

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on July 7, 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 -

T■■■■ K■■■ P■■■

REASONS FOR DECISION

Hearing Date: February 13, 2023, via Zoom

Members of the Panel:

R.S.M. Woods, Chair
Professor Gabriele D’Eleuterio, Faculty Panel Member
Missy Chareka, Student Panel Member

Appearances:

Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Hillson Tse, Counsel for the Student, RGZ Law
T■■■■ K■■■ P■■■

Hearing Secretary:

Samanthe Huang, Quasi-Judicial Administrative Assistant, Office of Appeals, Discipline &
Faculty Grievances

THE CHARGES

1. On July 7, 2022, the Provost of the University of Toronto (the “University”) laid the following charges (the “Charges”) against T■■■■ K■■■ P■■■ (the “Student”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”):

1. On or about March 28, 2021, you knowingly obtained unauthorized assistance in connection with Assignment 2 in STA302H15 (the “Course”), contrary to section B.I.1(b) of the Code.
2. In the alternative, on or about March 28, 2021, you knowingly represented as your own an idea or expression of an idea or work of another in Assignment 2 in the Course, contrary to section B.I.1(d) of the Code.
3. In the further alternative, on or about March 28, 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 Assignment 2 in the Course, contrary to section B.I.3(b) of the Code.

THE HEARING

2. The Tribunal heard the Charges on February 13, 2023 by videoconference over Zoom. Both the University and the Student, who was represented by counsel, were in attendance at the video hearing.

MERITS OF THE CHARGES

Evidence

3. This matter proceeded on the basis of an agreed statement of facts (the “Agreed Statement of Facts”), a copy of which (without the referenced documents) is attached as Appendix A to these reasons.

The Student

4. Based on the Agreed Statement of Facts, the Student first registered as a student at the University of Toronto Mississauga (“UTM”) in the Fall 2018. As of January 19, 2023, the Student had earned a total of 18 credits.

The Course

5. In Winter 2021, the Student enrolled in the Course, which Katherine Daignault taught. Students in the Course were evaluated based on one of two possible grading schemes. The grading scheme resulting in the higher overall grade automatically applied for each student. Both grading schemes included grades assigned for Discussion Board Participation (worth either 5% of 10% in total), three assignments (worth 10% each or 30% in total), two mini projects (worth either 20% or 25% in total), a term test (worth 20% in total), and a final project (worth 20% in total).

6. The syllabus contained a section labeled “Academic Integrity” which stated, among other things, that plagiarism is treated very seriously. The section advised students that they must complete all assessments individually, all work they submit must be their own, and that they must not copy written answers from anyone or anywhere else. The section advised students they were

expected to be familiar with the Code and provided a link to the University's Academic Integrity website for additional resources on academic integrity.

The Student's Completion of the Assignment

7. Assignment 2 in the Course was distributed to students online. Students had to complete the assignment and submit their answers electronically by 11:59 p.m. on Sunday, March 28, 2021. Students had to complete the Assignment 2 independently. They were told that they were not allowed to post the assignment questions or solutions online, search for and/or use solutions found online or from external sources or provide solutions that were not 100% their own work.

8. The Student submitted his answers to Assignment 2 on March 28, 2021. In marking the Student's answers to Assignment 2, the instructor found substantial similarities between the answers the Student had submitted to questions 1 (a) and (c) of Assignment 2 and the answers to the same questions the instructor had found posted on Chegg.com.

9. Chegg.com 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 webpage 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".

10. Based on the chart included in the Agreed Statement of Facts attached as Appendix A to these reasons, large portions of the Student's answers to Assignment 2 are identical to the answers posted on Chegg.com. Given the myriad of ways in which students could answer the questions, and the fact that the Student's answers and the Chegg.com answers contained many of the same

steps (and omitted many of the same steps), the instructor thought that it was unlikely that the similarities between the Student's answers and the Chegg.com answers were coincidental.

