

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic misconduct filed on July 11, 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 -

M ■ F ■ A ■

Hearing Date: November 27, 2024, via Zoom

Members of the Panel:

R. Seumas M. Woods, Chair

Professor Richard DiFrancesco, Faculty Panel Member

Ryan Cortez, Student Panel Member

Appearances:

Lily Harmer, Assistant Discipline Counsel, for the University

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Hearing Secretary:

Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

The Charges

1. On July 11, 2024, the University of Toronto (the “University”) laid the following charges (the “Charges”) under the *Code of Behaviour on Academic Matters*, 2019 (“Code”) against M■■■■ F■■■■ A■■ (the “Student”):

1. On or about December 11, 2023, you knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in BIO203H5F, contrary to section B.I.1(b) of the *Code*.

2. On or about December 11, 2023, you knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in BIO208H5F, contrary to section B.I.1(b) of the *Code*.

3. In the alternative, on or about December 11, 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, contrary to section B.I.3(b) of the *Code*, in connection with:

(1) the final exam in BIO203H5F; and

(2) the final exam in BIO208H5F.

The Hearing

2. The Tribunal heard the Charges on November 27, 2024 over Zoom. The Student attended the hearing. They were not represented by counsel. The University was represented by Assistant Discipline Counsel.

3. In advance of the hearing, counsel for the University provided the Tribunal with a book of documents (the “Joint Book of Documents”) containing an agreed statement of facts (the

“Offence ASF”) executed by the Student and the University. The Joint Book of Documents, including the Offence ASF, was made an exhibit at the hearing.

Merits of the Charges

4. Based on the Offence ASF, the Student and the University agree on the following facts:

- (a) at all material times, the Student was a student at the University of Toronto Mississauga;
- (b) in Fall 2023, the Student enrolled in BIO203H5F: Introductory Plant Morphology and Physiology (“BIO203”) and BIO208H5F: Fundamentals of Human Anatomy and Physiology I (“BIO208”);
- (c) students in BIO203 were required to write a final exam which was worth 30% of their final grade (“BIO203 Exam”). Students in BIO208 were required to write a final exam which was worth 35% of their final grade (“BIO208 Exam”);
- (d) **BIO203:** The BIO203 Exam was held on December 11, 2023, from 9 a.m. to 12 p.m. The front page of the exam paper stated that the only aids allowed for the final exam were non-programmable calculators. It contained the following warning:

The University of Toronto Mississauga and you, as a student, share a commitment to academic integrity. You are reminded that you may be charged with an academic offence for possessing any unauthorized aids during the writing of an exam. Clear, sealable, plastic bags have been provided for all electronic devices with storage, including but not limited to: cell phones, smart watches, SMART devices, tablets, laptops, and calculators. Please turn off

all devices, seal them in the bag provided, and place the bag under your desk for the duration of the examination. You will not be able to touch the bag or its contents until the exam is over.

If, during an exam, any of these items are found on your person or in the area of your desk other than in the clear, sealable, plastic bag, you may be charged with an academic offence. A typical penalty for an academic offence may cause you to fail the course.

- (e) the BIO203 Exam was held from 9:00 a.m. to 12:00 p.m. The Student attended at and wrote the BIO203 Exam. Shortly before 10:00 a.m. the Student asked to leave the exam room to go to the washroom. He was accompanied by an exam invigilator. The invigilator saw that the Student had concealed items in his pocket and requested that the Student hand them over. The Student gave two phones and a wallet to the invigilator;
- (f) one of the phones was a CAT flip phone (the “Flip Phone”); the other was a smart cell phone model UMIDIGI G3 plus phone (the “Smart Phone”). The Smart Phone was turned on, open to a page of notes directly related to the BIO203 Exam – in particular questions 52 to 56 of that exam. Photos of the items confiscated from the Student during the BIO203 Exam show various screens with notes directly related to the BIO203;
- (g) the Student signed a Possession of Unauthorized Aid During a Final Exam form on which he confirmed the three items found on his person during his visit to the washroom during the BIO203 Exam, that the Smart Phone was turned on at the time, and that the items were concealed in his pocket;

