

# **UNIVERSITY OF TORONTO GOVERNING COUNCIL**

## **Report #324 of the Academic Appeals Committee March 30, 2008**

To: The Academic Board,  
University of Toronto

Your Committee reports that it held a hearing on Friday March 14, 2008, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair  
Professor Ellen Hodnett  
Professor Yuki Johnson  
Mr Alex Kenjeev  
Professor Arthur Ripstein

### **In Attendance:**

Mr. D. V., the Student  
Professor John Scherk, Vice Dean, University of Toronto at Scarborough ("UTSC")

Ms Nancy Smart, Judicial Affairs Officer

### **The Appeal**

The Student is appealing the October 23, 2007 decision of the UTSC Sub-committee on Academic Appeals denying his request to "defer" his 12 month academic suspension, write two "deferred" examinations CHMB41H3S and BGYA02H3S and rewrite the final exam in PSYA02H3S.

### **Facts**

The Student enrolled at UTSC in the 2005 Fall Session in an Honours Bachelor of Arts program. He completed 2.0 credits in his first session. He continued in the 2006 Winter Session, but only achieved 0.5 credits and was placed on academic probation. He completed courses in the 2006 Summer Session and earned another 0.5 credits, and at this time was placed on a four month academic suspension as a result of a sessional GPA of 0.23 and a cumulative GPA of 0.32.

Upon completion of the suspension, the Student enrolled in four courses in the 2007 Winter Session. He was on academic probation on his return. He earned only another 0.50 credits and was placed on a further 12 month suspension, commencing at the end of the 2007 Winter Session. His sessional GPA is 0.18 and his cumulative GPA is 0.29. He has earned 3.5 credits total. He may return from suspension in September 2008.

The Student has faced personal hardship since he began University. He lived with his aunt and uncle for ten years. His uncle passed away during his first term in University. The Student took on a second job and did poorly academically as a result of his personal and work commitments. When he returned to school in January 2007 on academic probation, his aunt got sick and passed away that February. He wrote two of four of his mid-terms. After his aunt's death, he was not permitted to remain in their house and had to find alternate living arrangements and take on a third job. He did not attend tutorials and most labs. In two of the courses under appeal, his final exams would have been worth almost all or close to his entire final grade, as he had done virtually no work in the courses to date.

He was invited to live with another family member in June 2007. Since then, the Student reports that his life has stabilized, from a monetary and personal perspective. He is seeking a fresh start and has indicated a new and improved attitude and personal circumstances to match.

In two of the courses under appeal, he missed the final exams scheduled for April 19 and April 26, 2007, and in one of the courses, he wrote the April final but did poorly.

At our hearing, the Student informed this Committee that he had decided to attend a number of classes since September, hoping that his suspension would be deferred. He hoped that this Committee would retroactively overturn his suspension so that the courses he was attending as a non-registered student could "count" and he could write exams in them. It was also suggested that some of these courses were those that he had previously failed, and thus explained the request in the remedy before us to rewrite exams he had failed and which were not the subject of an appeal. In other words, the Student was effectively "doing them over" and wanted to write final exams and have them count for his grades in last year's courses, and was asking this committee to allow that remedy. The Student is not registered and, at the appeal, UTSC indicated that they were not aware that the Student was attending class.

## **Previous Decisions**

There are several petitions and re-petitions in this matter.

First, on April 22, 2007, the Student petitioned for late withdrawal from 3 of his four 2007 Winter Session courses: STAB22H3S; BGYA02H3S; and CHMB41H3S. The Student's grounds for the petition were that his aunt had died, he lived on his own and he supported himself. He indicated he has not been able to show up to mid-terms, labs and tutorials for two of three courses. The supporting documentation consisted of his aunt's certificate of cremation, dated March 1, 2007.

The petition was denied, since the Student had not made a case to show that he was unaware of the difficulties he was in prior to the March 25, 2007 drop date. Thus, it was possible for him to know that he should drop the courses by the deadline. Having decided not to drop, he also did not demonstrate an inability to complete the course work. The Student was referred to academic advising to discuss his options and petitioning again.

On June 11, 2007, the Student petitioned again, this time to write retroactive “deferred” examinations for the examinations he missed in CHMB41H3S and BGYA02H3S. He also asked for a re-write for one of two examinations he did write, PSYA02H3S.

By this time, the Student knew that he would be placed on a one year academic suspension as a result of his performance. He again submitted a copy of the funeral certificate and noted that he missed the exams because his aunt passed away (the exams were on April 19 and 26, 2007). He also noted that he did poorly on the exam he did write, because he was not in the proper state of mind.

This petition was denied, as the Student “had not shown that extenuating circumstances prevented him from writing his exams, or in the case of [PSY] that these circumstances adversely affected your performance on the examination.” Further, upon review of the Student’s progress in the three classes, there was no evidence to suggest that had the Student written the examinations or re-written the examination, he would improve his academic position [and thus not face a 12 month suspension.]. For example, the instructor in BGYA02H3S indicated that the Student missed *all* the labs, the mid-term *and* the final.

Third, on August 13, 2007, the Student re-petitioned to “defer” his suspension, write two “deferred” examinations and rewrite the final exam in PSYA02H3S. In this case, the Student provided a more detailed statement outlining his serious personal difficulties. He requested special consideration as a result of his aunt and uncle’s deaths, the fact he could not remain in his aunt’s house after her death, the need to get a third job, and his inability to attend school during the 2007 Winter Session.

