

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on July 4, 2024

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 -

J [REDACTED] Z [REDACTED]

REASONS FOR DECISION

Hearing Dates: November 18, 2024 and January 9, 2025, via Zoom

Members of the Panel:

Alexandra Clark, Chair

Professor Francois Pitt, Faculty Panel Member

Alwin Xie, Student Panel Member

Appearances:

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

J [REDACTED] Z [REDACTED]

Hearing Secretary:

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

A. Charges

1. On November 18, 2024 (the “First Hearing Date”) and January 9, 2025 (the “Second Hearing Date”) this panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto (the “University”) against J■■■■ Z■■■■ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”).

2. Those charges were originally set out in a letter to the Student dated July 4, 2024, as follows:

- (a) On or about April 19, 2024, you knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in MATA22H3, and/or attempted to do so, contrary to sections B.I.1(b) and/or B.II.2 of the Code (“Count 1”).
- (b) In the alternative, on or about April 19, 2024, you knowingly represented as your own an idea or expression of an idea or work of another in connection with the final exam in MATA22H3, or attempted to do so, contrary to sections B.I.1(d) and/or B.II.2 of the Code (“Count 2”).
- (c) In the alternative, on or about April 19, 2024, 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 MATA22H3, contrary to section B.I.3(b) of the Code (“Count 3”).

3. The Student was enrolled at the University of Toronto Scarborough at the time of the events discussed in these reasons. He appeared in person via videoconference for both the First Hearing Date and the Second Hearing Date.

B. Evidence Tendered

4. At the outset of the First Hearing Date, the Provost tendered an Agreed Statement of Facts executed by the Student on August 26, 2024 and by Assistant Discipline Counsel on August 27,

2024 (the “ASF”) and an attached Book of Documents (the “Book of Documents”). The summary of events set out below is drawn from the ASF and the Book of Documents.

The Course

5. In Winter 2024, the Student enrolled in MATA22H3: Linear Algebra I for Mathematical Sciences (“MATA22”). Students in the course were required to write a final exam, which was worth 40% of their final grade.

6. The course syllabus contained a warning about academic integrity that stated:

The University treats cases of cheating and plagiarism very seriously. The University of Toronto's Code of Behaviour on Academic Matters [URL omitted] outlines the behaviours that constitute academic dishonesty and the processes for addressing academic offences. Potential offences in papers and assignments include using someone else's ideas or words without appropriate acknowledgement, submitting your own work in more than one course without the permission of the instructor, making up sources or facts, obtaining or providing unauthorized assistance on any assignment. On tests and exams, cheating includes using or possessing unauthorized aids, looking at someone else's answers during an exam or test, misrepresenting your identity, or falsifying or altering any documentation required by the University.

7. The Student received and reviewed a copy of the syllabus at the start of the term.

The Final Exam

8. The final exam in MATA22 was administered in person on April 19, 2024. Before the final exam was distributed, the exam support team made several announcements reminding students that they should not have any unauthorized aids with them or in their pockets. The Student acknowledged that he heard these announcements.

9. During the final exam, an invigilator found that the Student had a smartphone in his pocket and was using it to make a telephone call to another person. The invigilator and an exam assistant asked the Student about the situation, and the Student admitted that he had hired an exam cheating service. The Student said that he planned to cheat on the final exam in the following way: he had

paired his smartphone via Bluetooth to a transmitter and a miniature earpiece; another person was responsible for taking pictures of questions on the final exam to send to the cheating service to solve during the final exam; and a third person was responsible for relaying the cheating service's answers to him via the miniature earpiece.

10. The Student explained that he was also in a group text chat with the cheating service, and he showed the invigilator and exam assistant the group text chat messages on his smartphone. The messages showed that the cheating service did not receive an image of the final exam questions as planned, and that one of the cheating service employees advised the Student to leave the exam room and to request a deferral. The Student explained that he went to the washroom to confirm this plan with the cheating service, and that he was caught at that time.

11. The Student showed the invigilator and the exam assistant the miniature earpiece embedded in his ear. The Student said that he could not remove the miniature earpiece because it was placed too deep inside his ear and that he needed a magnetic tool to extract it.