- (h) upon examination, it became clear that the notes on the Smart Phone were generated by ChatGPT. ChatGPT was not authorized for use in BIO203 or the BIO203 Exam, as students were expected to submit their own work.
- (i) **BIO208:** The BIO208 Exam was held on December 11, 2023, from 1:00 p.m. to 3:00 p.m., one hour after the end of the BIO203 Exam. The front page of the exam contained the same warning as the warning on the front page of the BIO203 Exam set out above.
- (j) at around 2:30 p.m. Professor Gordana Scepanovic, the course instructor, was alerted that the Student had been observed using a cell phone while writing the BIO208 Exam. Professor Scepanovic approached the Student and asked him for his phone. The Student responded by handing Professor Scepanovic a flip phone. This phone had no SIM card and was not a Smart Phone that could be connected to the internet;
- (k) Professor Scepanovic could see that the Student was sitting on something else and so requested that he stand up. When he did there was a cell phone (later confirmed to be the Smart Phone) open to a page of notes or what might have been a PowerPoint presentation. The Student tried to hide the Smart Phone under his sweater;
- (l) the Student signed a Possession Form in which he confirmed that he had been found with a UMIGIDI G3 cell phone in the BIO208 Exam;

(m) on January 30, 2024, the Student attended a meeting with Professor Michael Georges, a Dean's Designate for academic integrity, also attended by Alex Chee, Academic Integrity Specialist, and Diane Matias, Biology Advisor and notetaker, to discuss the allegations. At the start of the meeting, Professor Georges gave the Student the warning that is required by the Code. During the meeting, the Student admitted that:

- (i) they had accessed the Smart Phone which had been found in their possession during the BIO203 Exam to assist them with answers to that exam; and
- (ii) when they were asked during his BIO208 Exam if they had a phone, they first handed over the Flip Phone, then when asked what they were sitting on they handed over a cell phone which was on and open to a screen with notes, which they had initially attempted to hide under their sweater

5. The Student admits that they:

- (a) knew that they were not permitted to have a smart phone in their possession during either of the BIO203 Exam or the BIO208 Exam (collectively the "Exams");
- (b) knowingly brought the Flip Phone into each of the Exams and kept it in their possession during the Exams so that if they were asked if they had a phone and/or to hand over a phone to an invigilator during the Exams he could give them the Flip Phone;

- (c) planned to give the Flip Phone in response to such a request from an invigilator in the Exams to try to fool them into thinking that the Flip Phone:
 - (i) was the only phone they had in their possession; and,
 - (ii) was not a smart phone that could connect to the internet so could not be used as an unauthorized aid to provide unauthorized assistance to them during each of the Exams, or at least to minimize the impact of having a phone in their possession because it could not be used as effectively as a smart phone;
- (d) knowingly brought the Smart Phone into each of the Exams and kept it in their possession while they wrote each of the Exams;
- (e) used the Smart Phone in each of the Exams to assist them to write the Exams;
- (f) knowingly attempted to hide the Smart Phone when confronted by an invigilator in the Exams;
- (g) carried out their plan so that when confronted by invigilators in each of the Exams who requested that they give the invigilators the phone they had observed in the Student's possession, the Student first gave them the Flip Phone to try to hide the fact that they had and was using the Smart Phone;
- (h) used the same strategy in the BIO208 Exam as they had tried earlier that day in the BIO203 Exam, even though they had been caught and had admitted to possession of both phones and use of the Smart Phone as an unauthorized aid

during the BIO203 Exam just a few hours earlier, to again try to hide their use of the Smart Phone in the BIO208 Exam;

- (i) knowingly possessed and used unauthorized aids and obtained unauthorized assistance from those aids when engaging in the above conduct in each of the Exams, contrary to section B.I.1(b) of the *Code*.
- (j) 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 when engaging in the above conduct, contrary to section B.I.3(b) of the *Code*, in connection with each of the Exams.

Decision on the Merits of the Charges

6. Based on the above agreed facts and admissions, the Tribunal finds the Student guilty of the first two charges, namely that on or about December 11, 2023, the Student knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in BIO203, contrary to section B.I.1(b) of the *Code*, and that on or about December 11, 2023, the Student knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in BIO208, contrary to section B.I.1(b) of the *Code*.

