

**THE UNIVERSITY TRIBUNAL**  
**THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on May 2, 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 -

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**REASONS FOR DECISION**

**Date of Hearing:** November 25, 2024, via Zoom

**Members of the Panel:**

Karen Symes, Chair

Professor Mary Pugh, Faculty Panel Member

Samantha Chang, Student Panel Member

**Appearances:**

Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Chloe Hendrie, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Sarah Mackenzie, Representative for the Student, Downtown Legal Services

**Hearing Secretary:**

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

**In Attendance:**

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## Charges and Hearing

1. This Panel of the University Tribunal held a hearing, by Zoom, on November 25, 2024, to consider the charges brought by the University of Toronto (the “University”) against Y■■■ W■■■ (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”).
2. The charges against the Student are as follows:
  - i. On or about December 19, 2023, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, 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, 2023 which you submitted in support of your request for academic accommodation or relief in the form of late application of CR/NCR in STA314H1F: Statistical Methods for Machine Learning I (the “Course”), contrary to Section B.I.1(a) of the *Code*.
  - ii. In the alternative, on or about December 19, 2023, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other academic advantage of any kind, by submitting a forged, altered or falsified document, namely a Verification of Student Illness or Injury form (“VOI”) dated December 5, 2023 which you submitted in support of your request for academic accommodation or relief in the form of late application of CR/NCR in the Course, contrary to Section B.I.3(b) of the *Code*.

## Particulars

- iii. At all material times you were a student registered at the University of Toronto Faculty of Arts & Science.
- iv. In Fall 2023, you enrolled in the Course. You missed the deadline to apply to change the grade in the Course to that of CR/NCR.
- v. On December 19, 2023, you submitted a petition request to change your grade in the Course from a numerical grade to CR/NCR in the Course. In support of that petition, you submitted a Verification of Illness form purportedly completed and signed by Dr. Mark Broussenko, registration #109143 at Sanomed Medical Clinic located at 1000 Bay Street in Toronto, Ontario on December 5, 2023 (the “Medical Note”).

- vi. The Medical Note was forged, altered, or falsified. The Medical Note was not prepared or signed by Dr. Mark Broussenko. You were not seen by Dr. Mark Broussenko or anyone else at Sanomed Medical Clinic on December 5, 2023, or on any other day in December 2023.
  - vii. You knowingly submitted the forged, altered or falsified Medical Note:
    - a) understanding that the University of Toronto required legitimate medical documentation and evidence to be presented in order to obtain the academic accommodation or relief you requested;
    - b) with the intention that the University of Toronto rely on the Medical Note in considering whether or not to provide you with the academic accommodation or relief you requested; and
    - c) in an attempt to obtain academic credit and/or other academic advantage.
  - viii. 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.
3. The Student and Assistant Discipline Counsel, on behalf of the University, were able to reach an agreement and the hearing proceeded on the basis of an Agreed Statement of Facts (“ASF”) and Joint Submission on Penalty (“JSP”).
4. The Panel reviewed the ASF and the joint book of documents (“JBD”) filed confirming the facts set out in the ASF before and during the course of the hearing. A summary of the agreed facts follows.

### **Evidence and Findings**

5. At all material times, the Student was a registered student at the University of Toronto Faculty of Arts and Science. The Student first registered at the Faculty of Arts and Science (“FAS”) in the Fall 2020 academic term. As of the date of the hearing, the Student had earned 20.0 credits and had completed the credit requirements to graduate.

### **Credit/No Credit System**

6. Degree students in FAS are permitted to select up to 2.0 credits of their degree to be assessed on a Credit/No Credit (CR/NCR) basis. If a student elects to be assessed on a CR/NCR basis, they are required to achieve a final mark of at least 50% in the course to achieve credit. If their final mark is less than 50%, they will receive no credit.
7. Students who want to be assessed on the CR/NCR option must elect this option before the deadline. The deadline for selecting CR/NCR is posted on the FAS website.
8. In the Fall 2023 semester, the first day to select the CR/NCR option was September 21, 2023. December 7, 2023, was the last date to add or remove a CR/NCR option for Fall 2023 courses. The last day of classes in the Fall 2023 term was December 6, 2023.

