

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on November 1, 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 -

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REASONS FOR DECISION

Hearing Date: May 24, 2024, and July 25, 2024, via Zoom

Members of the Panel:

Sabrina A Bandali, Chair

Professor Irina D. Mihalache, Faculty Panel Member

Matthaeus Ware, Student Panel Member

Appearances:

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

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Hearing Secretary:

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

Charges and Hearing

1. The Trial Division of the Tribunal held a hearing by videoconference on May 24 and July 25, 2024, to address the charges brought by the University of Toronto (the “University”) against J■ M■ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”).
2. Those charges were set out in a letter to the Student dated November 1, 2023, as follows:
 1. On or about April 19, 2023, you knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in MAT137Y1, contrary to section B.I.1(b) of the Code.
 2. On or about April 19, 2023, you knowingly aided and assisted other students in connection with the final exam in MAT137Y1, contrary to sections B.I.1(b) and B.II.1(a)(ii) of the Code.
 3. On or about April 19, 2023, you knowingly represented as your own an idea or expression of an idea or work of another in connection with the final exam in MAT137Y1, contrary to section B.I.1(d) of the Code.
 4. In the alternative, on or about April 19, 2023, 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 final exam in MAT137Y1, contrary to section B.I.3(b) of the Code.

Particulars of the offences charged are as follows:

1. You were a student enrolled at the University of Toronto Faculty of Arts and Science at all material times.
2. In Fall 2022 and Winter 2023, you enrolled in MAT137Y1, which was taught by Professor Xiaoyue Cui.
3. Students in MAT137Y1 were required to write a final exam, which was worth 30% of their final grade. Students were prohibited from possessing aids, using aids, aiding others, and/or obtaining assistance on the final exam.
4. On or about April 19, 2023, you wrote the final exam in MAT137Y1.
5. During the MAT137Y1 final exam, you:
 - a. possessed electronic device(s);
 - b. used electronic device(s) to transmit video footage and/or images of the final exam to another individual or individuals who assisted you and/or others with the final exam; and/or

- c. used electronic device(s) to receive answers from another individual or individuals who assisted you with the final exam.
- 6. You knew or ought to have known that, in connection with the MAT137Y1 final exam:
 - a. you were not permitted to use and/or possess electronic device(s);
 - b. you were not permitted to obtain assistance from others; and/or
 - c. you were not permitted to aid others.
- 7. You wrote and submitted the MAT137Y1 final exam:
 - a. to obtain academic credit;
 - b. knowing that it contained ideas, expressions of ideas or work that were not your own, but were the ideas, expressions of ideas or work of others; and
 - c. knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from others.
- 8. Your answers on the MAT137Y1 final exam were similar to answers that other students in the course submitted.
- 9. You paid a tutor, a tutoring company, and/or others to assist you with the MAT137Y1 final exam.
- 10. You knowingly submitted the MAT137Y1 final exam with the intention that the University rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

Procedural History

3. The University Tribunal was convened twice via Zoom to hear the Charges: on May 24, 2024 (“Day One”) and July 25, 2024 (“Day Two”). Both days of the hearing were attended by the Student, who was unrepresented, as well as Assistant Discipline Counsel on behalf of the University.

4. In advance of Day One, Assistant Discipline Counsel for the University provided the panel with a joint book of documents (the "Joint Book of Documents") containing a copy of an agreed statement of facts entered into by the Student and the University on April 18, 2024 (the "ASF").

5. On Day One, the Student acknowledged that she had received a copy of the charges, waived the reading of them, and pled guilty to all charges. Notwithstanding, the University withdrew

Charge 2 and indicated that if the panel made a finding of liability on Charge 1, it would withdraw Charges 3 and 4.

6. During the Day One hearing, the Student experienced internet connectivity issues that made the panel at times uncertain about whether the Student was able to hear, understand, and participate in the proceedings.

7. Additionally, the Student's oral testimony appeared to contradict the ASF in certain respects. The Student stated that she was not familiar with the legal process, did not carefully review the ASF before signing, and believed it contained errors. No notice was given prior to or at the outset of the hearing that the Student intended to resile from the ASF.

8. Accordingly, on the panel's initiative, considering fairness to both parties and the importance of maintaining the integrity of the process, the hearing was adjourned to allow the Student to seek and obtain legal advice, if the Student so chose, for the parties to consult on and, as needed, revise or withdraw the ASF, and organize the attendance of any necessary witnesses.

