

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

**Report #330 of the Academic Appeals Committee
March 30, 2009**

Your Committee reports that it held a hearing on Wednesday, March 18, 2009, at which the following were present:

Assistant Dean Renu Mandhane, Chair
Professor Ronald Kluger
Professor Louise Lemieux-Charles
Professor Rhonda Love
Mr. Olivier Sorin (Student)

Ms. Mette Mai, Judicial Affairs Officer

In Attendance:

Mr. S. M, the Student
Vice-Dean John Scherk, University of Toronto Scarborough, the Respondent

I. The Appeal

The Student is appealing the March 20, 2008 decision of the University of Toronto Scarborough (“UTSC”) Committee on Academic Appeals, denying his petition for early return from a 36-month suspension imposed in the Winter of 2007.

II. Facts

In the Fall of 2003, the Student enrolled in the Bachelor of Science (Honours) program in the Faculty of Arts and Science at UTSC. Though he passed two courses in the Fall of 2003, he failed all of his courses in the Winter of 2004 and was placed on academic probation at the end of the session. During the 2004-2005 academic year, he failed all of his courses, and was suspended for twelve months at the end of the Winter session. At the time of his suspension, his sessional GPA was 0.0 and his cumulative GPA was 0.21.

Due to a change in policy at UTSC, the Student was allowed to return early from suspension. In the Fall of 2005 he enrolled in two courses at UTSC: he failed one course and received a C+ in the other course. He was suspended for twelve months at the end of the session. At this time, his sessional GPA was 0.85 and his cumulative GPA was 0.31.

The Student returned to his studies in the Winter of 2007 and enrolled in two courses at UTSC. He had previously attempted and failed both of these courses twice. He received a D+ in both courses. He was suspended for 36 months. At this time, his sessional GPA was 1.3, his annual

GPA was 1.3, and his cumulative GPA was 0.44. During the course of his studies at UTSC, the Student has earned a total of 2.50 credits.

III. Previous Decisions

On November 6, 2007, the Student petitioned to have his 36 month suspension deferred. In support of his petition, the Student wrote as follows:

In the Winter 2007 semester, I...completed two half credit courses...I find it difficult to study and work (full-time, nights) at the same period. Therefore, my marks were not as high as I could have achieved....As a result, I was suspended from the university for 36 months. If I had proper financial arrangement[s]...., I would avoid my academic setback. Therefore, I talked to OSAP about it. OSAP replied to me in [a] letter dated September 30, 2007 that if I show early return approval from University of Toronto, they can allow me to get OSAP...

The Student also provided medical documentation related to his previous suspensions.

On November 16, 2007, the Office of the Registrar at UTSC denied the Student's petition requesting early return from his 36 month suspension. The Registrar found that there was no new evidence to show that Student was ready to return to his studies.

On November 19, 2007, the Student appealed the decision of the Office of the Registrar to the UTSC Subcommittee on Academic Appeals. The Student wrote the following in support of his petition:

I believe that I am ready to return to my studies...I have enclosed...OSAP letter, which indicates that OSAP agreed to give financial support, if I can return to my studies early.

The Student's appeal was denied by the UTSC Subcommittee on Academic Appeals Board. In a letter dated March 20, 2008, the Board wrote as follows:

1. Early return from suspension is normally granted only in cases where there has been some substantive and well documented change in the individual's life which indicates that their previous record of failures is not likely to recur. You provided no indication of such a change.
2. In October 2003, you were diagnosed as suffering from clinical depression. As indicated by a note from Dr. Rajendra, you were placed on a regime of appropriate medication. You explained in the hearing that your condition responded well to treatment. You explained to the committee that, by 2005, you were considered cured and you stopped taking medication. Although you provided no documentation for this fact, the committee accepted your word on the matter. Since the term which led to your 36 month suspension was Winter 2007, your medical history has no bearing on the present case.

3. If your appeal were granted, you would be required to achieve a sessional Grade Point Average of 1.60 or better until your cumulative GPA is raised above 1.60. Failure to achieve such marks at any point would result in your being denied further registration at the University of Toronto.
4. In the five years since your first enrolment at UTSC, you have attempted fifteen courses. You have failed ten of these courses. Your cumulative Grade Point Average is presently 0.44. The highest sessional GPA you have so far achieved is 1.30.
5. You managed weak passes in both classes in the Winter 2007 session. Since you had taken both courses twice previously, this does not represent a strong argument for the degree of improvement in academic performance that would justify special treatment.
6. Your suggestion that OSAP would give you funding, contingent on your being readmitted, did not strike the committee as at all certain nor was it sufficient grounds for granting the appeal.
7. To summarize, the committee felt that denying your appeal was in your own best interest.

In its letter dated March 20, 2008, the UTSC Subcommittee on Academic Appeals Board suggested that the Student save money during the suspension period to pay for his resumed education in 2010, consult with a career counselor to determine how to best develop his skills and talents, and take some courses at a community college in order to update his academic skills and study habits.