7. Having found the Student guilty of the first two charges, the University withdrew the third charge.

Sanction

Evidence

8. Following our decision that the Student was guilty of the first two charges, the hearing moved into the sanction phase. At the outset of this phase, counsel for the University provided the Tribunal with an agreed statement of facts on penalty (the “**Penalty ASF**”), including a joint submission on penalty (the “**JSP**”).

9. In the Penalty ASF, the Student and the University agreed on the following facts:

- (a) on December 16, 2019, following a hearing involving an agreed statement of facts, the Student was found by this Tribunal to have committed four academic offences of plagiarism as follows:
 - (i) in HIS221H5S on August 3, 2017, in a take-home midterm test worth 20%;
 - (ii) in SOC100H5F on November 7, 2017, in an essay worth 20%;
 - (iii) in BI0360H5S on February 12, 2018, in a report worth 7%; and
 - (iv) in BI0202H5S on February 18, 2018, in a lab assignment worth 6.5%.
- (b) the Tribunal ordered that the Student receive a grade of zero in each of the four courses in issue, that they be suspended for four years to August 31, 2023, a notation be placed on their academic record for five years to August 31, 2024, and publication of the decision of the Tribunal and the sanctions imposed. The

hearing panel had before it a joint submission on penalty and an undertaking entered into by the Student in which they undertook to successfully complete six academic writing workshops within the first eight months of his registration in a course at the University following their suspension. The Student attended some academic writing courses over Zoom but has not successfully completed all of the requirements set out in that undertaking.

10. The Student did not offer us any evidence in respect of penalty other than what was in the Penalty ASF.

11. In the JSP, the University and the Student asked the Tribunal to impose the following sanctions on the Student:

- (a) a final grade of zero in each of BIO203 and BIO208;
- (b) a recommendation to the President that he recommend to Governing Council that the Student be expelled from the University; and
- (c) an immediate suspension from the University for 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 the Student's academic record and transcript;

Submissions

12. Counsel for the University asked us to accept the JSP. Pointing us to *University of Toronto v A. M.*, 2016, UT 837, she noted that while the Tribunal was not obliged or required to

accept the joint submission, it should only do so where to give effect to the joint submission would be contrary to the public interest or would bring the administration of justice into disrepute. Only where the joint submission was offensive to the understood and entrenched set of values and behaviours which members of the university community were expected to uphold should it be rejected.

13. Looking at the factors set out in *University of Toronto v Mr. C.* (Case No. 1976/1977-3, November 5, 1976, “*Mr. C*”), namely character, likelihood of repetition of the offence, the nature of the offence, any extenuating circumstances, the detriment to the University occasioned by the offence, and the need to deter others from committing a similar offence, she submitted that there was ample foundation for the sanction proposed in the JSP:

- (a) ***Character***: while the Student had cooperated with the process, the number of offences was a definite negative factor;
- (b) ***Likelihood of repetition***: this was a very important consideration. There was nothing to suggest that the Student would not repeat their conduct if not sanctioned significantly. The fact that these offences were committed after the Student had already served a four year suspension left only sanctions of a further suspension for five years or expulsion as appropriate penalties. The Student did not deserve another chance, particularly where the Student had tried to fool people with a calculated, planned, deliberate and deceptive scheme;
- (c) ***Extenuating Circumstances***: there were no such circumstances here;
- (d) ***Detriment to the University***: the detriment to the University was significant;

- (e) ***Deterrence***: this was a very important factor. A serious sanction was needed to deter others from this type of conduct.