### **The Petition Process & VOI Forms**

9. Students who miss an academic obligation (such as an exam or a paper) may petition to request academic consideration, such as writing a deferred final exam. The petition request form includes a “Statement” section where students can write and submit a personal statement explaining the reason for the petition.
10. If illness is cited as the reason why academic consideration is being requested, students are required to submit a standard Verification of Student Injury or Illness form (“VOI”). The VOI must show that the student consulted an eligible medical practitioner registered with their regulating body. There are three sections in the VOI. The first section is to be completed by the student; the second and third sections are to be completed by the licensed practitioner. The third section of the VOI contains the following verification statement above the spaces for the practitioner to input their name, registration number, signature, and the date: *“This form is based on examination and applicable documented history at the time of illness or injury, not after the fact. I certify that this assessment falls within my legislated scope of practice.”* The VOI must be signed by the medical practitioner. The VOI includes a warning that if information provided for a petition is altered or falsified, it may constitute an academic offence under the *Code* and students may be subject to prosecution.

**Petition PT025972: The Student Petitioned for CR/NCR After the Deadline**

11. In Fall 2023, the Student enrolled in STA314H1: Statistical Methods for Machine Learning I, taught by Xin Bing (the “Course”). Students in the Course were required to write a midterm exam that was worth 30% of their final grade and a final exam that was also worth 30% of their grade (the “Exam”). If a student did not write the midterm, the weight of the midterm was shifted to the Exam. A copy of the Course syllabus was included in the JBD.
12. The Student did not write her midterm in the Course. As a result, the final exam was worth 60% of her final grade in the course.
13. The Student did not select a CR/NCR option for the Course before the deadline on December 7, 2023.
14. The Exam was scheduled on December 9, 2023, from 2:00-4:00 p.m. The Student wrote the Exam as scheduled. A copy of her Exam was included in the JBD.
15. The Student enrolled in and completed five other courses in Fall 2023 (in addition to the Course). The Student was required to write final exams in three of these courses. Those exams took place on December 11 and on December 18, 2023. The Student attended and wrote each exam as scheduled.
16. On December 19, 2023, the Student submitted a petition for a late application of CR/NCR for the Course (“PET025972”). In the Statement section of PET025972, the Student made the following statement:

“Unfortunately, during the period when the option selection window was open, I was grappling with a severe illness that significantly impeded my ability to manage academic matters. The illness not only hindered my physical well-being but also had a notable impact on my cognitive functions, making it challenging for me to focus on any administrative tasks, including the decision of selecting the CR/NCR option.

I sought medical attention promptly and have been under the care of healthcare professionals to regain my health. I have attached a medical certificate verifying the period of illness for your reference.

I understand the importance of adhering to academic policies and deadlines, and I sincerely regret any inconvenience my situation may have caused. I kindly request your understanding and consideration in allowing me an opportunity to retrospectively select the CR/NCR option for the affected courses.”

17. The Student’s petition related only to the Course; she did not seek academic consideration for any of the other courses she was enrolled in, or final exams that she wrote, that term.
18. In support of PET025972, the Student submitted a Verification of Injury or Illness form, purportedly signed by Dr Mark Broussenko (CPSO registration #109143) at the Sanomed Medical Clinic on December 5, 2023 (the “Broussenko VOI”). The Broussenko VOI stated that the Student had been seen by Dr Broussenko on December 5, 2023, and was anticipated to be severely incapacitated from December 3 to December 13, 2023. “Severe incapacitation” is described in the VOI form as “completely unable to function at any academic level e.g. unable to attend classes, or fulfil any academic obligations.” The Broussenko VOI bore a business stamp from the Sanomed Medical Clinic located at 1000 Bay Street, Toronto, ON. A copy of PET025972, including the Broussenko VOI, was included in the JBD.
19. Lauren Vollmer, Associate Director of Academic Integrity in FAS’ Student Academic Integrity Office (“SAI”), reviewed PET025972, including the Broussenko VOI. As part of her review, Ms. Vollmer identified that the document properties for the Broussenko VOI showed that a user named “[REDACTED]” added several pieces of information on December 19, including:
  - a) the incapacitation start date (December 5, 2023);
  - b) the anticipated incapacitation end date (December 13, 2023);
  - c) the Student’s signature; and
  - d) the Student’s name and student number.

