

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 5, 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] C [REDACTED]

REASONS FOR DECISION

Hearing Date: July 24, 2024, via Zoom

Members of the Panel:

Alexandra Clark, Chair
Professor Marvin Zuker, Faculty Panel Member
David Lio, Student Panel Member

Appearances:

William Webb, Assistant Discipline 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] C [REDACTED]

A. Charges

1. On July 24, 2024, this panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto (the “University”) against Z [REDACTED] C [REDACTED] (the “Student”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”).

2. Those charges were originally set out in a letter to the Student dated October 5, 2023, as follows:

1. On or about April 18, 2023, you knowingly used or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in ECO102H1S, contrary to section B.I.1(b) of the *Code* (“Count 1”);

2. On or about April 18, 2023, you knowingly represented as your own an idea or expression of an idea or work of another in connection with the final exam in ECO102H1S, contrary to section B.I.1(d) of the *Code* (“Count 2”); and

3. In the alternative, on or about April 18, 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 ECO102H1S, contrary to section B.I.3(b) of the *Code* (“Count 3”).

3. The Student was enrolled as a student at the University of Toronto at the time of the events discussed in these reasons. He appeared in person via videoconference at the initial hearing date in this matter on July 9, 2024. Unfortunately, on that date two of the assigned panel members could not attend the hearing, and so the matter was adjourned to the present hearing date.

4. At the outset of the hearing, Assistant Discipline Counsel informed the Panel that the Student had contacted him and informed him that he was too ill to participate in the hearing. Assistant Discipline Counsel tendered a document titled “Consent” signed by the Student. This

document contained a request that the University Tribunal proceed with the hearing in his absence, and confirmed his understanding that the Tribunal might find that he had committed acts of academic misconduct and might impose sanctions on him. He also acknowledged his understanding that the Tribunal was not bound by the terms of the Joint Submission on Penalty to be tendered in the hearing, and he affirmed that he had signed the document voluntarily. On the basis of these statements and the Student's prior appearance before the Tribunal, the Panel was willing to proceed in the absence of the Student.

B. Evidence Tendered

5. The Provost tendered an Agreed Statement of Facts executed by the Student and by Assistant Discipline Counsel on June 14, 2024 (the "ASF") and an attached Book of Documents (the "Book of Documents"). The summary of events set out below is drawn from the ASF and the Book of Documents.

6. In Winter 2023, the Student enrolled in the course ECO102H1S: Principles of Microeconomics, (the "Course") which was taught by Professor Nathanael Vellekoop.

7. The Course syllabus contained a section on academic integrity that stated in part: "Academic integrity is one of the cornerstones of the University of Toronto. It is critically important both to maintain our community which honors the values of honesty, trust, respect, fairness and responsibility, and to protect you, the students within this community, and the value of the degree towards which you are all working so diligently." The Course syllabus provided examples of academic offences and contained a hyperlink to the Code.

8. The Student received and reviewed a copy of the Course syllabus at the start of the semester.

9. Students in the Course were required to write a final exam, which was worth 45% of their final grade (the “Final Exam”).
10. The front page of the Final Exam contained a warning about academic integrity that stated in part: “As a student, you help create a fair and inclusive writing environment. If you possess an unauthorized aid during an exam, you will be charged with an academic offence.”
11. The Final Exam was administered in person on April 18, 2023, and the Student wrote the Final Exam on that date.
12. On April 18, 2023, at approximately 2:20 p.m., Lahouari Taleb, a Chief Presiding Officer, heard a voice when he passed by the Student, but the voice stopped when he turned back and approached the Student.
13. Later that day, at approximately 3:00 p.m., Carlie Manners, another Chief Presiding Officer, saw the Student holding something up to his ear. When she approached the Student, she saw the Student disconnect a device from his sleeve and shirt and put it in his jacket pocket. She asked the Student to see the device, and, in the process, the Student revealed that he was also wearing a smart watch. The Student insisted that he was not cheating.
14. Later, when she went to take the Student’s student card, she asked the Student to empty his pockets and found that the Student had a cellphone concealed in them. She noted that the device she had previously found on the Student was an “EDIMAEG Hero 800 Amplifier” which is a Bluetooth device that connects to miniature earpieces. She took photographs of the smartwatch and of the EDIMAEG Hero 800 Amplifier.

15. Later that day, Mr. Taleb and Ms. Manners filled out an “Alleged Academic Misconduct Report Form” that detailed what they had observed during the Final Exam.