12. The Student apologized for his actions and signed a form in which he admitted to possessing unauthorized aids during the final exam. We reviewed a copy of this form.

13. Later that day, the Student submitted his final exam paper.

14. The exam assistant subsequently prepared an academic integrity report about the incident. The academic integrity report contains pictures of the Student's smartphone, the group text chat messages on the Student's smartphone, the Bluetooth transmitter, and the miniature earpiece that was embedded in the Student's ear.

The Dean's Designate Meeting

15. On May 1, 2024, the Office of the Vice-Principal Academic & Dean requested that the Student attend a Dean's Designate meeting to discuss the allegations that he committed an academic offence in connection with the final exam in MATA22.

16. On May 28, 2024, the Student attended a meeting with Professor Nick Cheng, a Dean's Designate for academic integrity, and Sheryl Nauth, an Academic Integrity Specialist, to discuss the allegation that he had committed an academic offence in connection with the final exam in MATA22. At the start of the meeting, Professor Cheng gave the Student the warning that is required by the Code. Professor Cheng asked the Student whether he had any questions, and the Student said no.

17. Professor Cheng explained to the Student that invigilators had found a smartphone, an earpiece, and a transmission device on him during the MATA22 final exam. Professor Cheng also told the Student that the invigilators found that he was on a telephone call to someone during the final exam. Professor Cheng asked the Student whether he admitted to having unauthorized communication devices with him in the exam room and to using these devices to communicate with a third party during the final exam, and the Student said yes. Professor Cheng asked the Student whether he understood that his actions constituted an academic offence, and the Student said yes.

18. Professor Cheng gave the Student an opportunity to explain what happened. In response, the Student apologized and stated that he had cheated because he found the course difficult, and he believed that he would not otherwise pass the course. Professor Cheng asked the Student who he was talking to during the final exam and whether he paid them. In response, the Student said

that he had found someone on WeChat to assist him and that he had paid them \$1,000 CAD to help him to cheat on the final exam.

19. Professor Cheng explained to the Student that he would forward the matter to the Provost. Professor Cheng encouraged the Student to retain legal counsel, provided him with information about the assistance available from the Downtown Legal Services clinic, and concluded the meeting.

20. On May 31, 2024, the Office of the Vice-Principal Academic & Dean sent the Student a letter that informed him that, given the severity of the alleged offence, his case would be forwarded to the Vice-Provost for review.

The Student's Admissions

21. The Student now admits that:

- (a) he paid a cheating service \$1,000 CAD to provide him with answers to the final exam;
- (b) he used a smartphone, a Bluetooth transmitter, and a miniature earpiece to communicate with the cheating service during the final exam;
- (c) he attempted to receive and use answers from the cheating service via the miniature earpiece that he wore during the final exam; and
- (d) he intended to perform no meaningful academic work on the final exam.

22. The Student also admits that:

- (a) he knowingly used and possessed unauthorized aids and obtained unauthorized assistance in connection with the final exam in MATA22, or attempted to do so, contrary to sections B.I.1(b) and/or B.II.2 of the Code;

- (b) he knowingly represented as his own an idea or expression of an idea or work of another in connection with the final exam in MATA22, or attempted to do so, contrary to sections B.I.1(d) and/or B.II.2 of the Code; and
- (c) he 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 MATA22, contrary to section B.I.3(b) of the Code.

The Panel's Finding of Guilt

23. Based on the facts and admissions summarized above, we were persuaded on a balance of probabilities that the Student had obtained unauthorized assistance in connection with the final exam in MATA22, and we made a finding of guilt on Count 1. In light of this finding, the Provost withdrew Count 2 and Count 3. The Panel next considered the issue of the appropriate sanction in light of the finding of guilt on Count 1.

C. Sanction

24. At the conclusion of the First Hearing Date, after the Panel announced the finding set out above, the parties addressed the issue of the appropriate sanction in this case. Assistant Discipline Counsel stated that the Provost had no additional evidence to tender regarding sanction. The Student, however, indicated that he wished to tender two documents: a typed statement setting out his explanation for why he had engaged in the conduct involved in this offence (the "Student's Statement"), and a document prepared in another language with a purported English translation attached to it (the "Medical Note").

