

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on September 26, 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 -**

**K| Y ■ A ■ S ■**

**REASONS FOR DECISION**

**Hearing Date:** January 16, 2025, via Zoom

**Members of the Panel:**

Sarah Whitmore, Chair

Professor Jennifer Lake, Faculty Panel Member

Charles Buck, Student Panel Member

**Appearances:**

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

Jesse Wright, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hillson Tse, Counsel for the Student

**Hearing Secretary:**

Christina Amodio, Special Projects Officer, Office of Appeals, Discipline & Faculty Grievances

**In Attendance:**

**K| Y ■ A ■ S ■**

### **Introduction**

1. A hearing before the University Tribunal (the “Tribunal”) was convened on January 16, 2025 to consider the Charges (as defined below) against the Student, K Y A S (the “Student”).

### **The Charge**

2. The charges against the Student (the “Charges”) are as follows:

1. On or about April 23, 2024, you knowingly used or possessed an unauthorized aid, or obtained unauthorized assistance, in the final exam in BIOC39H3 (the “Course”), contrary to section B.I.1(b) of the Code.
2. In the alternative, on or about April 23, 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 an academic advantage in connection with the final exam in the Course, contrary to section B.I.3(b) of the Code.

### *Particulars*

3. The particulars of the offences charged are as follows:

1. At all material times, you were a student enrolled at the University of Toronto Scarborough.
2. In Winter 2024, you enrolled in BIOC39H3 (Immunology).
3. Students in the Course were evaluated on the basis of, among other things, a final exam worth 40% of their final grades.
4. On April 23, 2024, you wrote the final exam in the Course. You were not permitted to have any aids during the exam.
5. During the exam, you knowingly used and/or possessed an unauthorized aid, namely, a cell phone. You used the cell phone to take photographs of the exam questions and to send the questions to and receive answers from other individuals via WhatsApp.
6. By using and/or possessing a cell phone during the exam, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain an academic advantage.

### Agreed Statement of Facts

4. The hearing preceded on the basis of an Agreed Statement of Facts (the “ASF”), which was marked as Exhibit 1. A summary of the agreed facts follows.

5. In Winter 2024, the Student enrolled in BIOC39H3: Immunology (the “Course”), which was taught by Dr. Trisha Mahtani.

6. The Course syllabus advised that the University treats cases of cheating and plagiarism very seriously and reminded students that it is an academic offence to use or possess unauthorized aids during tests or exams. A copy of the syllabus is attached to the ASF at Tab D.

### ***Final Exam in the Course***

7. The final exam in the Course was held in-person on April 23, 2024 from 2:00pm to 5:00pm (the “Final Exam”). The Final Exam was worth 30% of the Student’s final grade.

8. The Student wrote the final exam in an accommodated setting at the same time as other students and with several invigilators present.

9. The Student signed a sign-in sheet for the exam, which included a Memorandum of Understanding acknowledging that “I understand that it is an academic offence to be in possession of (e.g., in my pocket) any unauthorized aid(s) or electronic devices including cell phones.” There was also a reminder about the prohibition on academic dishonesty in the Code of Behaviour on Academic Matters on the first page of the Final Exam.

10. Before the exam, students were told to place any electronic devices, including all cell phones, with their belongings in a plastic bag under their desk.

11. During the exam, several invigilators observed the Student behaving suspiciously. At approximately 4:20pm, the invigilators observed the student moving his hand between his papers in a “swiping” motion.

12. At approximately 4:21pm, two invigilators approached the Student, and observed a phone hidden between the papers. The Student said that he was not feeling well, had shortness of

breath, and wanted to call his parents. The invigilators told the Student they would get help for the Student but needed to see the papers.

13. One of the invigilators noticed that the Student had a phone, which was turned on, with his exam papers. The Student closed the applications that were open, and when he did, a Snapchat notification appeared on the screen. The invigilator told the Student that the incident would be documented and escorted the Student outside to get his medication.

14. The invigilator placed the Student's phone in a plastic bag and noticed a list of applications were showing notifications on the front screen and the phone was very hot.

15. The Student returned to the exam room and continued writing the exam.

16. At approximately 4:40pm, the Student finished writing the exam.

17. The invigilators recorded their observations of, and interactions with, the Student in an exam incident report. Immediately after the Student finished his exam, the invigilators asked the Student to stay behind to discuss what had happened. The Student agreed but asked to and was permitted to use the washroom first.

18. When the Student returned from the washroom, he met with an invigilator and the Test & Exam Coordinator, in a private room. The Student said that he had his phone with him because he did not realize it was in the jacket he was wearing. He said that he realized he had the phone about an hour earlier. He acknowledged that he should have come forward and let invigilators know that he had the phone.

