

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on September 28, 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 -

X [REDACTED] Z [REDACTED]

**REASONS FOR DECISION**

**Hearing Date:** December 1, 2023

**Members of the Panel:**

Johanna Braden, Chair  
Professor Kevin Wang, Faculty Panel Member  
Alwin Xie, Student Panel Member

**Appearances:**

William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

**Not In Attendance:**

X [REDACTED] Z [REDACTED]

1. The Trial Division of the University Tribunal was convened on December 1, 2023, to consider charges brought by the University of Toronto (the “University”) against X [REDACTED] Z [REDACTED] (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 December 1, 2023 at 9:45 am. The Student was neither present nor represented. The University filed a consent form signed by the Student in which she attested (among other things) that she had signed an Agreed Statement of Facts (“ASF”), an Agreed Statement of Facts on Penalty (ASFP”) and a Joint Submission on Penalty (“JSP”), and she did not wish to attend or participate further in this proceeding. She requested that the Tribunal proceed in her absence and waived her right to any further notice of this hearing.

3. The Student further attested that she 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. Four charges were laid against the Student, as follows:

1. On or about April 21, 2023, you knowingly used or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in MGEC06H3, contrary to section B.I.1(b) of the *Code*.

2. On or about April 21, 2023, you knowingly attempted to obtain unauthorized assistance in connection with the final exam in MGEC06H3, contrary to sections B.I.1(b) and B.II.2 of the *Code*.
3. On or about April 21, 2023, you knowingly attempted to represent as your own an idea or expression of an idea or work of another in connection with the final exam in MGEC06H3, contrary to sections B.I.1(d) and B.II.2 of the *Code*.
4. In the alternative, on or about April 21, 2023, 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 MGEC06H3.
5. The particulars provided to the Student in support of these charges were as follows:
  1. You were a student enrolled at the University of Toronto Scarborough at all material times.
  2. In Fall 2022, you enrolled in MGEC06H3: Topics in Macroeconomic Theory, which was taught by Professor Muhebullah Karimzada.
  3. Students in the course were required to write a final exam, which was worth 50% of their final grade. Students were prohibited from using aids or obtaining assistance on the final exam.
  4. On or about April 21, 2023, you wrote a deferred final exam in MGEC06H3.
  5. During the final exam, you used or attempted to use:
    - (a) a camera and/or other electronic device(s) to transmit video footage and/or images of the final exam to another individual or individuals who assisted you with the final exam; and/or

- (b) an earpiece and/or other electronic device(s) to transmit and/or receive audio from another individual or individuals who assisted you with the final exam.
- 6. You knew or ought to have known that, in connection with the final exam:
  - (a) you were not permitted to use a camera, an earpiece, and/or other electronic device(s); and/or
  - (b) you were not permitted to obtain assistance from others.
- 7. You wrote or attempted to write the final exam:
  - (a) to obtain academic credit;
  - (b) knowing that it would have contained ideas, expressions of ideas or work that were not your own, but were the ideas, expressions of ideas or work of others; and
  - (c) knowing that you would have not properly reference the ideas, expressions of ideas or work that you drew from others.
- 8. You paid a tutor or a tutoring company or others to assist you with the final exam.
- 9. You knowingly submitted or attempted to write and submit the final exam with the intention that the University rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

## **The Evidence**

6. Although the Student did not attend the hearing, she admitted the charges in writing. The evidence was presented by way of an ASF that the Student signed, supplemented with the documents referred to in those facts. The crux of the evidence is set out below.

7. In Fall 2022, the Student enrolled in MGEC06H3: Topics in Macroeconomic Theory, which was taught by Professor Muhebullah Karimzada.

[...]

**B. The final exam**

10. Students in the course were required to write a final exam, which was worth 50% of their final grade.

11. The Student wrote a deferred final exam for MGEC06H3, which was administered in person on April 21, 2023 from 9:00 am to 12:00 pm.

[...]

14. During the exam, at approximately 9:40 am on April 21, 2023, the chief presiding officer saw that the Student kept holding up the final exam paper in front of her in an unusual manner, and turned the pages of her final exam without writing anything on them.

15. The chief presiding officer walked over to the Student and saw that that a miniature camera was poking through a hole in her sweater. The chief presiding officer saw that the Student was hiding the miniature camera under her clothes. Based on the way that the Student kept holding up her final exam paper and the placement of the miniature camera on the Student, the chief presiding officer inferred that the Student was recording her final exam with the miniature camera.

16. The chief presiding officer found a miniature camera, headphones, an iPhone (that was turned on), and a battery pack on the Student. The chief presiding officer confiscated these electronic devices from the Student, took photographs of them, and filled out an Exam Incident Report. When the chief presiding officer confiscated the electronic devices

from the Student, the Student verbally admitted that she used the devices. The Student later signed the Exam Incident Report and wrote that she did not use the devices and that her exam paper was empty.

17. The chief presiding officer saw that the Student wrote almost nothing on her final exam.

18. At the end of the final exam, an invigilator filled out a Possession of Unauthorized Electronic Device Form. The invigilator noted that the Student possessed a cellphone, a camera, an earphone, and a microphone, which were concealed in the Student's sweater and pocket. The invigilator noted that she saw the Student use her iPhone and that it was powered on. The Student signed the Possession of Unauthorized Electronic Device Form at approximately 12:07 pm on April 21, 2023.

