

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic misconduct made on November 3, 2021,

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 1995,

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:

THE UNIVERSITY OF TORONTO

- and -

Z ██████ X ██████

REASONS FOR DECISION

Hearing Date: July 12, 2022, and August 24, 2022, via Zoom

Members of the Panel:

Ms. Alexi Wood, Chair
Professor Seamus Ross, Faculty Panel Member
Ms. Giselle Dalili, Student Panel Member

Appearances:

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

Hearing Secretary:

Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

Ms. Z ██████ X ██████

A. OVERVIEW

1. On July 12, 2022, a Panel of the University Tribunal convened by videoconference to hear the University of Toronto's (the "University") allegations that Z [REDACTED] X [REDACTED] (the "Student") violated any or all of sections B.I.1(d), B.I.1(b), and B.I.3(d) *Code of Behaviour on Academic Matters* (the "Code").
2. The Student did not attend the hearing. The Panel found that the Student had reasonable notice of the hearing and the charges pursuant to the *Statutory Powers Procedure Act* ("SPPA")¹ and The University Tribunal's *Rules of Practice and Procedure* (the "Rules"). The hearing commenced in the Student's absence.
3. After Assistant Discipline Counsel began presenting the University's case, the Panel raised concerns that the evidence presented may not be sufficient for the Provost to meet its burden. The Panel adjourned the hearing to August 24, 2022 and issued an interim order to allow the Provost the opportunity to provide additional evidence regarding the allegations.
4. Assistant Discipline Counsel prepared a supplementary disclosure brief, which was served on the Student by email to the email address for the Student in the Repository of Student Information ("ROSI").
5. The hearing reconvened before the same Panel on August 24, 2022. At the conclusion of the hearing, the Panel found that the Student was guilty of one count of knowingly obtaining unauthorized assistance, contrary to section B.I.1(b) of the Code.

¹ RSO 1990, c S.22

6. The Panel made the Order outlined below with reasons to follow. These are the reasons.

B. THE CHARGES

7. By letter dated November 3, 2021, the University outlined the charges against the Student as follows:

- a. On or about October 23, 2020, the Student did knowingly represent as her own an idea or expression of an idea or work of another in Problem Set 3, which she submitted in MAT237Y1: Advanced Calculus² (the “Course”), contrary to section B.I.1(d) of the Code.
- b. In the alternative, on or about October 23, 2020, the Student knowingly obtained unauthorized assistance in connection with Problem Set 3, which she submitted in the Course, contrary to section B.I.1(b) of the Code.
- c. In the further alternative, on or about October 23, 2020, 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 Problem Set 3, which she submitted in the Course, contrary to section B.I.3(b) of the Code.

Particulars

- a. At all material times the Student was enrolled at the University of Toronto in the Faculty of Arts & Science.
- b. In Fall 2020 and Winter 2021, the Student was enrolled in the Course.
- c. Students in the Course were evaluated on the basis of, among other things, 9 problem sets.
- d. On or about October 23, 2020, the Student submitted Problem Set 3 in the Course.

² The Charges mistakenly identified the Course as MAT137Y1. At the hearing, Assistant Discipline Counsel corrected that error and clarified that the Course was MAT237Y1. There was also confusion about the title of the Course. In his affidavit, Dr. Zaman described the Course as MAT237: Multivariable Calculus with Proofs. The Student’s academic record describes the Course as MAT237Y1: Advanced Calculus. At the hearing, Dr. Zaman testified that the University had recently changed the name of the Course and it was now MAT237Y1: Advanced Calculus.

- e. The Student submitted Problem Set 3:
 - (i) to obtain academic credit;
 - (ii) knowing that it contained ideas, expressions of ideas or work which were not her own, but were the ideas, expressions of ideas or work of others, including the author of an answer that was posted on Chegg.com, which is a website that allows subscribers to post questions on the site and to view questions and answers posted on the site (the “Chegg Source”); and
 - (iii) knowing that she did not properly reference the ideas, expressions of ideas or work that she drew from the Chegg Source or from others.
- f. The Student knew that the Chegg Source was not an authorized source to which she was permitted to refer in completing Problem Set 3.
- g. The Student knowingly obtained unauthorized assistance in Problem Set 3 from the Chegg Source or from others.
- h. The Student knowingly submitted Problem Set 3 with the intention that the University of Toronto rely on it as containing her own ideas or work in considering the appropriate academic credit to be assigned to her work.

