

**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 -

W [REDACTED] X [REDACTED]

REASONS FOR DECISION

Hearing Date: December 6, 2024, via Zoom

Members of the Panel:

Cynthia Kuehl, Chair
Dr. Lynda Mainwaring, Faculty Panel Member
Alwin Xie, Student Panel Member

Appearances:

Sonia Patel, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Jia Li, Quasi-Judicial Administrative Assistant, Office of Appeals Discipline and Faculty Grievances
Karen Bellinger, Associate Director, Office of Appeals, Discipline & Faculty Grievances

Not In Attendance:

W [REDACTED] X [REDACTED]

1. This hearing of the Trial Division of the University Tribunal was convened on December 6, 2024, by Zoom, to consider charges of academic dishonesty (the “Charges”) brought by the University of Toronto (the “University”) against W■■■■ X■■ (the “Student”) under the *Code of Behaviour on Academic Matters*, 2019 (the “Code”). The Student was informed of the Charges by letter dated May 2, 2024.

Preliminary Issue: Proceeding in the absence of the Student.

2. The hearing was scheduled to commence at 9:45 a.m. The Panel waited until 10:00 a.m. before commencing the hearing. The Student did not appear. The Panel granted the University’s request that the hearing proceed in the Student’s absence, for the following reasons.

3. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the “Act”) and Rule 17 of the *University Tribunal Rules of Practice and Procedure* (the “Rules”), a Tribunal may proceed in the absence of a party provided that reasonable notice of an oral hearing has been given to the party in accordance with the Act. Where a party does not attend a hearing and reasonable notice has been given, a party is not entitled to further notice.

4. Pursuant to Rule 13, a Notice of Hearing may be served on a student by various means including by sending a copy of the document by courier to a student’s mailing address contained in the Repository of Student Information (“ROSI”) or by emailing a copy of the document to a student’s email address in ROSI. Students are responsible for maintaining on ROSI a current and valid mailing address and a University-issued email account and are expected to check mail and email on a frequent and consistent basis.

5. In support of its request, counsel for the University filed two affidavits; one, from Kimberley Blake, legal assistant at the law firm of Assistant Discipline Counsel, and a second from Andrew Wagg, Manager, Incident Response at Information Security, Information Technology Services at the University. Ms. Blake set out the attempts by the University to communicate with the Student and the resulting discussions with, and email correspondence from, the Student. This included an email confirmation from the Student

on May 27, 2024, that she was aware of the allegations of academic misconduct. This email followed e-mail delivery of the Charges on May 2, 2024, and of the Disclosure Letter and Brief on May 24, 2024. Assistant Discipline Counsel and the Student also spoke on the telephone on June 6, 2024, during which the Student was encouraged to retain a legal representative to assist her through the process.

6. In October 2024, the Student was advised of the hearing date and time. A Notice of Virtual Hearing was issued on November 4, 2024. Mr. Wagg deposed that the portal records for the University confirmed that the last time someone accessed the Student's email account was on November 4, 2024, the date of service of the Notice of Virtual Hearing.

7. On November 29, 2024, Ms. Blake spoke to the Student. Ms. Blake advised the Student that Assistant Discipline Counsel wanted to speak to her about the hearing scheduled for December 6, 2024. The Student indicated that she would check her University email account, read the emails, and return the phone call. Ms. Blake warned the Student that if they did not hear from her, the hearing would still proceed as scheduled on December 6th. Thereafter, there was no further communication with the Student.

8. Based on the totality of this evidence, the Panel was satisfied that the Student was aware of the hearing date and time. The Student received notice of the Charges and the Notice of Virtual Hearing and was advised verbally that the hearing was scheduled for December 6, 2024. She undertook to look at her emails to obtain further information. The Panel is satisfied that reasonable notice of the oral hearing was given. In accordance with s. 7(3) of the Act, the Panel proceeded to hear the case in the absence of the Student.

