

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on September 21, 2022, and July 20, 2023,

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 amended S.O. 1978, c. 88

BETWEEN:

UNIVERSITY OF TORONTO

- and -

Z [REDACTED] L [REDACTED]

REASONS FOR DECISION

Hearing Date: August 14, 2023

Members of the Panel:

Johanna Braden, Chair
Professor Joseph Clarke, Faculty Panel Member
Matthaeus Ware, Student Panel Member

Appearances:

Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Joseph Berger, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Samanthe Huang, Coordinator and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not In Attendance:

Z [REDACTED] L [REDACTED]

1. The Trial Division of the University Tribunal was convened on August 14, 2023, to consider charges brought by the University of Toronto (the “University”) against Z██████ L██████ (the “Student”) under the *University of Toronto Code of Behaviour on Academic Matters, 2019* (the “Code”).

Preliminary Issue: Proceeding in the Absence of the Student

2. As contemplated by the Notice of Virtual Hearing, the hearing began on August 14, 2023, at 1:45 pm. The Student was neither present nor represented. The University filed a consent form signed by the Student in which he attested (among other things) that he had signed an Agreed Statement of Facts (“ASF”), an Agreed Statement of Facts on Penalty (“ASFP”) and a Joint Submission on Penalty (“JSP”), and that he did not wish to attend or participate further in this proceeding. He requested that the Tribunal proceed in his absence, and waived his right to any further notice of this hearing.

3. The Student further attested that he signed the consent form freely and voluntarily, knowing of the consequences. Accordingly, the Tribunal proceeded with the hearing in the Student’s absence.

The Charges and Particulars

4. There were two sets of charges against the Student. The first set of charges is dated September 21, 2022 (the “First Charges”), and the second set of charges is dated July 20, 2023 (the “Second Charges”).

5. The First Charges and particulars are as follows.

1. On or about December 17, 2021, you knowingly represented as your own an idea or expression of an idea or work of another in the final exam in CSCA20H3 (the “Course”), contrary to section B.I.1(d) of the Code.
2. In the alternative, on or about December 17, 2021, you knowingly obtained unauthorized assistance in connection with the final exam in the Course, contrary to section B.I.1(b) of the Code.
3. In the further alternative, on or about December 17, 2021, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with the final exam in the Course, contrary to section B.I.3(b) of the Code.

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 Fall 2021, you enrolled in CSCA20H3 (Introduction to Programming).
3. Students in the Course were evaluated on the basis of, among other things, a final exam, worth 20% of their final grades. The final exam was a take-home exam, which students were required to complete entirely on their own.
4. On or about December 17, 2021, you submitted your final exam in the Course.
5. You submitted the final exam:
 - (a) to obtain academic credit;
 - (b) knowing that it contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including other students in the Course, M.Z., Y.K.Z. and D.J. (the “Other Students”), a so-called “cram school” or “tutoring” service, or others; and

(c) knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the Other Students, the so-called “cram school” or “tutoring” service or others.

6. You knowingly aided, assisted, abetted, counselled, procured or conspired with the Other Students, the so-called “cram school” or “tutoring” service or others to commit the offence of plagiarism in the final exam.

7. You knew that you could not consult with others when completing the final exam. You knowingly obtained unauthorized assistance on the final exam from the Other Students, the so-called “cram school” or “tutoring” service or others, and/or aided, assisted, abetted, counselled, procured or conspired with the Other Students or others to obtain unauthorized assistance in the final exam.

8. You knowingly submitted the final exam in the Course with the intention that the University of Toronto Scarborough rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

6. The Second Charges and particulars are as follows.

1. On or about April 12, 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 Illness Form purportedly from Dr. Dennis Bay, Humber River Hospital, dated April 12, 2023, which you submitted in support of petition #38388 to defer writing the final exam for LINB09H3, contrary to section B.I.1(a) of the *Code*.

2. On or about April 14, 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 Illness Form purportedly from Dr. Dennis Bay, Humber River Hospital, dated April 12, 2023, which you submitted in support of petition #38476 to defer writing the final exams for LINB10H3 and LINA02H3, contrary to section B.I.1(a) of the *Code*.

3. In the alternative to each of Charges #1 and #2, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not

otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in connection with petition #38388 and petition #38476, which you submitted to defer writing the final exams for LINB09H3, LINB10H3 and LINA02H3, contrary to section B.I.3(b) of the *Code*.

