

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on February 7, 2024,

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 am. S.O. 1978, c. 88

B E T W E E N:

UNIVERSITY OF TORONTO

- and -

S [REDACTED] H [REDACTED]

REASONS FOR DECISION

Hearing Date: July 4, 2024, via Zoom

Members of the Panel:

Shaun Laubman, Chair

Professor Susanna Chow, Faculty Panel Member

Charles Buck, Student Panel Member

Appearances:

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

S [REDACTED] H [REDACTED]

Hearing Secretary:

Karen Bellinger, Associate Director, Office of Appeals, Discipline and Faculty Grievances

1. The Trial Division of the University Tribunal heard this matter against S [REDACTED] H [REDACTED] (the “Student”) by videoconference.
2. For the reasons provided below, the Tribunal found the Student guilty of academic misconduct and imposed the following penalty:
 - a. A final grade of zero in MGEC06H3F;
 - b. A suspension from the University of Toronto for a period of 5 years to commence on May 1, 2024;
 - c. A notation of the offence on the Student’s academic record and transcript for a period of 7 years or until graduation, whichever comes first; and
 - d. 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.

Agreed Statement of Facts

3. Helpfully, the parties provided an Agreed Statement of Facts (“ASF”) that was relied upon by the Tribunal. The ASF is reproduced in part below.
4. The Student was charged as follows:
 - a. On or about November 14, 2023, you knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in connection with a midterm exam in MGEC06H3F, and/or attempted to do so, contrary to sections B.I.1(b) and/or B.II.2 of the Code.
 - b. In the alternative, on or about November 14, 2023, you knowingly represented as your own an idea or expression of an idea or work of another in connection with a midterm exam in MGEC06H3F, or attempted to do so, contrary to sections B.I.1(d) and/or B.II.2 of the Code.
 - c. In the alternative, on or about November 14, 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 a midterm exam in

MGEC06H3F, contrary to section B.I.3(b) of the Code. (collectively referred to as the “Charges”)

5. The Student acknowledged that he received a copy of the Charges, waived the reading of the Charges, and pleaded guilty to all Charges. The Provost agreed to withdraw charges #2 and #3 if a conviction was entered on charge #1.
6. In Fall 2023, the Student enrolled in MGEC06H3F: Topics in Macroeconomic Theory (“MGEC06”), which was taught by Professor Muhebullah Karimzada.
7. Students in the course were required to write two midterms (each worth 25%), a paper (worth 10%), and a final exam (worth 40%).

The Midterm Exam

8. The second midterm exam was administered in person on November 14, 2023 (the “Exam”). Professor Karimzada told students to turn off their electronic devices before he let them into the exam room.
9. Shortly after he entered the exam room, the Student asked Professor Karimzada to use the washroom and indicated that it was urgent. The Student was coughing badly when he asked to use the washroom. Since the Exam had not started and students were still placing their belongings at the front of the room, Professor Karimzada allowed the Student to go to the washroom and asked him to be quick. After a couple of minutes, the Student returned, and the Exam started as usual.
10. A couple of minutes later, Professor Karimzada saw that the question paper from the seat to the right of the Student was missing. Professor Karimzada counted the extra exams and the number of students in the room and found that he was missing a question paper. Professor Karimzada suspected that the Student was cheating, and asked Adrian Chan, an invigilator, to keep an eye on the Student.