20. A document prepared by Ms. Vollmer showing the annotations made by “[REDACTED]” to the Broussenko VOI was included in the JBD.
21. The Student’s English name is [REDACTED]. She uses the name [REDACTED] in her University records, including her University of Toronto email address [REDACTED]@[mail.utoronto.ca](mailto:[REDACTED]@mail.utoronto.ca)).
22. On January 4, 2023, Ms. Vollmer contacted the Sanomed Medical Clinic to verify the authenticity of the Broussenko VOI. The receptionist at the Sanomed Medical Clinic informed Ms. Vollmer that the Student had not seen Dr Broussenko or visited the Sanomed Medical Clinic at all in December of 2023.
23. PET025972 was not considered further due to the concerns about the authenticity of the Broussenko VOI. The Student was informed of this outcome on January 8, 2024, in correspondence from the Petitions Office that stated:

“After careful review of your petition, the Committee on Standing has determined that your request for a late application/removal of Credit/No Credit has not been considered due to a potential academic misconduct allegation in the course noted above. This is not a denial of your request at this time.”

#### **Contact Between the Student and SAI**

24. On January 8, 2024, SAI emailed the Student to advise that they had received a report that she submitted medical documentation that appeared to be forged in connection with her petition for CR/NCR in the Course and to schedule a meeting with a Dean’s Designate.
25. The Student responded to SAI’s email on January 23, 2024. In her email, the Student:
  - i. Stated that she contracted a fever and developed a rash “throughout [her] entire body during that time period” and that despite “enduring severe physical pain”, she was able to complete her exams but was “unable to allocate sufficient time to visit a clinic and consult with a particular physician in person”;

- ii. Admitted that she modified the date in a physician's letter that had previously been provided to her and made revisions to "a pre-existing medical certificate";
  - iii. Stated that it was a "prevalent practice" in China to "request that the date inscribed on such documents be altered";
  - iv. Explained that she failed to recognize that "making modifications to medical documents in Canada is strictly prohibited" and that it was an "oversight on her part";
  - v. Apologized for her "ignorance of the policies and procedures associated with cultural differences in medical documentation at the University of Toronto";
  - vi. Claimed that she did not modify the Broussenko VOI for the purpose of gaining an advantage but rather, "to furnish the institution with precise and reliable information pertaining to [her] state at that moment";
  - vii. Stated that her medical condition made it difficult to travel to the hospital for a subsequent medical assessment and that although she intended the Broussenko VOI to be a temporary measure until she could acquire the appropriate documentation", she was unable to "deal with such matters" because of the "lengthy delay in the Canadian medical system";
  - viii. Advised that she initiated communication with medical practitioners upon recognizing the gravity of her conduct and that she had two valid medical documents, which she attached to her email; and
  - ix. Apologized for her choices and said she would maintain academic integrity moving forward.
26. The Student provided two documents as attachments to her email. These documents were included in the JBD. The Parties agreed that there was no evidence that the medical documents provided by the Student on January 23, 2024, were not provided to the Student by the individuals who signed them.
27. The first document that the Student provided was a VOI completed by Dr. Leela Balakrishnan (CPSO #130192) at the Sanomed Medical Clinic on January 10, 2024. This document stated that that the Student visited the doctor only once, on January 10, 2024. The form checked the box that indicated the Student's degree of incapacitation was "serious" and that this incapacitation began on December 5, 2023, and ended on January



10, 2024.<sup>1</sup> The form did not include a medical diagnosis or description of any symptoms. The comments section stated “pt was concerned about passing illness to others”.

28. The second document that the Student attached was a one-page “After Visit Summary” from the Kona Community Hospital in Kona, Hawaii dated January 6, 2024. This document indicated that “abrasions” were the reason for the Student’s visit and that she was diagnosed with “abrasions and pityriasis rosea.” The ASF included a definition of pityriasis rosea from the Mayo Clinic:

“Pityriasis rosea is a rash characterized by a large circular or oval “herald patch,” usually found on the chest, abdomen, or back, which is followed later by smaller scaly oval red patches typically on the chest and back. Other symptoms of pityriasis rosea include itchiness and fever. Symptoms can last for several weeks.”