The particulars related to the charges are as follows:

1. At all material times, you were a registered student at the University of Toronto Scarborough.
2. On April 12, 2023, you submitted a Verification of Illness (VOI) Form in support of petition #38388 to request a further deferral of the final exam for the Fall 2022 course LINB09H3, which you had previously deferred.
3. On April 14, 2023, you submitted the same VOI Form in support of petition #38476 to request a deferral of the final exams for the courses for LINB10H3 and LINA02H3.
4. The VOI forms you submitted in support of petition #38388 and petition #38476 were purportedly signed and stamped by Dr. Dennis Bay, License #77650, of Humber River Hospital, dated April 12, 2023.
5. The VOI forms were forged, altered or falsified. Dr. Bay did not treat you, fill out, sign or the stamp the VOI forms.
6. You knew that the VOI forms that you submitted were forged, altered or falsified when you submitted them.
7. You knowingly submitted the VOI forms:
 - (a) understanding that the University of Toronto Scarborough required evidence to be presented in order to obtain the academic accommodation or relief you sought;
 - (b) with the intention that the University of Toronto Scarborough rely on them in considering whether or not to provide you with the academic accommodations or relief you requested; and

(c) in an attempt to obtain an academic advantage.

The Evidence

7. Although the Student did not attend the hearing, he admitted the charges in writing through a signed ASF. Because the Student's admissions were made belatedly, the ASF did not contain a thorough recitation of the relevant facts. Rather, the parties agreed to submit affidavit evidence to establish the charges.

(a) The First Charges

8. In respect of the First Charges, the University submitted two affidavits: one from Brian Harrington, Professor, Teaching Stream in the Department of Computer and Mathematical Sciences, at the University of Toronto Scarborough; and one from Professor Anya Tafliovich, Dean's Designate for the administration of the Code at the University of Toronto Scarborough. The Student attested in writing that he accepts the evidence of both affiants, agrees with the facts set out therein, and waives his right to cross-examine the affiants.

9. Briefly, the evidence of Professor Harrington was that the Student was in his Introduction to Programming Course in the Fall 2021 term. The final exam was a four-hour take-home test, and students were expected to complete it entirely on their own. Students were provided with "starter code" and required to complete the code as part of the final exam.

10. An online program used by Professor Harrington detected marked similarities between the code submitted by the Student and the code submitted by the three Other

Students. The similarities were suspicious for various reasons. Much of the similar code was distinctive, unorthodox, non-standard, and not taught in the course. All four final exams contained the same distinctive errors. Overall, given the nature and degree of similarities in the codes submitted by the Student and the three Other Students, Professor Harrington found it unlikely that the similarities were coincidental. He escalated the matter to the Dean's Designate for Academic Integrity.

11. Professor Tafliovich was the Dean's Designate who investigated Professor Harrington's allegations. She contacted all four students involved and set up Dean's Designate meetings, as contemplated by the Code. The Other Students all admitted to committing the offence of "unauthorized assistance" on the final exam at the Dean's Designate meetings. Each of the Other Students admitted to using online external "tutoring services" (or "cram schools") during the final exam period which provided them with instructions on how to answer the final exam. Each of the Other Students were given a sanction of a grade of zero on the final exam, and a notation of this sanction on their academic record for a period of one year.

12. The Student met with the Dean's Designate on June 21, 2022. In contrast to the Other Students, the Student denied at the Dean's Designate meeting that he had committed an academic offence. The Student said he obtained online assistance from a "personal teacher" who helped him prepare before the final exam was distributed, but not during the final exam itself. The Student was unable to explain the similarities between his final exam and the final exam of the Other Students.

13. The Student has since admitted that he was not truthful at the Dean's Designate meeting. In the ASF, the Student admitted in writing that he:

- (a) knew that he could not look at anyone else's solutions or use any external resources, including websites, when completing the final exam;
- (b) searched for solutions to the final exam on the internet during the four-hour exam period;
- (c) knowingly obtained unauthorized assistance on the final exam, contrary to section B.I.1(b) of the Code;
- (d) knowingly submitted the final exam with the intention that the University of Toronto Scarborough rely on it as containing his own idea or work in considering the appropriate academic credit to be assigned to his work; and
- (e) knowingly represented as his own an idea or expression of an idea or work of another in the final exam, contrary to section B.I.1(d) of the Code.

(b) The Second Charges

14. In respect of the Second Charges, the University submitted a further two affidavits: one from Sheryl Nauth, Academic Integrity Assistant in the Office of the Vice-Principal Academic and Dean at the University of Toronto Scarborough; and one from Dr. Dennis Bay, physician at the Humber River Hospital, in Toronto, Ontario. The Student attested in writing that he accepts the evidence of both affiants, agrees with the facts set out in their affidavits, and waives his right to cross-examine the affiants.

15. The affidavit evidence shows that in Winter 2023, the Student was scheduled to write three final exams during the April 2023 exam period. One exam (scheduled for April

12, 2023) was an exam deferred from the previous academic term, and the other two exams (both scheduled for April 14, 2023) were for courses the Student was taking in the Winter 2023 term. In order to petition to defer exams at the University, students are required to submit petition requests through an online portal.