11. During the Exam, Professor Karimzada and Mr. Chan saw that the Student would look around for quite some time and write nothing, and then suddenly start writing very fast. Mr. Chan suspected that the Student was cheating because he observed similar behaviour during other exams that he invigilated in which students had used miniature cameras and earpieces to communicate with third parties.
12. At approximately 8:15 pm, Mr. Chan asked the Student to show him his ears. Mr. Chan saw that: it looked like the Student was trying to hide something; it looked like the Student was trying to remove something from his ears; and that something from near the Student's head fell to the ground. The Student showed Mr. Chan his ears and said that he had nothing in his ears. Mr. Chan looked around the floor near the Student, but he did not find anything at this time, so he let the Student continue writing the Exam.
13. Professor Karimzada approached the Student to check his progress. Professor Karimzada saw that the Student had completed questions 1 and 2, but that he was just staring at question 3. Professor Karimzada saw that, in question 1, the Student wrote "NPC" instead of "MPC". Professor Karimzada asked the Student what he meant by "NPC" and the Student said that he did not know. Professor Karimzada suspected that the Student was cheating because "NPC" was not a term that they used in the course (the correct term was "MPC") and the Student could not explain his answer. Professor Karimzada saw that, apart from the mistake about the term "NPC", the Student's answers were correct.
14. Professor Karimzada asked the Student if he had his phone with him. The Student took a phone out from his pocket and Professor Karimzada saw that the phone was turned on. Professor Karimzada confiscated the Student's phone and asked to see him after the Exam.
15. Later that evening, Mr. Chan saw that the Student was trying to grab something from the floor with his foot. Mr. Chan walked over to the Student and saw that there was a broken earpiece on the floor near the Student. Mr. Chan picked up the broken earpiece and took it to the front of the room.

16. After the Exam concluded, the Student told Professor Karimzada that: he took the question paper from the exam room; he took pictures of the questions in the washroom; he sent pictures of the questions to two individuals whom he hired to give him answers; he flushed the question paper down the toilet; he erased the pictures on his phone; and the earpiece belonged to him. The Student then signed a form in which he admitted to possessing an unauthorized aid during the Exam.
17. The Student subsequently handed in his Exam. Professor Karimzada saw that the Student had erased significant parts of his answers, including the acronym “NPC”.
18. Professor Karimzada completed an Exam Incident Report about the incident. The Exam Incident report includes a picture of the earpiece that the Student wore during the Exam..

The Dean’s Designate Meeting

19. On January 3, 2024, the Office of the Vice-Principal Academic & Dean requested that the Student attend a Dean’s Designate meeting with Professor Nick Cheng to discuss the allegations that he committed an academic offence in connection with the Exam.
20. On January 9, 2024, the Student attended a meeting with Professor Nick Cheng, a Dean’s Designate for academic integrity, and Sheryl Nauth, an Academic Integrity Specialist, to discuss the allegations. At the start of the meeting, Professor Cheng gave the Student the warning that is required by the Code.
21. Professor Cheng told the Student that they would discuss the allegations about the MGEC06 Exam. Professor Cheng explained that: an invigilator saw the Student behaving strangely during the Exam in that he would not write anything and then he would write quickly; they found a phone in the Student’s possession and an earpiece presumably for communication; the Student allegedly received unauthorized assistance from someone outside the room; and there was a missing test in the seat beside the Student.

22. Professor Cheng read the specific wording of unauthorized assistance in the Code, and stated that, even if the Student decided that he did not actually receive assistance, the intent to do this and carrying out of that intent was considered an offence.
23. Professor Cheng said that he would ask the Student a yes or no question, and that the Student would have an opportunity to explain later on. Professor Cheng asked the Student whether he admitted that he received unauthorized assistance or he attempted to receive unauthorized assistance on the Exam, and the Student said yes. Professor Cheng asked the Student whether he understood that his actions constituted an offence, and the Student said no.
24. Professor Cheng asked the Student why he believed that he did not commit an offence. Professor Cheng said that he wanted to hear the explanation to understand what happened, and so that the Student could understand how to avoid this situation in the future. In response, the Student said that: after entering the exam room, he took the exam paper, folded it, and tucked it in his pocket; he told the teaching assistant that he needed to use the bathroom; once he was in the bathroom, he took pictures of the exam and sent them to a third party through Telegram (an encrypted messaging service); he ripped up the exam paper and flushed it down the toilet; he kept his phone on him and kept the call going with the third party; he returned to the exam room and took his seat; after about 20 minutes, the third party did not give him any answers at all; the invigilator came to take attendance and noticed that he was not writing anything; the invigilator asked him if he was cheating and asked him to lift his hair to see whether he had headphones; when he lifted his hair, he unplugged the wireless headphone and the invigilator did not notice that it fell to the ground; he lost communication with the third party because the earpiece fell to the ground; he wanted to pick up the earpiece but it was too far away; the invigilator noticed the earpiece later on; and he told the professor that the third party helped him and gave him the earpiece.
25. Professor Cheng asked the Student whether the third party was a person or a company and how he found out about them. In response, the Student said that: he thought they

