

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on June 16, 2022,

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 2019*,

AND IN THE MATTER OF the *University of Toronto Act, 1971*, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

B E T W E E N:

**UNIVERSITY OF TORONTO**

- and -

**Z [REDACTED] L [REDACTED]**

**AMENDED REASONS FOR DECISION**

**Hearing Date:** September 23, 2022, via Zoom

**Members of the Panel:**

Mr. Simon Clements, Chair

Professor Joseph Clarke, Faculty Panel Member

Ms. Jessica Johnson, Student Panel Member

**Appearances:**

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

Mr. Joseph Berger, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

M. Z [REDACTED] L [REDACTED]

**Hearing Secretary:**

Ms. Krista Kennedy, Administrative Clerk & Hearings Secretary, Office of Appeals, Discipline and Faculty Grievances

1. This Panel of the University Tribunal held a hearing on September 23, 2022, to consider the charges brought by the University of Toronto (the “University”) against M. Z. L. (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”). It is alleged that the Student knowingly obtained unauthorized assistance in connection with Term Test 2 in MAT136H5F (the “Course”), contrary to section B.I.1(b) of the Code. In the alternative, the University alleges that the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with Term Test 2 in the Course, contrary to section B.I.3(b) of the Code.

### **The Charges**

2. The Charges and Particulars alleged against the Student are as follows:
  - a. On or about October 29, 2021, you knowingly obtained unauthorized assistance in connection with Term Test 2 in MAT136H5F (the “Course”), contrary to section B.I.1(b) of the Code.
  - b. In the alternative, on or about October 29, 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 Term Test 2 in the Course, contrary to section B.I.3(b) of the Code.

### **Particulars of the offences charged are as follows:**

- a. At all material times you were a student enrolled at the University of Toronto Mississauga.
- b. In Fall 2021, you enrolled in MAT136H5F (Integral Calculus), which was taught by Professor TJ Yusun. The Course was taught online.
- c. Students in the Course were required to write three term tests, which were administered online. Of the three-term tests: the highest grade counted for 25% of students’ final grades; the second highest grade counted for 16%; and the lowest

grade was dropped.

- d. On October 29, 2021, Term Test 2 in the Course was administered online. Students were required to complete the test independently.
- e. On October 29, 2021, you submitted your answers to Term Test 2.
- f. You knowingly obtained unauthorized assistance on Term Test 2 from online sources or from other students in the Course and/or aided, assisted, abetted, counselled, procured or conspired with other students in the Course to obtain unauthorized assistance on the quiz.
- g. You knew that you were not permitted to consult with online sources or other students during Term Test 2.
- h. You knowingly submitted Term Test 2 with the intention that the University of Toronto Mississauga rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

### **The Evidence**

- 3. The evidence before the Tribunal was presented by way of an Agreed Statement of Facts (“ASF”), which is attached to these Reasons as Appendix “A”. In the ASF, the Student admits that she is guilty of the offences charged, and acknowledged that she signed the ASF freely and voluntarily, knowing of the potential consequences she faced, and acknowledged that she had been given the opportunity to seek legal advice before signing the ASF.
- 4. The salient facts relating to the offence are reproduced here from the ASF.
- 5. In Fall 2021, the Student enrolled in MAT136H5F (Integral Calculus) (the “Course”), which was taught by Professor TJ Yusun.

6. Students in the Course were evaluated based on one survey (worth 1% in total), online “WeBWorK” assignments (worth 6% in total), four assignments (worth 3% each or 12% in total), three-term tests (worth 41% in total) and a final exam (worth 40%).
7. Of the three-term tests, the highest grade counted for 25% of students’ final grades, the second highest grade counted for 16%, and the lowest grade was dropped.
8. The syllabus contained a section labelled “Academic Integrity” (on page 2), which stated, among other things, that plagiarism is a form of academic fraud and is treated very seriously. Students were advised that the work they submit must be their own and cannot contain anyone else’s work or ideas without proper attribution. Students were directed to read a handout link entitled “How not to plagiarize” and advised they were expected to be familiar with the University’s Code.
9. Term Test 2 in the Course (“Term Test 2”) was administered online on Friday, October 29, 2021, from 4:10 p.m. to 5:40 p.m. EST (Toronto, Ontario time). Students were required to be finished writing all their solutions by 5:40 p.m. and their solutions were required to be uploaded by 6:00 p.m. Students were required to complete the test independently. Students were advised that they were not allowed to access any websites on the internet except four specified websites approved by the University (“Crowdmark”, “Quercus”, “Piazza”, and their University email (only to send the instructor an email)) for the purpose of writing Term Test 2.
10. On October 29, 2021, the Student submitted her answers to Term Test 2.
11. In marking students’ tests, the instructor and teaching assistants found substantial similarities between the answer the Student had submitted to Question 1 and the answers submitted to the same question by several other students.
12. On December 7, 2021, Professor TJ Yusun emailed the Student to advise that the Student’s answer to Question 1 of Test Term 2 was found to be very similar or identical with other students’ solutions.