The Meeting with the Dean's Designate

11. On November 24, 2021, the Student met with Professor Shay Fuchs, Dean's Designate for Academic Integrity. Professor Fuchs read the Student the required warnings from the Code. During the meeting, the Student claimed that he had worked on Assignment 2 alone. The Student did not enter a plea to the charges of academic misconduct.

The Admissions

12. The Student denies accessing Chegg.com, but has now admitted to the offences charged. In particular, the Student now admits:

- (a) knowingly accessing a website that contained a solution to questions 1(a) and (c) of Assignment 2. The Student cannot recall the exact website but does not believe it was Chegg.com;
- (b) viewing answers to Assignment 2 that had been posted online;
- (c) using the answers that had been posted online to answer questions 1(a) and (c) of Assignment 2;
- (d) knowing that consulting external sources, including websites, while completing Assignment 2 was not allowed;
- (e) obtaining unauthorized assistance from an external source, namely, a website, on Assignment 2;

- (f) knowingly representing as his own, an idea or expression of an idea or work of another (the author of the answers the Student viewed online) on Assignment 2; and
- (g) committing plagiarism on Assignment 2.

Decision on the Merits

13. The University has the burden of establishing on a balance of probabilities, using clear and convincing evidence, that the Student committed the academic offence with which he or she has been charged. In this case, and only dealing with the first of the three charges, that requires the University to establish that the Student knowingly obtained unauthorized assistance in connection with Assignment 2.

14. Based on the evidence before it, the Tribunal is satisfied that the University has discharged its burden. The Student's answers to questions 1(a) and 1(c) of Assignment 2 are basically identical to the answers to the same questions on Chegg.com. The Tribunal agrees with the instructor that this was not a coincidence. It was the result of someone consciously using an outside source to answer the questions. While the Student has not admitted using Chegg.com specifically, the Student has admitted viewing answers to Assignment 2 posted online, and then using those answers to prepare his answers to the assignment. The Student has further admitted that they did this knowing that they were not permitted to consult external sources, including websites, in completing Assignment 2.

15. Given the evidence and admissions, the Tribunal finds that the Student knowingly obtained unauthorized assistance in connection with Assignment 2 and therefore is guilty of the first of the Charges. The University agreed to withdraw the second and third of the Charges if the Tribunal found the Student guilty of the first one. Having done so, the Tribunal need not consider them.

SANCTION

The Evidence

16. The University and the Student submitted an agreed statement of facts on penalty (the “Agreed Statement of Facts on Penalty”). A copy of the Agreed Statement of Facts on Penalty is attached as Appendix B.

The Prior Convictions

17. Based on the Agreed Statement of Facts on Penalty, the Student has committed and been sanctioned for three prior academic offences. The particulars of those offences and the sanctions imposed on the Student in respect of them are as follows:

- (a) In the Fall of 2019, the Student registered in CSC236H5F (“CSC236”). On December 6, 2019, the Student submitted an assignment in CSC236, which was worth 3% of their final grade in the course. On August 31, 2020, the Student admitted to the offence of obtaining unauthorized assistance in the assignment. In light of the Student’s admission, the case was resolved at the divisional level. The Student accepted a sanction of a grade of zero on the assignment;
- (b) In Winter 2020, the Student registered in CCT110H5S (“CCT110”). On February 6, 2020, the Student submitted an assignment in CCT110, which was worth 5% of his final grade in the course.
- (c) In Fall 2020, the Student registered in MAT202H5F (“MAT202”). On October 1, 2020, the Student submitted an assignment in MAT202, which was worth 4% of the final grade in the course.

(d) On March 22, 2021, the Student met with the Dean's Designate, Professor Fuchs. During the meeting, the Student admitted to the offence of obtaining unauthorized assistance in the assignments in CCT110 and MAT202. The case was resolved at the divisional level. The Student received a grade of zero in CCT110 and a transcript notation for 24 months (from March 22, 2021, to March 21, 2023), and a grade of zero in MAT202, a suspension from attending the University of Toronto for four months (from May 1 to August 31, 2021) and a transcript notation for 24 months (from March 22, 2021 to March 21, 2023).

