

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on September 9, 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 -

D [REDACTED] L [REDACTED]

**REASONS FOR DECISION**

**Hearing Date:** April 1, 2022, via Zoom

**Members of the Panel:**

Ms. Johanna Braden, Chair  
Professor Joseph Clarke, Faculty Panel Member  
Mr. David Tieu, Student Panel Member

**Appearances:**

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP  
Mr. William Web, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP  
Mr. D [REDACTED] L [REDACTED]

**In Attendance:**

Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

1. The Trial Division of the University Tribunal was convened on April 1, 2022, to consider charges brought by the University of Toronto (the “University”) against D■■■■ L■ (the “Student”) under the University of Toronto *Code of Behaviour on Academic Matters*, 1995 (the “Code”).

## **The Charges**

2. The Charges and Particulars alleged against the Student are as follows.

### **Charges**

1. On or about March 8, 2021, you knowingly used or possessed an unauthorized aid or obtained unauthorized assistance in a midterm test in CHE322H1 (“Course”), contrary to section B.I.1(b) of the Code.
2. On or about March 8, 2021, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in a midterm test in the Course contrary to section B.I.1(d) of the Code.
3. In the alternative to each of the above charges, on or about March 8, 2021, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with the midterm in the Course, contrary to section B.I.3(b) of the Code.

### **The particulars related to the charges are as follows:**

1. At all material times, you were a registered student in the Faculty of Applied Science and Engineering, University of Toronto.
2. In academic year 2020-2021, you enrolled in CHE322 (Process Control), which was taught by Professor Will Cluett.
3. On March 8, 2021, you wrote a midterm test in the Course, which was worth 30% of the final grade in the Course. Due to the COVID-19 pandemic, the midterm test was administered online in an unsupervised setting.

4. You knew that you were not permitted to collaborate with other students during the test.
5. You knowingly obtained unauthorized assistance from other students in the Course during the midterm.
6. You knowingly included verbatim and nearly verbatim text from the answers of other students in your answers to the midterm.
7. During the midterm, you knowingly engaged in a form of cheating, academic dishonesty or misconduct in order to obtain an academic advantage.

### **The Student's Plea**

3. The Student attended the hearing and advised that he was prepared to admit the first charge against him. In response to questions from the Tribunal, the Student agreed that he understood the charge and understood the nature and effect of his plea.

### **The Evidence**

4. Because of the late timing of the Student's admissions, there was no formal written agreed statement of facts. Instead, the Student admitted the truth of the essential facts contained in the affidavit of Professor William Cluett, who taught the course in question. (CHE322: Process Control, referred to hereafter as "the Course"). Those facts were as follows.

5. The Student took the Course in the Winter 2021 term. Students in the Course were required to complete (among other things) a term test worth 30% of the final grade.

6. Due to the COVID-19 pandemic, the term test was administered online. Students had a two-hour window to complete the test, and an additional 30 minutes to submit their test answers. All students (including the Student) signed an academic integrity pledge as part of the term test, stating that students were permitted to use only their own lecture and tutorial notes, the textbook, their own solutions to tutorial problems and assignments,

past term tests and solutions, and calculators. Importantly, the pledge stated expressly that students were not permitted to collaborate with one another on the term test, and acknowledged that providing or receiving unauthorized assistance to or from someone else is a serious academic offence.

7. The test required students to provide solutions to six questions. A teaching assistant in the Course noted that the Student's answers to Questions 2 and 5 were similar to answers submitted by three other students, all of whom were in the same tutorial group. Professor Cluett reviewed the responses submitted by all four students and found the similarities suspicious for the following reasons.

(a) For Question 2 (a), the answers given by the Student, S.Y., and K.Z. all contain similar expressions and use a similar algebraic structure. All three students' answers were correct and they would have received full marks. There are no singular idiosyncratic features in their answers, but Question 2 (a) was relatively simple, and Professor Cluett had explained similar examples in class. He expected that most students could solve Question 2 (a) with little difficulty. On its own, Professor Cluett would not consider the three students' answers to Question 2 (a) particularly suspicious. But, when combined with the similarities between their answers to Questions 2 (b) – (d) and 5, the line-by-line similarities in their answers to Question 2 (a) heightened his suspicions.

