

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on May 4, 2023,

**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 am. S.O. 1978, c. 88

**B E T W E E N:**

**UNIVERSITY OF TORONTO**

**- and –**

**R ■■■■■ Y ■**

**REASONS FOR DECISION**

**Hearing Date:** June 21, 2024, via Zoom

**Members of the Panel:**

Simon Clements, Chair

Dr. Maria Rozakis-Adcock, Faculty Panel Member

Dylan Dingwell, Student Panel Member

**Appearances:**

William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

Karen Bellinger, Associate Director, Office of Appeals, Discipline & Faculty Grievances

Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline & Faculty Grievances

**In Attendance:**

R ■■■■■ Y ■

1. This Panel of the University Tribunal held a hearing on June 21, 2024, via Zoom, to consider the charges brought by the University of Toronto (the “University”) against R■■■■ Y■ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”). It is alleged that the Student forged a number of Verification of Student Illness or Injury forms (“VOI”) to be given accommodation or relief in certain courses contrary to section B.I.1(a) of the Code.

## **Merits**

2. This hearing on the merits proceeded by way of Agreed Statement of Facts. The charges against the Student follow.

### **The Charges**

1. On or about August 27, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury form (“VOI”), dated August 21, 2022, which you submitted in support of your request for academic accommodation or relief in MGEC40H3 (the “First VOI”), contrary to Section B.I.1(a) of the Code.
2. On or about December 13, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a VOI, dated December 5, 2022, which you submitted in support of your request for academic accommodation or relief in MGEC40H3 and MGEC32H3 (the “Second VOI”), contrary to Section B.I.1(a) of the Code.
3. On or about December 18, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of such forged, altered or falsified document, namely a VOI, dated December 13, 2022, which you submitted in support of your request for academic accommodation or relief in STAB22H3 (the “Third VOI”), contrary to Section B.I.1(a) of the Code.
4. In the alternative to charges #1, #2, and #3, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, by submitting a

forged, altered or falsified document, namely the First VOI, the Second VOI, and the Third VOI, contrary to Section B.I.3(b) of the Code.

### **Particulars**

1. You were a student at the University of Toronto Scarborough at all material times.
2. In Summer 2022, you enrolled in MGEC40H3.
3. Students in MGEC40H3 were required to write a final exam.
4. On or about August 27, 2022, you submitted a request to defer the final exam in MGEC40H3. In support of your request, you submitted the First VOI, purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital on August 21, 2022.
5. On or about September 23, 2023, the registrar's office granted the deferral related to the First VOI.
6. In Winter 2022, you enrolled in MGEC32H3 and STAB22H3.
7. Students in MGEC32H3 and STAB22H3 were were required to write final exams.
8. On or about December 13, 2022, you submitted a request to defer the final exams in MGEC40H3 and MGEC32H3. In support of your request, you submitted the Second VOI, purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital on December 5, 2022.
9. On or about December 18, 2022, you submitted a request to defer the final exam in STAB22H3. In support of your request, you submitted the Third VOI, purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital on December 13, 2022.
10. On or about February 28, 2023, the registrar's office denied the petitions related to the Second VOI and the Third VOI.
11. The First VOI, the Second VOI, and the Third VOI were forged, altered or falsified. They were not prepared or signed by Dr. Dennis Bay at Humber River Hospital.
12. You knowingly submitted the First VOI, the Second VOI, and the Third VOI:

- (a) understanding that the University of Toronto required legitimate medical documentation and evidence to be presented in order to obtain the academic accommodation or relief you requested;
  - (b) with the intention that the University of Toronto rely on them in considering whether or not to provide you with the academic accommodation or relief you requested; and
  - (c) in an attempt to obtain academic credit and/or other academic advantage.
13. 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 in connection with the First VOI, the Second VOI, and the Third VOI.

### **The Agreed Statement of Facts**

3. The University and the Student entered into an Agreed Statement of Facts dated June 4, 2024. In the Agreed Statement of Facts, the Student agreed to the following:
- 3. The Student pleads guilty to all charges and accepts the particulars as true. The Provost agrees that if the Tribunal makes a finding of academic misconduct with respect to charges #1, #2, and #3, the Provost will withdraw charge #4.
  - 5. On February 25, 2023, Dr. Dennis Bay confirmed that he did not sign the First VOI, the Second VOI, or the Third VOI. A copy of the correspondence between the University and Dr. Bay (excluding attachments) is attached to the ASF at **Tab C**.
  - 6. On March 17, 2023, the Student attended a dean's designate meeting to discuss the allegations in this case. Professor Mandy Meriano gave the Student the warning that is required by the Code, and the Student admitted that she knowingly circulated forged medical documents, namely the First VOI, the Second VOI, and the Third VOI.
  - 7. The Student acknowledges that she is signing this ASF freely and voluntarily, knowing of the potential consequences she faces, and does so with the advice of counsel or having waived the right to obtain counsel.