16. Later that day, the Student signed a “Possession of an Unauthorized Aid During a Final Exam Form” in which he admitted to possessing a cellphone and a smartwatch during the Final Exam.

17. In August of 2023, the Student Academic Integrity office invited the Student to attend a Dean’s Designate meeting to discuss the allegations with respect to the Final Exam. On September 7, 2023, the Student attended a meeting with Professor Stefana Gargova, a Dean’s Designate for Academic Integrity, and Laurie O’Handley, an Academic Integrity Specialist, to discuss the Final Exam allegations. At the start of the meeting, Professor Gargova stated that the Student had allegedly used an unauthorized aid on the Final Exam. Professor Gargova gave the Student the warning that is required by the Code, and the Student confirmed that he had read the Code before attending the meeting.

18. Professor Gargova asked the Student to explain what happened on the date of the Final Exam. In response, the Student stated that: he admitted to an offence; he was very nervous at the time of the Final Exam; he had borrowed some electronics like a cellphone and a smartwatch; he forgot to take the cellphone out of his pocket before starting the Final Exam; and he knew that this was against the rules.

19. Professor Gargova stated that the allegation report set out that the Chief Presiding Officer had heard a noise playing, had seen that the Student was holding something to his ear, and had seen the Student disconnect a device from his sleeve and shirt and put it in his jacket pocket. Professor Gargova asked the Student to tell her what the device was. Professor Gargova stated

that her office had pictures of the device, that it did not seem that he just forgot to put something away, and that there was something more to it.

20. In response, the Student stated that: he had used a Bluetooth device to communicate with someone from an agency who gave him answers to questions on the Final Exam; he had found the agency on WeChat (a social media application); the agency had told him that they could provide him with the answers to the Final Exam; the agency had contacted him just before the Final Exam; and he had paid the agency \$1000 for this service.

21. Professor Gargova asked the Student whether he was aware that the University had academic support resources available to assist him. The Student acknowledged that he knew about the University's resources, and stated that the Course was hard, that the agency told him that this was a way to get a high mark in the Course, and that he would not do it again in the future.

22. Ms. O'Handley then asked the Student for additional details about the devices and the agency. In response, the Student stated that: he had emailed the agency; the agency had sent a person by car to deliver the devices to him; he had never met the delivery person before; he had met the delivery person close to his home on April 16, 2023; the delivery person had given him the devices and had showed him how to use the devices; and he had paid the agency through WeChat.

23. At the end of the meeting, Professor Gargova informed the Student that the matter would be forwarded to the Vice-Provost's office for further action.

24. The Student admits that: he paid an agency \$1000 to provide him with answers to the Final Exam; he sent images of the entire Final Exam to a tutor from the agency; he wore miniature

earpieces during the Final Exam; he received answers to questions 1(a)-(e) on the Final Exam from the tutor via the miniature earpieces; he used the tutor's answers to questions 1(a)-(e) on the Final Exam; an Invigilator confiscated the miniature earpieces from him before he could receive any further answers from the tutor; and he intended to perform no meaningful academic work on the Final Exam.

25. The Student admits that he knowingly used or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the Final Exam, contrary to section B.I.1(b) of the Code.

26. Based on the facts and admissions summarized above, we were persuaded on a balance of probabilities that the Student had obtained unauthorized assistance in connection with the Final Exam, and we made a finding of guilt on Count 1. In light of this finding, the Provost withdrew Count 2 and Count 3. The Panel next considered the issue of the appropriate sanction in light of the finding of guilt on Count 1.

C. Sanction

27. Assistant Discipline Counsel indicated that the parties had reached a joint position regarding sanction, and that they agreed that the proposed sanctions in this matter were:

- (a) a final grade of zero in the Course;
- (b) a suspension from the University of Toronto for a period of five years from the date of the Tribunal's order;
- (c) a notation of the sanction on his academic record and transcript for a period of seven years from the date of the Tribunal's order; and
- (d) that the case be reported to the Provost for publication of a notice of the decision

of the University Tribunal and the sanctions imposed, with the name of the Student withheld.

28. These proposed sanctions were contained in a Joint Submission on Penalty signed by the Student. Assistant Discipline Counsel next submitted a Book of Authorities, including a chart summarizing the sanctions imposed in the cases submitted. We found that these authorities provided a useful summary of the sanctions that are normally imposed by the Tribunal in cases involving findings that a student has paid to have someone impersonate or assist them in a test or final exam. Most helpfully, the brief referenced several cases which involved the use of a hidden camera and earpiece.

