

**ACADEMIC APPEALS COMMITTEE
GOVERNING COUNCIL**

Report #347 of the Academic Appeals Committee
October 4, 2010

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Friday, June 25, 2010, at which the following members were present:

Professor Ed Morgan (Chair)
Professor Ronald Kluger
Professor Louise Lemieux-Charles
Mr. Andrew Agnew-Iler
Ms. Jemy Joseph

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

Appearances:

For the Student Appellant:

Ms. L■■■■ G■■■■ (the Student)
Ms. Deidre Newman, Counsel for the Student

For the University of Toronto:

Ms. Sari Springer, Cassels Brock Lawyers, Counsel for the Division
Professor Arlene Gehmacher, Course Instructor
Professor Anne-Marie Brousseau, the Associate Dean of the Faculty of Arts and Sciences
Ms. Elaine Ishibashi, Associate Faculty Registrar, Petitions

I. The Appeal

This is an appeal by Ms. L■■■■ G■■■■ of the decision of the Academic Appeals Board of the Faculty of Arts and Science dated April 23, 2009 dismissing an appeal for an extension of time to complete the term work in the course entitled "Collecting Canada", FAH485H1F. For the reasons that follow, the Committee is unanimous in deciding that the appeal is denied.

II. The Facts

Ms. L G has been pursuing a B.A. degree in Fine Arts History with a minor in Italian. The course in question, Collecting Canada, was a seminar course in which ten students were enrolled. The course met in the fall term of 2007, beginning on September 13th and ending on December 6th. Collecting Canada studies Canadian works of art housed in the Royal Ontario Museum and that meets in the museum. The course instructor was Professor Arlene Gehmacher. Evaluation in the course was set out in the syllabus as being comprised of class participation (15%) and a major research project (85%). The grading of the research project was further broken down to include the preparation of a preliminary bibliography (10%) due October 4th, oral presentation (25%) given between October 25th and November 22nd, and the final written research paper (50%) due two weeks after the student's oral presentation. The syllabus stipulated that the penalty for lateness was two marks per day, and that late papers would not be accepted after December 10, 2007.

On October 4, 2007, Professor Gehmacher distributed to all students in the seminar, including Ms. L G, the dates for each oral presentation and the due dates for each student's research paper. Ms. L G's oral presentation was scheduled for November 1st and her final paper was due on November 15th. Ms. L G submitted her preliminary bibliography on October 12th, some eight days after it was due to be submitted. The bibliography was reviewed by Professor Gehmacher together with Ms. L G on October 15th.

On October 23rd, Ms. L G for the first time provided Professor Gehmacher with a letter from Pearl Levey, a learning disability specialist at University of Toronto's Accessibility Services. The letter advised that Ms. L G is registered with Accessibility Services, and that she is entitled to certain accommodations including "when necessary, extensions for assignments to be negotiated with professors." Between receipt of the Accessibility Services letter and October 31st, Professor Gehmacher and Ms. L G exchanged several emails regarding Ms. L G's project. At no time during these exchanges did Ms. L G request an extension of time.

Ms. L G made her oral presentation to the seminar as scheduled on November 1st. Later that day, Professor Gehmacher sent Ms. L G a lengthy email reviewing her presentation and reminding Ms. L G that the final report was due on November 15th. In this email, Professor Gehmacher specifically inquired as to whether Ms. L G would require an extension of time. At no time did Ms. L G request such an extension.

On November 14th, Professor Gehmacher again wrote to Ms. L G asking her how her paper was going and reminding her that it was due the next day. Again, Professor Gehmacher asked Ms. L G whether she was having any difficulty meeting the November 15th deadline. Shortly before midnight that night, Ms. L G replied to Professor Gehmacher's email, and for the first time requested an extension of the due date for the paper until the end of the month. Her stated reason for the extension was that

she was suffering an allergic condition and that some restrictions had been placed on her library card which slowed her progress in completing the research.

Professor Gehmacher responded the following morning by email stating that she would need to see a doctor's note verifying the allergic condition. She also indicated that if Accessibility issues were a factor she would authorize an extension until November 28th. Professor Gehmacher also reminded Ms. L. G. that final marks for the course had to be submitted by December 12th. That same day, Professor Gehmacher sent Ms. L. G. a second email offering to meet with her in order to go over the research project.

