

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

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

Y [REDACTED] J [REDACTED]

REASONS FOR DECISION

Hearing Date: September 13, 2024, via Zoom

Members of the Panel:

Dena Varah, Chair

Professor Richard J. DiFrancesco, Faculty Panel Member

Laiba Butt, Student Panel Member

Appearances:

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

Hearing Secretary:

Samanthe Huang, Coordinator and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not In Attendance:

Y [REDACTED] J [REDACTED]

1. The Trial Division of the University of Toronto Tribunal was convened on September 13, 2024 (the “Hearing Date”) to consider the charges brought by the University of Toronto (the “University”) against Y■■■■ J■■■■ (the “Student”).

PART 1 - CHARGES

2. The Student is charged with nine offences under the Code, all related to forged medical notes submitted to support petitions for accommodation and relief in four separate courses.

3. The Charges are as follows:

The First Petition

1. On or about August 21, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury Form dated August 15, 2022, which you submitted in support of your request for academic accommodation or relief in CSCB58H3, contrary to Section B.I.1(a) of the *Code*.
2. On or about August 21, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a personal statement, which you submitted in support of your request for academic accommodation or relief in CSCB58H3, contrary to Section B.I.1(a) of the *Code*.

The Second Petition

3. On or about September 1, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury Form dated August 22, 2022, which you submitted in support of your request for academic accommodation or relief in CSCB09H3 and/or STAB52H3, contrary to Section B.I.1(a) of the *Code*.

4. On or about September 1, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury Form dated August 25, 2022, which you submitted in support of your request for academic accommodation or relief in CSCB09H3 and/or STAB52H3, contrary to Section B.I.1(a) of the *Code*.
5. On or about September 1, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a personal statement, which you submitted in support of your request for academic accommodation or relief in CSCB09H3 and/or STAB52H3, contrary to Section B.I.1(a) of the *Code*.

The Third Petition

6. On or about December 28, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury Form dated December 5, 2022, which you submitted in support of your request for academic accommodation or relief in CSCB58H3, CSCB09H3, STAB52H3, and/or CSCB36H3, contrary to Section B.I.1(a) of the *Code*.
7. On or about December 28, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a Verification of Student Illness or Injury Form dated December 15, 2022, which you submitted in support of your request for academic accommodation or relief in CSCB58H3, CSCB09H3, STAB52H3, and/or CSCB36H3, contrary to Section B.I.1(a) of the *Code*.
8. On or about December 28, 2022, you knowingly forged or in any other way altered or falsified a document or evidence required by the University, or uttered, circulated or made use of such forged, altered or falsified document, namely a personal statement, which you submitted in support of your request for academic

accommodation or relief in CSCB58H3, CSCB09H3, STAB52H3, and/or CSCB36H3, contrary to Section B.I.1(a) of the *Code*.

9. In the alternative to each of the foregoing charges (charges #1, #2, #3, #4, #5, #6, #7, and #8), you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code to obtain academic credit or other academic advantage of any kind, contrary to Section B.I.3(b) of the *Code*.

PART 2 - PROCEEDING IN THE ABSENCE OF THE STUDENT

4. This matter has an involved procedural history.
5. It was originally scheduled to proceed on March 18, 2024 at 5:15 p.m.
6. At approximately 3:40 that afternoon, the Student served materials totaling 86 pages. He advised in the email and again in the materials that he could not attend the hearing due to “several significant factors”. The Student requested that one of his included affidavits and his written argument be read aloud, and that the Panel pose questions to the University’s witnesses as set out in his materials.
7. The University objected to the admissibility of the Student’s affidavits on a number of grounds. Even if admissible, the University submitted that it would need to cross-examine the Student on issues of credibility. The University also objected to the questioning requested by the Student.
8. The Student referenced mental health challenges in his materials but did not provide any documentation to substantiate these challenges, nor did he indicate that they prevented him from attending the hearing.

9. The Panel was concerned that the Student did not appreciate the need for his attendance at the hearing. It was therefore not fair to proceed in the absence of the Student where he had demonstrated an intention to challenge the charges and to engage in the process.

10. By endorsement of March 18, 2024, the Chair adjourned the hearing and scheduled a case conference with the parties for April 2, 2024 to discuss procedural and scheduling matters. The Chair remained seized, but the rest of the Panel did not.

11. The parties attended the case conference on April 2, 2024. At the case conference, the Student advised that he had not previously been able to access legal services at Downtown Legal Services (“DLS”) because he had not paid the incidental fee permitting him to do so. He said that he planned to enroll in one or two classes in the summer term and pay the fee at that time.