29. A complete copy of the medical record for the Student’s visit to the Kona Community Hospital on January 6, 2024, and the Student’s medical records from the Sanomed Medical Clinic (as of July 8, 2024), were included in the JBD.
30. The records from the Sanomed Medical Clinic covered the time period of August 18, 2022, until January 10, 2024, and include a description of the Student’s medical symptoms confirming a diagnosis of “typical pityriasis rosea” of a benign nature that would resolve in 6-8 weeks. The medical note indicated that the Student could return to school.
31. The records from the Kona Community Hospital included details of the Student’s visit to the hospital on January 6, 2024. The records indicate that the Student attended the hospital because she injured her leg on coral after falling out of a kayak. The records also indicated that the Student had an itchy rash on her chest wall that appeared to be “rosea” and had been present for the last 5 days.

### **Dean’s Designate Meeting**

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<sup>1</sup> The form specifically states that, “[t]his form is based on examination and applicable documented history at the time of illness or injury, not after the fact.”

32. On February 1, 2024, the Student attended a Dean's Designate meeting with Professor John Coleman via Zoom to discuss the allegations related to the Broussenko VOI.
33. During the meeting, the Student stated that:
- i. She was in pain and had a high temperature;
  - ii. She completed her exam but "was unable to get to the clinic to get a medical certificate";
  - iii. It is common practice to request medical documents in China where she is from and that "in [her] country [they] can change it first but then [they] update the doctor later";
  - iv. She now knows that changing the dates on the doctor's note had "adverse effects" and was a "bad mistake";
  - v. She modified the doctor's note because she was in a rush;
  - vi. She wanted to "sincerely apologize for this oversight;" and
  - vii. She is "committed to upholding the University's academic integrity standards" and "[understood] the importance of integrity".
34. When Professor Coleman asked the Student if she admitted to submitting a forged document in her petition application, the Student said yes and apologized.

### **Admissions and Acknowledgements**

35. The Student admitted that:
- i. She was not seen by Dr. Broussenko or any other doctor on December 5, 2023, or at any other time in December 2023;
  - ii. She did not attend at a hospital or any other medical facility on December 5, 2023, or at any other time in December 2023;
  - iii. She did not receive any diagnosis or medical advice on December 5, 2023, or at any other time in December 2023;
  - iv. She did not attempt to contact, nor did she speak to a doctor or other medical professional, about her rash until January 6, 2024, when she attended at the Kona Community Hospital in Hawaii;

- v. She knew that she had missed the deadline to apply for Credit/No Credit in the Course;
  - vi. She altered the Broussenko VOI, including changing the start and end dates of incapacitation, from a VOI form that she had previously received from Dr. Broussenko;
  - vii. She knew or ought to have known that she was not permitted to alter the VOI that she had previously received from Dr. Broussenko and that in doing so she presented falsified information in support of her petition; and
  - viii. She knowingly submitted the Broussenko VOI intending that the University rely on it to grant her an academic accommodation in the form of a late application for Credit/No Credit in the Course.
36. The Student admitted that by submitting the Broussenko VOI to support PET025972, purporting to have met with Dr Broussenko on December 5, 2023 and to have obtained an authentic medical certificate from Dr. Broussenko to seek an academic accommodation, she knowingly:
- i. Forged or falsified a document or evidence required by the University in respect of the Broussenko VOI, and knowingly uttered, circulated or made use of the Broussenko VOI, contrary to section B.I.1(a) of the *Code*; and
  - ii. Engaged in a form of cheating, academic dishonesty or misconduct, or made a misrepresentation in respect of the Broussenko VOI in order to obtain an academic advantage, contrary to section B.I.3(b) of the *Code*.
37. Following deliberations and based on the admissions made by the Student, the ASF and the supporting materials, the Panel concluded that Charge #1 had been proven with clear and convincing evidence on a balance of probabilities and accepted the guilty plea of the Student in respect of those charges. The Panel was advised that if the Tribunal convicted the Student of Charge #1, the University would withdraw Charge #2 and that charge was so withdrawn.

### **Penalty**

38. The Student and University submitted a JSP in support of the following penalty:
- a) A final grade of zero in in the course STA314H1F in Fall 2023;

- b) A suspension from the University for a period of 3 years, 6 months from the date of the University Tribunal's Order; and
  - c) A notation of the offence on her academic record and transcript for a period of 4 years, 6 months from the date of the University Tribunal's Order.
39. The parties also submitted that this case should be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the name of the Student withheld.
40. A Joint Book of Documents ("JBD") was filed in relation to the penalty. Included in the JBD was an agreed statement of fact on penalty ("ASFP"). This ASFP outlined the Student's prior academic offences and anticipated evidence of the Student about the circumstances of the offence and her remorse for having committed the offence. A summary of the ASFP follows.

