

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on October 12, 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

B E T W E E N:

UNIVERSITY OF TORONTO

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REASONS FOR DECISION

Hearing Date: March 25, 2024, via Zoom

Members of the Panel:

Alexandra Clark, Chair
Professor George Cree, Faculty Panel Member
Alwin Xie, Student Panel Member

Appearances:

William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Yan Li, Representative for the Student

Hearing Secretary:

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

A. Charges

1. On March 25, 2024, this panel of the University Tribunal held a hearing to consider the charges brought by the University of Toronto against T■■ D■■ (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 12, 2023, as follows:

1. On or about August 11, 2023, you knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with the final exam in MGFB10H3, and/or attempted to do so, contrary to sections B.I.1(b) and/or B.II.2 of the Code. (“Count 1”)
2. On or about August 11, 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 MGFB10H3, or attempted to do so, contrary to sections B.I.1(d) and/or B.II.2 of the Code (“Count 2”).
3. In the alternative, on or about August 11, 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 MGFB10H3, 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 Scarborough at the time of the events discussed in these reasons. She did not participate in the hearing but was represented by Ms. Li, a licensed Paralegal.

B. Evidence Tendered

4. The Provost tendered an Agreed Statement of Facts executed by the Student and by Assistant Discipline Counsel on February 27, 2024 (the “ASF”) and an attached Book of

Documents (the “Book of Documents”). Ms. Li agreed that these documents should be accepted and reviewed by the Panel. The summary of events set out below is drawn from the ASF and the Book of Documents.

5. In the Fall 2022 term, the Student enrolled in MGFB10H3F: Principles of Finance, which was taught by Professor Syed W. Ahmed. Students in the course were required to write a final exam, which was worth 40% of their grade in the course.

6. The Student wrote a deferred final exam for MGFB10H3F on August 11, 2023 in Room 170 at Highland Hall at the University of Toronto Scarborough.

7. Adrian Chen, an invigilator and graduate student, and Valerie Yuying Chen, an Examinations Assistant, invigilated the MGFB10H3F final exam. Before the final exam, Ms. Chen informed all students that they were prohibited from using or possessing any unauthorized aids during the final exam.

8. At approximately 2:25 pm, Mr. Chen saw the Student lift up her exam paper and hold it parallel to her torso for approximately 10 to 15 seconds. The exam paper was not angled towards the Student’s face. Mr. Chen told the Student to put her exam paper down on the desk, and she complied.

9. At approximately 2:28 pm, Mr. Chen saw the Student again lift up her exam paper and hold it parallel to her torso (and parallel to a large button on her shirt) for approximately 10 to 15 seconds. The exam paper was not angled towards the Student’s face. Mr. Chen again told the Student to put her exam paper down on the desk, and she complied. Mr. Chen then noticed a button

on the Student's shirt that was larger than the other buttons, and that this button had a hole in the middle of it.

10. At approximately 2:31 pm, Mr. Chen saw the Student hold her exam paper below her desk and parallel to her torso (and parallel to the large button on her shirt) for approximately 30 seconds. The exam paper was not angled towards the Student's face. Mr. Chen went over to the Student, told her to put her exam paper on her desk, and she complied.

11. Mr. Chen informed his supervisor, Ms. Chen, that the Student was holding her exam paper parallel to her torso, and that he suspected she was using a miniature button camera to take pictures of the exam. Mr. Chen suspected this, in part, because he had invigilated a different exam in which a student used a miniature button camera and miniature earpieces to communicate with a third party during that exam. In that case, the student had used miniature earpieces that required a magnetic tool to be removed from their ears.

12. When Ms. Chen was collecting examination candidate forms from other students sitting near the Student, she also saw that one of the buttons on the Student's shirt was larger than the other buttons. Ms. Chen walked past the Student, pretended to collect the form from the student sitting behind the Student, and also saw the Student raise her exam paper vertically and parallel with her torso for several seconds.