12. The Chair advised the Student to contact DLS as soon as possible at the start of the summer term to inquire about representation. The matter was stood down to allow for these inquiries. A case conference was scheduled for June 27, 2024.

13. At the case conference of June 27, 2024, the Student advised that he had enrolled in one class for the summer term. He contacted DLS but was told that he could not access representation unless he was enrolled as a full-time student. The Student said that he had no plans to enroll as a full-time student, and in fact, was not planning to enroll in any further classes at the University.

14. The hearing was subsequently scheduled for September 13, 2024 at 9:45 a.m.

15. Prior to the rescheduled hearing, the University sent updated materials to the Student. Between August 23 and September 6, the University sent a number of emails to the Student about the hearing and inquiring whether the Student planned on attending. On the morning of September

13, the Student responded that he did not plan to attend the hearing.

16. The Student had actual notice of the hearing and had every opportunity to participate. He chose not to do so. The hearing therefore proceeded in the absence of the Student.

PART 3 - PRELIMINARY EVIDENTIAL RULING

17. As noted above, prior to the first scheduled hearing, the Student submitted a book of documents, which contained:

- a) A notarized written argument on alleged procedural unfairness and bias;
- b) An affidavit of the Student reiterating his concerns of procedural unfairness;
- c) A second affidavit of the Student setting out in more detail the Student's concerns with the University's evidence, procedural fairness and the proposed sanction;
- d) A third affidavit of the Student raising more concerns with fairness, including the University's failure to accommodate his mental health challenges;
- e) A fourth affidavit of the Student raising concerns about the translation performed by Ms. Chen at the Dean's Designate meeting and her subsequent actions;
- f) A fifth affidavit of the Student setting out his background, the effect of the pandemic on his studies and on his mental state and his explanation for the medical notes at the core of the charges. In particular, the Student denied any knowledge that the notes were illegitimate or forged. This affidavit also again

raised concerns about procedural fairness and requested a dismissal of the charges against him; and

- g) A letter to the Tribunal from the Student advising that he cannot attend the hearing “due to several significant factors” and requested that his statement at page 37 of his materials (the affidavit set out in (f) above) be read aloud and that written questions be put to the University’s witnesses.

18. The Panel finds that none of the Student’s Affidavits are admissible as evidence in this proceeding. The Affidavits listed at (b) – (e) above are primarily the Student’s arguments about procedural fairness and the charges against him. This is not properly the subject of affidavit evidence. Within those affidavits, there is little, if any, actual factual evidence from the Student about what he or others did, the content or result of meetings or steps that were taken by the Student or the University. Even where there is such evidence, it is intertwined with argument and cannot form an evidential foundation for any findings in this proceeding.

19. The Student’s affidavit at (f) does contain more, although certainly not exclusively, factual evidence of the Student on his personal and academic background as well as his account of how he came into possession of the medical notes that the University alleges are forged. Unfortunately, the end of the affidavit reverts to arguments and submissions rather than evidence. That said, those portions of the affidavit could be struck, and much of the affidavit would be admissible.

20. This affidavit is not admissible in this proceeding as the University did not have the opportunity to cross-examine the Student. At the original return date of the hearing, counsel for the University advised that he needed to cross-examine the Student. The Student’s evidence does raise issues of credibility, including his knowledge of whether the notes were forged, that the

University is entitled to explore on cross-examination. It was one reason the first hearing date was adjourned. The Student received the endorsement that set this out. The Panel also needed the benefit of *viva voce* cross-examination to assess the Student's credibility.

21. When the Student again chose not to attend the hearing, he abandoned the right to rely on his affidavits, even those portions that would otherwise be admissible. The earlier endorsement also ruled that the Student could not pose written questions to the University's witnesses. Had he attended, he could have posed those questions *viva voce*.

22. The Panel will not consider the Student's book of documents in its Decision.

PART 4 - FINDINGS ON LIABILITY

23. The charges are set out in three groups:

- (1) Charges 1 and 2 relate to the petition for accommodation and relief of August 21, 2022 (the "First Petition") in CSCB58H3;
- (2) Charges 3, 4 and 5 relate to the petition for accommodation and relief of September 1, 2022 (the "Second Petition") in CSCB09H3 and/or STAB52H3; and
- (3) Charges 6, 7 and 8 relate to the petition of December 28, 2022 for accommodation and relief of December 28, 2022 (the "Third Petition") in CSCB58H3, CSCB09H3, STAB52H3 and/or CSCB36H3 .

24. The University is not proceeding with charges 2, 5 and 8. Charge 9 is in the alternative to all the charges. If the Panel finds the Student guilty of the other charges the University is pursuing, the University will withdraw charge 9.