C. FINDING

- 8. The Provost agreed that if the Panel found the Student to have committed the offence listed in paragraph 7(a), then the Provost would withdraw the remaining charges listed in paragraph 7 above.
- 9. After hearing the submissions of Assistant Discipline Counsel, the Panel found that the Student had committed the offence listed in paragraph 7(a).
- 10. As a result of this finding, the Provost agreed to withdraw the remaining charges listed in paragraph 7 above.

11. At the conclusion of the hearing, the Panel ordered that:
1. the Student receive a final grade of zero in the course MAT237Y1 in Fall 2020 and Winter 2021;
 2. the Student be suspended from the University of Toronto from the date of the order for a period of two years, ending on August 23, 2024;
 3. a notation of the sanction be placed on the Student's academic record and transcript from the date of the order for a period of three years, ending on August 23, 2025; and
 4. this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

Paragraph 11(a) through (d) will be referred to as the Penalty Ordered.

D. NOTICE

12. Section 6 of the SPPA requires reasonable notice of the hearing be provided to the parties. Rule 9 of the Rules provides for the methods of service of documents, including charges and notices of hearing. This includes personal service, sending a copy of the document by courier to the student's mailing address contained in the "ROSI", or sending a copy of the document by email to the email address contained in ROSI.

13. The University's *Policy on Official Correspondence with Students* requires that students provide the University with their current postal and email address through ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

14. Section 7 of the SPPA and rule 17 of the Rules allow this tribunal to proceed in the absence of a student where notice has been given. When proceeding in the absence of a student, the University must demonstrate it took reasonable steps to notify the student of the charges and of the hearing. The University does not need to prove actual notice.³

15. The Student was neither present nor represented at the hearing.

16. The University filed evidence regarding service and attempts to contact the Student. That evidence included:

1. On November 3, 2021, the Office of the Vice-Provost, Faculty and Academic Life served the charges in this matter on the Student by email to the email address the Student provided in ROSI.
2. On November 3, 2021, Samanthe Huang, an Administrative Assistant with the Office of Appeals, Discipline and Faculty Grievances served the Student with a letter regarding the charges that were filed against her, together with a copy of the charges, the Code, the Rules and a pamphlet for Downtown Legal Services. Ms. Huang served the Student with these documents by email to the email address the Student provided in ROSI. Ms. Huang did not receive a response or a bounce back message.
3. On February 1, 2022, Tina Lie, Assistant Discipline Counsel, emailed a disclosure letter, a disclosure brief, and a copy of the University's *Policy on Official*

³ *The University of Toronto and O.E.R.* (Case No 981, March 4, 2019) at para 37.

Correspondence with Students to the Student. Ms. Lie attached another copy of the charges. The email was sent to the email address the Student provided in ROSI.

4. On May 24, 2022, Ms. Lie emailed the Student to schedule a hearing date.
5. Ms. Lie did not receive a response to her May 24, 2022 email. Receiving no response, Ms. Lie emailed the Student on June 7, 2022, advising the Student she would request a hearing date for July 12, 2022.
6. On June 7, 2022, Ms. Huang served the Student with the Notice of Electronic Hearing for the hearing on Tuesday, July 12, 2022, at 1:45 p.m. The email was sent to the email address the Student provided in ROSI.
7. On June 13, 2022, Kimberly Blake, Legal Assistant to Ms. Lie, called the phone number that the Student had provided in ROSI. The call went immediately to a recording stating: “The customer you are trying to reach is unavailable. Please try again at a later time.” Ms. Blake called the number again that same day multiple times and the call went to a busy signal.
8. Ms. Blake called that same phone number again twice on June 14, 2022. Both calls went directly to a busy signal.
9. On June 29, 2022, Ms. Lie’s office delivered a package by courier to the mailing address and permanent address provided by the Student in ROSI.⁴ The courier package

⁴ The same address is listed for both the mailing and permanent addresses.

contained correspondence from Ms. Lie and the Notice of Electronic Hearing and Charges.

10. Ms. Blake received confirmation that the package was delivered on June 30, 2022 and was signed for by “Raveena.”

11. On July 4, 2022, Ms. Lie emailed the Student copies of the affidavits on which the Provost intended to rely at the hearing.

