice to the Student, including at the mailing and permanent addresses provided by the Student in ROSI, via the Student’s email address in ROSI, and via telephone. None of the various emails sent to the Student by the ADFG Office and Assistant Discipline Counsel “bounced back” and they were, therefore, assumed to be received.

10. While the Student’s email account does not appear to have been accessed since March 31, 2022, the University’s *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining a current and valid email account on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis. Furthermore, while an attempt to provide notice to the Student at her mailing address was unsuccessful, students are likewise responsible for maintaining a current and valid mailing address on ROSI.

11. The Tribunal therefore concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules. Consequently, the Tribunal agreed 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 Charges**

12. The charges were detailed in a letter to the Student dated October 12, 2021:

- i) On or about September 30, 2020, you knowingly obtained unauthorized assistance in connection with a quiz in FAH281H5F (the “Course”), contrary to section B.I.1(b) of the Code.
- ii) In the alternative, on or about September 30, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in a quiz in the Course, contrary to section B.I.1(d) of the Code.
- iii) In the further alternative, on or about September 30, 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 a quiz in the Course, contrary to section B.I.3(b) of the Code.

## **C. The Evidence**

13. The Tribunal received affidavit evidence from two witnesses: Professor Ruba Kana’an (affirmed on May 10, 2022) and Professor Charles Elkabas (affirmed on May 6, 2022). The Tribunal also had the opportunity to question both witnesses at the hearing.

### Evidence of Professor Kana’an

14. Professor Kana’an is an Assistant Professor of Islamic Art and Architecture in the Department of Visual Studies at UTM. In the Fall 2020 academic term, she taught the Course. The Course explored famous architectural monuments and iconic works of Islamic art.

15. Between 72 and 75 students were enrolled in the Course, including the Student. Due to the COVID-19 pandemic, the Course was taught remotely.

16. The Tribunal learned that students in the Course were made aware of the University's expectations with respect to academic integrity through the Course syllabus, which outlined behaviours that constituted academic dishonesty. With respect to "tests and exams," the syllabus noted that these behaviours included "Using or possessing unauthorized aids, including notes or answer guides provided by tutoring companies or shadow courses" and "Looking at someone else's answers during an exam or test."

17. The syllabus further noted "Potential academic offences in a digital context include, but are not limited to:

1. Accessing unauthorized resources (search engines, chat rooms, Reddit, etc.) for assessments.
2. Using technological aids (e.g. software) beyond what is listed as permitted in an assessment.
3. Posting test, essay, or exam questions to message boards or social media.
4. Creating, accessing, and sharing assessment questions and answers in virtual "course groups."
5. Working collaboratively, in-person or online, with others on assessments that are expected to be completed individually.

[...]"

18. On September 30, 2020, students in the Course wrote an online quiz worth 10% of their final grade (the "Quiz"). The Quiz was administered through a system called Quercus. During lectures leading up to the quiz and in email correspondence sent to students in advance of the Quiz, Professor Kana'an made it clear that the Quiz was closed book. This meant that students were not permitted to use any study aids while completing the Quiz, including readings, lecture recordings, slides, class notes, or any grammar or translation supports. Professor Kana'an also advised

students that they were expected to complete the Quiz independently and that the Quiz would be based only on information covered in the preceding three lectures and on the Course materials. She explained to the Tribunal that she saw the Quiz as a way to get the students engaged in the class materials.

19. In Question 7 of the Quiz, students were asked to choose one of four images to “identify, describe and discuss.” Both a “Checklist” and “Tips” accompanied Question 7 to assist students in their response. The “Checklist” reminded students to “Use only your own words and maintain rules of academic integrity” and the “Tips” reminded students to “...please make sure to only include points that were studied in class and readings.”

20. The Student selected Option C (“Question 7(C)”), a monument which, in the relevant lecture, Professor Kana’an had referred to as Kirbet al-Mafjar’s Hisham’s palace in Jericho. On her review of the Quiz answers, Professor Kana’an found that a group of 15 students in the class submitted answers to Question 7(C) that shared suspiciously similar characteristics. This included a similar paragraph structure and discussion points, and the inclusion of similar ideas that were not addressed in lectures or in any of the assigned materials. The Student was part of that group.