A meeting was ultimately scheduled for November 22nd. At no time did Ms. L. G. supply Professor Gehmacher with a doctor's note confirming the allergic condition, and at no time did Ms. L. G. advise Professor Gehmacher that Accessibility issues were coming into play. Notwithstanding Ms. L. G.'s silence, Professor Gehmacher granted an extension of the due date for the final research paper until November 28th.

Late in the evening on November 27th, Ms. L. G. sent Professor Gehmacher an email indicating that she would not be able to submit the project the following day. In her email, Ms. L. G. stated that her lateness was due to "her condition", and that she was aiming to submit the paper the following week. Despite the fact that the previously requested doctor's note was never provided by Ms. L. G., Professor Gehmacher granted a further extension for submitting the paper to December 6th.

On December 6th, Ms. L. G. did not submit the paper, but delivered to Professor Gehmacher a note from Pearl Levey dated November 22, 2007 and another note from her family doctor, Paula Nieuwstraten dated December 5, 2007. Ms. Levey's note stated that Ms. L. G.'s difficulties include issues with timely completion of assignments, but indicated that any extensions of time granted to Ms. L. G. should not be open-ended. In view of these notes, Professor Gehmacher granted Ms. L. G. a further extension of the due date to December 10th.

Ms. L. G. did not submit the paper on December 10th. As December 12th was the final day for instructors to submit grades for courses that term, Professor Gehmacher granted one last extension to Ms. L. G. to December 11th. Ms. L. G. did not submit the paper on the 11th. Rather, on December 21st, she filed a petition with the Registrar to the Committee on Standing requesting an extension to February 8, 2008 for submitting her paper. The paper was ultimately submitted to the Faculty on March 5, 2008, some four months after the initial due date.

In addition to extensive testimony from Ms. L. G., the Committee also heard testimony from Professor Anne-Marie Brousseau, the Associate Dean of the Faculty of Arts and Sciences. Professor Brousseau advised the Committee that course instructors have no authority to give extensions beyond the last day of exams for the term – i.e. December 12, 2007. In other words, in granting a final extension to the end of the day on December 11, 2007, Professor Gehmacher did all that she could do to try to accommodate Ms. L. G.; to no avail.

III. Decision

Ms. L G contends that the series of extensions from November 15th to December 11th did not constitute reasonable accommodation of her needs. The Committee disagrees. If anything, Professor Gehmacher was more pro-active than Ms. L G in attempting to ensure that the final paper be submitted on time. Professor Gehmacher acknowledged that Ms. L G has a disability and is entitled to accommodations as recommended by Accessibility Services; at the same time, Ms. L G had a responsibility to act in a conscientious manner in requesting and assisting with the accommodation process. Throughout the relevant weeks, Ms. L G failed to request any extensions until the very last moment, while Professor Gehmacher was more than forthcoming in offering a series of extensions even where they were not specifically requested.

That said, the University, including both faculty and students, would be well served by developing methods by which the accessibility needs of a student like Ms. L G can be more thoroughly evaluated and addressed so that a situation like this could be avoided in the first place. As it stands, if Professor Gehmacher can be faulted for anything it is for being excessively generous and flexible in dealing with Ms. L G's inability to complete the project on time. There is no question that the professor made every reasonable effort to meet Ms. L G's accommodation needs, granting a series of extensions right up until the last possible date in the term. What Ms. L G appears to have wanted is precisely the kind of open-ended extension that the Accessibility Services letter instructed her professor not to grant. In any case, there is no provision for submitting term work after the term ends, and Professor Gehmacher could not possibly have given a further extension under Faculty rules.

As a final matter, Ms. L G raises late in the day that there were also financial matters that contributed to her failure to meet the course deadline in the fall of 2007. The Committee admitted evidence submitted by Ms. L G in the form of a University of Toronto Grant for Disability Expenses dated September 20, 2007. Counsel for the Faculty of Arts and Sciences submits in response that the second part of this form relating to financial information, which is the student's responsibility to fill out and submit, was not submitted by Ms. L G until November 2007, and that this tardiness in submitting the entire form is the reason that Ms. L G's financial aid application was late in being processed that year.

The Committee is of the view that it is the student's responsibility to attend to her financial aid matters in a timely matter. The real issue on this appeal is whether the accommodation required by Accessibility Services was granted to Ms. L G. In the Committee's view, every effort was made to accommodate Ms. L G and the responsibility for failing to submit the final course project on time must be borne by her.