### **Evidence and Findings on Penalty**

41. The ASFP outlined three previous academic offences committed by the Student.

#### ***First and Second Offences: MAT137Y1***

42. In Fall 2020/Winter 2021, the Student enrolled in MAT137Y1: Calculus With Proofs ("MAT137"). MAT137 was a full year course. Students in MAT137 were required to submit 10 homework assignments and 5 term tests.
43. Assignment 6 was due on or about January 28, 2021, and the Student submitted her Assignment 6 as required. On February 19, 2021, the Department of Mathematics emailed the Student to advise of concerns that her Assignment 6 was unacceptably similar to material found on an online source or to material submitted by another student in MAT137. It was alleged that the Student was part of a group of students who copied their work from an answer provided by a SpeedUp Education tutor. The Student met with a representative of the Chair of the Department of Mathematics on March 25, 2021. The

Student admitted to the offence and was subsequently sanctioned by the Department of Mathematics with a mark of 0 on Assignment 6.

44. Assignment 10 was due on or about April 8, 2021, and the Student submitted her Assignment 10 as required. On April 18, 2021, the Department of Mathematics emailed the Student to advise of concerns that her Assignment 10 was unacceptably similar to material found on an online source or to material submitted by another student in MAT137. It was alleged that the Student had copied some of her answers from Chegg, which is a website that allows subscribers to post questions and to view questions and answers posted on the site.
45. On November 12, 2021, SAI sent a letter to the Student about Assignment 10. This letter included a resolution offer that the Student could accept if she forewent a Dean's meeting with a Dean's Designate.
46. The Student admitted to the Assignment 10 offence on June 25, 2022, via email. The University subsequently imposed a sanction of 0 for Assignment 10, a further reduction of the Student's grade in MAT137 by 8 marks, and a notation on her transcript until December 31, 2023. A letter was sent to the Student on June 27, 2022. The letter was included in the ASFP. The letter stated in part:

“Should you be involved in a subsequent allegation of academic misconduct, it will be taken into account that it is not your first offence, and consequences may be more severe.”

***Third Offence: MAT224***

47. Also in Winter 2021, the Student enrolled in MAT224: Linear Algebra II (“MAT224”). On April 21, 2021, the Student submitted an online assessment in MAT224 worth 25% of her final grade.
48. SAI received a report from the Department of Mathematics that alleged that the Student had obtained unauthorized assistance or used an unauthorized aid during the online assessment. On November 12, 2021, SAI sent a letter to the Student about the MAT224

offence. This letter included a resolution offer that the Student could accept if she forewent a meeting with a Dean's Designate.

49. The Student admitted to the MAT224 offence on June 25, 2022, via email. The University subsequently imposed a sanction of 0 on the assessment, a further reduction of the Student's grade in MAT224 by 15 marks, and a notation on her transcript until December 31, 2022. A letter was sent to the Student on June 27, 2022. The letter was included in the ASFP. The letter stated in part:

“Should you be involved in a subsequent allegation of academic misconduct, it will be taken into account that it is not your first offence, and consequences may be more severe.”

### ***Student's Evidence***

50. The ASFP outlined the following evidence the Student would provide if she had testified at the hearing:
- i. At the time of the offence, she was under significant personal and academic stress, which impaired her judgment. Specifically, she was coping with fever and intense itching caused by Pityriasis rosea, a condition marked by a large, scaly rash. These symptoms significantly impacted her daily life and academic performance, making it challenging to concentrate and affected her overall well-being. The visible rash also led her to feel depressed and concerned about public perception, which affected her confidence in attending school and social settings.
  - ii. She wrote the final exam for STA314H1 on December 9, 2023. After writing the Exam, she felt that the symptoms she was experiencing at that time significantly impacted her performance in the Exam and did not accurately reflect her efforts in the Course throughout the semester.
  - iii. Given that the Exam was worth 60% of her final grade, she was worried that it would have a significant negative impact on her overall performance in the Course. Due to her exam preparation schedule, she missed the deadline to request the CR/NCR option. Worried about the impact on her academic performance, she decided to alter and submit a doctor's note that she obtained from a previous appointment without visiting the clinic to request that she be permitted to petition for CR/NCR in the Course after the deadline had already passed.
  - iv. Reflecting on her prior offences in MAT137 and MAT224, she fully acknowledges her mistakes, regrets the harm caused to the University community, and takes complete responsibility for her actions. In the time after these offences occurred,

she has worked to learn from these mistakes and improve her academic performance, as demonstrated by the improvements in her GPA.