18. On March 29, 2021, the Office of the Dean at UTM sent the Student a letter confirming the sanctions imposed in connection with the assignment in CCT110 and MAT202. 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, *especially because this is considered your second and third academic offence*. 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.

The Submissions

19. The University and the Student also provided us with a joint submission on penalty (the "Joint Submission on Penalty"), a copy of which is attached as Appendix C. Under the terms

of the Joint Submission on Penalty, the University and the Student asked the Tribunal to make an order:

- (a) awarding the Student a final grade of zero in the Course;
- (b) suspending the Student from the University for a period of three years, commencing on May 1, 2023, and ending on April 30, 2026; and
- (c) recording the sanction on the Student's academic record and transcript from the date of our order until graduation.

20. In addition to the above sanctions, under the terms of the Joint Submission on Penalty, the Student undertook to complete the Promoting Academic Skills for Success (PASS) Program offered by UTM or a similar program selected by UTM. The Student further agreed that they would not be permitted to enroll in any further courses at, or graduate from, the University until he had completed that program.

21. The University and the Student also agreed that it was appropriate for the case to be reported to the Provost for publication of a notice of our decision and the sanction imposed in the University's newspapers, with the name of the Student withheld.

22. Counsel for the University submitted that the penalty contemplated by the Joint Submission on Penalty was within the range of penalties typically imposed in cases involving serious academic misconduct by a student with a prior record of academic misconduct. She submitted that in addition to a grade of zero in the course in which the student had cheated, the typical range of penalties was a suspension of between three and four years, and a notation on the student's academic record for at least four years or until graduation. She submitted that the sanctions sought in this case were within that range.

23. Addressing the May 1, 2023 starting date of the suspension contemplated by the Joint Submission on Penalty, counsel for the University indicated that the parties had settled on that date because it would allow the Student to complete the courses they were currently taking.

24. Counsel for the University also noted the Tribunal's limited discretion to reject a joint submission on penalty, citing the decisions of the Discipline Appeal Board in the *University of Toronto and S. F.* (Case No. 690, October 20, 2014), and the *University of Toronto and M. A.* (Case No. 837, December 22, 2016) as authority for the proposition that while the Tribunal is not obliged to accept a joint submission on penalty, and therefore retains the right, responsibility and obligation to impose a fit sentence in the circumstances of every case, it may only reject a joint submission where to give effect to it would be contrary to the public interest or would bring the administration of justice into disrepute.

25. In counsel for the University's submission, this was not such a case. Reviewing the factors set out in the *University of Toronto and Mr. C.*, Case No 1976/1977-3, November 5, 1976 ("Mr. C") counsel noted that there were mitigating circumstances here in the form of the guilty plea and the Student's participation in the process, as well as the Student's agreement to take the PASS course or its equivalent. There were aggravating factors including the three prior offences and the timing of this offence. Based on the admitted facts, the Student committed this offence just days after admitting at the meeting with the Dean's Designate, Professor Fuchs, his misconduct in respect of CCT110 and MAT202, and the day before the Dean's letter setting out the Dean's hope that the Student had learned his lesson and would not repeat the type of conduct for which he had just been sanctioned. On balance, however, counsel for the University's submission for the proposed penalty was just and appropriate in the circumstances of this case.

26. Counsel for the Student submitted that we should accept the Joint Submission on Penalty. He said that the Student was from Vietnam and currently in Canada on a student visa. The visa expired in September 2023 and with the suspension would likely not be renewed. At that point, the Student would have to leave the country. This was particularly significant since the Student had a younger brother who was due to come to Canada this year. In the meantime, the Student was completing the PASS program.