21. Professor Kana’an created a chart, summarizing the similarities between the Question 7(C) answers submitted by the 15 students. She found the following aspects of the Student’s answer particularly suspicious:

- i) In the opening sentences of their answers to Question 7(C), the Student, and many of the others students, referred to the “crown prince” having built the palace. However, according to Professor Kana’an, the “crown prince” was never discussed in the Course and, in fact, there was no mention in class of who built the palace.
- ii) In describing the palace’s “bathhouse”, the Student, and many of the others, referred to the fact that the bathhouse was separate from the “toilets” and that it came from the Greco-Roman tradition. Neither concept was discussed in the Course.



- iii) The Student, and several other students, referred to the image of the palace's mosaic floor as being the largest in the "East Mediterranean". In class, however, the mosaic floor was described as being the largest in "the Late Antique World" or in "Antiquity". Again, there was no mention of the East Mediterranean in the Course.

#### Evidence of Professor Elkabas

22. Professor Elkabas is a Professor of French Studies, Language Teaching and Learning in the Department of Language Studies at UTM. Until July 1, 2021 he served as a Dean's Designate for Academic Integrity with the Office of the Dean at UTM.

23. In Fall 2020, the AIU received allegations from Professor Kana'an regarding the Student's Quiz and its similarity to the answers submitted by a group of 14 other students.

24. On March 15, 2021, Professor Elkabas met with the Student (via Zoom) in his capacity as Dean's Designate for Academic Integrity to discuss the allegations of academic dishonesty related to the Quiz. In the course of that meeting, the Student denied communicating with anyone else during the Quiz. She stated that these concepts were either taught by the instructor in the Course or she got the information from Google while studying for the Quiz.

25. Professor Elkabas listened to a Zoom recording of Professor Kana'an's lecture in relation to the monument in question and reviewed her lecture slides regarding the topic. He confirmed that the shared concepts in the students' answers, noted above at paragraph 21, were not included in those materials.

26. Of the 14 other students alleged to have used an authorized aid on the Quiz, 13 admitted guilt at the Departmental or Divisional level. The allegations against one of the students were dismissed.

27. Professor Elkabas advised the Tribunal that in his view, if the unusual answers in Question 7(C) had been submitted by one or two students, he may have considered it a coincidence. However, in his view, when 15 students provide the same unusual answers, there is a clear pattern.

#### **D. Decision of the Tribunal**

28. The onus is on the University to establish, on a balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student. The Tribunal determined that the Provost met that standard.

29. The evidence demonstrated that the Course instructor, Professor Kana'an, made it clear to students, both in class and via email, that the Quiz in question was closed book. This meant that no study aids of any kind were to be used during the Quiz. While Professor Kana'an did not expressly forbid students from doing independent research, she explained that the Quiz would be based solely on the lectures and Course materials and this was also made clear in the "Tips" section directly on the Quiz itself. The University's expectations for academic integrity were also communicated to students through the Course syllabus and, again, directly on the Quiz.

30. The Tribunal reviewed the chart created by Professor Kana'an, comparing the students' Question 7(C) answers and considered her evidence on this issue. With the exception of one student, whose case was ultimately dismissed, the similarities in the other 14 answers were striking. In particular:

- i) The Student, and 8 other students, began by referring to the palace having been built by the "crown prince". However, according to Professor Kana'an, this concept was never discussed in the Course and, in fact, there was no mention in class of who built it.
- ii) In describing the palace's "bathhouse," the Student referred specifically to the fact that the bathhouse was separate from the "toilets" and that it came from the Greco-Roman tradition. Twelve other students also noted its Greco-Roman origins, and 7 others referenced the separation from toilets. Neither concept was discussed in class or included in the Course materials.
- iii) The Student referred to the image of the palace's mosaic floor as being the largest in the "East Mediterranean". Six other students described it almost

identically. However, there was no mention of the “East Mediterranean” in class. Instead, Professor Kana’an described the mosaic floor as being the largest in “the Late Antique World” or in “Antiquity”.