9. The University Tribunal reconvened on Day Two. The Student was not represented by counsel but agreed that she did not want additional time to obtain legal advice. The Student and the University submitted a Supplementary Agreed Statement of Facts entered into on June 6, 2024 (the "Supplementary ASF"). The Supplementary ASF stated that she agreed with the ASF except for certain parts of paragraphs 27 and 28. No additional witnesses appeared on behalf of either party.

10. The key portions of the facts agreed to, as revised, are summarized as follows.

Facts

11. The Student was a student at the University of Toronto at all material times.

12. In Fall 2022 and Winter 2023, Professor Xiaoyue Cui taught MAT137Y1: Calculus with Proofs ("MAT137"). The Student, Z.M., and J.Y. enrolled in MAT137.

13. The Student acknowledges that she received and reviewed a copy of the MAT137 syllabus at the start of the Fall 2022 term. The syllabus contained a section on Academic Integrity, which stated, among other things, that students were required to know the rules in the Code.

The Final Exam

14. Students in MAT137 were required to write a final exam, which was worth 30% of their final grade.

15. The MAT137 final exam was administered in person on April 19, 2023, from 7:00 pm to 10:00 pm.

16. The front page of the MAT137 final exam contained a warning about academic integrity that specifically warned against the possession of an unauthorized aid or various forms of electronic devices.

17. On April 19, 2023, at 8:03 pm, Professor Cui received an email from a student (the “Informant”) who stated that several other students were cheating on the MAT137 final exam. The Informant sent Professor Cui screenshots of a WeChat group chat in which users were discussing using a tutor to obtain assistance with the MAT137 final exam. The screenshots included an image of a money transfer and several pictures of MAT137 final exam papers. The Student is the user on the right side of the group chat. The tutor (“White Dog”) is the user on the left side of the group chat that has a profile picture of a white dog cartoon.

18. The Informant told Professor Cui that the Student planned to cheat on the MAT137 final exam, and that the Student was wearing a smart watch. The Informant gave Professor Cui the Student’s full name and student number.

19. The University of Toronto had the screenshots that the Informant sent to Professor Cui translated into English. The parties agree that the translation is complete and accurate.

20. Later that evening, during the MAT137 final exam, Professor Cui approached the Student and saw that she was wearing a smart watch. Professor Cui confiscated the smart watch from the Student and prepared an allegation form about the incident.

21. Near the end of the MAT137 final exam, Professor Cui saw the Student on her smart phone. Professor Cui noted this observation in her allegation form.

22. Dani Fischer, an invigilator who observed some of the Student's misconduct during the MAT137 final exam, also filled out a report about this incident. Fischer took pictures of the Student's smart watch and smart phone during the MAT137 final exam. The group chat on WeChat with White Dog is visible in some of the pictures of the Student's smart phone.

23. That same evening, the Student signed a form in which she admitted to possessing an unauthorized aid during the MAT137 final exam.

The Subsequent Investigation

24. Professor Cui subsequently reviewed the pictures of the MAT137 final exams that were in the WeChat group chat that she received from the Informant, and every final exam to see whether she could find any matches. Professor Cui found that: one final exam that was posted to WeChat contained a unique marking that was only present on one student's final exam (Z.M.'s final exam); and one final exam that was posted to WeChat contained a unique marking that was only present on another student's final exam (J.Y.'s final exam).

25. The answers that the Student, Z.M., and J.Y. submitted for questions 1-7(b) on the final exam are virtually identical. The answers that Z.M. and J.Y. submitted for questions 7(c)-11 are virtually identical. The Student, who had her smart watch confiscated in the middle of the MAT137 final exam, wrote little-to-nothing for questions 7(c)-11.

The Dean's Designate Meeting

26. On May 25, 2023, the Student Academic Integrity office sent the Student an email that requested she attend a dean's designate meeting to discuss the allegations about the MAT137 final exam.

27. On June 14, 2023, the Student attended a dean's designate meeting with Professor Sue Varmuza to discuss the allegations about the MAT137 final exam. At the start of the meeting, Professor Varmuza gave the Student the warning that is required by the Code.