14. Counsel for the University provided us with a number of cases which she submitted further supported the penalty proposed in the JSP:

- (a) In *University of Toronto v Y.C.* (Case No. 1489, October 13, 2023), the Tribunal imposed a five-year suspension on a student who had caught using a cell phone in an examination. The student had two prior convictions for similar conduct. The Tribunal in that case noted that it was very concerned that the conduct was not an isolated incident and that the student had committed the very same type of misconduct before, as well as the student's attempt to hide their use of the cellphone;
- (b) in *University of Toronto v M.E.E.* (Case No. 1287, November 22, 2023) the Tribunal reluctantly accepted a joint submission on penalty proposing a five-year suspension where the student had been convicted of four counts of unauthorized assistance, two for knowingly obtaining unauthorized assistance and two for knowingly aiding or assisting other students. The student had a prior record of four convictions for plagiarism, had committed offences while other offences were being processed and then lied about the offences after engaging in a module on ethics;
- (c) in *University of Toronto v T.K.* (Case No. 1362, December 18, 2024), the Tribunal recommended expulsion for a student found guilty of unauthorized assistance,

plagiarism, concocting references and academic misconduct not otherwise described in the *Code*. The Tribunal found that the repeated offences of dishonesty had to be denounced and required the strongest available sanctions in order to deter others.

15. Counsel for the University submitted that nothing short of expulsion fit the circumstances of this case. The Student did not make any submissions on their own behalf.

Decision on Penalty

16. Based on the evidence and cases before it, the Tribunal accepts the JSP which is consistent with the penalty we would have imposed had there not been one.

17. Applying ourselves the factors set out in *Mr. C*:

- (a) ***Character***: Apart from the Student's cooperation with the process and attendance at the hearing, the evidence relating to the Student's character supports a significant sanction. As noted earlier, in December 2019, the Student was suspended for a period of four years. He returned to the University in Fall 2023 after serving that suspension. The fact that the Student violated the standards of conduct expected of students at the University at what must have been one of the very first examinations the Student had to take does not speak well of the Student's character, nor does the Student's failure to comply with the undertaking to successfully complete six academic writing workshops within the first eight months of his registration in a course at the University following their suspension.

- (b) ***Likelihood of Repetition:*** There is a high likelihood of the Student repeating their improper conduct in the future if they do not receive a very significant sanction as is amply demonstrated not only by the fact that the Student committed an offence immediately after their suspension ended, but also the fact that they engaged in the same improper conduct the same day that they were caught the first time.
- (c) ***Extenuating Circumstances:*** The Student offered us no evidence of any extenuating circumstances, leading us to conclude that there are none. In fact, based on the Offence ASF, we find that the circumstances here indicate that the Student carried out a planned and deliberate scheme to cheat on the Exams. Not only did the Student take an unauthorized aid into the two Exams, the Student formulated a plan to try to conceal their wrongful use of the Smart Phone through their possession of the Flip Phone. Such planned and deliberate efforts to cheat merit significant sanctions.
- (d) ***Detriment to the University:*** We agree with counsel for the University that the detriment to the University of this type of conduct is significant, undermining the expectation that all students will act fairly and honestly.
- (e) ***Deterrence:*** For the same reasons, a significant sanction is needed to deter not only this student from such conduct but to send a message to all students that such conduct will not be tolerated.

18. We note that the sanction contemplated by the JSP is consistent with the cases cited by counsel for the University. Having come back to the University after a four-year suspension for

academic misconduct, failed to comply with an undertaking and then at the first opportunity concocted a scheme to cheat on examinations a recommendation that the Governing Council expel the Student is the most appropriate sanction in this case.

Order

19. For the reasons set out above, the Tribunal orders that:

- (a) the Student is guilty of two counts of knowingly possessing and obtaining unauthorized assistance in final exams in BIO203 and BIO208, contrary to section B.I.1(b) of the *Code*.
- (b) A recommendation to the President of the University that the President recommend to the Governing Council that the Student be expelled from the University.
- (c) the Student shall be immediately suspended from the University for a period of up to five years from the date of the Tribunal's order or until the Governing Council makes its decision on expulsion, whichever comes first, and that a corresponding notation be placed on the Student's academic record and transcript.
- (d) the Student shall receive a final grade of zero in the course BIO203H5F in Fall 2023;
- (e) the Student shall receive a final grade of zero in the course BIO208H5F in Fall 2023;

- (f) 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 24th day of February, 2025

Original signed by:

Seumas Woods, Chair
On behalf of the Panel