

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on October 12, 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 on PENALTY

Hearing Date: November 15, 2024, via Zoom

Members of the Panel:

Alexi Wood, Chair

Garrick Burron, Student Panel Member

Appearances:

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

Abby Craswell, Representative for the Student, Downtown Legal Services

Hearing Secretary:

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

In Attendance

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A. OVERVIEW

1. In a November 13, 2024 decision, this Panel found the Student guilty of knowingly using and/or possessing an unauthorized aid or aids and/or obtaining unauthorized assistance, and/or attempting to do so, contrary to sections B.I.1(b) and/or B.II.2 of the *Code of Behaviour on Academic Matters, 2019* (the “Code”).

2. The Student did not attend the hearing. However, the Panel received a joint submission on penalty. The Panel asked Assistant Discipline Counsel to provide additional submissions on penalty, and adjourned the penalty portion of the hearing.

3. The Panel reconvened on November 15, 2024. The Student and her representative, Abby Craswell, made joint submissions on penalty. At the end of the hearing, the Panel ordered that the Student receive:

- a. a final grade of zero in ECO202Y1 in Fall 2022 and Winter 2023;
- b. a suspension from the University for a period of 5 years commencing on the date of the Order; and
- c. a notation of the sanction on the Student’s academic record and transcript for a period of 7 years from the date of the Order.

4. The Panel also ordered that the case 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.

5. In reaching this decision, the Panel relies on the facts it found in its finding on offence. This decision on penalty must be read in conjunction with that initial decision.

B. PRELIMINARY ISSUE

6. This matter was originally heard by a three-member Panel. When the Panel reconvened for the penalty phase, one of the original panel members was unable to participate.

7. Pursuant to the powers under section 4.2.1(2) of the *Statutory Powers Procedure Act*, the Panel sought, and obtained, consent from the parties to proceed with the penalty hearing with two Panel members.

C. FACTS

8. In between the initial hearing on offence and the reconvened penalty hearing, the Student retained a representative from Downtown Legal Services, Ms. Craswell. The Student submitted an affidavit, in which she acknowledged her misconduct. Assistant Discipline Counsel offered no additional facts beyond the Student's affidavit, which was received by the Panel. The Student and her representative attended the hearing on penalty.

D. PENALTY

9. The parties jointly submitted the penalty ordered at paragraph 3 above.

Joint Submission on Penalty

10. In the 2016 M.A. decision, the Discipline Appeals Board ("DAB") reiterated the applicable principles when the parties submit a joint submission on penalty.¹ While "a panel is not obliged or required to accept a joint submission,"² such a 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

¹ *University of Toronto and M.A.* (Case No. 837, December 22, 2016 (Appeal)), para 22.

² *University of Toronto and M.A.* para 23.

administration of justice into disrepute.”³ The DAB further stated that this is an objective test, and that the joint submission should only be rejected if it is “truly unreasonable or unconscionable.”⁴

11. In reaching its decision on penalty, the Panel is guided by the factors established in the case of *University of Toronto and Mr. C.*⁵ which are:

- 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.

Decision on Penalty

12. The Panel received evidence from the Student regarding her character, likelihood of repetition, and extenuating circumstances. While the Student did not attend the hearing on finding of offence, she was present for the hearing on penalty, and filed an affidavit.

13. The Student stated she felt pressure from her family to succeed academically, including attempting to complete her four-year degree in three years. The Panel had previously been troubled by the fact that the Student had initially denied her wrongdoing. In her evidence before the Panel,

³ *University of Toronto and M.A.* para 24.

⁴ *University of Toronto and M.A.* para 26.

⁵ Case No. 1976/77-3, November 5, 1976

the Student stated that these actions stemmed from a fear of expulsion and a belief that if she attended, she “would not come across well, given [her] ... language barrier and lack of representation.” The Student stated that the discipline process had “impressed upon [her] ... the importance of academic honesty.” She stated she was “deeply sorry for [her] ... dishonesty” and that she “had resolved to carry [herself] ... with integrity for the rest of [her] ... academic career.” The Panel accepts this evidence and apology.

14. Regarding the nature of the offence, detriment to the University, and need to deter others, this Panel stresses that buttonhole camera and spyware cases are amongst the most severe forms of misconduct currently before the Tribunal. The use of this spyware technology is a form of premeditated cheating that includes the most offensive elements of cases where students purchase assignments and where students engage in personation. This behaviour undermines the integrity of the University, and must be deterred. These cases warrant the most severe of sanctions.

15. If the Panel were to impose its own penalty, it likely would have recommended expulsion. However, the Panel appreciates that the parties have provided a joint submission on penalty. The joint submission provided by the parties is in line with cases where there has been both spyware or personation and a joint submission on penalty. The Panel is therefore satisfied that accepting this joint submission does not bring the administration of justice into disrepute.

E. CONCLUSION

16. In accordance with the joint submission on penalty, the Panel orders that the Student receive:

- a. a final grade of zero in ECO202Y1 in Fall 2022 and Winter 2023;

- b. a suspension from the University for a period of 5 years commencing on the date of the Order; and
- c. a notation of the sanction on the Student's academic record and transcript for a period of 7 years from the date of the Order.

17. The Panel also ordered that the case 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 at this 11th day of February 2025.

Original signed by:

Alexi Wood, Chair
On behalf of the Panel