- v. Since the offence at issue in these proceedings, the Student has taken several steps to ensure such behavior is never repeated. She has sought guidance and support from University counseling services to better manage stress and anxiety, particularly during high-pressure periods such as final exams. Furthermore, she has implemented a more structured approach to time management, allowing her to better balance her academic responsibilities and personal well-being. This included setting realistic study schedules, taking regular breaks to avoid burnout, and seeking help from professors and peers when faced with challenges.
  - vi. Throughout this disciplinary process, she has cooperated with the University's investigation and procedures regarding the incident. She has been transparent and responsive, providing necessary information and documentation promptly. Her intention has always been to address the situation responsibly and to learn from it.
  - vii. She is deeply concerned about the potential impact of this incident on her future. Achieving her degree from the University of Toronto has been a long-term goal. While she has completed all required courses for graduation, the timing of this incident has prompted her to reflect deeply and make adjustments both academically and personally.
  - viii. She understands that a delay in her graduation would disrupt her plans to apply for and attend a master's program. Additionally, she knows that having this incident on her academic record could adversely affect her chances of being accepted into a reputable program. Despite these challenges, she is committed to facing the consequences of her actions with full responsibility.
  - ix. She reiterates her profound remorse for her actions. She will use this experience as an opportunity for growth and to reinforce her commitment to personal and academic integrity. Her goal is to learn from this incident and to emerge as a more resilient and principled individual, ready to contribute positively to the academic and professional communities she joins in the future.
51. The wording of the ASFP did not state that the content of the anticipated evidence of the Student was itself a fact agreed to by the parties. The ASFP stated that “[I]f the Student were to testify, she would state the following:”.<sup>2</sup> Agreeing that a witness would say something is not the same as agreeing that what a witness says is true. The anticipated evidence of the Student was not provided in the form of an affidavit or otherwise provided under oath or affirmation. When questioned by the Panel about this aspect of

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<sup>2</sup> Exhibit 2, Tab A, Agreed Statement of Facts on Penalty and Joint Submission on Penalty, at para. 16.

the ASFP, the University advised that it did not take a position on the veracity of the evidence that the Student would give as outlined in the ASFP. The University did not agree that the outlined evidence was factually true but did not wish to challenge the evidence by way of cross-examination. The position of the Student was that the Panel should accept the assertions outlined in the ASFP as factually true.

52. The use of agreed statements of fact is an invaluable tool in litigation. It promotes efficiency and certainty and helps to focus what is at issue. However, it is important to remember that clarity of language is essential when drafting an ASF. An ASF should only include clear factual statements and should only be used when the underlying facts are clearly agreed upon.<sup>3</sup> When ASFs are used in circumstances where the underlying facts are not clearly agreed upon, the trier of fact is placed in an impossible situation of having to decide between conflicting evidence without the benefit of hearing *viva voce* evidence to assess credibility. Unfortunately, this is what happened in the present case in relation to the timing of, and degree of impairment caused by, the Student developing Pityriasis rosea.
53. This was further complicated by the fact that the parties agreed, as part of the ASF for the offence, that the documents attached to the ASF may be admitted into evidence before the Tribunal, “for all purposes, including for the truth of the document’s contents, without further need to prove the document.”<sup>4</sup> Included in those documents were the Student’s medical records from the Sanomed Medical Clinic, the Student’s medical records from the Kona Community Hospital in Hawaii, the Broussenko VOI and the January 10 VOI.<sup>5</sup> These documents have been summarized above. As will be explained, the contents of these documents are inconsistent with each other.