28. During the dean's designate meeting, the Student stated that: she used her smart watch to search for a theory related to questions 7 and 8 during the MAT137 final exam; she used her smart phone later that night to enroll in the summer term of MAT137 because she thought that she would need to retake the course; during the MAT137 final exam, she messaged a group chat on WeChat that had her friends from another university who were good at math and some other people; and the group chat on WeChat was not successful. Professor Varmuza explained to the Student that the University had evidence that showed the group chat was successful, and the Student eventually admitted that she received answers to the MAT137 final exam from the group chat.

29. Later that day, the Student Academic Integrity office sent the Student a follow up email about the meeting.

Revised Admissions and Acknowledgement

30. In the Supplementary ASF, the Student admitted that

- (a) On Monday April 17, 2023, she sent White Dog approximately \$280 CAD;
- (b) On April 19, 2023, during the MAT137 final exam, she received and used answers to the MAT137 final exam from White Dog; and
- (c) She performed no meaningful academic work on the MAT137 final exam.

31. Based on the Supplementary ASF, the Student maintained certain admissions contained in the ASF, including:

- (a) The Student admitted that she knowingly used and possessed unauthorized aids and obtained unauthorized assistance in connection with the MAT137 final exam, contrary to section B.I.1(b) of the Code.
- (b) The Student admitted that she knowingly plagiarized in connection with the MAT137 final exam, contrary to section B.I.1(d) of the Code.
- (c) The Student admitted that she 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 MAT137 final exam, contrary to section B.I.3(b) of the Code.

32. The Student acknowledged that she signed the Supplementary 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.

33. The Student acknowledged in the Supplementary ASF that the Provost made no representations to her regarding what penalty the Provost would seek in this proceeding.

Decision of the Tribunal on the Charges

34. The central point of disagreement between the Student and the University concerned a single aspect of the alleged offence, namely whether the money transfer was a payment made in exchange for help on the exam or a gift.

35. The Student testified on Day One that the money transfer was a gift to express appreciation for White Dog's help and that the quantum would not have been sufficient to directly purchase exam answers. This *viva voce* evidence was subject to limited cross-examination.

36. The primary documentary evidence concerning the money transfer and its purpose was contained in a series of Chinese language text messages between the Student and White Dog, in which the Student referred to the proposed activity as "Paiti" (which, according to the Translator's note provided to the Tribunal, is a Pinyin term that refers to taking photographs of test questions). Responding to the Student's confirmation that the transfer of funds was complete, White Dog asked if the Student could see the group that White Dog was hosting and that she would "post them in this group when the time comes". The Student later commented in the text chain, "I am nervous while taking the exam without any review" and "I am in the test centre. Because I didn't review it well, seriously...I can only rely on you, my sister".

37. The factual inference that the Tribunal draws from the totality of this evidence is that the Student paid for assistance with the MAT137 final exam. Whether the payment was direct consideration in exchange for a single instance of assistance, or, as the Student contended, was a

gift to show appreciation for White Dog's help more generally, is a distinction without a difference in this context. Consistent with the admissions maintained in the Supplementary ASF, the Student knowingly obtained unauthorized assistance from White Dog in connection with the MAT137 final exam.

38. On the basis of the ASF as modified by the Supplementary ASF, the submissions of counsel, and the Student's admissions, the Tribunal is satisfied on a balance of probabilities that the University has proven the elements of Charge 1. The Tribunal therefore accepted the Student's guilty plea with respect to that charge and found her guilty of obtaining unauthorized assistance, contrary to section B.I.1(b) of the Code.

Sanction

39. The University sought a penalty consisting of: (i) a recommendation to the President that that the President recommend to the Governing Council that the Student be expelled, (ii) immediate suspension for a period of up to five years from the date of the Order or until Governing Council makes its decision on expulsion, whichever comes first, (iii) a corresponding notation on the Student's academic record and transcript, and (iv) a final grade of zero in the course.

40. The University also requested 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.

41. The University introduced no additional evidence in support of the sanctions it sought. Counsel for the University made a number of submissions and provided a summary of relevant cases. In support of the proposed penalties, Counsel for the University referred the panel to the Provost's Guidance on Sanctions, contained in Appendix C to the Code ("Sanctions Guidance").

