

REPORT NUMBER 256 OF THE ACADEMIC APPEALS COMMITTEE

April 3rd, 2001

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Tuesday April 3rd, 2001, at which the following were present:

Assistant Dean Bonnie Goldberg, Acting Chairperson
Mr Muhammad Basil Ahmad
Professor Christopher Barnes
Professor Vivek Goel
Professor Kenneth Sevcik

Ms Susan Girard, Acting Secretary, Academic Appeals Committee

In Attendance:

Mr Barry Stagg, for the Appellant
Mr R. R., the Appellant
Dr K. R., father of the Appellant
Ms Sari Springer, for the University of Toronto, Faculty of Arts and Science
Associate Dean William Michelson, for the University of Toronto, Faculty of Arts and Science
Ms Karel Swift, University Registrar, University of Toronto
Ms Susan McDonald, Registrar, University of Toronto, Victoria College

The student appealed a decision of the Academic Appeals Board (the "Board") of the Faculty of Arts and Science (the "Faculty") dated October 24th, 2000. The Board's decision denied the appellant's request to either withdraw without academic penalty from BIO 351Y (48%, grade F), CHM 222Y (39%, grade F) and CHM 240Y (45%, grade F) (the "Courses") or to recalculate his Grade Point Average ("GPA") using a 0.3 grade point value ("GPV") for each of the Courses. The student seeks either of these remedies from your Committee.

For the last several decades, the Grading Practices Policy of the University, among other features, included the letter "E" grade, awarded to a percentage grade between 35% to 49%, and which had a 0.3 value in the GPA calculation.

In June of 1997, the Commission on Grading of the University of Toronto tendered a report recommending revisions to the Grading Practices Policy. After almost a year of debate and consultation within the University, the Academic Board of Governing Council approved the Revised Grading Practices Policy on April 9th, 1998, to be effective in the fall of 1998. The revisions included a provision that no GPA value would be attributed to grades lower than 50%, effectively abolishing the "E" grade.

The Calendar for the 1998-1999 academic year had gone to print prior to the Revised Grading Practices Policy being passed. In an effort to communicate the changes to students at the University, and in particular students enrolled in the Faculty of Arts and Science, two documents were prepared and distributed in the summer of 1998. The first document was a bulletin from the University Registrar mailed individually to all students

in the summer of 1998. The front page of the Notice displayed the heading, "Revised Grading Practices Policy." Under the heading "What has Changed," the bulletin explained that the new Grading Practices Policy provides a refined letter grade scale, and noted the new corresponding grade point values, including "F=0." The bulletin stated that the University is committed to ensuring that "no student's progress toward program completion is adversely affected by the adoption of the revised Grading Practices Policy."

In August 1998, the Registrar of the Faculty of Arts and Science sent a letter to each student enclosing the student's personal course schedule, a college information sheet, as well as the student's photo ID registration sticker. The second page of the letter contained a heading entitled "Upcoming Changes," which explained the changes to the grading scale for the Faculty. This section reiterated the elimination of the "E" grade, and that all marks below 50 would earn an F grade and a GPV of 0.0. The letter stated that these changes supercede the grading scale in the 1998-1999 Calendar, but do not retroactively change any grades of E awarded prior to the 1998-1999 session. Finally, the letter noted that the Faculty would provide more information about the new grading scale in November.

The appellant first became a student in the Faculty in the fall of 1995. The appeal relates to the Courses that were taken in the academic year 1998-99, the first year in which the new changes were in effect. In accordance with the Revised University Grading Practices Policy in effect as at September 1998, the appellant's cumulative GPA was 1.40. This calculation included a GPV of 0.0 awarded to the three courses in which the appellant received a mark below 50 but above 35. Until that year, the appellant had managed to remain "in good standing" but with his cumulative GPA at 1.40, the appellant was put on academic probation.