17. None of the emails were returned and there were no bounce backs received to any of the emails. The office of Assistant Discipline Counsel did not receive any communication from the Student.

18. The University also filed evidence from Andrew Wagg, an Incident Report Architect at Information Security, Information Technology Services at the University. Mr. Wagg stated on July 4, 2022, he checked the portal records to determine the last time someone accessed the Student’s mail.utoronto.ca email. According to Mr. Wagg, that email was last accessed on April 13, 2022. This date is after the initial correspondence serving the charges (November 3, 2021) as well as Ms. Lie’s email sending the disclosure letter and disclosure brief (February 1, 2022) but before the Notice of Electronic Hearing was served (June 7, 2022).

19. The University is not required to provide actual notice. This Panel finds that the University complied with the Rules and has demonstrated that it took reasonable steps to notify the Student of the charges and of the hearing.

20. The University emailed the Student the required documents to the email address in ROSI. Ms. Blake attempted to call the Student at the phone number provided by the Student in ROSI.

The Student is required to check her email account, and it was accessed after the Student was served with the charges and after Ms. Lie emailed the disclosure brief, but before the Notice of Electronic Hearing was served.

21. The University sent a copy of the Charges and the Notice of Electronic Hearing by courier to the address listed by the Student in ROSI. The package was accepted by “Raveena.” There is no evidence before this Panel about who Raveena is or their relationship to the Student.

22. The University complied with Rule 9. Indeed, the University took extra steps by attempting to call the Student and sending the materials by courier to the address in ROSI. The Panel appreciates these extra steps taken, given the lack of evidence that the Student had actual knowledge of the hearing.

23. The Panel determined it would proceed to hear the case on its merits in the Student’s absence.

E. FACTS

24. At all material times, the Student was registered at the University of Toronto.

25. The Student first registered at the University in the Fall 2020 term. She subsequently withdrew from all courses in the Fall 2020 and Winter 2021 terms, with the exception of the Course because she was not permitted to withdraw while allegations of academic misconduct were pending.

26. In the Fall 2020 and Winter 2021 terms, the Student was enrolled in MAT237Y1: Advanced Calculus.

27. As of June 7, 2022, the Student had not completed any credits.

The Problem Sets

28. The University filed the affidavit of Asif Zaman, an Assistant Professor in the Department of Mathematics at the University. At the request of the Panel, Dr. Zaman also testified at the hearing.

29. According to Dr. Zaman's evidence, which is uncontested, he was one of three instructors and the course coordinator for the Course. The Course is designed to teach students how to actively read a textbook with quantitative theory and generate critical questions, apply advanced calculus tools and problem-solving techniques, and communicate mathematics rigorously and intuitively. Students in the Course were reminded of the importance of academic integrity.

30. Students in the Course were required to submit 9 problem sets. The best 7 of the 9 problem sets would count towards each student's final mark, with each of those 7 problem sets counting for 8% of the final mark (for a total cumulative of 56% of each student's final mark).

31. The Course outline addressed academic integrity. It stated:

Collaboration on problem sets

Discussing exercises with your other classmates is a useful and mathematically healthy practice. You will have the option to submit problem sets individually or with a partner.

If you submit individual work then, when it comes time to write up your solutions for submission, you must present solutions in your own words. To be certain, work together with other classmates in the discovery phase, but do not work together when you are writing your solutions, never share your solutions with your peers, and never have the solution written by a friend in front of you.

If you submit group work then the same rules above apply except you can write solutions with your partner. However, **do not "split the tasks"**. You must work on all aspects together in both the discovery and writing phase. Both of you should solve problems together and debate the solutions. One of you can write up a draft of a solution but both of you should understand, review, and edit every solution. Doing otherwise amounts to academic misconduct, and the penalties are severe.

32. In other words, students were allowed to submit their work individually or with a partner. If students submitted their work individually, they were allowed to discuss their work and proposed plan with other students during the “discovery phase,” but they had to write their solutions on their own. During the “discovery phase,” students were permitted to talk to each other about the problems, but were not to share solutions. Students submitting individual work were expected to write up their own answers.

33. If students were submitting their work with a partner, they were required to prepare all work together and submit one problem set for the group.