Liability - The Charges

9. At all material times, the Student was enrolled at the University of Toronto, Faculty of Arts & Science.

10. In the Charges, the University made the following three allegations:

1. On or about January 9, 2024, the Student 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 document purporting to be a Discharge Summary from North York General Hospital, dated December 4, 2023, which the Student submitted in support of a petition to defer the makeup test and final exam in ECO101H1 (“ECO101”) and the final exam in MAT135H1 (“MAT135”), contrary to section B.I.1(a) of the *Code*.
 2. On or about January 20, 2024, the Student 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 document purporting to be a Discharge Summary from North York General Hospital, dated December 4, 2023, which the Student submitted in support of a petition to defer the makeup test and final exam in ECO101 and the final exam in MAT135, contrary to section B.I.1(a) of the *Code*.
 3. In the alternative to each of Charges #1 and #2, the Student 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 your petitions to defer the makeup test and final exam in ECO101 and the final exam in MAT135, contrary to section B.I.3(b) of the *Code*.
11. The University advised that it would withdraw Allegation 3 if findings were made on Allegations 1 and 2. Ultimately, Allegation 3 was withdrawn.
12. Detailed particulars in support of the allegations were provided in the Charges.

The Evidence on Liability

13. The Panel received affidavit evidence from three witnesses: Victoria James, an Academic Integrity Specialist with Student Academic Integrity (“SAI”) in the Office of the Dean, Faculty of Arts & Science at the University of Toronto; Laurie O’Handley, also an Academic Integrity Specialist with SAI; and Ms. Blake.

14. Ms. James explained that the University's petition system permits students who miss exams or tests to petition to write a deferred exam or test. Where illness is cited as the reason for missing the assessment, students are required to provide supporting documentation in the form of a standard Verification of Student Illness and Injury ("VOI") form, which must show that an appropriate medical professional was consulted at the time of the illness or injury. The VOI form contains a warning that alteration or falsification of the information may constitute an academic offence. Part of Ms. James' role was to assess those petitions.

15. Ms. James was involved in the assessment of the exam deferral request from the Student for MAT135 and ECO101 (collectively, the "Courses"). The syllabi for the Courses included sections on academic integrity, and an admonishment that students should read the Code and especially section B which outlines what constitutes an academic offence.

16. The Student did not write the final exam in MAT135 held on December 9, 2023 nor had the Student written one of the term tests for which there was a makeup test scheduled for December 4, 2023. Similarly, the Student did not write the final exam in ECO101 held on December 11, 2023.

17. On January 9, 2024, the Student provided a personal statement indicating that she had sprained her left foot on November 27 and her injury had hampered her ability to prepare for her examinations. She advised that she did not attend the ECO101 makeup test on December 4, 2023, because she had sought medical attention at North York General Hospital (the "Hospital") that day. To her personal statement, she attached a document purporting to be a Discharge Summary from the Hospital. No VOI form was provided.

18. The Discharge Summary indicated that she had suffered a "hyper plantar flexion and internal rotation to her left ankle". Embedded in the Discharge Summary were two x-ray images. In a section with the heading "DOCTOR COMMENT", it is stated: "I suggest

that patients (*sic*) rest for two weeks and undergo rehabilitation tests in the hospital. Don't walk around for a long time to avoid tearing the healing are" (*sic*). The Discharge Summary was purportedly signed by Gladys Cha with a physician license number P00358.

19. The petition was returned to the Student with comments by a member of her College Registrar's Office. The Student was asked to provide email correspondence that had granted her the make-up test for ECO101, and to revise her personal statement to appropriately refer to the December 4 test as a make-up test. On January 20, 2024, the Student submitted a new petition, again attaching the same Discharge Summary. She also addressed the comments made on her initial petition.

20. Ms. James' evidence was that she had several concerns about the Discharge Summary, noting that a) it did not match the formatting of most hospital documentation; b) it was not stamped; c) the resolution on the logo was poor; d) there was inconsistent case and spacing in the summary; and e) there was no contact information listed for either the hospital or the physician. Notably, in the footer identifying the hospital, there was no space between "York" and "General", such that the hospital's name appeared as "North YorkGeneral Hospital", a clear error. The inclusion of x-rays images in the Discharge Summary was unusual based on Ms. James' experience and the "Doctor Comment" was "strangely worded" and contained spelling and grammatical errors.

21. Ms. James subsequently was advised by an executive assistant at the Hospital that there was no Dr. Gladys Cha credentialed at the Hospital but there was a Dr. Gladys Chan in the Department of Surgery Division of Orthopaedics. However, her CPSO number did not match that provided on the Discharge Summary. Given the circumstances, Ms. James did not believe that the Discharge Summary had been issued by the Hospital. She referred the matter to the SAI office.