8. The Student acknowledges that the Provost has made no representations to her regarding what penalty the Provost will seek in this proceeding.
4. Following the introduction of the Agreed Statement of Facts into evidence, the Panel accepted the plea of guilty to charges 1-3 and invited the parties to make submissions on sanction.
5. The Provost therefore withdrew charge four.

### **Submissions on Sanction**

6. The parties submitted a further Agreed Statement of Facts and a Joint Submission on Penalty (“JSP”) signed by the Parties on June 21, 2024, in which the Parties agreed as follows:

#### ***A. Joint Submission on Penalty***

2. The Provost and the Student submit that, in all the circumstances of the case, the University Tribunal should impose the following sanctions on the Student:

- (a) A final grade of zero in MGEC40H3;
- (b) A final grade of zero in MGEC32H3;
- (c) A final grade of zero in STAB22H3;
- (d) A suspension from the University for a period of 4 years to commence on September 1, 2023; and
- (e) A notation of the offence on the Student’s academic record and transcript for a period of 5 years from the date of the University Tribunal’s order.

3. The parties agree that this case shall be reported to the Provost for publication of a notice of the University Tribunal’s decision and the sanction imposed, with the Student’s name withheld.

#### ***B. Agreed Statement of Facts on Penalty***

4. The Student repeats the statements that she sent to the Office of the Vice-Principal Academic & Dean on March 17, 2023, namely:

I just want to confirm that I will attend the meeting with the Dean's Designate tomorrow as scheduled. Before that, I want to take this opportunity to sincerely apologize for my mistake. I want to admit that I used fake doctor notes in my past petitions, and I would like to sincerely ask you to forward this email to the Dean's Designate before the meeting.

The reason for not writing this apology email earlier was that I have been suffering from a significant mental issue – depression over 5 years since 2018, and I am still on medication right now. For your reference, I have attached my doctor's letter to this email. I would like to say that when the university contacted me regarding my misconduct, I was so terrified and anxious, and my poor mental condition led me to somehow 'forget' all these from time to time.

Even though I did not write this email earlier, it did not mean that I do not care about my wrongdoings. In contrast, since I made the mistakes, I have been living with significant remorse, regret, and stress. So I really want to once again truly apologize for these.

With regard to my mistakes made in 2022, to be honest, I would like to say that the depression was literally ruining my life back at that time, and I sometimes even had suicidal thoughts last year. Now think back, I could not even remember why I was motivated to make the petitions with fake doctor notes. Just as explicitly stated in my current doctor's letter, my decision-making ability was greatly affected when I was in a mentally unstable condition, so I really have no idea what I was thinking back at that time.

I am not trying to use my mental issue as an excuse for my mistakes. I have deeply reflected on my wrongdoings. Fighting the depression would be a long journey; I would like to say that I am currently in a much better condition by comparing to last year. However, if my situation gets worse in the future, I will certainly not breach academic integrity again. I have learnt that I must pursue the correct way to deal with this, for instance, I should discuss my difficulties with my professors, the university counsellors or advisors and request special arrangements rather than using fake doctor notes.

At last, I want to apologize again for what I did, and I promise this will never happen again. I am with the strong hope that the university could forgive me in considering the difficulties I faced in the past.

5. In addition, the Student states that: she was in an abusive relationship at the time that she committed the charged offences; her mental wellbeing and academics were significantly affected by this relationship; and she is no longer in this relationship.

6. The Student was taking antidepressants for her depression at the time that she committed the charged offences. The Student took pictures of the antidepressants.

7. On March 16, 2023, Dr. Christopher Lui prepared and signed a medical note that stated the Student had a history of depression and anxiety dating back to June 2018 for which she was currently receiving treatment.