19. The Student was then asked to turn on the phone and show the recently opened tabs. The Student cooperated and did so. The invigilator and the Test & Exam Coordinator saw approximately 20 photos of what appeared to be the exam on one of the opened tabs in his phone. The Student admitted to taking these photos during the exam.

20. The Student initially said that the reason he took the photos was so he could zoom in on them to better see the Final Exam.

21. The Student then opened the translator app, which the Student said translated the photos into Chinese.

22. The invigilator asked the Student to open the WhatsApp tab. The Student opened a WhatsApp chat which showed many received messages with multiple choice answers being provided to the Student and the Student's response in the chat.

23. The Student was asked if there were other students in the chat and he replied there were not, and that it was just his "tutor" who was helping him. In the chat, there appeared to be answers for all of the multiple-choice questions and some short answer questions. There were also forwarded messages with photos of the exam material that appeared to come from other chats. The Test & Exam Coordinator took photos of the WhatsApp chat.

24. The invigilator and Test & Exam Coordinator recorded their discussion with the Student in a memo to the Academic Integrity Office, which contains photos of the Student's phone including the photos that he took of the exam paper and the WhatsApp chat history. A copy of the memo and photos is Tab H to the ASF.

### ***Dean's Designate Meeting***

25. On June 3, 2024, the Student attended a meeting with Professor Lisa Harvey, Dean's Designate for Academic Integrity to discuss the allegation that he had obtained unauthorized assistance during the final exam in the Course. An Academic Integrity Assistant was also present and took notes at the meeting. Professor Harvey provided the Student with the Dean's warning contained in the Code.

26. At the meeting, the Student admitted that he used an unauthorized aid on the Final Exam. He explained that the previous year, he had an injury that led to a concussion. He said that he tried to register for disability services but was not able to register in time. He said that during the Exam, he had symptoms and took out his phone to use it as an aid.

### ***Admissions and acknowledgements***

27. In respect of the Final Exam, the student admits that:

1. He knew that he was not permitted to possess or use a cell phone during the Final Exam;
2. He did not place his cell phone under his desk or in his bag as required, but instead kept his cell phone on his person during the Final Exam;
3. His cell phone was turned on during the Final Exam in the Course, and he used his cell phone as an unauthorized aid and to obtain unauthorized assistance during, or to obtain some other academic advantage in connection with, the Final Exam;
4. He knowingly used and possessed an unauthorized aid, namely, his cell phone, in the Final Exam, contrary to section B.I.1(b) of the Code; and
5. In the alternative, if the Tribunal determines that his conduct was not captured by the offence under section B.I.1(b) of the Code, 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, contrary to section B.I.3(b) of the Code.

#### Findings on Charges

28. Following deliberations and based on the ASF and the Student's admissions, the Panel concluded that the charge #1 (as outlined in paragraph 2 above) had been proven with clear and convincing evidence on a balance of probabilities and accepted the guilty plea of the Student in respect of that charge. The Panel was advised that if the Tribunal convicts the Student on charge #1, the Provost would withdraw charge #2.

#### Penalty

29. The University submitted that the Tribunal should impose the following sanctions on the Student:

1. a final grade of zero in the Course;
2. a suspension from the University of Toronto beginning on January 16, 2025, and running until December 2029; and
3. a notation of the sanction on the Student's academic record and transcript for a period of six years, beginning on January 16, 2025.

30. The Student's position on sanction was that a three-year suspension, beginning after the current term concludes in April 2025, was the more appropriate sanction in this case. The Student is a credit away from being eligible to graduate and he is currently enrolled in a course that would permit him to obtain that final credit if the suspension begins in April 2025. As a result, the difference between the Student's position and the University's position is a difference of being able to convocate in June 2028 as opposed to June 2030, assuming the Student resumes taking courses as soon as the suspension ends in January 2030.

31. The Panel accepts that a multi-year suspension is warranted in this case. For the reasons outlined below, the Panel concludes that a three-year suspension and not an almost five-year suspension is the appropriate sanction in this case.

32. Neither party relied on any evidence in connection with the submissions on penalty. Instead, both parties relied on the ASF and prior Tribunal cases.

33. The University relied on numerous prior cases to support its position that an almost five-year suspension was warranted.

34. While the Panel is not bound by any prior Tribunal decision, prior decisions are helpful guidance in assessing appropriate sanctions and the Tribunal should strive to treat like cases alike with the goal of fostering consistency.