34. The instructions for Problem Set 3 contained an academic integrity statement that specifically required students to confirm that they had read and understood the rules for collaboration on problem sets, reproduced above. The statement further confirmed that the student understood the consequences of violating the academic integrity policy, and that they had not violated the rules in writing the problem set.

The Student’s Problem Set 3

35. On October 3, 2020, the Student submitted her Problem Set 3.

36. In reviewing the Student’s answer to Question 7 of Problem Set 3, the instructors determined that the Student’s answer was similar to the answer for Question 7 that the instructors had already found on Chegg.com. Chegg.com is a subscription-based website where users can post problems that are then answered by so called experts.

37. Dr. Zaman provided affidavit evidence and testified at the hearing.

38. At the hearing, Dr. Zaman testified that while Chegg.com is not specifically referenced in the instructions or the academic integrity statement, by using Chegg.com, a student is using the work of another. Students are expected to understand that they are not to use a solution set drafted by a third party as the basis for their solution. Dr. Zaman also stated that the use of Chegg.com would not be acceptable in the “discovery phase” because Chegg.com provides solutions – it is not a discussion about the process to arrive at a solution, which is what is permissible in the “discovery phase.”

39. In his affidavit, Dr. Zaman provided a side-by-side table comparing the Student’s Question 7 answer and the Chegg.com Question 7 answers. He stated that he “considered the similarities between the Student’s answer and the Chegg.com answer to Question 7 of Problem Set 3 to be suspicious”⁵ for several reasons. These included that the “Student’s answer was incomplete and incoherent compared to the Chegg.com answer,” which led Dr. Zaman to conclude that the “Student had selected certain parts of the Chegg.com solution at random.”⁶ Dr. Zaman also stated the Student and Chegg.com both used the same variables for defined terms including G to represent radius, instead of the typical variable R or r .⁷ Instead, the Student and Chegg.com used r to represent maximum, where typically M or m is used.⁸ Finally, Dr. Zaman stated that the same unusual errors occurred in both the Student’s and Chegg.com Question 7.⁹

40. Dr. Zaman’s affidavit concluded that there were “countless ways to approach Question 7 of Problem Set 3. The fact that the Student’s answer followed the same structure of the Chegg.com

⁵ Para 16.

⁶ Para 16(a)

⁷ Para 16(b) and (c)

⁸ Para 16(d)

⁹ Para 16(e)

answer and contained the same unique choices, was, according to Dr. Zaman, unlikely to have been a coincidence.¹⁰

41. In reviewing the side-by-side comparison, the Panel noted significant differences between the Student's answer and the Chegg.com answer. From the side-by-side comparison and the evidence in Dr. Zaman's affidavit, the Panel had concerns about its ability to conclude that the student had knowingly represented as her own an idea or expression of an idea or work of another in Question 7 of Problem Set 3.

42. As a result, the Panel adjourned the hearing to allow the Provost the opportunity to provide additional evidence regarding the allegations.

43. Dr. Zaman subsequently provided a supplementary affidavit. In this affidavit, Dr. Zaman further particularized the similarities between the Student's Question 7 answer and the Chegg.com answer. He also outlined that in addition to the Student's answer, 11 students submitted 8 answers¹¹ to Question 7 of Problem Set 3 that the instructors flagged as suspiciously similar to the Chegg.com answer (the "Additional Chegg Answers").

44. Dr. Zaman stated that the errors in the Student's answer to Question 7 and the errors in the Additional Chegg Answers were similar. Finally, Dr. Zaman stated that no other students, apart from the Student and the students who submitted the Additional Chegg Answers, made those specific errors.

¹⁰ Para 18

¹¹ There were 8 answers submitted by 11 students because some of the problem sets were submitted in pairs.

45. When the hearing reconvened, Dr. Zaman provided additional evidence about the Student's errors in Question 7. He stated that in her solution, she defined Σ as equal to 1. Dr. Zaman stated that this is a fundamental error that means that the solution cannot work. The Chegg.com answer made that same error, as did many of the Additional Chegg Answers.

46. Dr. Zaman also testified that the students who had submitted the Additional Chegg Answers were questioned about their answers. The vast majority admitted to receiving unauthorized assistance, including those students who had also defined Σ as equal to 1.