The petition was again denied, on the grounds that he had had ample time to drop his courses by the March 25, 2007 deadline, and that as a student on academic probation at the time, he should have better assessed his situation and reduced his course load. Further there was virtually no documentation to support the petition. The petition noted that the academic suspension would give the Student time to reassess his goals to determine whether University was something the Student still wished to pursue.

On September 9, 2007, the Student appealed the denial of the August 13, 2007 petition to the UTSC Sub-committee on Academic Appeals. In particular, the Student hoped for a deferral of his suspension so that he could attend classes, re-take courses he had failed, and start fresh.

The Sub-committee in a decision dated October 23, 2007 denied the appeal and found that the Student did not document the financial and family problems he brought forward, that the date of documentation that was provided (the cremation certificate) indicated that the Student had had time to assess his situation prior to the drop date of March 25<sup>th</sup>. Further, the Sub-committee noted that that the Student’s problems began well before January 2007 (as he has had continuing academic difficulty).

Now, the Student appeals that decision. He continues to ask for permission to re-write PSYA02H3S, and permission to write the final examination which he missed in CHMB41H3S. But he is now also asking for permission to withdraw from BGYA02HS that he took in 2007

(rather than the ability to write the examination), plus the ability to re-write three more examinations that he wrote in the 2006 Winter Session: SOCA02H3S, ANTA02H3S, and MATA35H3S, and permission to re-write two more exams - BGYA02H3Y and BGYA01H3Y from the 2006 Summer Session. He received a grade of “F” in all five of these courses; these grades were not the subject of any petitions or appeals before us.

## **Decision**

At its core, this decision rests on an unfortunate series of personal circumstances and the conflict of these circumstances with the University’s course selection policies, and its method of applying these policies.

In the first instance, we have a student who has experienced academic and personal difficulty since the beginning of his time at UTSC. The committee is sympathetic to this Student and yet must consider the second and third sets of circumstances – that is the existence of University policy and the application of those policies equitably and fairly to all students.

The ability to obtain late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations. The use of “drop dates” indicates that the University respects the ability of a student to choose whether to continue to remain in a course for any number of reasons. But by the drop date each term, in this case March 25, 2007, the student is expected to have assessed his or her situation and made a decision. Once the drop date passes, the University is of the view that the student has decided to continue in the course. Exceptions to this policy are rare, and usually occur in situations where unanticipated circumstances occur *after* the drop date, where already-existing circumstances become significantly more severe, or where already-existing circumstances do not resolve.

Applying this analysis to the present case, this Student’s circumstances were acute in the month prior to the drop-date, when he had not done any work in most of the courses and was in dire personal straits. He was already on academic probation and it is unfortunate that he was not able to get assistance to provide guidance that would have allowed him to more accurately assess the chances for his success in the program. While it is possible to take the view that the Student’s personal circumstances became worse or did not resolve themselves at the time of the April 22, 2007 petition, unfortunately, there was little evidence provided by the Student to support this, and thus UTSC had little choice but to deny the appeal.

Similarly, when the Student further petitioned through the summer for an opportunity to re-write one of his finals and to have a chance to take the missed finals, there was little evidence academically that the opportunity to write the finals would have lifted the 12 month suspension given how poorly the Student had performed and given how little work the Student had done in the courses. As well, there was no further documentary evidence proffered in accordance with the UTSC policies that showed further incapacitations and a deepening of the personal circumstances. Again, UTSC had little choice but to deny the further petitions and ultimately to confirm the denial at the Subcommittee on Academic Appeals.

In fact, by the time of the final Subcommittee appeal in September 2007, the evidence heard by this committee suggests that the Student's life had begun to turn around and there was every reason to believe that the one year suspension would provide the Student with the opportunity he sought, i.e., a fresh start at achieving his potential in University.

The Student's evidence suggests that the 2007-2008 year has been productive and positive – he is settled, healthy, and understands better how to succeed academically. The Committee notes approvingly of this Student's new-found self-awareness and desire to do better given another opportunity. Unfortunately, that new opportunity must be in the form of a registration *following* the required academic suspension, and cannot be in the form of “re-writes” and “do-overs” for the courses that form the subject of the petitions under appeals, and certainly for those which are not the subject of the appeal.

There are a number of remedial requests before us, most of which were not the subject of the previous decisions. We have confined our deliberations to the remedies that formed part of the decisions under appeal. The Committee is cognizant that these new requests come from a combination of the time that has passed, as is often the case en route to Governing Council appeals, but also because during the suspension, the Student took it upon himself to begin attending classes again, in the hope that he would be given a “fresh start” by this Committee. To do so would be well beyond the scope of this Committee.

Therefore, confining ourselves to the matter under appeal, namely the request to “defer” his suspension, write two “deferred” examinations CHMB41H3S and BGYA02H3S and rewrite the final exam in PSYA02H3S, the majority of the Committee is of the view that the appeal should be dismissed.

One member of the Committee is of the view that UTSC could have granted the Student's petition on the evidence (the March 1, 2007 death certificate) provided at the April 22<sup>nd</sup> petition. Alternatively, the minority is of the view that the August 13, 2007 petition decision relied too heavily on the single fact of the Student's aunt's death rather than giving more weight to the surrounding circumstances described in his petition. Accordingly, the member would have either allowed the Student to withdraw from PSYA02H3S, CHMB41H3S and BGYA02H3S (even if this meant the Student still faced academic suspension) or, alternatively, to re-write the final exam in PSYA02H3S and write the missed exams CHMB41H3S and BGYA02H3S (even if this meant that the Student still faces academic suspension as a result of his likely inability to pass these courses having done no term work, and although recognizing that this is not what the Student is asking for now).

The appeal is dismissed.