Decision

27. The Tribunal agrees with counsel for the University that this is not an appropriate case for rejection of the Joint Submission on Penalty. The Tribunal does not believe that this is a case where giving effect to the jointly agreed-upon penalty would bring the administration of justice into disrepute. To the contrary, the Tribunal believes that the proposed penalty is appropriate in the circumstances.

28. As submitted by counsel for the University, the leading case on the principles and factors to be considered when imposing sanctions for academic offences is *Mr. C.* where sitting as Chair of the Tribunal, Mr. Sopinka (later Supreme Court Justice Sopinka) described them this way:

What then are the principles that this Tribunal should follow in dealing with an appeal from sentence? First, in my opinion, punishment is not intended to be retribution to get even, as it were, with the student for what he has done. It must serve a useful function. The classical components of enlightened punishment are reformation, deterrence, and protection of the public. In applying these criteria, a tribunal should consider all of the following:

- (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;
- (f) the need to deter others from committing a similar offence.

29. Considering each of the above factors, the sanction proposed by the parties is appropriate.

In particular:

- (a) ***Character***: The Student has participated in the process, up to and including the hearing before the Tribunal. The Student acknowledged culpability by pleading guilty and appears to have developed some insight into their actions and, based the undertaking to complete the PASS course, wants to avoid repeating them.
- (b) ***Likelihood of Repetition***: given the evidence about the Student's prior offences, and notwithstanding the encouraging factor of the PASS course, there is still a very real risk of the same offence being repeated absent a significant sanction. The Tribunal was struck by the fact that in this case the Student chose to use the work of others during a period of time when, given the disciplinary process he was undergoing, one might have expected him to be especially sensitive to the issue of good academic conduct. This was an aggravating factor, tending to support the imposition of a significant penalty.
- (c) ***Nature of Offence***: using outside assistance to formulate the answers to questions a student is required to answer on his or her own is a very serious offence. Like plagiarism, it strikes at heart of the University's core values of honesty and integrity. It has the potential to affect other students adversely by allowing cheaters to obtain grades higher than they actually merit using the work of others as their own. It harms the reputation of the University as a whole. The Code itself makes

all this very clear. As such, those who elect to use the work of others merit serious sanctions;

- (d) ***Extenuating Circumstances***: the fact that this student is an international student and therefore will suffer more than a Canadian student might given an international student's need for a visa, is a factor that weighs against a longer suspension.
- (e) ***Detriment to the University***: as noted above, using the work of others strikes at the heart of the University's core values of honesty and integrity. A serious offence such as this must be met with serious sanctions.
- (f) ***Deterrence***: to discourage others from committing similar offences, using the work of others merits serious sanctions.

30. Looking at the cases cited by counsel for the University, including recent cases such as the *University of Toronto and H.K.* (Case No. 1320, June 20, 2022); the *University of Toronto and Z.L.*, (Case No. 1379, December 7, 2022) and the *University of Toronto and D.L.* (Case No. 1090, March 4, 2021), the Tribunal agrees that the length of times of the proposed suspension and notation are within the range of sanctions imposed on students with similar prior records of academic offences who have committed similar offences as the Student.

31. Taking all of the above into consideration, the Tribunal accepts the Joint Submission on Penalty.

ORDER

32. For the reasons set out above, the Tribunal orders that:

- (a) the Student be found guilty of one count of the academic offence 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;

- (b) the Student be given a final grade of zero in the Course;
- (c) the Student be suspended from the University for a period of three years commencing on May 1, 2023 and ending on April 30, 2026;
- (d) the sanction be noted on the Student's academic record and transcript from the date of the Tribunal's order until graduation; and,
- (e) the case be reported to the Provost for publication of a notice of the Tribunal's decision and the sanctions imposed, with the Student's name withheld.

Dated at Toronto: May 15, 2023

Original signed by:

Mr. Seumas Woods, Chair

On behalf of the Panel