13. Ms. Chen consulted other University staff about the situation, and they asked Mr. Chen to speak to the Student.

14. Mr. Chen and Natalie Ramotar, an Exam Coordinator, walked over to the Student. Mr. Chen asked the Student whether she had any devices on her. The Student denied that she had any

devices on her, and she tried to show Mr. Chen her ears even though he did not ask to see them. Mr. Chen did not see any earpieces in her ears, but he did not look into the Student's ear canal because he did not think that he would be able to find earpieces without touching her ears or using a magnetic device to remove them.

15. Mr. Chen did not ask the Student to turn out the contents of her pockets and he did not check her bag because she denied that she had any devices. Mr. Chen then let the Student finish writing the exam. Mr. Chen and Ms. Chen filled out an Exam Incident Report about the incident.

16. At the end of the exam, the Student handed in her exam booklet.

17. After the Student had handed in her exam booklet, Ms. Chen and Jenny Hon, an Examination Coordinator, spoke to her about the incident. During their conversation:

- (a) Ms. Chen and Ms. Hon had to repeat their questions several times for the Student to hear and understand them.
- (b) The Student stated that she had lifted up her exam paper because no one could see behind her. The Student stated that she always held her exam papers in that way in order to read them.
- (c) Ms. Chen and Ms. Hon saw that a buttonhole on the Student's shirt had two different buttons protruding: one button that matched the other buttons on the shirt, and a larger button that was overlaid over the original button. Ms. Chen and Ms. Hon saw that there was a hole in the middle of the larger button and that it had a reflection that looked like a lens. Ms. Hon asked the Student about the button, and the Student stated that this was her boyfriend's shirt, and that she did not know why this button looked different from the others.
- (d) Ms. Hon asked the Student to tie up her hair. Ms. Hon looked at one of the Student's ears, but she did not see anything. Ms. Hon did not look in both of the Student's ears, and she did not look into the Student's ear canals.

- (e) Ms. Hon also saw two black wires running inside the Student's shirt. When questioned about these wires, the Student stated that they were part of her underwear.
- (f) At the end of the conversation, the Student denied that she had any devices on her or that she had committed an academic offence.
- (g) Ms. Chen and Ms. Hon then informed the Student that they would submit a report to the academic integrity office and that they would contact her about the matter.

18. Ms. Chen subsequently prepared an academic integrity report about the incident. In her report, she included an image of a miniature button camera that she found online. She reported that the large button that she saw the Student wearing on the date of the final exam looked very similar to the pictures of the miniature camera button found online.

19. Ms. Hon subsequently also prepared an academic integrity report about the incident.

20. Ms. Chen and Ms. Hon submitted their reports to the Office of the Vice-Principal Academic and Dean at the University of Toronto Scarborough.

21. On August, 24, 2023, the Office of the Vice-Principal Academic & Dean requested that the Student attend a Dean's Designate meeting to discuss the allegations that she had committed an offence in connection with the final exam in MGFB10H3F. The Student responded and agreed to attend the meeting.

22. On September 4, 2023, the following people attended the Dean's Designate meeting to discuss the allegations that the Student committed an academic offence in connection with the MGFB10H3F final exam: the Student, R.L. (the Student's translator), Professor Nick Cheng (a Dean's Designate), Jessie Zhao (the University's translator), and Sheryl Nauth (an academic integrity specialist).

23. At the start of the meeting, Professor Cheng gave the Student the warning that is required by the Code.

24. Professor Cheng then asked the Student why she had held her exam paper in a strange way, and whether she had used a miniature camera. The Student initially denied that she had used a miniature camera. The Student stated that she wanted to relax and to put herself in a comfortable position, that this is what she regularly did during her daily studies, and that this was her habit for reading.

25. Professor Cheng asked the Student about the button on her shirt. The Student stated that it was just a button on her shirt that looked different from the others. The Student said that she was wearing clothes borrowed from her boyfriend, so she had no idea about why the button looked different. The Student said that the original button was lost, and that her boyfriend had sewed another button on top of it.