13. On April 21, 2022, the Student met with Professor Shay Fuchs, Dean's Designate for Academic Integrity. The Student admits that Professor Shay Fuchs read her the required warnings from the Code. During the meeting, the Student admitted that she had searched for answers online and copied the answers during Term Test 2. The Student also admitted that she used an online calculator during Term Test 2, which was an unauthorized aid.
14. In addition to the admission of guilt made at the Dean's meeting the Student admits in the ASF that:
- (i) she knowingly obtained unauthorized assistance from online sources and an online calculator while writing Term Test 2, and in doing so:
  - (ii) she searched for and copied answers for Term Test 2 from an online source;
  - (iii) she knew she was not permitted to consult with online sources or an online calculator during Term Test 2;
  - (iv) she knowingly submitted Term Test 2 with the intention that the University rely on it as containing her own ideas or work in considering the appropriate academic credit be assigned to her work; and
  - (iv) she is guilty of obtaining unauthorized assistance on Term Test 2.
15. The Student was present at the hearing and was asked if she had anything further to add to her admissions contained in the ASF. The Student responded that she was sorry about her actions and understood that there is no shortcut to learning.

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

16. The onus is on the University to establish on a balance of probabilities, using clear and convincing evidence, that one or more of the academic offences charged has been committed by the Student.
17. In this case the Student admitted that she searched the internet for answers and submitted them as her answers on Term Test 2. In addition, the evidence contained in the ASF and accompanying documents clearly proved that the Student obtained unauthorized assistance on Term Test 2. Accordingly, the Tribunal finds the Student guilty of Charge 1 that on or about October 29, 2021, she knowingly obtained unauthorized assistance in connection with Term

Test 2 in MAT136H5F (the “Course”), contrary to section B.I.1(b) of the Code.

18. As the Tribunal found that the Student was guilty of Charge 1, the University agreed to withdraw Charge 2.

### **Evidence on Penalty**

19. The University submitted an Agreed Statement of Facts on Penalty, which is attached to these Reasons as Appendix “B”.

20. The Student has two prior academic offences.

#### ***Prior offence 1: unauthorized assistance in CSC108H5F***

21. In Fall 2020, the Student registered in CSC108H5F (“CSC108”).

22. In December 2020, the Student submitted a Major Lab assignment (“Major Lab 4”) which was worth 3% of her final grade in the course, and an assignment (“Assignment 3”) which was worth 10% of her final grade in the course.

23. On March 2, 2021, the Student admitted to the offence of obtaining unauthorized assistance on Major Lab 4 and Assignment 3.

24. In light of the Student’s admission, the case was resolved at the divisional level. The Student received a sanction of a grade of zero on Major Lab 4 and Assignment 3 and a transcript notation for 12 months (from March 19, 2021 to March 19, 2022).

#### ***Prior offence 2: unauthorized assistance in MAT135H5S***

25. In Winter 2021, the Student registered in MAT136H5 (“MAT136”).

26. In April 2021, the Student submitted her final exam in MAT136, which was worth 40% of her final grade in the course.
27. On October 18, 2021, the Student met with the Dean's Designate at UTM. During the meeting, the Student admitted to obtaining unauthorized assistance to complete the final exam in MAT136. The Student received a sanction of a grade of zero in the course, an 8-month suspension from attending the University of Toronto (from May 1 to December 31, 2022) and a transcript notation for 24 months (from October 18, 2021 to October 17, 2023).
28. That day, on October 18, 2021, Professor Michael Lettieri, Vice-Dean, Academic Experience at UTM, sent the Student a letter confirming the sanctions imposed in connection with the final exam in MAT136. The letter stated in part:

As you are now aware, obtaining unauthorized assistance is considered a serious offence under the *Code of Behaviour on Academic Matters (Code)* and would normally be severely sanctioned. It is essential for you to know that I reviewed the case again, including the Dean's Designate's record of his meeting with you in which you admit you contravened the Code. I appreciate that you were forthcoming with the truth and remorseful of your actions. Moreover, I believe that you have learned a valuable lesson and that there will be no repetition of similar behaviour in the future. It is imperative that you understand that the penalty recommended by my designate was appropriate, and more lenient than what is envisaged in the Provost's Guidelines (Appendix "C"). [...] I trust that you have had time to reflect on the seriousness of this incident and will not commit another academic offence. Please be advised that any subsequent allegations of offence are usually referred directly to the Tribunal for investigation. I hope that you will do everything in your power to make a success of your academic career at the University of Toronto Mississauga.