25. According to the translation included with the Medical Note, the underlying document was titled "Certificate of Diagnosis" and had been written by Dr. Borong Zhou of The Third Affiliated

Hospital of Guangzhou Medical University in China. According to this translation, the document underlying the Medical Note described a virtual consultation that had taken place between Dr. Zhou and the Student on March 14, 2024, to diagnose and prescribe treatment options for the mental health difficulties that the Student reported to Dr. Zhou.

26. In response to the Student's request that the Panel receive and consider both the Student's Statement and the Medical Note, Assistant Discipline Counsel indicated that while the Provost did not oppose the tendering of either document, both constituted forms of hearsay evidence which would affect the weight that the Panel should give to these documents. In particular, Rules 77 and 78 of the *University Tribunal's Rules of Practice and Procedure* set out detailed disclosure requirements for medical evidence of the type set out in the Medical Note. The Student had not complied with these requirements and had not made Dr. Zhou available to be cross-examined before the Panel so that his evidence could be appropriately tested.

27. Assistant Discipline Counsel therefore suggested that the Student should decide whether he would prefer to continue the sanction hearing without relying on the Medical Note, or whether he would prefer to request an adjournment of the hearing to permit him to contact Dr. Zhou and ascertain whether he could arrange for Dr. Zhou to appear in the hearing via videoconference. After a brief discussion between Assistant Discipline Counsel and the Student, an adjournment on agreed terms was proposed and the Panel granted an adjournment of the First Hearing Date on the proposed terms.

28. After consultation between the parties, the matter was remitted to the Second Hearing Date and the sanction hearing continued on that date.

Evidence and Submissions Regarding Sanctions

29. At the outset of the Second Hearing Date, the Student's Statement and the Medical Note were marked as exhibits on consent of both parties. The Student informed the Panel that he had been unable to secure the attendance via videoconference of Dr. Zhou. He then was sworn as a witness and gave his evidence regarding the mitigating features of his case and the sanction that he was seeking from the Panel.

30. In providing his evidence, the Student largely repeated and enlarged upon the content of the Student's Statement. In summary, in both his testimony and in the Student's Statement, he told the Panel that he was deeply remorseful for what he had done and that he took full responsibility for his actions. He explained that beginning in January of 2024 his academic performance had begun to decline and that, as a consequence, he began to experience severe psychological distress.

31. He testified that this distress took the form of significant anxiety and depression, that he lost his appetite and experienced heart palpitations, chest tightness, hand tremors and excessive sweating. He also experienced cognitive difficulties that led to difficulties with both concentration and comprehension. He was unable to share these problems with his mother as she had left a comfortable life and a good job in China to accompany him to Canada for his studies. He stated that the Medical Note reflected his efforts to receive professional help with the stress and anxiety that he was experiencing prior to writing the final exam in MATA22.

32. He stated that it was these pressures that led him to use the cheating service. He said that, after he had agreed to pay the requested fee, he realized that what he was doing was wrong and indicated that he wanted to withdraw from the arrangement. He said, however, that the cheating service threatened to expose him to the University, and he therefore felt that he had to continue with the arrangement. He pointed out that once he was confronted by the invigilators about the use

of his cellphone in the exam room, he immediately admitted to his attempt to cheat and signed a written acknowledgement of his wrongdoing.

33. The Student was then cross-examined by Assistant Discipline Counsel about his evidence, including the Student's Statement and the Medical Note. Regarding the Medical Note, Assistant Discipline Counsel pointed out that it reflected a single virtual consultation with a physician whose qualifications were not provided. The Medical Note also did not provide an explanation of how the purported diagnosis of "moderate depression and moderate anxiety" was arrived at, and while it set out several options for treatment it contained no evidence that any of these options were pursued. Dr. Zhou had not been made available to verify and to be questioned on the contents of the Medical Note. The Student acknowledged these points and testified that he had used sleeping tablets but had not pursued the other potential treatment options that were outlined. He acknowledged that he had not sought further professional assistance beyond the single consultation reflected in the Medical Note.