The Student now appeals to the Academic Appeals Committee of Governing Council.

IV. Decision

a. Submissions

In his written submissions to your Committee, the Student stated that his appeal was based on his “financial and medical condition.” However, at the hearing, the Student only made submissions in relation to his financial circumstances (since his medical condition was resolved as of March or April 2005). He stated that his poor academic performance in 2007 resulted from working full-time to support his family while attending university. He stated that he was required to work, in part, because he was not able to obtain OSAP in 2007 due to his academic history.

In support of his appeal, the Student submitted a letter from OSAP dated September 2, 2007. The letter states that, as a result of a previous restriction on eligibility, the Student would be required to submit the following before he would be considered for OSAP: (1) a letter of

explanation relating to current academic objectives, and (2) confirmation that existing student loans are in good standing.

The Student submitted a second letter to your Committee; this letter was not before the UTSC Subcommittee on Appeals. In a letter dated September 20, 2007, OSAP confirmed that, if the Student was able to successfully appeal for early return from academic suspension, he could request an OSAP appeal for further eligibility. At the hearing, the Student confirmed that he understood that these letters did not grant him OSAP funding, but only authorized him to apply for OSAP should early return from academic suspension be granted by your Committee.

b. Reasons

The Student is seeking early return from a 36-month suspension imposed at the end of the Winter 2007 session due to poor academic performance. The Student claims that he performed poorly as a result of his medical and financial circumstances.

The issue before the Committee is whether UTSC should have allowed the Student's appeal based on a change in the Student's circumstances. In determining this issue, your Committee considered the reasons behind the imposition of suspensions for poor academic performance.

The University sets minimum academic standards that apply to all students. Where a student fails to meet these minimum standards, he or she can be suspended or denied further registration at the University. Implicit in the imposition of a suspension is the expectation that the student will use the time to address the circumstances that may have led to his or her poor performance prior to re-enrolling at the University. Consistent with this underlying purpose, early return from suspension is an extraordinary remedy that is normally only granted in cases where there has been some substantive and well-documented change in the student's circumstances which indicates that his or her previous record of poor academic performance is not likely to recur.

In applying this test, your Committee must accept the University's established minimum academic standards and the penalties imposed for failing to achieve them. However, your Committee is prepared to grant relief where it is just to do so based on the reasons behind the policy. This could include situations where, for example, a student has sought treatment for a medical condition while on suspension such that she is no longer dealing with the same issues that resulted in the suspension, or where the student demonstrates significant improvement in her academic performance through enrollment and completion of academic courses at another institution.

In reaching its decision, the UTSC Subcommittee on Appeals rejected the Student's submission that his circumstances had changed sufficiently to justify early return. The UTSC Subcommittee on Appeals found that the Student's medical history had no bearing on his appeal. The Subcommittee relied on Dr. Rajendra's note, which stated that the Student was no longer suffering from the effects of depression as of 2005. Given that the 36 month suspension at issue related to poor academic performance in 2007, the UTSC Subcommittee did not find his medical history from 2003 to 2005 relevant. The Student presented no information to the UTSC Subcommittee on Appeals to demonstrate that he continued to suffer from depression or any

other medical condition immediately prior to or during the Winter 2007 session, and presented no further medical documentation to your Committee. Therefore, your Committee agrees with UTSC's analysis regarding the Student's medical circumstances.

The UTSC Subcommittee on Appeals also found that the consideration of the Student's financial circumstances did not justify early return. Funding from OSAP was not certain and, even if it was obtained, the UTSC Subcommittee was not convinced that this would have a significant affect on the Student's academic performance. The Student presented no information to the UTSC Subcommittee on Appeals to demonstrate that he was unable to attend classes, missed assignments, or sought counselling for the stress he was facing as a result of working full-time and attending University during the Winter 2007 session. In the hearing before your Committee, the Student acknowledged that funding from OSAP was uncertain, and presented no further information regarding the impact of his financial condition on his studies during the Winter 2007 session. Therefore, your Committee agrees with the UTSC Subcommittee on Appeal's finding that consideration of the Student's financial circumstances did not justify early return.

As noted above, the UTSC Subcommittee on Appeals made a number of suggestions for ways the Student could use his time on suspension to better prepare himself for university studies. The Student has been suspended for well over a year, however, there was no information before your Committee to suggest that he has maintained steady employment, consulted with an academic counselor, or taken any courses at a community college to upgrade his academic skills and study habits. As a result, there was no further information before your Committee to demonstrate a change in circumstances that could justify early return from suspension.

Your Committee is sympathetic to the hardship the Student was experiencing in 2007 while attempting to balance his family commitments and studies. However, based on the information presented by the Student in the petition and the appeal, we find that UTSC appropriately applied its discretion in not granting early return from academic suspension. Your Committee is of the view that UTSC's decision was appropriate in the circumstances and unanimously denies the Student's appeal.

The appeal is dismissed.