26. Ms. Hon responded that the large button was on top of the original button, so the Student's story made no sense. The Student stated that she usually left the shirt unbuttoned and that was why she did not unbutton her shirt, and that the large button was in a different place.

27. Ms. Hon stated that the button was much bigger than the buttonhole and asked how the Student put the button on and unbuttoned the shirt. The Student stated that if the shirt had already been buttoned, she could put it on, and if the shirt was unbuttoned, then she wore it unbuttoned.

28. Towards the end of the meeting, Professor Cheng stated that he would forward the case to the Vice-Provost's Office, and asked the Student whether she had any further questions. The Student then stated that, on the day of the final exam, she got off the bus, took out her

earphones, and left her cellphone and earphones in her bag at the back of the room. The Student then stated that the equipment she had on her did not work without a cellphone.

29. Ms. Zhao asked the Student what she meant by the term “equipment”, and the Student said that she was referring to a button camera. The Student stated that she had planned to use the device, but that she could not use it because her cellphone was in her backpack located at the back of the room, and that she could not use it without access to her cellphone or an internet connection. The Student then admitted to committing an academic offence.

30. On September 14, 2023, the Office of the Vice-Principal Academic & Dean sent the Student a letter stating that Professor Cheng was forwarding the matter to the Tribunal for resolution.

31. The Student now admits that she made several false claims to Mr. Chen, Ms. Chen, Ms. Ramotar, Ms. Hon, Ms. Zhao, Ms. Nauth, and Professor Cheng. Specifically, the Student admits that she falsely claimed that: she was not wearing a miniature camera; she was not wearing miniature earpieces; she did not have any devices on her; the black wires in her clothes were part of her underwear; she only planned to use the miniature camera; she could not and did not use the miniature camera; and she did not commit an academic offence.

32. The Student further admits that: she did, in fact, use a miniature camera to take and send images of the questions on the final exam to a tutor whom she paid to provide her with the answers; the tutor had provided her with answers to the questions via miniature earpieces that she was wearing during the final exam; she had recorded the tutor’s answers in the exam booklet; and she had performed no meaningful academic work of her own on the final exam.

33. Based on the facts and admissions summarized above, we made a finding of guilt on Count 1, as we were persuaded that the Student had obtained unauthorized assistance in connection with the final exam in MGFB10H3F. 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

34. The Provost sought 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;
- (c) a notation of the sanction on her 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.

35. Assistant Discipline Counsel indicated that this proposed sanction was, in fact, a joint position regarding sanction. He tendered a written agreement regarding sanction which contained a permanent undertaking offered by the Student that, at the conclusion of her suspension, she will not register for any courses or re-enroll at the University of Toronto.

36. He submitted a further 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 them in a test or final exam. Most helpfully, the brief referenced several cases which involved the use of a hidden camera and earpiece.

37. 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.

38. 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.

39. Given this context, in this case we were persuaded that the proposed sanctions were neither unconscionable nor unreasonable. We considered the recent case of the *University and Q.C.* (Case No. 1505, November 24, 2023), 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 0 in the course. Likewise, in the recent case of the *University of Toronto and X.Z.* (Case No. 1541, April 18, 2024) (“X.Z.”) a penalty of a five-year suspension and six year notation in addition to a mark of 0 in the course were imposed.

40. 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.

41. Like the panel in the X.Z. decision, we recognize that the use of a miniature camera and earpiece is an egregious form of cheating that may warrant an order of expulsion. Here, however, we note that the Student confessed to her actions and participated in the disciplinary process by entering into the ASF as well as a joint submission regarding penalty. We took particular note of the Student's undertaking to never re-apply or re-enroll at the University of Toronto. Like the X.Z. panel, we conclude that "[t]his 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" (at para. 27).

42. At the conclusion of the hearing, and for the reasons outlined above, we 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 her 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 3rd day of June, 2024

Original signed by:

Alexandra Clark, Chair
On behalf of the Panel