16. On April 12, 2023, the Student submitted an online petition request to defer his exam that day for medical reasons. On April 14, 2023, the Student submitted another online petition request to defer his two exams that day for medical reasons. For all three requests, the Student emailed a verification of illness form to support his petitions. The verification of illness form was purportedly signed and stamped by Dr. Dennis Bay, License #77650, of Humber River Hospital, dated April 12, 2023.

17. On June 12, 2023, the Assistant Registrar, Petitions, in the Office of the Registrar, reached out to Dr. Dennis Bay via email. The email attached the verification of illness form. The Assistant Registrar addressed Dr. Bay as follows.

Hello Dr. Bay

If you recall, we connected at the end of February regarding a fraudulent medical note that was submitted at that time.

We found another note that was recently submitted again with your name.

Patient DOB: [REDACTED]

Could you kindly confirm if this note was written by you and if you saw the subjected mentioned patient.

18. Dr. Bay replied the next day, June 13, 2023. The evidence of Dr. Bay is that the verification of illness form submitted by the Student is an utter forgery. Dr. Bay did not

write or authorize it. He does not own a stamp with his name, address and CPSO number. The handwriting is not his. He was not working at the Humber River Hospital the week of April 12, 2023. He does not have and has never had a patient with the same name as the Student. The Humber River Hospital does not have and has never had a patient with the same name as the Student.

19. On July 4, 2023, the Student attended a Dean's Designate meeting in respect of the allegation that he submitted a fraudulent medical note in an effort to defer three of his final exams. The Student denied the allegation, and asserted that he had visited Dr. Bay in order to obtain the verification of illness form.

20. As with the First Charges, the Student now agrees he was not truthful with the Dean's Designate. In the ASF, the Student admitted in writing that he:

- a. never was a patient of Dr. Bay at the Humber River Hospital in Toronto, Ontario;
- b. did not see Dr. Bay as a patient on April 12, 2023;
- c. submitted a verification of illness form dated April 12, 2023, purportedly signed and stamped by Dr. Bay, in support of his three petitions to defer writing three final exams, which was forged, altered or falsified; and
- d. 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 the Verification of Illness form dated April 12, 2023, purportedly signed and stamped by Dr. Bay, contrary to section B.1.3(a) of the Code.

Decision of the Tribunal on Charges

21. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the Student has committed the academic offences as charged.

22. In this case, the Student admitted three charges of violating the Code. Although the Student was not present, the admissions and acknowledgements contained in the ASF (signed by the Student) were comprehensive. The Tribunal was satisfied that the Student's admissions were voluntary, informed and unequivocal.

23. The affidavits provided ample evidence to support the charges. For the First Charges, the suspicious similarities between the Student's final exam and the final exam of the Other Students are explained by their unauthorized use of an online tutor or "cram school", which fed all four of them the same unorthodox (and sometimes incorrect) coding solutions while they were writing the exam. For the Second Charges, the evidence is clear that the Verification of Illness form submitted twice by the Student was a forgery.

24. Accordingly, the Tribunal found the Student guilty of Charge 1 from the First Charges, and Charges 1 and 2 from the Second Charges. The remaining alternative charges were withdrawn by the University.

Evidence and Submissions on Sanctions

25. The parties agreed on a further Agreed Statement of Facts relevant to sanctions, which proved that the Student had committed a prior offence of plagiarism in an assignment in SOCA03Y3 (Introduction to Sociology) in Winter 2021. He was sanctioned

for the offence at the departmental level on or around March 26, 2021. He received a sanction of a 10% grade reduction on the assignment.

26. The Student also submitted a letter of apology in which he expressed remorse and regret. He explained that he felt under pressure and generally unwell. He admitted that he paid a friend who “assured me these things were safe” to “resolve some of these issues for me”. The Student’s letter was accompanied by a document purporting to be a “Health Examination Report” from the Shanghai First People’s Hospital International Medical Care Center dated May 18, 2023. The Health Examination Report lists the results of various medical tests performed on the Student. No explanation was given as to what these test results mean, or how they affected the Student at the time relevant to either the First or Second Charges. The Tribunal was not able to place any weight on the Health Examination Report.

27. Based on all the evidence, the University and the Student jointly submitted that the Tribunal should order the following sanctions:

- a. a final grade of zero in the course CSCA20H3 in Fall 2021;
- b. a final grade of zero in the course LINB09H3 in Fall 2022;
- c. a final grade of zero in the course LINB10H3 in Winter 2023;
- d. a final grade of zero in the course LINBA02H3 in Winter 2023;
- e. the Student will be suspended from the University of Toronto for a period of 3 years and 4 months, commencing on August 14, 2023 and ending on December 14, 2026; and
- f. this sanction will be recorded on the Student’s academic record and

transcript from the date of the Tribunal's order until graduation.