22. Ms. O'Handley's evidence focused on the Dean's Designate meeting at which the Student attended. The Student was appropriately cautioned about her participation in the

meeting. She advised that she had sprained her left foot which was her reason for being unable to do the make-up test. She explained that it was her aunt who had procured the note for her from the Hospital. She had not questioned her aunt about how she had obtained the document given that the Student is an adult. The Student did not clarify whether her aunt had paid for the note on her behalf or if there had been any exchange of money.

23. Finally, the University advanced the affidavit of Kimberley Blake which had been affirmed the day before the hearing. While it had only been served on the Student the day before, the Panel was satisfied that the evidence within the affidavit was sufficiently probative to outweigh any prejudice from the late notice of it. The Panel notes that hearsay evidence is admissible in these proceedings.

24. Ms. Blake deposed to the attempts by Assistant Discipline Counsel's office to verify the veracity of the Discharge Summary with the Health Records Department at the Hospital. While the Health Records Department would not comment, Assistant Discipline Counsel did communicate directly with Dr. Chan. According to Ms. Blake, Dr. Chan confirmed that she had no records of the Student as a patient and that it was not her signature on the purported Discharge Summary. Moreover, the x-rays were, in her view, "pretty horrendous" and demonstrated a severe injury requiring surgery, not an ankle sprain. Dr. Chan stated that this was not a document that the Emergency Department would provide, and that she did not prepare nor sign the Discharge Summary.

Decision of the Tribunal on Charges

25. Having considered the evidence presented during the hearing, the Tribunal found that the Student had committed academic offences 1 and 2, in that she ought to have known that she was circulating or making use of a forged or falsified document on the two occasions.

26. The academic offence has three elements:

- a) The document at issue must be altered, forged or falsified in some manner;
- b) The Student must have created, circulated or made use of the document;
- c) The Student must have acted “knowingly”. In this context, the threshold of “knowingly” is met where the Student ought reasonably to have known that the document was falsified, altered or forged.

27. The first two elements were easily established on the evidence. On its face, the Discharge Summary does not appear to be a hospital document, the presentation of the name of the Hospital (the lack of spacing), the typographical errors, and the non-sensical “doctor comment” (“avoid tearing the healing are”) all demonstrate that the document has been falsified. Even the Student’s address on the document is problematic, with the address being a number on “bay” (not capitalized and no indication if it is a street, avenue, drive etc.), with a suite number but no notation of the city or town. That this document was falsified was further confirmed by the fact that no “Dr. Cha” practices at the Hospital and Dr. Chan did not see this patient. The Student clearly circulated and attempted to make use of the false document when she submitted it on two separate occasions in support of her petition for exam and test deferral.

28. The Panel also found that the Student ought reasonably to have known that the Discharge Summary had been falsified. The Student’s personal statement and email communications demonstrate a sophistication and grasp of the English language. The same features which made it obvious to the Panel that the Discharge Summary was false ought to have been obvious to the Student. The problems with her address and the spelling of the Hospital’s name alone, and especially in combination with issues with the “doctor comment” outlined above should have alerted the Student to the falsification.

29. Moreover, even accepting the Student’s claim to the Dean’s Designate that it was her aunt who procured this Discharge Summary from the Hospital, the Student had both the obligation to obtain the necessary document to support her request and to ensure the veracity of the document. Given the importance of the document, she reasonably ought to have reviewed it and, in doing so, would have known it was falsified. The third element

of this academic offence was established.

30. Accordingly, after considering the evidence taken in its totality, the Panel found that allegations 1 and 2 of the Charges were supported.

31. Having been advised of these findings, the University withdrew allegation 3 of the Charges.

Sanction – The Position of the University

32. The University sought the following sanctions be imposed on the Student:

- a. A final grade of zero in ECO101 in Fall 2023;
- b. A final grade of zero in MAT135 in Fall 2023;
- c. A suspension from the University for a period of three years from the date of the Order; and
- d. A notation on the Student's academic record and transcript for a period of four years from a date of the Order.

33. The University also sought as part of the Order 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.

The Sanction Evidence

34. The University did not present any further evidence with respect to sanction.

Decision of the Tribunal on Sanction

35. The Panel heard submissions regarding the appropriateness of the sanctions and reviewed relevant past decisions of the Tribunal as submitted by the University. Those cases demonstrated a range of suspension from two to four years, with expulsion

reserved for the most serious cases. This range of suspension reflects consideration of several different factors in the cases, including the early admission to the offence, the number of offences and the student's history of academic misconduct, concerns about whether the false document had been purchased (invoking a commercial element), whether there is evidence of a likelihood of future repetition, and whether the student had engaged in the forgery themselves. As each case is different, these cases provide guidance only as to the appropriate sanction.