29. In light of the Student's admission, the case was resolved at the divisional level.

### **Submissions on Penalty**

30. With respect to penalty, the University and the Student made a joint submission on penalty (“JSP”), submitting that, in all the circumstances of her case, it is appropriate that the University Tribunal impose the following sanctions on the Student:

(i) a final grade of zero in the course MAT136H5F in Fall 2021;

(ii) the Student will be suspended from the University of Toronto for a period of 3 years and 8 months, commencing on January 1, 2023 ,and ending on August 31, 2026; and

(iii) this sanction will be recorded on the Student’s academic record and transcript from the date of the Tribunal’s order until graduation.

31. The parties further agreed that it is appropriate for this case to be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University of Toronto newspapers, with the name of the Student withheld.

32. 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 appropriate balancing of interests has occurred. The Tribunal should only depart from joint submissions where it feels that the proposed sanction is so far outside the range of appropriate outcomes that it would bring the administration of justice into disrepute. A high bar must be crossed for a Tribunal to deviate from a JSP. As stated in *University of Toronto and M.A.*, a decision of the Discipline Appeals Board of December 22, 2016, at paragraph 29, where the parties have agreed upon a JSP, “the parties ought to expect that a hearing panel will impose that sentence, unless to do so would be fundamentally contrary to the interests of the university community and objectively unreasonable or unconscionable. In this way, the greater interests of the discipline process in fairness and efficiency is furthered and the system as a whole benefits”.



33. In support of the reasonableness of the JSP, the Tribunal was asked to consider the University of Toronto and Mr. C. factors (Case No. 1976/77-3, November 5, 1976) long recognized as the leading decision on sentencing principles. These factors are:
- (a) the character of the person charged;
  - (b) the likelihood of 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 by the offence; and
  - (f) the need to deter others from committing a similar offence.
34. With respect to character, it was noted that the Student has taken full responsibility for her conduct. The Student admitted guilt at the Dean's Meeting and has cooperated throughout the discipline process. The Student has expressed remorse for her conduct.
35. Regarding the likelihood of repetition, the Student had two prior offences. The Student has admitted committing the offence on each prior occasion and it was impressed upon her that there must be no repetition of similar behaviour in the future. Notwithstanding this warning, the student proceeded to commit the present academic offence less than two weeks after receiving Professor Michael Lettieri's letter. This pattern of behaviour provides the Tribunal with no comfort that the Student has actually learned a lesson, nor that she is unlikely to repeat this behaviour again given the opportunity.
36. The nature of the offence is serious. As stated in *University of Toronto and M.H.* (Case No. 1141, July 16, 2021) at paragraph 15, "[C]heating on a test is profoundly unfair to other students. As this Tribunal has previously noted, "the integrity of examinations is a cornerstone of academic life" (The *University of Toronto and Y.Y.* (Case No. 851, March 1, 2017 (Sanction)))". These same considerations are applicable to the detriment to the University and why this behaviour must be deterred.

37. In terms of factor (d) there is no evidence of any extenuating circumstances surrounding the commission of the offence.
38. In the Tribunal's view, the JSP, in this case, is reasonable. 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.
39. The authorities submitted by the University show that the penalty of a suspension of between three and four years has been ordered in similar cases. The suspension proposed here of 3 years 8 months falls squarely within the range supported by prior cases and will allow the Student to enrol for classes in September 2026. The joint submission in this case does not bring the administration of justice into disrepute and is not otherwise contrary to the public interest. It strikes an appropriate balance between the mitigating and aggravating factors.

### **Conclusion**

40. The Tribunal deliberated and concluded that having regard to all the circumstances of this offence,
1. ~~THAT [the Student] is guilty of two counts of the academic offence of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage, contrary to section B.I.3(b) of the Code,~~ **the Student is guilty of one count of knowingly obtaining unauthorized assistance, contrary to section B.I.1(b) of the Code,**
  2. THAT the following sanctions shall be imposed on [the Student]: ~~(a) a final grade of zero in each of the courses PHY489H1F and PHY456H1F in Fall 2020; (b) a suspension from the University for 3 years from the day the Tribunal makes its order; and (c) a notation of the sanction on her academic record and transcript for 4 years from the day the Tribunal makes its order.~~ **(a) a final grade of zero in the course MAT136H5F in Fall 2021; (b) the Student**

**will be suspended from the University of Toronto for a period of 3 years and 8 months, commencing on January 1, 2023 and ending on August 31, 2026; and (c) this sanction will be recorded on the Student's academic record and transcript from the date of the Tribunal's order until graduation.**

3. THAT this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 7<sup>th</sup> day of December, 2022



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Mr. Simon Clements, Chair

Signed on behalf of the Panel