31. The Tribunal agreed with the submission of Assistant Discipline Counsel – and the testimony of Professor Elkabas – that it is very unlikely to be a coincidence that multiple students independently came up with answers that included these unique features, none of which were referenced at any point in the Course lectures or materials.

32. The Tribunal also noted that the common answers in Question 7(C) all had a strikingly similar structures to each other, yet did not appear to follow a logical structure.

33. Question 7 read:

Identify: What is it? Where? By Whom? For whom?

Describe: What does it look like (form, materials, techniques). How was it made (technology, labour...)?

Discuss: Why is it relevant? What are the ‘big ideas’ (context, power relations, knowledge transfer, social relations, gender relations, labour, environment, symbolic dimensions,...)? What questions can it raise?

The 14 answers the Tribunal compared, all appeared to omit key information sought by the question, including how the monument was made and why it was relevant, while including irrelevant information, such as the separation of the “toilet.”

34. The Tribunal further received evidence that 13 of the 15 students in question admitted guilt in relation to the use of unauthorized study aids or unauthorized assistance on the Quiz. The Tribunal had limited evidence before it regarding the specific circumstances of the other students’ cases, but it appeared that the students provided varying explanations for how the cheating occurred.

35. Assistant Discipline Counsel pointed the Tribunal to two cases on this issue, *University of Toronto v. S.R.* (Case No. 708, June 6, 2014) and *University of Toronto v. W.Z.* (Case No. 1085,

April 20, 2021) (“W.Z.”). In both cases, the Student had not admitted responsibility, but the Student’s accomplices had admitted to prohibited collaboration. The *W.Z.* case, in particular, involved a similar fact scenario where a large group of students submitted the same or similar answers to several questions, using the same unusual terms. The Panel in *W.Z.* considered the fact that the 10 other students, whose answers mirrored the Student’s, admitted to obtaining unauthorized assistance at the Departmental or Decanal levels. The Student in question was the only remaining case. Assistant Discipline Counsel argued that, based on these cases, admissions by co-conspirators can provide some evidence of corroboration. She fairly conceded, however, that a finding of liability in the case at hand could not be based solely on such evidence.

36. The Tribunal has considered the fact that almost all of the other students involved, many of whom had answers that were strikingly similar to the Student’s answer, admitted to the use of an unauthorized study aid in relation to the Quiz. The Tribunal agrees with Assistant Discipline Counsel’s submission that this fact provides some evidence of corroboration, although it would not be sufficient, on its own, to support a finding a guilt.

37. The Tribunal was unable to determine exactly how the Student obtained unauthorized assistance. There was some evidence that at least one of the other students had admitted to using an online “cram school” or “shadow course” to seek answers to the Quiz questions. Based on the commonality of the answers to Question 7(C), the Tribunal found a strong inference could be drawn that the Student and others were either using a shared document during the Quiz or that they were in communication with each other, either directly or through an online program. However, this assessment was largely speculative and there was no evidence directly before us proving either scenario in relation to the Student.

38. In any event, as Assistant Discipline Counsel submitted, the Provost is not required to show *how* the cheating occurred. Per the Tribunal’s decision in the *University of Toronto v. S.K.* (Case No. 595, October 12, 2010), the test is whether the University has provided “clear and convincing evidence that the student violated the Code in the manner described” (at paragraph 32). As stated, the Tribunal found the Provost had satisfied this test.

39. The Tribunal accordingly found the Student guilty of one count of knowingly using or possessing an unauthorized aid or aids or obtaining unauthorized assistance in any academic examination or term test or in connection with any other form of academic work, contrary to section B.I.1.(b) of the Code.