8. On October 26, 2023, the Student attended Guangdong No. 2 People's Hospital in China. Later that day, Guangdong No. 2 People's Hospital issued a medical note that contains a diagnosis of mood disorder and sleep disorder. The medical note recommends that the Student take medication, conduct regular follow-ups at medical clinics, and take time off from her studies until her condition improves.
  9. The Student states that she is undergoing treatments for her health conditions as set out in the medical note from Guangdong No. 2 People's Hospital.
  10. The Student apologizes for committing the academic offences, and acknowledges that the facts at paragraphs 4 to 9 of this JSP do not excuse her actions.
  11. The Student agreed to sign an agreed statement of facts in which she pled guilty to all charges in Fall 2023. The Student was unable to sign the agreed statement of facts at the time due to technological and health issues.
  12. The Student acknowledges that the University has provided her with information about mental health resources, and encouraged her to provide all medical documents relevant to this proceeding.
7. In considering the appropriate sanction in this case, the panel heard submissions on the legal test for accepting a joint submission, the Provost's Guidance on penalty, the factors outlined in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) (the "Mr. C factors") and similar cases to the one under consideration.
  8. The leading case on joint submissions is *University of Toronto and M.A.* (Case No. 837, December 22, 2016), a decision of the Discipline Appeals Board. In this case, the Tribunal had not accepted all the terms of a Joint Submission on Penalty. The University appealed. The Discipline Appeals Board allowed the appeal and stated that the Tribunal should have accepted the Joint Submission on Penalty, and outlined the appropriate test for the Tribunal to consider:

[23] The first of these, a matter of fundamental importance, is that a panel is not obliged or required to accept the joint submission. The panel enjoys all of the right, responsibility and obligation to impose a fit sentence in the circumstances of every case including one where a joint submission has been put forward.

[24] Equally, however a joint submission may be rejected by a panel only in circumstances where

to give effect to it would be contrary to the public interest or would bring the administration of justice into disrepute.

[25] This test, in a university setting, means that the joint submission must be measured against the understood and entrenched set of values and behaviours which members of the University community are expected to uphold. Only if the joint submission is fundamentally offensive to these values, may it be rejected.

9. We will return to consideration of this test because, during the course of submissions, the Panel was concerned that the proposed sanction was not in accordance with either the Mr. C factors or similar cases. In particular, the Panel questioned whether the appropriate suspension was the 4 years that had been agreed to in the JSP.
10. The Provost's Guidance on Sanctions is Appendix "C" to the Code. The purpose of the Guidance is to promote consistency in sanctions across the University. In this case the Student has admitted to submitting multiple forged VOIs to defer writing examinations. Based on the Guidance, absent exceptional circumstances, or where the student has demonstrated through their cooperation that a lesser penalty is appropriate, the Provost would recommend that the student be expelled:
8. To provide guidance to students facing a hearing at the Tribunal, absent exceptional circumstances, the Provost will request that the Tribunal:
  - (e) recommend that a student be expelled where that student has:
    - (iii) submitted multiple forged or falsified documents to the University, unless that student has demonstrated through her or his cooperation, or otherwise, that a lesser penalty is appropriate;
11. Assistant Discipline Counsel submitted that this is a case where a lesser penalty is appropriate. To determine that penalty, the Tribunal was asked to consider the Mr. C factors 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.

12. The character of the Student and extenuating/mitigating circumstances can be reviewed together. In this case the Student has been forthright and apologetic. She has participated in every step of the discipline process and was present for the hearing. She has admitted guilt, relieving the University from proving the elements of the offence. She was open, honest and candid in the Dean's Meeting. She signed the Agreed Statement of Facts regarding the merits of the offence. As demonstrated in the Agreed Statement of Facts regarding Penalty, the Student has also been facing mental health challenges. She has had to endure a bad relationship, she has sought medical help, and she is working to overcome the negative situations in which she found herself during the timeframe in which she forged the VOIs. These factors are compelling and reflect well on the Student.
13. With respect to the likelihood of repetition, Assistant Discipline Counsel asked the Panel to consider the fact that there had been repeated misconduct. The Student submitted three VOIs in different months in different courses. There was a pattern of behaviour that suggests that it might be repeated. However, the Panel also notes the Student's insight where she acknowledged that she "should discuss my difficulties with my professors, the university counsellors or advisors and request special arrangements rather than using fake doctor notes." The likelihood of repetition is a neutral factor given the Student's reflection on how she could have handled herself better in the past.
14. Assistant Discipline Counsel suggested that factors (c), (e) and (f) be taken together and referred the Panel to *University of Toronto and Y.W.* (Case No. 1155, July 26, 2021), another VOI case where the Tribunal endorsed the following statements regarding nature of the offence, detriment to the University, and deterrence to other students:

37. The Panel was referred to *University of Toronto v. X.T.* (Case No. 1080, September 29, 2020) where the Mr. C Factors were discussed by the Tribunal at paragraph 36 of the Reasons for Decision.

c) **The nature of the offence committed.** The Panel took into consideration the serious and deliberate nature of the offences and the detriment to the University. Forgery is considered a serious offence, especially in these circumstances. Given the size of the University, and the fact that the University is unable to verify every single medical note submitted to Instructors, the University must be able to trust that the Students are submitting legitimate Verification of Student Illness or Injury forms and that requests for accommodate are legitimate.