36. In making its disposition, the Panel also reviewed and considered the factors set out in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) as they applied to the circumstances of this case:

a. The character of the Student.

As the Student did not participate in the hearing, there is no evidence before the Panel regarding the Student's character other than the facts relating to this offence. Here, the Panel noted that the Student was young and in her first term at the University. The Student also appeared to appreciate the gravity of the circumstances when she attended at the Dean's Designate meeting, even though ultimately, she did not attend at the hearing.

b. The likelihood of a repetition of the offence.

There was little evidence of the likelihood of repetition. However, the fact that the Student submitted the same Discharge Summary on two separate occasions, January 9 and 20, 2024, was considered to be an aggravating circumstance. After a period of time to reflect on what she was providing to the University, the Student made a conscious decision to resubmit the same Discharge Summary, thereby elevating her actions from a single incident to repeat conduct. While this may not mean that the Student would repeat the offence again, the Student demonstrated a perseverance of her academic misconduct that was troubling.

c. The nature of the offence committed.

When students use forged notes, they undermine the integrity that the broader community puts in the University, including the medical community. As exemplified here, the forgery and submission of medical documentation can and do affect persons external to the University. Both Hospital staff and Dr. Gladys Chan expended time and energy in providing their assistance to the University in investigating this matter. The forgery of a physician's signature and the inclusion in the Discharge Summary of x-ray images procured from some unknown place implicates the medical community in this misconduct. While in this circumstance there was no evidence that the note had been purchased (which itself would have been aggravating), the nature of the offence itself is rendered more serious by these external effects.

d. Any extenuating circumstances surrounding the commission of the offence.

There is no evidence before the Panel of mitigating extenuating circumstances.

e. The detriment to the University occasioned by the offence.

As noted by this Tribunal in the *University of Toronto and X.T.* (Case No. 1080, September 29, 2020), the University must be able to rely and trust students to submit legitimate documentation to support accommodation and the ability to defer tests. Where students submit false documentation, they undermine the trust that the University must place in its students, and they jeopardize the confidence that the broader community puts on a degree conferred by the University.

f. The need to deter others from committing a similar offence.

General deterrence is an important factor in all cases. The University provided several cases in which forged medical certificates have been used to justify extensions or other accommodations. The use of falsified or forged documents constitutes a breach of trust, and the prevalence of this conduct is concerning. It is appropriate to send a strong message to students that this type of misconduct will be treated seriously.

37. The determination of an appropriate penalty depends on the assessment of these principles and factors considering the individual circumstances. There should also be a general consistency in the approach of a Panel to sanction, so that students are treated fairly and equitably. Here, the range of suspension in the cases provided was from two to four years, although the most similar cases fell in the range of two to three years.

38. While the fact that the Student was at the start of her academic career supported a suspension at the lower end of this range, the multiple findings, the gravity of the offence and the impact on the medical community, warranted a more serious sanction. The Panel also recognized that a sanction of two years and eight months would allow the Student to reapply to the University for the start of the Fall 2027 semester, if she so chose. After careful consideration of these factors, the Panel determined that a slightly shorter period of suspension and notation than sought by the University would appropriately recognize the seriousness of the offence, the Student's relative youth, and the Student's acknowledgement at the Dean's Designate meeting and in her emails about the seriousness of her conduct, all while also acting as an appropriate general deterrent.

39. Accordingly, at the conclusion of the hearing, the Panel made the following Order:

1. **THAT** the hearing may proceed in the absence of the Student;
2. **THAT** the Student is guilty of two counts of knowingly forging or in any other way altering or falsifying a document or evidence required by the University, or uttering, circulating or making use of such forged, altered or falsified document, contrary to Section B.I.1(a) of the Code;
3. **THAT** the following sanctions shall be imposed on the Student:
 - (a) a final grade of zero in ECO101H1 in Fall 2023;
 - (b) a final grade of zero in MAT135H1 in Fall 2023;
 - (c) a suspension from the University of Toronto for a period of two years and eight months from the date of the Order; and

(d) a notation on the Student's academic record and transcript for a period of three years and eight months from the date of the Order.

4. **THAT** 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 5th day of March, 2025.

Original signed by:

Cynthia Kuehl, Chair
On behalf of the Panel