The Petitions

1. The First Petition

25. In summer 2022, the Student enrolled in CSCB58H3: Computer Organization ("Computer

Organization”), CCB09H3: Software Tools and Systems Programming (“Software Tools”) and STAB52H3: an Introduction to Probability (“Probability”). Each of these courses required that the students write final exams. The final exam in Computer Organization was worth 35% of the students’ final grade, the final exam in Software Tools was worth 34% of the students’ final grade and the final exam in Probability was worth 55% of the students’ final grade.

26. On August 21, 2022, the Student submitted a petition to write a deferred final exam in Computer Organization. In support of the petition, the Student submitted:

- a) a verification of Student Illness or Injury Form (“VOI”) purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital, who had purportedly seen the Student on August 15, 2022 (“the First VOI”). The VOI had a stamp with Dr. Bay’s name, license number and the name and address of Humber River Hospital; and
- b) a personal statement that stated “i fell ill on August 15, so i couldn't come to the exam.” (“the First Personal Statement”).

2. The Second Petition

27. On September 1, 2022 the Student submitted a petition to write a deferred final exams in Software Tools and Probability. In support of the request, the Student submitted:

- a) a VOI purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital on August 22, 2022 (“the Second VOI”). This VOI had the same stamp described above in paragraph 26(a);
- b) a VOI purportedly completed and signed by Dr. Dennis Bay at Humber River

Hospital on August 25, 2022 (“the Third VOI”). This VOI had the same stamp described above in paragraph 26(a); and

- c) a personal statement that said “i got illness during these two exams. So I want to defer the exam.” (“the Second Personal Statement”)

28. The Office of the Registrar granted the first petition and the second petition on September 30, 2022.

3. The Third Petition

29. In the fall semester of 2022, the Student enrolled in CSCB36H3: Introduction To The Theory Of Computation (“Computation”). The final exam in this course was worth 40% of the final grade.

30. On December 28, 2022, the Student submitted the third petition to write deferred exams in his summer courses, and also in Computation.

31. In support of the third petition, the Student submitted:

- a) a VOI purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital on December 5, 2022 (“the Fourth VOI”). This VOI had the same stamp described above in paragraph 26(a);
- b) a VOI purportedly completed and signed by Dr. Dennis Bay at Humber River Hospital on December 15, 2022 (“the Fifth VOI”). This VOI had the same stamp described above in paragraph 26(a); and
- c) a personal statement that stated “I fell ill during the final, so I missed the exam”.

(“the Third Personal Statement”).

32. The Office of the Registrar granted the third petition on March 17, 2023.

The Investigation

33. The University introduced the evidence of Dr. Bay, who purportedly signed all five of the VOIs submitted by the Student. Dr. Bay is an emergency physician at Humber River Hospital. Dr. Bay’s evidence is that:

- a) He has never seen the Student;
- b) He was not at Humber River Hospital on four of the five dates he allegedly saw the Student;
- c) Humber River Hospital had no records of the Student ever registering there; and
- d) He does not own a stamp.

The Dean’s Designate Meeting

34. On July 11, 2023, the Student agreed to attend the Dean’s Designate meeting with Professor Nick Cheng to discuss the allegations that he forged medical documents in support of petitions to write deferred exams. He asked for a Chinese translator.

35. On July 18, 2023, the Student attended the meeting via Zoom to discuss the allegations. Professor Cheng and Sheryl Nauth, Academic Integrity Assistant, attended the meeting along with Yuying Chen, an Examinations Instructor, who attended to translate.

36. Through Ms. Chen, Professor Cheng asked the Student whether he submitted forged documents in his petitions. The Student answered “yes” in English. The Student explained that he took six courses to make up for his gap year and was under pressure from his parents. He said he did not have time to study so he forged the notes to defer his examinations. The Student admitted that he got the notes from someone on WeChat with the username “bieliwo10001”. He said he did not pay for the notes.

Finding on Liability

37. The evidence on liability is overwhelming that the Student forged the medical notes in the three petitions. Not only did Dr. Bay not see this Student, but the Student had never attended Humber River Hospital. Dr. Bay was not even at Humber River Hospital on four of the five days that he purportedly saw the Student. This evidence establishes that the Student forged the medical documents.

38. The Student not only forged medical documents, but he wrote and relied on untrue personal statements describing illnesses he did not have. He did so to defer examinations because he felt overwhelmed and not because he had a physical sickness. He admitted as much at the Dean’s Designate meeting. This admission merely confirms the forgery that the independent evidence already established.