[...]

e) **The detriment to the University occasioned by the offence.** The Panel understood and accepted the University's concerns that the Student's conduct in forging medical notes implicated medical professionals, and undermined the integrity of those charged with providing those medical notes, as well as the University's procedure for assessing and granting accommodations to its students.

f) **The need to deter others from committing a similar offence.** General deterrence is an important factor in these cases. The Panel accepts that the University and the Tribunal must send a strong message to other students that such misconduct is considered a serious offence.

15. In *University of Toronto and Y.W.*, it was the student's first offence. There was one VOI at issue. There was no Agreed Statement of Facts, and no Joint Submission on Penalty. The student did not attend the hearing. There was no evidence of good character and there was no evidence of extenuating factors. The range of cases submitted in support of penalty were all suspensions in the two to three-year range and the penalty ordered was a two-year suspension. In the present case, given the goal of treating like cases alike, the Panel was troubled by the JSP recommending a suspension of 4 years. To the Panel, that seemed too severe where the Student had cooperated throughout the discipline process and there was compelling evidence of mitigating factors.

16. On the other hand, Assistant Discipline Counsel submitted a chart of other forged or falsified medical evidence cases where the penalties ranged from expulsion for egregious cases, to four

and five-year suspensions. The issue for the Panel was to reconcile the range of sanctions in these cases with the goal of achieving the consistency objective in the Provost's Guidance.

17. Assistant Discipline Counsel submitted that the most similar case was that of *University of Toronto and S.M.* (Case No. 696, August 19, 2013). That case involved three petitions for academic accommodation supported by three forged doctors' notes. Like in the present case the student admitted the offences, apologized for their conduct, cooperated in the discipline process and there was a mitigating factor, in that case a learning disability. A joint submission on penalty had been agreed to providing for a suspension of just under five years. It was submitted, therefore, that the four-year suspension being sought in the JSP in this case is reasonable.
18. Assistant Discipline Counsel also pointed out that the suspension being sought here was to be backdated to September 1, 2023, and, therefore, the practical effect of the suspension was that the Student would be suspended for 3 years and 2 months.
19. Returning to the test for departing from a joint submission on penalty, the joint submission may only be rejected by the Tribunal where to give effect to it would be contrary to the public interest and would bring the administration of justice into disrepute. The Tribunal must consider whether upholding the joint submission would be fundamentally offensive to the values and behaviours which members of the university community are expected to uphold. Only if the joint submission fails to meet that threshold, may the Tribunal depart from it.
20. In fact, the penalty contemplated by this joint submission falls in the middle of the range of similar cases. It is higher than in *University of Toronto and Y.W.* where there was only one forged VOI at issue, but lower than *University of Toronto and S.M.*, another case of three forged VOIs. In the present case there are arguably more compelling extenuating circumstances than in *University of Toronto and S.M.* As the penalty contemplated by the joint submission falls within the range of cases, giving effect to the joint submission would not bring the administration of justice into disrepute. For these reasons the Panel accepts the Joint Submission on Penalty.
21. Accordingly, the Tribunal:

**ORDERS THAT** the Student is guilty of three counts of knowingly forging or in any other way altering or falsifying any document or evidence required by the University, or to uttering, circulating or making use of any such forged, altered or falsified document, contrary to Section B.I.1(a) of the Code.

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

- (a) A final grade of zero in MGEC40H3;
- (b) A final grade of zero in MGEC32H3;
- (c) A final grade of zero in STAB22H3;
- (d) A suspension from the University for a period of 4 years to commence on September 1, 2023; and
- (e) A notation of the offence on the Student's academic record and transcript for a period of 5 years from the date of the University Tribunal's order.

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

Dated at Toronto this 13th day of September, 2024,

Original signed by:

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Simon Clements, Chair  
On behalf of the Panel