35. On review of the cases relied on by the University and the facts of the present case, the Panel finds that the prior cases, where a five-year suspension was imposed, do not support the University's position that an almost five-year suspension is appropriate in this case.

36. In all of the prior cases but one, the Student made a payment in connection with the unauthorized assistance he or she obtained. Paying to obtain unauthorized assistance is recognized as an aggravating factor as it suggests pre-meditation by the student and arguably a greater degree of sophistication and coordination for the offence. Here, there was no evidence of any payments being made by the Student nor any evidence of coordination by the Student with other students.

37. In addition, the University's position that an almost five-year suspension is warranted in this case depends, in part, on an argument that the Student's conduct in this case was conduct akin to impersonation where the student intends to do no meaningful work. However, the Panel notes that impersonation is a separate, more serious offence under the Code than the offence of obtaining unauthorized assistance. Impersonation was not the offence charged here and, as a result, the Panel views the impersonation cases as less relevant in assessing the appropriate sanction in this case where the offence was unauthorized assistance.

38. The panel also considered the foundational decision of *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976) in assessing the sanction sought by the University. In particular, the panel turned its mind to the following factors:

- 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.

39. On the Student's character, the University acknowledged that the Student's decision to enter into the ASF and to make the admissions that he did, at an early time in the process, saved the University time and expense. The Student's admissions of guilt also demonstrate that he has taken responsibility for his actions. These are all positive factors in assessing the Student's character.

40. The fact that the student did not enter into a joint submission on penalty is not relevant to assessing sanction. The absence of a joint submission on penalty does not weigh against the Student's character nor is it an aggravating factor. A student is not required to enter into an agreed statement of facts nor a joint submission on penalty. Imposing a more serious sanction on a student where they have chosen not to enter into such an agreement risks creating procedural unfairness. A student should not be forced to choose between facing a more serious sanction because he or she refuses to enter into a joint submission on penalty and accepting a more serious sanction than he or she believes is warranted because entering into a joint submission on penalty will be seen as a mitigating factor.



41. In considering whether the Student is likely to re-offend, the fact that this was the Student's first offence weighs against an increased likelihood that the Student will re-offend. This also suggests that the conduct was out of character for the Student.

42. With respect to the nature of the Student's offence, obtaining unauthorized assistance is an offence that is on the most serious end of the spectrum of Code offences because it is an offence that breaches the University's trust relationship with its students.

43. The very serious nature of the offence of obtaining unauthorized assistance is also relevant to the detriment caused to the University by this offence. Offences of this kind strike at the heart of the University's core values of honesty and integrity. These offences harm the institution and the academic process. The Student's conduct here was a serious breach of academic integrity and can be interpreted as an attempt to defraud the University.

44. Given the serious nature of the offence and the detriment caused to the University, the penalty for what occurred in this case must act as a general deterrent against the serious behaviour that the Student engaged in.

45. The Student asked that a medical condition he has causing him headaches ought to be considered an extenuating circumstance. The Student raised this issue in the Dean's Designate meeting. This is reflected in the ASF. However, the Student led no evidence to support the existence of a medical condition nor to explain why it was relevant to his conduct. As a result, the Panel did not find that any extenuating circumstances were established.

46. Finally, on the issue of when the suspension should begin, the Panel notes that the Discipline Appeals Board has previously held that sanctions should commence on the date of the Tribunal's Order (which in this case was January 16, 2025). While exceptional circumstances may exist justifying a decision to postpone the commencement of a sanction, no such circumstances were present in this case. The fact that the Student is a credit away from graduating, and currently enrolled in a course that could earn him that final credit, is not an exceptional circumstance and is instead more a factor of the timing of when this hearing occurred. As a result, the Panel concludes that the sanction will begin on January 16, 2025.

47. Having regard to the above, and based on its review of similar cases presented by counsel, particularly the decision in the *University of Toronto and A.M.* (Case No. 1571, October 8, 2024) relied on by the Student, the Panel makes the following order:

- a) The Student is guilty of three counts of the academic offence of knowingly obtaining and/or providing unauthorized assistance, contrary to section B.I.1(b) of the Code of Behaviour on Academic Matters.
- b) The following sanctions shall be imposed on the Student:
  - i. a final grade of zero in BIOC39H3;
  - ii. a three-year suspension from the University of Toronto, commencing on January 16, 2025; and
  - iii. a notation of the sanction on the Student's academic record and transcript for a period of four years, beginning on January 16, 2025.
- c) This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this 16th of April, 2025,

Original signed by:

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Sarah Whitmore, Chair  
On behalf of the Panel