On July 21st, 1999, the appellant petitioned the Committee on Standing at the Faculty for late withdrawal without academic penalty from the three courses. The appellant claimed that he "didn't know of 0.0 GPA due to failure in course." In the accompanying letter, he claimed not to have received any letter detailing the changes to the 1998-1999 Calendar, and that if he had received the letter "and known about the new rules, I would have definitely dropped the courses which I had a considerable chance of failing and concentrated on the other courses." This petition was denied on August 12th, 1999 for the reason that the student had "not presented compelling reasons for not withdrawing before the deadline for withdrawal without academic penalty."

On September 13th, 1999, the appellant "appealed" this decision by way of a second petition, again requesting late withdrawal from the Courses for the reason that he "did not know of change in rules." By decision dated January 13th, 2000, the petition was denied for the reason that the appellant had completed all the work in each of the courses, and because students were notified of the changes to the grade point system. The fact that the appellant processed his course selections offered proof that this appellant had received at least one of the letters outlining the changes.

The appellant remained on academic probation through the summer of 1999, but by the end of the winter session 2000, he was placed on a one year academic suspension as his cumulative GPA remained below 1.50, and his annual GPA was below the required 1.70. Specifically, the appellant's cumulative GPA stands at 1.46, and accordingly he is not eligible to obtain his degree, although he has completed all of his course requirements.

On July 7th, 2000, the appellant filed a third petition requesting late withdrawal from the Courses, as well as the lifting of an academic suspension. This petition came as a result of

the student not being eligible to receive his degree. This petition also specifically requested the alternate remedy of a re-calculation of the student's grades in the Courses in accordance with the "old" Grading Practices Policy, in place until September 1998. In the accompanying letter dated July 18th, 2000, he stated "Had I known that the policy, which was clearly and unambiguously stated in the Calendar was incorrect, I would have dropped the courses I knew I had the possibility of failing."

This petition should have been made no later than 90 days after the previous decision, but was made six months later. The petition was ultimately "cancelled" but forwarded to the Academic Appeals Board of the Faculty, provided the reasons for lateness were upheld. The Board accepted the reasons for lateness, and a hearing was held on October 23rd, 2000. By decision dated October 24th, 2000, the Board denied the appellant's request to withdraw without academic penalty from the Courses, as well as his alternate request to re-calculate his GPA using the .3 grade point value for each of the three Courses. The decision stated:

You could not provide any compelling new evidence that would allow the members to overturn the decisions of the Committee on Standing. Furthermore, it was clear, that in having received your registration sticker and in having used your library card in the [1998-1999] academic session, you did receive at least one of the two mailings (the one from the Faculty of Arts & Science) advising you of the grading policy change.

Your Committee had the benefit of documentary evidence not previously tendered by the appellant during his petition process. In particular, the appellant submitted excerpts from the University's Academic Board meeting of April 9th, 1998, and excerpts from the Committee on Academic Policy and Programs meeting of March 11th, 1998.

The appellant has requested two alternate remedies, either one of which, if granted, would enable him to obtain his degree.

With respect to late withdrawal, your Committee affirms the Board's decision that the Appellant should not be permitted late withdrawal from his courses without academic penalty. However, your Committee believes there are compelling reasons to apply the "old" Grading Practices Policy to this Appellant's 1998-1999 academic year. This would mean that a 0.3 would be attached to each of the 1998-1999 Courses in which a grade between 35% and 49% was obtained – the former "E" grade.

The University argued that to allow this appeal would handcuff the University's ability to make changes necessary to administer its program. Your Committee respectfully disagrees. A decision in favour of this appellant highlights deficiencies in how this particular change was communicated to this appellant, in the context of the importance of the change. When the Faculty of Arts and Science was required to implement the Revised Grading Practices Policy, one would assume that it would do so in a timely, reasonable, and individualized manner. Your Committee believes that the University attempted to do so, and may have thought it had done so, but in your Committee's opinion it did not go far enough. A clearer enunciation that the Revised Grading Practices Policy was meant to amend the Calendar was necessary. Continued reiterations of the changes to the students once they returned in the fall would have been appropriate. In fact students were told in the summer mail-out that further information would be forthcoming in November, which was not.

