

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report # 352 of the Academic Appeals Committee
December 8, 2010

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Tuesday, November 16, 2010, at which the following members were present:

Professor Markus Dubber, Chair
Professor Christina Kramer
Ms Natalie Melton
Professor Andrea Sass-Kortsak
Mr. Gregory West

Secretary: Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty
Grievances

Appearances:

For the Student Appellant:

the Student Appellant
the Student Appellant's Father

For the University of Toronto at Scarborough (UTSC):

Professor Mark Schmuckler

I. Appeal

The Student appeals a decision of UTSC's Subcommittee on Academic Appeals, dated March 21, 2010, denying his petition for an extension of time to write the final exam in the 2009 Summer Session course BGYC13H3. Before your Committee, the Student requests the remedy of late withdrawal without academic penalty from this course.

II. Facts

The Student asked for, and was granted, a deferral of the final exam in this course, along with another Summer Term course (GGRA03H3). Both deferred exams were scheduled

for December 4, 2009, the exam for BGYC13H3 at 9:30am, and that for GGRA03H3 at 2 p.m.

According to the Student, he could not take the exam in BGYC13H3 on December 4, 2009, because he fell seriously ill on the morning of the exam. He went to the doctor at noon. The doctor filled out a UTSC Student Medical Certificate indicating that the Student suffered from nausea, vomiting, and diarrhea and that the Student was "unable to fulfill academic obligations."

Nonetheless, the Student then went ahead and took the afternoon exam in GGRA03H3. He did well on this exam, well enough to earn a grade of A for the course. Not having taken the final exam in BGYC13H3, which counted for 60% of the final course grade, he received an F (27) for the course; he had earned a C+ (68) on the midterm, which counted for 40% of the course.

On December 18, 2009, the Student requested an extension of time to write the final exam in BGYC13H3, which was denied on January 4, 2010. He appealed this decision to the Subcommittee on Academic Appeals and enrolled in the same course for the Winter Term, according to the Student, "as a precautionary measure" since he needed the course to graduate by June 2010 and had been informed that his appeal would be considered in mid-March, after the course enrolment deadline. He finished the course, took the exam, and received a final grade of B-. He graduated in June 2010.

Before your Committee, the Student, for the first time seeks the remedy of late withdrawal without academic penalty because the remedy he originally sought, taking the exam at a later date, is now pointless. He took the course again, sat the final exam, and passed the course.

III. Decision

Your Committee unanimously finds that the Student provided "compelling evidence of a significant medical or other emergency" in support of his request to defer the December 4, 2009 rescheduled final exam in BGYC13H3, as required by UTSC's provisions governing "Special consideration, petitions and appeals" (s. B.7.) The rationale for the denial of his deferral petition by UTSC's Subcommittee on Standing makes reference to the lack of "compelling evidence of treatment that [the Student] received for [his] illness." The Student, however, since has produced a second note from the same doctor that, in addition to restating the diagnosis indicated on the UTSC Student Medical Certificate of December 4, 2009 in greater detail, sets out the treatment prescribed (fluids, rest, BRAT diet, Gravol as needed).

Both in the rationale for the initial denial by the UTSC Subcommittee on Standing and at the oral hearing, much weight was placed on the Student's having not only taking an exam later in the day but having done well on it. Your Committee finds that the Student could not reasonably be penalized for his decision to take the afternoon exam against the

doctor's advice, particularly because the UTSC representative at the oral hearing clarified that UTSC takes the UTSC Student Medical Certificate of December 4, 2009 at face value and does not challenge its reliability or verifiability. There was also much discussion of the Student's Ontario Student Assistance Program (OSAP) standing. The Student argued, supported with evidence including a letter from an Assistant Registrar at UTSC's Financial Aid Office, that one of his reasons for taking the afternoon exam on December 4 despite his illness was that he was worried about retaining his OSAP eligibility. The Division responded that "there is no current threat to your being in good status with OSAP" (as stated in the decision by the UTSC Subcommittee on Academic Appeals). Your Committee does not consider the question of the possible effect of the Student's taking one or both exams on his OSAP eligibility relevant to the disposition of the case.

Moving on to the question of remedy, your Committee unanimously finds that late withdrawal without academic penalty is appropriate given that the original remedy sought by the Student, a deferred exam, is now beside the point; there is not only the significant passage of time (several months since he took the course), but more specifically in this case, the facts that the Student has taken the course again, including the final exam, received a grade (of B-) for the course, graduated, and joined the work force.

Your Committee appreciates that UTSC in particular, and the university as a whole, is strongly predisposed against granting the remedy of late withdrawal without academic penalty, a predisposition reflected in policies throughout the University of Toronto, including but not limited to UTSC. Your Committee, however, is charged with the fair application of all university policies, including those that do not on their face provide for exceptions, however generally worded. Finality is crucial for the proper functioning of any institution, including large academic institutions. But finality is not the only value, and rules designed to serve it are not exempt from scrutiny of their application in light of fairness and consistency.

Your Committee finds that the fair application of the policies regarding late withdrawal without academic penalty in the present case requires that an exception be made. The present case is exceptional in several respects. The Student seeks the remedy of late withdrawal without academic penalty only because the remedy originally sought has become irrelevant. The obsolescence of the original remedy is not due to any neglect or failure on the student's part. On the contrary, it is because he took the initiative to ensure that he would complete his program as planned, and be able to graduate in a timely fashion. He already repeated the course, wrote the exam, received credit for it, and graduated. The present case does not involve an expected or foreseeable circumstance that the Student could have taken into account when he requested, and received, a first deferral of the exam in question or, for that matter, at any time before the drop date. He deferred the exam once and then fell ill on the day of the rescheduled exam. It cannot be said that this course of events was something the student should have anticipated. To characterize the onset of a serious illness on the day of an exam as foreseeable would produce precisely the unfairness that resulted in the present case: to penalize a student

for his physical inability to take an exam, assuming of course that “compelling evidence of a significant medical ... emergency” is present, as determined by your Committee.

The appeal is allowed. The grade of F in the 2009 Summer Session course BGYC13H3 is vacated, and the Student is allowed retroactively to withdraw from this course without academic penalty.