were a group of people, but he was not sure; a friend told him about them at a party; he asked his friend for more information because he was interested; and his friend sent him a QR code so that he could get into a chat with them. Professor Cheng asked the Student whether he paid money for this service, and the Student said that he paid the tutors about \$460.

26. Professor Cheng explained to the Student that this was a serious matter, and that he would send him a follow-up letter. The Student stated that: this was his first attempt to cheat; he had family issues that affected him near the time of the exam; the earphone fell to the ground so he did not use it; he wrote the Exam by himself; he made a mistake; he did not have any excuse or reason; and he was sorry. Professor Cheng told the Student that the Vice-Provost would be in touch with him and that he should get legal counsel.

Admissions and acknowledgements

27. The Student admitted that: he used his phone to take and send pictures of the Exam to tutors whom he paid approximately \$460 to solve questions on the Exam; the tutors told him answers to questions on the Exam by transmitting audio to a miniature earpiece that he wore during the Exam; he used the tutors' answers on the Exam; and he performed no meaningful academic work on the Exam.
28. The Student admitted that he falsely claimed that he did not obtain answers from the tutors during the Exam. The Student admitted that he erased some of the answers on his Exam in an attempt to cover up and minimize the misconduct.
29. The Student admitted that he knowingly used and/or possessed an unauthorized aid or aids and/or obtained unauthorized assistance in the Exam, and/or attempted to do so, contrary to sections B.I.1(b) and/or B.II.2 of the Code.
30. The Student admitted that he knowingly represented as his own an idea or expression of an idea or work of another in the Exam, or attempted to do so, contrary to sections B.I.1(d) and/or B.II.2 of the Code.

31. The Student admitted that he 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 Exam, contrary to section B.I.3(b) of the Code.
32. The Student acknowledged that he signed the ASF freely and voluntarily, knowing of the potential consequences he faces, and does so with the advice of counsel or having waived the right to obtain counsel.
33. The Student acknowledged that the Provost made no representations to him regarding what penalty the Provost will seek in this proceeding.

Finding

34. Based on the admissions in the ASF, the Tribunal had no difficulty finding the Student guilty of one count of academic offence contrary to sections B.I.1(b) and/or B.II.2 of the Code.
35. The Provost withdrew the other Charges.

Penalty

36. The Student and the Provost agreed on a Joint Submission on Penalty (“JSP”). They submitted that, in all the circumstances of his case, it was appropriate that the Tribunal impose the following sanctions on the Student:
 - a. a final grade of zero in MGEC06;
 - b. the Student will be suspended from the University of Toronto for a period of 5 years, commencing on May 1, 2024;
 - c. this sanction will be recorded on the Student’s academic record and transcript for a period of 7 years or until graduation, whichever comes first; and
 - d. The case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University of Toronto newspapers,

with the name of the Student withheld.