47. Assistant Discipline Counsel argued that it was more likely than not that the Student had committed the offence because:

1. The errors contained in her Question 7 answer were the same as the errors in the Chegg.com answer. Those errors are unusual and unlikely to be coincidental.
2. Many of the errors in her Question 7 were the same as the errors in the Additional Chegg Answers.
3. Apart from the Student and the students who submitted the Additional Chegg Answers, no other student submitted solution sets containing those specific errors.
4. The students who submitted Additional Chegg Answers where Σ was defined as equal to 1 admitted to receiving unauthorized assistance.
5. The majority of students who submitted the Additional Chegg Answers admitted to receiving unauthorized assistance.

F. FINDING OF GUILT

48. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the Student committed the academic offence charged.¹²

49. As Assistant Discipline Counsel argued, it is not for this Panel to imagine *if* some other possible explanation exists. This Panel must determine if it is more likely than not that the similarities arose because of unauthorized assistance.

50. The Panel concludes that the University has established that the Student is guilty of academic misconduct as outlined in the charges at paragraph 7(a) of these reasons. As a result of this finding, the University withdrew the charges outlined in paragraph 7(b) and 7(c) of these reasons.

G. PENALTY

51. The University sought the sanctions in the Penalty Ordered, outlined in paragraph 11 above.

52. Assistant Discipline Counsel submitted that this penalty is in keeping with past decisions of this Tribunal and appropriately considers the six factors outlined in *University of Toronto and Mr. C.* (Case No 77-3, November 5, 1976) which are:

1. the character of the person charged;
2. the likelihood of a repetition of the offence;
3. the nature of the offence committed;

¹² Case No. 1102, para 5.

4. any extenuating circumstances surrounding the commission of the offence;
5. the detriment to the University occasioned by the offence; and
6. the need to deter others from committing a similar offence.

53. While no evidence was filed on the issue of penalty, Assistant Discipline Counsel submitted that under the first three factors, the Student had not responded to any correspondence and had not participated in the proceedings. She submitted that there was no evidence before the Panel to demonstrate that the Student was willing to accept responsibility for her actions. Similarly, the Student had not provided any evidence regarding extenuating circumstances.

54. With respect to the last three factors, Assistant Discipline Counsel submitted that plagiarism is a serious offence “that strikes at the heart of academic integrity.”¹³ It requires a strong sanction that reflects the harm caused and conveys the seriousness of the misconduct to others.

55. Assistant Discipline Counsel argued that the penalty sought is in keeping with similar cases of this Tribunal. In *University of Toronto and D.K.*,¹⁴ the student used an unauthorized aid in an exam and accessed Chegg.com. In that case, it was the student’s first offence and the student did not participate in the proceeding. The student received a zero in the course, a two-and-a-half-year suspension, and a notation was made on the student’s transcript to graduation.

56. In *University of Toronto and Y.L.*,¹⁵ the student plagiarized an assignment by using an answer from Chegg.com. It was the student’s first offence, and the student did not participate in

¹³ See *University of Toronto and D.K.* (Case No 1119, July 21, 2021) at para 70.

¹⁴ Case No. 1119, July 21, 2021.

¹⁵ Case No. 1133, November 29, 2021.

the hearing. The student received a zero in the course, a two-year suspension, and a three-year notation.

57. Assistant Discipline Counsel also submitted that the Panel ought to consider the commercial nature of Chegg.com as an aggravating factor in penalty.

58. The Student did not participate in the hearing, and therefore chose to forgo her opportunity to provide evidence on mitigation for penalty. The Panel notes that the Student had attempted to withdraw from her courses. The Panel has no evidence before it to explain this action. Had the Student participated and provided an explanation, the outcome may have been different.

59. The penalty sought is not at the high end of the range, and, in light of the surrounding circumstances, appropriately so.

H. CONCLUSION

60. This Panel orders that:

1. The Hearing may proceed in the absence of the Student.
2. The Student receive a final grade of zero in the course MAT237Y1 in Fall 2020 and Winter 2021;
3. The Student be suspended from the University of Toronto from the date of the order for a period of 2 years, ending on August 23, 2024;
4. A notation of the sanction be placed on the Student's academic record and transcript from the date of the order for a period of 3 years, ending on August 23, 2025; and

5. This case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

Dated at Toronto at this day of December 5, 2022

Original signed by: _____

Ms. Alexi Wood, Chair
On behalf of the Panel