40. The Tribunal having made such a finding of guilt, the Provost withdrew the alternative charges against the Student.

#### **E. Penalty**

41. The matter continued with a hearing on the appropriate sanction. Assistant Discipline Counsel sought an order imposing the following sanctions on the Student:

- i) a final grade of zero in the course FAH281H5F in Fall 2020;
- ii) a suspension from the University of Toronto from the date of this order for a period of 3 years, ending on May 16, 2025; and
- iii) a notation of the sanction on her academic record and transcript from the date of this order for a period of 4 years, ending on May 16, 2026; and
- iv) that 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.

42. The Tribunal was presented with evidence of a prior conviction for the Student through a "Discipline Case Report." The prior conviction was from November 2018 and was for the same offence (unauthorized assistance). In that case, the Student received a grade of 0 on the assignment in question.

43. Assistant Discipline Counsel submitted that the Tribunal, in determining the appropriate sanction in a given case, should consider the factors laid out in the foundational sentencing case, *University of Toronto and Mr. C.* (Case # 1976/77-3, November 5, 1976): (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.

44. Given the Student did not participate in the hearing, there was no evidence before the Tribunal of the Student's character, or any extenuating circumstances surround the commission of the offence.

45. With respect to the likelihood of a repetition of the offence, Assistant Discipline Counsel submitted that this is the Student's second conviction for the same offence. She further noted that the Student's previous penalty of a grade of 0 did not deter the Student from re-offending.

46. Finally, Assistant Discipline Counsel directed the Tribunal to authorities on factors (e) and (f), namely the detriment to the University and the need for deterrence. The authorities highlighted the seriousness of the offence in question, the detrimental impact on other students who "play by the rules" and the need to send a clear message to the University community, particularly in the current environment of online quizzes, tests and assignments, precipitated by the pandemic.

47. Assistant Discipline Counsel also provided the Tribunal with a chart setting out the range of penalties imposed in previous Tribunal decisions involving similar charges, namely, unauthorized assistance and plagiarism. The Tribunal felt confident, upon review of the chart, that the penalty proposed by the Provost was in the appropriate range, given the Mr. C factors as outlined by Assistant Discipline Counsel and, in particular, given the Student's prior and related offence

48. There was evidence before the Tribunal that the 13 other students, who all resolved their matters at the Divisional level, received significantly less severe penalties than the one proposed. However, the Code expressly provides for this discrepancy between more lenient penalties for matters resolved at the Divisional (or Decanal) level, and harsher penalties for those that proceed to the Tribunal. Assistant Discipline Counsel further directed the Tribunal to the Discipline

Appeals Board decision in *University of Toronto and D.S.* (Case No. 451, August 24, 2007) in support of this point (at paragraphs 43-44):

...[D]ecanal sanctions must be viewed differently, than sanctions of the Tribunal. Procedures at the decanal level are designed to foster early resolution of the issues, where possible, through a relatively informal and speedy process. We agree that this is right in principle and that this policy should be preserved. The potential for a lenient sanction, at that stage, encourages this resolution. Such a sanction, however, can only be imposed where a Student admits misconduct.

...

Tribunal sanctions should be reviewed for consistency with other Tribunal sanctions.

49. In light of the Code provisions and precedents, the Tribunal has limited its consideration to Tribunal sanctions only and finds the penalty proposed by the Provost to be fit and appropriate.

## **F. Conclusion**

50. The Tribunal finds the Student guilty of one count of knowingly using or possessing an unauthorized aid or aids or obtaining unauthorized assistance in any academic examination or term test or in connection with any other form of academic work, contrary to section B.I.1(b) of the Code.

51. Accordingly, the Tribunal orders that the following sanctions be imposed on the Student:

- i) a final grade of zero in the course FAH281H5F in Fall 2020;
- ii) a suspension from the University of Toronto from the date of this order for a period of 3 years, ending on May 16, 2025; and
- iii) a notation of the sanction on her academic record and transcript from the date of this order for a period of 4 years, ending on May 16, 2026; and
- iv) 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 16<sup>th</sup> day of August, 2022

Original signed by:

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Ms. Indira Stewart, Chair  
On behalf of the Panel