Decision of the Tribunal on Sanctions

28. The Tribunal considered the evidence in light of the factors and principles relevant to sanctions as set out in the decision of *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976).

- a. The character of the Student: there was little evidence of the Student's character other than what is revealed by the facts of these charges and his prior offence. This Student committed four dishonest acts in the space of just over two years, involving five different courses. His dishonesty spans a range of offences: plagiarism, exam cheating, falsified doctor's notes. The Student appears to be someone who reaches for the easy way out in a variety of situations. That being said, the Tribunal recognizes that the Student has accepted a degree of responsibility for his actions by eventually admitting the charges against him and agreeing to a joint submission on sanction. The Students' admissions would have carried more weight if they had been made earlier.
- b. The likelihood of repetition of the offence: this was a serious concern. On or around March 26, 2021, the Student was sanctioned for plagiarism. On December 17, 2021, the Student cheated on his final exam. While those charges were pending, the Student twice submitted a falsified verification of illness form to try and defer three other final exams. There is a pattern of

dishonesty. A significant sanction is required to ensure this pattern does not continue.

- c. The nature of the offence committed and the detriment to the University: all three charges involve deliberate falsifications. They may have seemed like small deviations to the Student, but their effects are significant. Cheating on an exam weakens the essential fabric underpinning the University's system of grading. Fabricating medical documents undermines the University's process of medical accommodation. These are persistent problems striking at the core of academic integrity.
- d. Any extenuating circumstances: the Student's letter explained he had been under stress and feeling unwell. Even if this is true, it is no excuse. If the Student had been legitimately unwell during either of the two relevant exam periods, he could have obtained a legitimate verification of illness form rather than pay a friend for a false one.
- e. The need for general deterrence: this is a predominant concern. For the First Charges, the integrity of take-home exams submitted virtually depends on students abiding by their promise to work without unauthorized assistance. Cheating on these exams can be easy to do and hard to detect. The Student's dishonesty was only discovered because the "cram school" he paid for gave "non-standard" (and sometimes incorrect) solutions rather than the more orthodox solutions Professor Harrington was looking for. Similarly, the Second Charges involve a form of dishonesty that can slip

past the authorities. It seems the Student was caught because the doctor's name on the fake medical form he paid for had achieved a level of notoriety. Significant sanctions are essential to deter students from engaging in similar misconduct. The consequences of getting caught must be serious enough to dissuade students from temptation in their most stressful moments.

29. The Tribunal also considered sanctions imposed in other recent decisions. No two cases are identical, and the decisions submitted by the University reveal a range of sanctions for cases involving three charges of dishonesty with one prior offence. A period of suspension lasting three years and four months places this joint submission towards the lower end of that range.

30. Assistant Discipline Counsel urged the Tribunal to abide by the Discipline Appeals Board decision in *University of Toronto v. M.A.* (Case No. 837, December 22, 2016) ("M.A."), in which a panel of the Discipline Appeals Board allowed an appeal from a Tribunal-level decision that failed to adhere to all aspects of a joint submission on penalty. M.A. emphasizes the high test that must be met before the Tribunal can depart from a joint submission, writing that the Tribunal: "can refuse to implement the joint submission only if it concludes that the parties' own agreement is unreasonable or unconscionable, or as the Supreme Court of Canada said in *CM*, "so unhinged from the circumstances of the offence" that its acceptance would lead a reasonable observer "to believe that the proper functioning of the justice system had broken down."¹

¹ *University of Toronto v. M.A.* (Case 837, December 22, 2016), citing *R. v. Anthony-Cook*, 2016 SCC 43 at para. 34.

31. With that test in mind, the Tribunal accepted the joint submission. The proposed sanction may not be what the Tribunal would have ordered otherwise, but it is within the range of acceptable outcomes.

32. Accordingly, on August 14, 2023, the Tribunal made an order:

1. **THAT** this hearing may proceed in the Student's absence without the requirement to provide any further notice to them;

2. **THAT** the Student is guilty of one count of knowingly representing as their own an idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work, contrary to section B.I.1(d) of the *Code*;

3. **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 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*;

4. **THAT** the following sanctions shall be imposed on the Student:

(a) a final grade of zero in the course CSCA20H3 in Fall 2021;

(b) a final grade of zero in the course LINB09H3 in Fall 2022;

(c) a final grade of zero in the course LINB10H3 in Winter 2023;

(d) a final grade of zero in the course LINBA02H3 in Winter 2023;

(e) the Student will be suspended from the University of Toronto for a period of three years and four months, commencing on August 14, 2023 and ending on December 14, 2026; and

(f) this sanction will be recorded on the Student's academic record and transcript from the date of the Tribunal's order until graduation.

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

Dated at Toronto on this 8th day of April 2024

Original signed by:

Johanna Braden, Chair

On behalf of the Panel