### **Extenuating Circumstances Surrounding the Commission of the Offence**

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<sup>3</sup> As stated by the Ontario Court of Appeal in *R. v. Coburn*, [1982] O.J. No. 41, at para. 13.

<sup>4</sup> Exhibit 1, Tab 1, Agreed Statement of Facts, at para. 1 (emphasis added).

<sup>5</sup> Exhibit 1, Tabs 1F, 1I, 1J and 1K.



54. This lack of clarity in the evidence became an issue when the parties made submissions about whether there were extenuating circumstances surrounding the commission of this offence. This is one of the factors to consider when deciding the appropriate penalty. The University's position is that the evidence does not establish a nexus between the Student's medical condition, Pityriasis rosea, and the offence committed. In support of that position, the University relied on the fact that the Student was not diagnosed until January of 2024. The University pointed out that the Student did not seek any medical attention for this condition until January 6, 2024, when she attended the hospital in Hawaii, but even then, her reason for attending the hospital was the injury to her leg from kayaking and not the medical condition at issue in this case. The University also relied on the timing of the second VOI, which was two days after the Student was informed that the University suspected the Broussenko VOI was forged, to argue that the self-reported information in the January 10 VOI should be afforded little weight.
55. The Student's position is that the evidence does establish a nexus between the medical condition and the offence. The Student submitted that the January 10 VOI proves she was assessed and diagnosed by a doctor, who determined that the Student's medical condition "significantly impaired [the Student's] ability to fulfill academic obligations," between December 5, 2023, and January 10, 2024. This period covers the date of the exam and the deadline to select CR/NCR, therefore the Student argued that there is a nexus between the medical condition and the offence that amounts to "extenuating circumstances surrounding the commission of the offence."
56. There is merit to the Student's position. The ASF and ASFP include evidence that the Student was significantly impaired by a medical condition at all relevant times during the commission of this offence, namely: the deadline to select CR/NCR, the exam, and the decision to forge and submit the Broussenko VOI. It was open to the University to challenge the medical opinion in the January 10 VOI, by not including it in the ASF or through cross-examination of the doctor. The University also agreed to include the Student's expected evidence in the ASFP, including the fact that, at the time of this offence, she had a medical condition that "significantly impacted her daily life and

academic performance, making it challenging to concentrate and affected her overall well-being.”<sup>6</sup> The University chose not to challenge the evidence of the doctor or the Student on this issue, which would normally foreclose the University from challenging the veracity of this evidence.

57. However, the Student’s argument runs into difficulty when assessed in the context of the totality of evidence submitted in this case. The January 10 VOI concluded that the Student was significantly impaired between December 5, 2023, and January 10, 2024. The doctor only met with the Student on January 10, 2024, when the stated period of impairment had ended. This is specifically prohibited by the VOI, which states “this form is based on examination and applicable documented history at the time of the illness or injury, not after the fact.”<sup>7</sup> The doctor’s comments on the VOI provide no detail as to *how* the Student’s medical condition impaired her academic performance beyond stating that “pt was concerned about passing illness to others.” There is nothing in the VOI or the medical records from the Sanomed Medical Clinic to suggest that this medical condition impaired her concentration, cognitive functioning, or ability to focus on administrative tasks. The inference from this note is that the “significant” impairment to the Student’s academic functioning caused by the medical condition was the Student’s belief that she was contagious and so she avoided contact with others, thus preventing her from completing her academic requirements. This cannot be reconciled with the fact that the Student did write her exams during the period of medical impairment and travelled to Hawaii for vacation. The opinion offered in the January 10 VOI about the timeline of impairment was based on the Student’s self-report that she had developed the medical condition starting on December 5, 2023. The records from the Kona Community Hospital contradict this self-reported timeline, as they indicate that the Student had been experiencing pityriasis rosea for 5 days (since January 1, 2024).
58. The Panel has concerns about the veracity of the Student’s evidence in the ASFP and the content of the January 10 VOI for the reasons outlined. However, the University chose

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<sup>6</sup> Exhibit 2, Tab A, at para. 16(a).