37. In addition to the JSP, the parties submitted an apology letter written and signed by the Student. In it, the Student expressed regret for his actions and accepted responsibility for them. He acknowledged the seriousness of his misconduct, the detrimental impact that cheating has on the integrity of the academic process and the unfairness caused to other students who do not cheat. The Student committed to modifying his behaviour in the future so that he would not feel the need to resort to cheating in difficult courses.
38. The parties also submitted an Undertaking signed by the Student and Assistant Discipline Counsel on behalf of the University. In the Undertaking, the Student committed to completing at least six hours of “mutually agreeable academic success workshops offered by the University of Toronto”. The Undertaking stated that the Provost was agreeing to the JSP in reliance on the Undertaking. It also provided that the Student agreed that the University could prevent him from graduating until he fulfilled the Undertaking.
39. When the Chair of the Tribunal raised questions about the purpose and authority for the Undertaking, the Panel was directed to several past decisions of the University Tribunal where forms of undertakings were presented during the penalty phase. The Provost confirmed that the Tribunal had no jurisdiction to enforce the Undertaking and the terms of the Undertakings were not found anywhere in the Code. In other words, they were not sanctions or terms that could be unilaterally imposed on the Student.
40. The Provost submitted that the Undertaking should be viewed as a mitigating factor and that it was presented in support of the JSP. Given the seriousness of the Charges, the Provost may have sought a more severe sanction if not for the Undertaking. The Provost relied on the *University of Toronto v. O.E.* (Case No. 923, August 30, 2017) at paras. 24-25 and 28 for the use of an Undertaking as a mitigating consideration.
41. The introduction of undertakings into the discipline process should be approached with caution. Given the power imbalance between the student and the University, particularly when the student is unrepresented, care should be taken to ensure that the student fully appreciates the consequences of the terms they agree to in an undertaking as well as the

fact that those terms are sometimes, as in this case, not terms that could otherwise be imposed. It is not necessary in this case to comment further but there may well arise a future case where a tribunal will have to carefully scrutinize the reasonableness of an undertaking if it is proffered as part of the sentencing process and consider whether or not a joint submission on penalty can be adopted if the underlying undertaking is unreasonable in the circumstances.

42. When considering the JSP, the Tribunal looked at the *University of Toronto v. Mr. C* (Case No. 1976/77-3; Nov. 5, 1976) (“Mr. C”) factors. It was also taken to a number of analogous cases for guidance on penalties imposed by other tribunals for similar offences.
43. With respect to the Mr. C factors, the Student admitted guilt and expressed remorse. He cooperated with the discipline process. This character evidence was a mitigating factor. This was also the Student’s first academic offence.
44. On the other hand, the use of unauthorized aids to cheat on the Exam and paying for unauthorized assistance are very serious offences and deserving of a significant sanction. This attack on academic integrity must have serious consequences to send a strong message of deterrence to the student population. There is no question that cheating of this nature has a detrimental impact on the University and other students who complete their work without paying someone else to do it for them.
45. The Provost directed the Tribunal to three past decisions that involved convictions for unauthorized assistance where the student paid someone to help them cheat. Two of those decisions, *University of Toronto v. Q.C.* (Case No. 1505, November 24, 2023) and *University of Toronto v. T.D.* (Case No. 1560, June 3, 2024), saw 5-year suspensions imposed along with notations of 6 years and 7 years respectively. At the time of the Hearing, no sanction had yet been imposed in the third decision, *University of Toronto v. X.S.* (Case No. 1559).
46. Considering the relevant Mr. C factors, along with the 5-year suspensions imposed in other analogous cases that the Tribunal was directed to, supports the reasonableness of

the JSP. The 7-year notation recognized the seriousness of the offence committed and is also in line with the longer notations imposed in the analogous past decisions. Consistency is a relevant sentencing consideration.

47. Finally, applying the direction of the Discipline Appeals Board in *University of Toronto v. M.A.* (Case No. 837, December 22, 2016), the JSP cannot be said to be unreasonable or unconscionable. Therefore, this Tribunal should adhere to the agreement reached by the parties and reflected in the JSP.

48. The Tribunal accepted the JSP and imposed the agreed-upon penalty on the Student.

Dated at Toronto, this 16th day of October, 2024.

Original signed by:

Shaun Laubman, Chair

On behalf of the Panel