39. The Student is guilty of Charges 1,3,4,6 and 7. The University withdraws Charge 9.

PART 5 - DECISION ON PENALTY

40. The University seeks:

- a) a recommendation to the President of the University that the President

recommend to the Governing Council that the Student be expelled from the University;

- b) In the interim, an immediate suspension from the University for a period of up to five years from the date of the Order or until the Governing Council makes its decision on expulsion, whichever comes first; and that a corresponding notation be placed on their academic record and transcript;
- c) That the Student shall receive a final grade of zero in CSCB58H3: Computer Organization, CCB09H3: Software Tools, STAB52H3: Probability and CSCB36H3: Computation; and
- d) 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.

41. The University relies on the factors in the *University of Toronto and Mr. C* (Case No. 1976-7-3, November 5, 1976). The factors can broadly be broken down into two categories:

- a) The personal factors, which include the character of the person charged, the likelihood of repetition of the offence and aggravating or mitigating factors; and
- b) The nature of offence, which includes the seriousness of the offence, its detriment to the university and the need for deterrence.

The Personal Factors

42. The Student did not participate such that there is no evidence of his character. The Panel

declines to make any findings on the Student's character.

43. On the likelihood of repetition, the University submitted, that although the Student did not have any prior offenses, he did submit several forged medical notes in different terms and in different classes. This makes it more likely that he would repeat the offence again if faced with similar stresses and deadlines. The Panel agrees that the likelihood of repetition of the offence is high.

44. There are no aggravating or mitigating factors to take into account. The Student did not present any medical or other evidence that could be considered a mitigating factor.

45. The University did note that this is a case in which the Student seemed to be taking responsibility at the Dean's Designate meeting and then later denied all charges in the documents he presented in the earlier hearing scheduled for March. The Panel declines to consider this an aggravating factor. As the Panel did not admit this evidence to the benefit of the Student, the Panel will also not consider the evidence to the detriment of the Student.

The Nature of the Offence

46. The University submitted that forged documents are a serious issue for the University. Not only is it relatively easy to obtain these notes, it is difficult to verify that they are forged. It also implicates medical professionals, in this case Dr. Bay.

47. The Panel agrees that this offence is significant and the need for deterrence is very high. If these offences are not treated seriously, there is no way to stem their proliferation and the burden of verification on the University is heavy. Students who fraudulently procure accommodations do so to the detriment of fellow students who write the exams as scheduled even though many would

no doubt welcome more study time.

48. The University submitted a chart of similar cases noting that the Panel is not bound by the result. They do serve as an indication of what similarly situated Students received by way of penalty in similar cases.

49. In the *University of Toronto and A.K.*, (Case No.713, March 28, 2014) the student submitted five forged medical certificates and one personal statement. There were no prior offenses, and there was no agreed statement of facts or joint submission on penalty. The Tribunal ordered an expulsion and zeros in the affected courses, noting that the student submitted several forged documents and engaged in an “involved and intricate scheme” to mislead at the University about the authenticity of the documents.

50. In the *University of Toronto and X.D.*, (Case No. 636, January 24, 2012) the student was found to have forged five medical certificates and falsified two personal statements. Like this case, the student did not attend the hearing and the Panel knew nothing of her likelihood of repetition or extenuating circumstances. The Tribunal therefore recommended expulsion and ordered a zero in the courses.

51. The University recognized that there are a number of cases in which the students received a five-year suspension for forged medical notes rather than a recommendation for expulsion. However, in most of those cases, unlike the present case, the students participated and cooperated and in several of the cases had mitigating factors (See for example, *the University of Toronto and S.M.* (Case No.696, September 12, 2013) and *the University of Toronto and M.N.* (Case No. 818, September 6, 2016)).

Conclusion

52. This Panel is satisfied that a recommendation of expulsion is appropriate in this case. There were five medical notes in four different courses and two different terms. The Student found what he thought was a solution to his problem of a heavy caseload: he submitted forged medical notes and received deferrals across several courses in different terms and received extra study time. Students cannot see this as a solution when there are many other legitimate ways to address concerns of caseload or other pressures that are inherent to being a university student.

PART 6 - THE ORDER

53. The University Tribunal orders that:

0. the hearing may proceed in the absence of the Student;
1. the Student is guilty of five counts of knowingly forging or in any other way altering or falsifying a document or evidence required by the University, or uttering, circulating or making use of such forged, altered or falsified document, contrary to Section B.I.1(a) of the *Code*;
2. recommends to the President of the University that the President recommend to the Governing Council that the Student be expelled from the University;
3. the Student shall be immediately suspended from the University for a period of up to five years from the date of this Order or until Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on their academic record and transcript;

4. the Student shall receive a final grade of zero in CSCB58H3, CSCB09H3, STAB52H3, and CSCB36H3; and
5. 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 12th day of December, 2024.

Original signed by:

Dena Varah, Chair

On behalf of the Panel