### **C. The dean's designate meeting**

19. On April 27, 2023, the Office of the Vice-Principal Academic & Dean sent the Student an email and letter about the allegations, and requested that the Student attend a dean's designate meeting to discuss the allegations with Professor Nick Cheng.

[...]

21. On May 26, 2023, the Student attended a dean's designate meeting with Professor Cheng to discuss the allegations.

22. At the start of the meeting, Professor Cheng gave the Student the warning that is required by the Code. Professor Cheng stated that the Student was entitled to seek advice, or to be accompanied by counsel at the meeting, before making, and was not obliged to make, any statement or admission, but if she made any statement or admission

in the meeting, it may be used or receivable in evidence against her in the hearing of any charge with respect to the alleged offence. Professor Cheng advised the Student, without further comment or discussion, of the sanctions that may be imposed under section C.i.(b), and that he was not obliged to impose a sanction but may instead request that the Provost lay a charge against her.

23. During the meeting, the Student admitted that she used a camera and an earpiece that allowed her to communicate with someone else during the final exam.

24. The Student apologized for her actions and stated that she made the wrong choice. The Student stated that she had depression and planned to return to China for treatment, but she could not return because she lost her passport and had to reapply for one. The Student stated that she was emotionally unstable and had psychological problems near the time of the final exam. The Student stated that she struggled to study, so she sought out someone who could help her write the final exam. In response, Professor Cheng informed the Student about the University's Health and Wellness services.

25. Professor Cheng asked the Student where she got the camera and earpieces, and the Student stated that she got them from someone on WeChat and Instagram. Professor Cheng stated that the University was concerned about these types of cases and asked whether the Student could provide the University with information about where she got the devices. The Student said that she would send the University information after the meeting. Professor Cheng encouraged the Student to contact Downtown Legal Services and the meeting concluded.

26. On June 5, 2023, the Office of the Vice-Principal Academic & Dean emailed the Student a letter that summarized the contents of the dean's designate meeting, and provided the Student with information about Health and Wellness services and Downtown

Legal Services. The letter also requested that the Student provide the University with information about the people who helped her cheat.

27. On June 6, 2023, the Student sent the Office of the Vice-Principal Academic & Dean screenshots of messages between her and another person on WeChat that showed she purchased the camera and earpiece. One of the screenshots shows the price that the Student paid 2,310 Chinese yuan for the camera and earpiece.

**D. Admissions and acknowledgement**

28. The Student admits that she used a miniature camera to livestream video footage of the questions on the final exam to a tutor whom she paid to solve questions on the final exam. The Student admits that she purchased a camera and earpiece from the tutor and she also paid the tutor to provide her with answers to the final exam in real time.

29. The Student admits that the University confiscated the electronic devices from her before she could receive any answers from the tutor, but she intended to receive answers from the tutor by audio transmitted to the earpieces that she wore during the final exam. The Student admits that she intended to use the paid tutor's answers on the final exam, and that she intended to perform no meaningful academic work on the final exam.

30. The Student admits that she knowingly used or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in MGEC06H3, contrary to section B.I.1(b) of the Code.

31. The Student admits that she knowingly attempted to obtain unauthorized assistance in connection with the final exam in MGEC06H3, contrary to sections B.I.1(b) and B.II.2 of the Code.



32. The Student admits that she knowingly attempted to represent as her own an idea or expression of an idea or work of another in connection with the final exam in MGEC06H3, contrary to sections B.I.1(d) and B.II.2 of the Code.

33. The Student admits that she 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.

### **Decision of the Tribunal on Charges**

7. 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.

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

9. The ASF provided ample evidence to support the charges. This is one of the more egregious examples of exam cheating imaginable. The evidence included photos of the earpiece, camera and cell phone. The Student's guilt is overwhelmingly obvious.

10. Accordingly, the Tribunal found the Student guilty of Charges 1 and 2. The remaining two charges were withdrawn by the University.

### **Evidence and Submissions on Sanctions**

11. The parties agreed on a further ASF relevant to sanctions.
12. The Student states that in the Fall 2022 academic term she became pregnant in Fall 2022. Her boyfriend broke up with her because she became pregnant. She had an abortion on October 5, 2022 at Bloor West Village Women's Clinic because her boyfriend broke up with her. Her mental wellbeing was significantly affected by these events. A copy of a medical note from Bloor West Village Women's Clinic was submitted to the Tribunal.
13. On October 29, 2022 – some three weeks following the abortion – the Student wrote a midterm exam in the course STAC50H3: Data Collection. The midterm was worth 35% of her final grade. The course instructor reviewed the Student's midterm exam and saw a note in Chinese on the midterm that stated: "I cannot call you. 25 minutes left. Text me. I will go out."
14. The Student had meetings with the course instructor and department chair about what this notation meant. Eventually, on January 10, 2023, the Student attended a dean's designate meeting with Professor Nick Cheng to discuss an allegation that she had cheated on the STAC50H3 midterm. During the meeting, the Student admitted to possessing an unauthorized aid during the midterm exam. The Student stated that she intended to take a photograph of the midterm exam to ask someone for an answer, but she did not take a photograph due to the presence of an invigilator.
15. The Student stated that she promised to adjust her mentality and attitude, that she was anxious and depressed at the time, and that she intended to obtain help from health services offered by the University. Professor Cheng told the Student that everyone makes

mistakes, that what differentiates people is what they do after they have made a mistake, and that she had his respect for apologizing. The Student stated that she hoped Professor Cheng would give her another chance.