42. Section C.II.(B) of the Code sets out that the Tribunal may impose a range of sanctions on a student who has been convicted under the Code, ranging from an oral reprimand to a five-year suspension or, more severely, a recommendation to the President to recommend to Governing Council of expulsion or to Governing Council of cancellation of a degree. The Tribunal may also order that any sanction it imposes be recorded on the student's academic record and transcript for

a period of time and may also report any case to the Provost, who may publish a notice of the decision and sanction in the University newspapers, with the name of the student withheld.

43. The Code also contains, in Appendix “C”, the Provost’s Guidance on Sanctions. Section B.8 provides, “absent exceptional circumstances, the Provost will request that the Tribunal: ... (e) recommend that a student be expelled where that student has: ... (iv) has submitted academic work that the student has purchased in whole or in part, unless that student has demonstrated through her or his cooperation, or otherwise, that a lesser penalty is appropriate.”

Decision of the Tribunal on Sanction

44. The determination of an appropriate penalty depends on the assessment of the principles and factors in light of the individual circumstances in this case. There should also be a general consistency in the approach of a panel to sanction, so that students are treated fairly and equitably. Accordingly, the Tribunal carefully considered the reasonable range of penalty dispositions as set out in the various authorities put before it by the University.

45. In determining the appropriate penalty to impose, *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) (“*Mr. C*”) is a foundational decision that sets out factors and principles that a tribunal should consider when imposing a sanction:

- 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.

46. With respect to her character, the Student admitted the offence but only expressed regret at the end of Day Two, after Counsel for the University made submissions on sanction. She stated that she did not apologize previously because she did not want to take more time in the process.

During the exam and at the Dean's meeting, she did not take responsibility for her actions, and only inconsistently did so during the hearing.

47. The Tribunal noted that there was a lack of evidence about the specificities of how the text message evidence was obtained and whether the availability of this evidence indicated cooperation by the Student at an early stage in the detection of the offence, or whether the Student was effectively required to surrender her personal device.

48. While the Student initially entered into an ASF, during Day One she admitted that she did not carefully review the ASF before signing and permitted it to be presented to the Tribunal while believing it contained errors. This demonstrates a certain disregard for the academic discipline process that is not consistent with an appreciation of the gravity of the offence or remorse about what occurred. Although the Student ultimately maintained her guilty plea, the Tribunal agrees with the Discipline Appeal Board's statement in *University of Toronto v. Mr. D.S.* (Case No. 451, August 24, 2007) that "a guilty plea in and of itself, is not an expression of remorse or an indication of appreciation of the level of gravity of an offence" (at para. 24).

49. The Student had not committed any prior offences.

50. With respect to the nature of the offence, Counsel for the University observed that the Student's conduct required premeditation, the purchase of academic work, and the admitted use of technology to obtain assistance and answers to exam questions. To undertake this required deliberate planning and subterfuge. The Student performed no meaningful academic work on the MAT137 final exam. In addition, this scheme had a commercial element to it, as it involved the Student making payment to someone for the unauthorized assistance she received.

51. There was no evidence of extenuating or mitigating circumstances.

52. With respect to the detriment to the University and the need for deterrence, obtaining unauthorized assistance on a test, generally, is an extremely serious offence that harms the institution and the academic process. It is a significant breach of academic integrity and can be seen as an attempt to defraud the University.

53. The Tribunal reflected on various cases, including those concerning personation (where another person completes all the academic work for a student) and the purchasing of academic work, including the use of spy technology and purchased essays. The Tribunal found that in the circumstances of this case, the element of premeditation was a highly relevant factor that warranted recommending expulsion rather than solely imposing a suspension. A recommendation of expulsion and an immediate order of suspension is reasonable and appropriate in the circumstances and is consistent with prior decisions of this Tribunal

54. The Tribunal therefore recommends to the President of the University that the President recommend to the Governing Council that the Student be expelled from the University.

55. In addition, the Tribunal orders that the following sanctions be imposed on the Student:

- (a) a final grade of zero in MAT137Y1;
- (b) an immediate suspension from the University for a period of up to five years from July 25, 2024 (the date of the Tribunal's Order) or until Governing Council makes its decision on expulsion, whichever comes first; and
- (c) a corresponding notation on the Student's academic record and transcript.

56. In addition, the Tribunal orders that this case 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 30th day of October, 2024.

Original signed by:

Sabrina A. Bandali, Chair
On behalf of the Panel