(b) For Question 2 (b), the Student, S.Y., and K.Z. all submitted answers containing similar expressions and used a similar algebraic structure. All three students solved the question with a method that was unusual because Professor Cluett had not taught that method in the Course. Further, the Student, S.Y., and K.Z. all answered the question incorrectly in the same way. In particular, these three students used the expression " $y(s) = f(s)r(s)$ " to solve for "y" without using or stating a value for "r". Yet, despite this omission, they all arrived at the same correct answer. In this case, the three students would have received part marks because they arrived at the correct answer, but their justification was flawed. Professor Cluett noted that students sometimes fail to answer these types of questions correctly, but he considered it to be highly unusual for more than one student to use an approach that he did not teach in class and that failed to solve the question correctly.

(c) For Question 2 (c), the Student, S.Y., and K.Z. all provided similar answers, which relied on the justification that they gave in Question 2 (b). Professor Cluett noted this is not unusual because Question 2 (c) required students to answer a very similar question to the one posed in Question 2 (b). The three students would have received part marks because they provided the same correct final answer, but they relied on their justification from Question 2 (b), which was flawed.

(d) For Question 2(d), the Student, S.Y., and K.Z. provided virtually identical graphs that were wrong in the same way. The error that the three students made was highly idiosyncratic, and Professor Cluett cannot recall any student making this type of error in the 30+ years that he has taught courses in this area. The graphs that the three students drew were “nonsensical”, and they would have received zero for their answer.

(e) For Question 5, the Student, S.Y., K.Z., and R.X. all submitted answers containing similar expressions and using a similar algebraic structure. These four students also committed the same error by trying to solve this problem using circular reasoning. In addition, none of them substituted for the “step input change” as stated in the question. Professor Cluett’s affidavit states that students occasionally use circular reasoning on tests, but he considered it highly unlikely that all four students would have attempted to answer the same wrong question and engaged in the same flawed reasoning unless they were collaborating. They all would have received zero for their answers.

8. In sum, Professor Cluett concluded that the degree and nature of the similarities meant it was “highly unlikely” the students came up with these answers to these questions independently.

9. In a meeting with the Dean’s designate, the Student denied collaborating with others during the test, and said that the other students were good friends whom he had studied with prior to the test. The Student suggested that any similarities arose because they had studied together. Professor Cluett found this explanation implausible, given the limited time given for the test, the high degree of line-by-line similarities, and the same idiosyncratic mistakes.

10. By the time of this hearing, the three other students involved had all admitted collaborating during the test. Two of them admitted it as soon as they were confronted, and the third admitted it shortly after charges were filed in 2021. The Student was the last of the four to confess.

### **Decision of the Tribunal on the Charges**

11. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that one or more of the academic offences charged has been committed by the Student.

12. In this case, the Student admitted to the first Charge. The Tribunal was satisfied that the Student's admissions were voluntary, informed, and unequivocal. Further, the evidence contained in the affidavits submitted by the University clearly and thoroughly proved that the Student collaborated with others when writing his term test, which was expressly prohibited.

13. Accordingly, the Tribunal found the Student was guilty of one charge of knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance in a midterm test in CHE322H1, contrary to section B.I.1(b) of the Code. Charge 2 (being largely duplicative) and Charge 3 (being in the alternative) were withdrawn by the University.

### **Evidence on Penalty**

14. On consent of the parties, further evidence was filed relevant to the issue of penalty. This evidence showed that the Student had committed two prior academic misconduct offences.

(a) In April 2017, the Student used an unauthorized aid (a cell phone) during a final exam worth 40% of his final grade. The Student received a zero in the course,

his name was added to the faculty's student offence database as a first offender, and a copy of the sanction letter was placed in his student file.

(b) In March 2018, the Student plagiarized a pre-laboratory assignment worth 1% of his final grade. The Student received a zero in the course, his name was added to the faculty's student offence database as a second offender, and a copy of the sanction letter was placed in his student file.