<sup>7</sup> Emphasis is original

not to challenge this evidence, included it in the ASF and ASFP, and agreed that the underlying documents were admitted “for the truth of their contents,” notwithstanding that the contents of those documents were inconsistent with each other and with the University’s position on the circumstances of the offence. It would be unfair to the Student to simply reject this evidence and make an adverse factual finding. However, the Panel cannot ignore the other “agreed facts” that are inconsistent with the evidence the Student asks the Panel to accept. Given the inconsistent evidence about the timing of, and degree of impairment caused by, the Student’s medical condition, the Panel is unable to make a factual finding about whether there is a nexus between the commission of the offence and the Student’s medical condition and declines to do so. The Panel concludes that the JSP proposed in this case is reasonable, regardless of whether there was a nexus between the Student’s medical condition and the commission of the offence.

59. As the University did not challenge the expected evidence of the Student as outlined in the ASFP, the Panel accepts as factually true all evidence of the Student in the ASFP other than what has already been addressed above.

### **JSP is Reasonable**

60. As the Tribunal has stated in many cases, absent exceptional circumstances, panels are expected to accept and implement joint submissions on penalty. As set out in the Discipline Appeals Board decision in *University of Toronto and M. A.* (Case No. 837, December 22, 2016), a joint submission on penalty “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 administration of justice into disrepute” (para 25).
61. The parties submitted authorities that demonstrate the JSP proposed in this case is comparable to the penalties imposed in similar cases. Penalties imposed in cases where students submitted forged documentation for academic advantage range from a two-year suspension to expulsion.<sup>8</sup> It is important to acknowledge the seriousness of this type of offence and the harm it causes to the University and other students. The University has

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<sup>8</sup> Exhibit 2, Tab B, “Sanction Chart”.

limited resources to investigate and prosecute false requests for accommodation and depends on the honesty of members of the University community to ensure that the system is fair. When students take advantage of the system by submitting fraudulent claims, this breeds cynicism and distrust and is detrimental to the entire system of medical accommodations. The Panel also accepts the University's submission that this was not a momentary lapse in judgment on the part of the Student. It was a deliberate and intentional forgery. The Student wrote the exam, was worried that she performed poorly on it, and then decided to forge medical documentation to avoid the consequences of her poor performance. The Panel also agrees with the University that the fact that the Student did not purchase the forged note is not a mitigating factor, it is merely the absence of an additional aggravating factor.

62. There is a significant risk of repetition of the offence. This was not the Student's first academic offence – it was her fourth. The Student had been sanctioned previously and cautioned that any subsequent offences may result in more severe consequences. The present offence was committed while the Student still had a notation on her file in relation to the prior offences. This clearly did not deter the Student from committing a further offence. The Panel accepts the Student's evidence that she has learned from this offence, is remorseful and has taken steps to ensure that the offending behaviour is not repeated. A significant penalty is necessary and appropriate in this case, and the JSP is a significant penalty. The Student has worked hard to improve her GPA and has earned enough credits to graduate. The JSP will delay her graduation and her plans to complete a post-graduate degree.
63. After considering all of the evidence and the submissions of the parties, the Panel concluded that the joint submission in this case is neither contrary to the public interest, nor would it bring the administration of justice into disrepute. In arriving at this decision, the Panel took into consideration the nature of the offence, the detriment to the University occasioned by the offence, the need to deter other students from acting in a similar manner, the character of the Student, and the circumstances surrounding the commission of the offence (*University of Toronto and Mr. C.*, Case No. 1976/77-3, November 5, 1976

at p. 15). The penalty proposed falls within the range of penalties imposed in other similar cases.

64. At the conclusion of the hearing, the Panel issued the following Order, which is hereby confirmed:

- i. The Student is guilty of one count of knowingly forging or in any way altering or falsifying a document or evidence required by the University of Toronto, or uttering, circulating or making use of such forged, altered or falsified document contrary to section B.I.1(a) of the *Code of Behaviour on Academic Matters*;

The following sanctions shall be imposed:

- a) a final grade of zero in in the course STA314H1F in Fall 2023;
  - b) a suspension from the University for a period of 3 years, 6 months from the date of the University Tribunal's Order; and
  - c) a notation of the offence on her academic record and transcript for a period of 4 years, 6 months from the date of the University Tribunal's Order.
- ii. This case shall be reported to the Provost for publication of a notice of the Tribunal's decision and the sanction imposed, with the Student's name withheld.

Dated at Toronto this 25<sup>th</sup> day of February 2025.

Original signed by:

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Karen Symes, Chair

On behalf of the Panel