Your Committee notes that in the Report of the meeting of the Committee on Academic Policy and Programs dated March 11th, 1998, in response to a question about implementation, Professor Paul Gooch, Vice-Provost, stated:

... the general practice of the University was -- when changes in policy occurred -
- that no student who entered under the previous policy would be disadvantaged by the new. For example, students who would have been promoted under the old scheme would not be prevented from doing so by the new scheme. Secondly, once the Academic Board approves the recommendation, all incoming students would be given the new grade scale, and current students would be informed in writing of the new scheme.

The fact that the University believed from the outset that students should not be disadvantaged by the implementation of the new system is echoed in the material mailed out by the University in the first bulletin. However, your Committee heard testimony that this meant that for example, students awarded the "E" grade, and its corresponding 0.3 GPV, prior to 1998 would retain that grade. However, your Committee believes that it also means that students should not be disadvantaged retroactively or prospectively. It was not clear to your Committee whether this reference to the "general practice" of the University is a formal or informal policy of the University. However, it is integral to the policy work of the University, and questions of ambiguity should be resolved in favour of the student.

There is no question that Governing Council and its committees and boards must be able to make major policy changes to its policies, and in a timely fashion. The way in which these changes are implemented and communicated is what is at issue. There is no dispute that the Faculty's Calendar, as in most divisions, had already gone to print well before Governing Council approved the Revised Grading Practices Policy. But the Revised Grading Practices Policy has a distribution clause requiring that all the information must be published in the Calendar of every division, and that a copy shall be given to every student at registration.

Your Committee accepts that the University can make changes to grading policies, and it notes in particular that at pages 2 and 492 of the 1998-1999 Calendar, the Faculty reserves the right to make "Changes in Courses," which includes changes to grading policies of particular courses. However, the language in "Changes in Regulations and Policies" is quite different and mandates that all applicable University policies are displayed in the Calendar. A disclaimer similar to the one noted under "Changes in Courses" should probably be included in this section. This would properly allow the University to reserve the right to make – and implement – major policies changes once a Calendar has gone to print for a coming academic year. Without such a disclaimer, it is conceivable that the scenario presented to your Committee by this appellant occurred. In other words, the student relied on what is printed in the Calendar to inform the decisions he made about his program.

Nevertheless, it is also the opinion of your Committee that this student did not fully carry out his responsibilities, as outlined in the Calendar, for knowing and observing the rules and regulations of the Faculty. This particular student worked towards achieving the barest minimum required to obtain his degree at the end of his program. The student definitely received at least one of the bulletins mailed to him over the summer, as evidenced by his course enrollment. However, he clearly did not absorb any information about the grading changes. It is particularly unfortunate that this student did not avail himself of help during the year to improve his performance in these courses, or to clarify his position vis-à-vis the grading policy. However, while the student may not have shown

appropriate diligence, it does not change the fact that significant policy changes were not adequately communicated throughout the year. Throughout the petition and appeal process, the appellant has consistently maintained that he would have dropped the courses if he had known of the changes. This student has demonstrated to your Committee that his entire year of study would have proceeded differently but for his knowledge of the change, and thus the student has been unduly affected by the change.

When academic institutions implement major changes mid-program, students are often given the option to elect under which policy he or she will proceed. Further, it may have been valuable to delay implementation of the Revised Grading Practices Policy by one year in order to revise and update Calendars. Finally, continued promotion and advertisement of the changes to the program throughout the year, particularly at key times during the academic year, such as the drop date, would have served to ensure a student could not claim ignorance of the changes.

The appeal is allowed and the old Grading Practices Policy is applied to the student's results for the 1998-1999 academic year.

May 9th, 2001