(c) The Student admitted both offences around the time they occurred. Following both offences, the Student was warned that any further offence would be met with penalties that would be "much more severe". The Student was also referred to the Coordinator of Student Academic Progress and Support to assist him in dealing with any challenges he may have been encountering.

### **Submissions on Penalty**

15. There was a joint submission on penalty, in which both parties requested that the Tribunal make an order including the following sanctions:

- (a) a final grade of zero in CHE322H1 in Winter 2021;
- (b) a suspension from the University of Toronto for a period of three years from May 1, 2022, to April 30, 2025; and
- (c) a notation of the sanction on their academic record and transcript from the date of the order until graduation; and
- (d) an order 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.

### **Decision of the Tribunal on Penalty**

16. The Tribunal is aware of the value in respecting and deferring to joint submissions. While the Tribunal retains the discretion to reject joint submissions in appropriate cases, the fact that adversarial parties have been able to agree on the appropriate sanction is a good indication in and of itself that the proper balancing of interests has occurred. The Tribunal should only depart from joint submissions where it believes that the proposed sanction is so far outside the range of appropriate outcomes that it would bring the administration of justice into disrepute.

17. The Tribunal considered the factors and principles relevant to sanction set out by this Tribunal in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976). The most significant factors for the Tribunal were as follows.

(a) The character of the Student: the Student attended the hearing and admitted his wrongdoing. He waited until the literal last minute to make his admissions, only confessing for the first time at the outset of what was scheduled to be a contested hearing. The Tribunal recognizes that the Student has shown some insight and remorse. The Tribunal also recognizes that the Student is very close to graduation, having earned many credits toward his degree already. However, balanced against these mitigating factors are the Student's two prior acts of academic misconduct.

(b) The likelihood of a repetition of the offence: it is very troubling that this was the Student's third offence. A three-year suspension could be considered light for a third offence. However, although this was the Student's third offence, this will be his first period of suspension. The Tribunal also notes the three-year gap between the Student's second offence and this one. The Tribunal hopes this process has brought home the message that dishonesty and academic misconduct is not a path to success and must be avoided.

(c) The nature of the offence committed: the COVID-19 pandemic has amplified the importance of trust and honesty. Online learning provides more opportunities for students to cheat. The Student in this case blatantly disregarded the plain language of the academic pledge he had signed, promising to not collaborate during



the test. Collaboration on on-line tests can be very hard to detect. The Student was only caught because of idiosyncratic errors made by him and his friends. By cheating on his test, the Student undermined the grades-based system of evaluation and broke the honour code that is essential to modern learning.

(d) Any extenuating circumstances surrounding the commission of the offence: the Student offered no explanation or extenuating facts in his favour.

(e) The need to deter others from committing similar offences: cheating on exams must always be denounced and deterred 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 they are under pressure and cheating seems to be the easy way out.

18. In addition to the factors from the *Mr. C. case, supra*, the Tribunal considered other cases of this Tribunal in similar circumstances. The University submitted a Book of Authorities including many cases from this Tribunal of offences involving similar misconduct. No two cases are identical, and the Tribunal is not bound by past decisions. However, the Tribunal strives to develop a consistent body of case law so that students are treated fairly and equitably.

19. The joint submission in this case was squarely within the range of sanctions imposed in similar cases. It does not bring the administration of justice into disrepute and is not otherwise contrary to the public interest. It strikes a fair balance between the mitigating and aggravating factors. It is a meaningful but fair sanction.

20. In all the circumstances, the Tribunal is satisfied that the joint submission is appropriate. On April 1, 2022, the Tribunal made the following order:

**THAT** the Student is guilty of one count of knowingly using or possessing an unauthorized aid or obtaining unauthorized assistance in a midterm test in CHE322H1, contrary to section B.I.1(b) of the Code;

**THAT** the following sanctions shall be imposed on the Student:

- (e) a final grade of zero in CHE322H1 in Winter 2021;
- (f) a suspension from the University of Toronto for a period of three years from May 1, 2022, to April 30, 2025; and
- (g) a notation of the sanction on their academic record and transcript from the date of the order until graduation; and

**THAT** this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

Dated at Toronto this 14th day of September, 2022

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Original Signed by:

Ms. Johanna Braden, Chair

On behalf of the Panel