29. We are conscious that the Tribunal, in determining the appropriate sanction in a given case, should generally consider the factors set out in the decision of the *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976), namely (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.

30. In addition, we recognise that we were presented with a joint position on sanction, which means that while we are not required to accept the proposed sanctions, we should only reject them when we feel that they are so inappropriate that they would bring the administration of justice into disrepute.

31. We therefore considered the recent case of the *University of Toronto and Q.C.* (Case No. 1505, November 24, 2023) (“Q.C.”), a case involving the use of a miniature camera and earpieces

on two occasions, and noted the presence of a five-year suspension and a six-year notation, in addition to a mark of zero in the course. Likewise, in the recent case of the *University of Toronto and X.Z.* (Case No. 1541, April 18, 2024) a penalty of a five-year suspension and six-year notation in addition to a mark of zero in the course were imposed. In the case of *the University of Toronto and T.D.* (Case No. 1560, June 3, 2024), the sanctions imposed were a five-year suspension, a seven-year notation, and a mark of zero in the course. In addition, in that case, the Student provided a voluntary undertaking to withdraw from the University and to never re-apply for admission.

32. We are aware that in the case of the *University of Toronto and S.Y.* (Case No. 1539, May 17, 2024), heard on February 27, 2024, the use of a miniature camera and earpiece resulted in an order of expulsion, but in that case the student had used the aids in two exams, and had a prior offence of receiving unauthorized assistance. That student also did not cooperate with the disciplinary process and did not attend the hearing. In addition, the recent case of the *University of Toronto and X.S.* (Case No.1559, February 16, 2024 (Direction)), provides an example where a camera and earpieces were used in an exam, and a proposed joint position of a five-year suspension, seven-year notation and a final grade of zero was sent back to the parties to receive further written submissions concerning whether expulsion might be a more appropriate remedy.

33. Assistant Discipline Counsel also pointed to a number of cases involving the offence of personation in a test or examination, including: *University of Toronto and H.Z.* (Case No. 1475, July 17, 2023) *University of Toronto and S.J.* (Case No. 1423, January 3, 2023), *University of Toronto and F.Z.* (Case No. 1243, December 20, 2022) and *University of Toronto and P.L.* (Case No. 1211, September 23, 2021). We found these cases to be helpful since there are clear parallels between a student paying someone to impersonate them in a test or exam, and the use of a hidden

camera and earpiece to obtain real-time assistance in a test or exam. These personation cases all involved an early admission of guilt and cooperation with the discipline process, and all resulted in sanctions very similar to the ones proposed in this case.

34. There is no doubt that the use of a camera and earpieces in a test or exam, particularly when coupled with paid assistance, is an egregious violation of the Code which represents a serious form of cheating. We agree with the panel in the Q.C. case, which was the first reported discipline decision of this type, when they wrote:

With respect to the detriment to the University and the need for deterrence, obtaining unauthorized assistance on a test, generally, is an extremely serious offence that harms the institution and the academic process. It is a serious breach of academic integrity and can be seen as an attempt to defraud the University. Obtaining real-time assistance using a hidden camera and earpieces is taking things to a new level, one that has only been possible in recent years as technology once reserved to spy novels has become readily available to anyone. [...] The associated penalty for what occurred here must act as a general deterrent against this kind of surreptitious behaviour. Accordingly, it is important to send a strong message to the community that this will not be tolerated.

35. We are mindful, however, of the very high test for imposing a sanction beyond what is contemplated in a joint position, and we feel that the sanctions proposed in this case are within the bounds of those imposed in comparable cases. While it would have been helpful to hear directly from the Student in the hearing, we acknowledge that he has admitted his guilt and cooperated with the discipline process.

36. At the conclusion of the hearing, and for the reasons outlined above, we therefore signed an order imposing the following sanctions on the Student:

- (a) a final grade of zero in the Course;
- (b) a suspension from the University of Toronto for a period of five years from the date of the Tribunal's order; and

- (c) a notation of the sanction on his academic record and transcript for a period of seven years from the date of the Tribunal's order.

We also added the standard requirement that this case be reported to the Provost for publication of a notice of the decision of the University Tribunal and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this 24th day of September, 2024

Original signed by:

Alexandra Clark, Chair
On behalf of the Panel