34. Turning to the Student's actions in the period between his enrollment in MATA22 and the date of the final exam, Assistant Discipline Counsel pointed out that he had several options to address his difficulties that did not involve cheating. The Student agreed that he could have taken other steps to address both his mental health difficulties and his challenges with MATA22, including pursuing further professional assistance, approaching his Professor or other academic support services at the University for help, asking to defer the final exam, and dropping the course. The Student also admitted that, even in the face of the reported threats of exposure from the cheating service, it was he alone who ultimately made the decision to use the earpiece and cell phone to cheat on the final exam.

Sanctions Sought by the Provost

35. Assistant Discipline Counsel then outlined the sanctions that the Provost was seeking against the Student in this case, which were:

- (a) a final grade of zero in the Course;
- (b) a suspension from the University of Toronto for a period of five years from the date of the Tribunal's order;
- (c) a notation of the sanction on his academic record and transcript for a period of six years from the date of the Tribunal's order; and
- (d) 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.

Assessment of the Evidence and Relevant Precedents

36. Assistant Discipline Counsel next submitted a Book of Authorities, including a chart summarizing the sanctions imposed in the cases submitted. We found that these authorities provided a useful summary of the sanctions that are normally imposed by the Tribunal in cases involving findings that a student has paid to have someone impersonate or assist them in a test or final exam. Most helpfully, the brief contained several cases which involved the use of a hidden camera, cell phone and/or earpiece.

37. We are conscious that the Tribunal, in determining the appropriate sanction in a given case, should generally consider the factors set out in the decision of the *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976), namely (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.

38. In this case, Assistant Discipline Counsel pointed to a number of factors that spoke to the Student's character and to possible extenuating circumstances, including: the fact that the Student admitted to his conduct very early in the disciplinary process, the fact that he had entered into the ASF with the Provost, and the fact that he was experiencing difficult personal circumstances at the time of the offence. Further, the Student had participated in the hearing, had assumed responsibility for his actions and had offered a meaningful apology to the University. He had no prior academic offences on his record.

39. In terms of the evidence tendered in the Medical Note, Assistant Discipline Counsel submitted that it should be given very little weight by the Panel. In this case, Dr. Zhou was not made available to verify the contents of the Medical Note and to be questioned about its contents. As discussed in the prior cases of the Discipline Appeal Board in the *University of Toronto and W.K.*, (Case No. 719, February 20, 2018) and of the Tribunal in the *University of Toronto and Y.Y.*, (Case No. 851, March 1, 2017(Sanction)) ("Y.Y.") medical documents that are missing key information and that are not supported by the testimony of the author can give very little assistance in determining an appropriate sanction. As the Tribunal wrote in the *Y.Y.* case at paragraph 9(d):

The Tribunal recognizes that medical conditions can be a factor in academic misconduct. However, without clear and specific medical evidence at this hearing explaining the Student's illness and what role, if any, it might have played, the Tribunal does not perceive this as a mitigating factor so significant as to warrant a serious deviation from other, similar cases.

40. We accepted this submission, and, given that it was not "clear and specific", we considered the Medical Note to be very limited evidence of the fact that the Student had reported some

difficulties with his mental health prior to the exam, but did not otherwise rely on it in determining the appropriate penalty.

41. Assistant Discipline Counsel pointed to a number of recent cases which involved the use of miniature cameras, hidden cell phones, and/or earpieces during exams. He highlighted five cases where the sanctions imposed were identical or nearly to those proposed in this case. We reviewed the decision in the *University of Toronto and Q.C.* (Case No. 1505, November 24, 2023) (“Q.C.”), a case involving the use of a miniature camera and earpieces on two occasions and noted the presence of a five year suspension and a six year notation, in addition to a mark of zero in the course. Likewise, in the case of the *University of Toronto and X.Z.* (Case No. 1541, April 18, 2024) (“X.Z.”) a penalty of a five-year suspension and six-year notation in addition to a mark of zero in the course were imposed. In the case of the *University of Toronto and T.D.* (Case No. 1560, June 3, 2024) (“T.D.”), the sanctions imposed were a five-year suspension, a seven year notation, and a mark of zero in the course. In addition, in that case, the Student provided a voluntary undertaking to withdraw from the University and to never re-apply for admission. There is also the decision in the *University of Toronto and Z.C.* (Case No. 1549, September 24, 2024) (“Z.C.”) where the sanctions were a grade of zero in the course, a five-year suspension and a seven year notation. Finally, there is the case of the *University of Toronto and S.H.* (Case No. 1597, October 16, 2024) (“S.H.”) where the sanctions were a mark of zero in the course, a five-year suspension and a seven-year notation.