16. Later that day, Professor Cheng emailed the Student a letter that confirmed the Student's admission and the sanctions imposed. The letter stated:

Everyone makes mistakes, but they do not define you. It is what you do afterwards that determines your character. You earned my respect when you acknowledged your wrongdoing and expressed your sincere apology.

Based on your admission of the offence I have decided to apply a penalty of 10% off your course grade. This is less than the most lenient in the range of sanctions from the Provost's guidelines. Additionally, I have decided to exercise my prerogative under Section C. I.(b) 3) of the Code to have a notation of this sanction placed on your academic record and transcript for a period of one year beginning January 10, 2023.

[...]

A copy of this letter will be placed in your student file, and in the event of any further offence under the Code, it will be consulted.

Note that students may not withdraw from a course in which they have committed an offence and sanctions have been imposed. If you have designated the course in question CR/NCR, you will lose that option and a final course grade will be posted.

I trust it is clear that the University regards with great seriousness all acts of academic dishonesty and why they cannot be tolerated. I hope you have learned from this unfortunate experience and nothing similar will happen again.

17. The Student received and reviewed a copy of Professor Cheng's letter on the date that it was sent.

18. On April 21, 2022, the Student committed the offences that are the subject of the present charges. The Charges in this proceeding were issued on September 28, 2023.

19. In Fall 2023, the Vice-Provost, Faculty & Academic Life provided the Student with information about mental health resources offered by the University, and Assistant Discipline Counsel encouraged the Student to provide any relevant medical documents.

20. In October 2023, the Student went to the Psychological Counselling Clinic at Qilu Hospital of Shandong University Dezhou Hospital. The Student told the clinic that she had been depressed for more than one year. The clinic diagnosed the Student with depression and recommended various treatment options, including antidepressants and psychological consultancy. A copy of a medical note from Qilu Hospital of Shandong University Dezhou Hospital (translated into English) was submitted to the Tribunal.

21. 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 MGEC06H3;
- b. a suspension from the University for a period of 5 years commencing on September 1, 2023;
- c. a notation of the offence on the Student's academic record and transcript for a period of 6 years from the date of the University Tribunal's order; and
- d. to report to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the Student withheld.

### **Decision of the Tribunal on Sanctions**

22. This case was challenging due to its mix of aggravating and mitigating factors.

23. The Student was first caught cheating in the Fall of 2022 when she planned to call a tutor to give her real-time answers to a midterm exam. She received an exceptionally lenient penalty for that offence and promised to make better choices. Instead of turning over a new leaf, the Student refined her cheating technique. She invested money in a high-tech device so that the tutor could see the Student's exam and whisper answers into an earpiece. The Student hoped this would help her avoid the problems she encountered the first time she tried to cheat during an exam.

24. In most circumstances, this fact pattern would likely warrant a recommendation of expulsion. However, there are strong extenuating circumstances. The Student's personal circumstances, substantiated by medical evidence, are compelling. Her academic record shows that she achieved generally good grades prior to the events at issue.

25. 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). The Tribunal also considered sanctions imposed in other recent decisions.

26. While no two cases are identical, this case was particularly unique. In the end, the Tribunal was guided by the principles relating to joint submissions. The University and the Student, representing opposing interests, have managed to agree on a penalty. That in and of itself is strong evidence that the appropriate balancing of factors has occurred. The Tribunal should defer to the parties' agreement unless the joint submission is so

outside the range of appropriate sanctions that it would bring the administration of justice into disrepute.

27. This is not a case for second-guessing the joint submission. The proposed sanction is within the range of acceptable outcomes, and reflects a reasonable balance of the many strong and competing concerns.

28. Accordingly, on December 1, 2023, the Tribunal made an order that:

1. The hearing may proceed in the absence of the Student;
2. The Student is guilty of:
  - a. one count of knowingly using or possessing an unauthorized aid or aids in connection with the final exam in MGEC06H3, contrary to section B.I.1(b) of the Code; and
  - b. one count of knowingly attempting to obtain unauthorized assistance in connection with the final exam in MGEC06H3, contrary to sections B.I.1(b) and B.II.2 of the Code.
3. The following sanctions shall be imposed on the Student:
  - a. A final grade of zero in MGEC06H3;
  - b. A suspension from the University for a period of 5 years commencing on September 1, 2023; and

- c. A notation of the offence on the Student's academic record and transcript for a period of 6 years from the date of the University Tribunal's order.
4. 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 18<sup>th</sup> day of April 2024.

Original signed by:

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Johanna Braden, Chair  
On behalf of the Panel