42. Assistant Discipline Counsel addressed the case of the *University of Toronto and S.Y.* (Case No. 1539, May 17, 2024), where the use of a miniature camera and earpiece resulted in an order of expulsion, but in that case the student had used the aids in two exams and had a prior offence

of receiving unauthorized assistance. That student also did not cooperate with the disciplinary process and did not attend the hearing.

43. In addition, the decision in the *University of Toronto and X.S.* (Case No.1559, February 16, 2024 (Direction)) (“X.S.”), provides an example where a camera and earpieces were used in an exam, and a proposed joint position of a five year suspension, seven year notation and a final grade of zero was sent back to the parties to receive further written submissions concerning whether expulsion might be a more appropriate remedy. Assistant Discipline Counsel advised the Panel, however, that this sanction had recently been accepted but that written reasons reflecting that decision were not yet available. On the basis of this representation, we consider the X.S. case to be further support for the proposed sanctions here.

44. Assistant Discipline Counsel submitted that cases involving hidden cameras or cell phones are amongst the most serious forms of cheating and generally merit an order of expulsion. Where some significant mitigating factors can be identified, as in the Q.C., X.Z., T.D., X.S., Z.C. and S.H. cases, sanctions involving five-year suspensions and six to seven year notations can be considered.

The Student’s Submissions

45. In response, the Student submitted that, in light of the mitigating factors that he had presented in his evidence, the appropriate sanction in this case would be a suspension of between one and three years. He stated that this would allow him to pursue his studies independently at home and would give him some hope of resuming his studies at the University. He did not point to any past cases of this Tribunal that would support a sanction in this range.

Decision Regarding Sanction

46. In this case, we were persuaded that the appropriate length of the suspension and the notation were five and six years respectively. In one of the first cases to consider the use of a “buttonhole camera” and earpiece, the Tribunal found, as set out in paragraphs 56 and 57 of the Q.C. decision:

“In the present case, the Student has been found to have engaged in an extremely serious breach of academic integrity. What occurred is among the worst things a student could do. It is deserving of a harsh sanction. Her actions were completely premediated and deliberate. She went to a great deal of trouble and planning to conceal a camera in a button and to wear earpieces that had to be installed and removed with a special tool, which enabled her to show the test to the tutor and to receive the answers verbally in the exam room.

However, she has no prior record of academic misconduct, she obtained legal advice, she has demonstrated remorse, she has apologized, she has shown insight into what has occurred, and she has cooperated with the University. These are legitimate factors of mitigation, and she deserves credit for that. It has been demonstrated to the Tribunal that a lesser penalty than expulsion is appropriate. Accordingly, in light of the foregoing, including a review of the case law, the Tribunal concludes that the sanction requested by the Provost and agreed to by the Student, which effectively stops just short of expulsion, is reasonable and appropriate in the circumstances and is consistent with prior decisions of this Tribunal.”

47. Like the panel in Q.C., we find that the offence committed by the Student is “among the worst things a student could do”. But we also find that there are “legitimate factors of mitigation” in this case, and we assess that the Student is sincere in accepting responsibility for his actions. The sanctions proposed by the Provost are responsive to the facts of this case and within the range of those imposed in similar cases.

48. At the conclusion of the hearing, and for the reasons outlined above, we therefore signed an order imposing the following sanctions on the Student:

- (a) a final grade of zero in the Course;
- (b) a suspension from the University of Toronto for a period of five years from the date of the Tribunal’s order; and
- (c) a notation of the sanction on his academic record and transcript for a period of six years from the date of the Tribunal’s order.

We also added the standard requirement that this 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, this 18th day of February, 2025

Original signed by:

Alexandra Clark, Chair
On behalf of the Panel