

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 281 OF THE ACADEMIC APPEALS COMMITTEE

June 12, 2003

To the Academic Board,
University of Toronto

Your Committee reports that it held a hearing on June 12, 2003, at which the following were present:

Assistant Dean Jane Kidner, Acting Chairperson
Professor Phil Byer
Professor John Furedy
Professor Ellen Hodnett
Ms. Durré Hannif

Secretary: Mr. Paul Holmes, Judicial Affairs Officer

The following were in attendance:

For the Appellant:
Ms. M., the Appellant (“the Student”)
Ms. Erica Toews, DLS Student Counsel for the Appellant
Mr. Usman Sheikh, DLS student observer

For the University of Toronto at Scarborough:
Professor Ian McDonald

This is an appeal from the decision of the Sub-Committee on Academic Appeals of the University of Toronto at Scarborough (“UTSC”) dated November 12, 2002, which denied the Student’s request for retroactive late withdrawal from STAB22H, GGR314H, and SOC304H, taken in the first half of the summer term 2002, and further denied the Student’s request for deferral of her three-year suspension. That decision was an appeal from the Student’s petition to the Academic Committee dated August 26, 2002 for retroactive withdrawal from GGR314H, SOC304H, and STAB22H and for deferral of the three-year suspension, all of which were denied by letters dated September 20, 2002 and October 8, 2002 from Professor Ian McDonald, Associate Dean for the Academic Committee; and from the Student’s earlier petition to the Academic Committee dated July 19, 2002 for retroactive withdrawal from STAB22H, which was denied by letter dated August 7, 2002 from Professor Ian McDonald.

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The Student seeks the following remedies on medical and compassionate grounds:

1. retroactive late withdrawal from STAB22H, GGR314H, and SOC304H without academic penalty; and
2. deferral of the three-year suspension.

The Facts:

The Student grew up in Toronto and was raised by her mother. Her father left her and her mother when she was a small child and she has not maintained any contact with him since that time. The Student's grandfather lived in the West Indies until he passed away on June 20, 2002. The Student testified that she visited her grandfather for several weeks every two years and thought of him as a father.

The Student enrolled at UTSC in September 1997. During her first year of studies, the Student testified that she was harassed on a regular basis by four female students. The harassment included name-calling, mocking, and gossiping. The Student testified that as a result of the harassment she suffered physical and mental symptoms including inability to concentrate, depression, nausea, and twitching in her eyes. She was ultimately diagnosed with severe depressive disorder for which she sought psychiatric help. At the end of the school year, the Student petitioned for late withdrawal from all of her courses without academic penalty and for a transfer to St. George Campus on the grounds that she was suffering from "a deep mental depression". The request for late withdrawal without academic penalty was granted. The request for a transfer to the St. George campus was denied on the grounds that the committee lacked the jurisdiction to make such an order. The Student was told to make the request to the Registrar. The Student subsequently wrote to the Registrar to request the transfer and was denied. No documentation was provided to indicate the reasons for the refusal.

The Student returned to her studies at UTSC in the fall of 1998. The Student testified that the harassment continued. The Student's grades continued to suffer. At the end of the fall/winter 1998/99 school year the Student was placed on academic probation for failure to achieve the required sessional or cumulative Grade Point Average (GPA) of 1.60.

The Student took one course in the summer of 1999 and received a passing grade of C+. The Student testified that her improved performance was attributable to the fact that she was not being harassed during that time. However, her GPA continued to be well below the required 1.60 level, and as such she was placed on academic probation.

The Student's academic performance fell again in the fall/winter 1999/2000 academic term. The Student testified this was the result of the continued harassment. The Student's probationary status led to a one-year suspension at the end of the 2000 winter session.

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The Student resumed her studies in the summer 2001 term. The Student's marks improved with the absence of the previous harassment according to the Student's testimony, and her sessional GPA rose to 2.52. However the Student's cumulative GPA remained below the required 1.60 and as a result she was placed on academic probation. Her probationary status continued to the end of the fall/winter 2001/2002 term at which point she had a sessional GPA of 2.06 and a cumulative GPA of 1.59.

At the beginning of the summer 2002 session, the Student needed only one half-credit in a statistics course to graduate and as well needed to achieve a sessional GPA of 1.60 and increase her cumulative GPA to 1.60 from 1.59. Despite the fact that she needed only one half-credit to complete her degree requirements, on May 15, 2002 the Student enrolled in three half-courses for the first half of the summer 2002 session – STAB22H, GGR314H, and SOC304H – as well as two half-courses for the second half of the summer 2002 session. The last date for dropping the first three courses without academic penalty was June 9, 2002.

By letter dated June 6, 2002 (three days prior to the course drop date) from Don MacMillan of the Office of the Registrar for UTSC, the Student was informed that she had been placed on academic probation because her cumulative GPA was below the required 1.60, and she was strongly advised to speak to an Academic Advisor. The letter also advised her that if she registered in the summer 2002 session she would have to achieve a sessional GPA of 1.60 or better, and that failure to achieve 1.60 would immediately trigger a three-year suspension from the university. The Student testified that she did not seek academic counseling as recommended in the letter, nor did she attempt to drop any of her courses.

On June 20, 2002, the last day of classes for the first summer session, the Student's grandfather who lived in the West Indies died. The Student testified that as a result of her grandfather's unexpected death she suffered a depression. The Student did not inform anyone at the university of her grandfather's death. She continued in her courses and wrote the final examinations, which took place on June 25 and June 27. The Student received final grades of F in GGR314H, F in STAB22H3, and D- in SOC304H. As a result, the Student's sessional GPA fell to 0.90 and her cumulative GPA fell to 1.48, and the Student was placed on a three-year suspension.

The Student testified that the poor marks she received in these three courses were the result of the death of her grandfather on June 20, approximately a week before the final exams. In support of her claim, the Student submitted new medical evidence at the hearing – an undated letter from Dr. Harold Pushie of the Danforth Medical Centre stating that the Student was a patient of his for 6 years, and that she suffered “severe emotional problems as a result of the death of her grandfather in June 2002.” The letter further stated that because of this, the Student “had trouble concentrating and focusing on her academic subjects.” Although the letter was undated, the Student testified that it was written on June 3, 2003, nearly one year after the examinations. This letter was not presented at any previous appeals in this matter.

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In response to the Student's assertion that her final marks in the three courses were the result of her grandfather's death, Professor McDonald for UTSC testified that prior to June 20th, the Student was doing very poorly on her term work for all three courses. Specifically, the Student was achieving the following results in her term work for the three courses in question:

- STAB22H: 62.65% for quizzes worth 15% of her final mark, and 20% for a mid term test worth 35% of her final mark.
- GGR314H: 21% for the 1st term test and 47% for the 2nd term test. In this class the professor also reported that "the student did not come to class once between the first and second term test".
- SOC304H: 0% on an assignment worth 15% of the final grade, 90% on web forum worth 10% of her final mark, and 40% on a project worth 40% of the final grade.

The Student was unable to provide a reason for her poor performance or her failure to attend many classes prior to the death of her grandfather other than that she was overwhelmed and anxious to graduate. She did not seek counseling at any point during the summer session prior the final examinations despite being aware of the university's counseling services.

Decision:

Retroactive late withdrawal without academic penalty is an extraordinary remedy that should only be granted in the most exceptional circumstances. In reaching its decision the committee carefully considered all of the evidence presented at the hearing, including all medical documentation and the complete past history of the student including her evidence of past harassment. Although the committee was sympathetic to the fact that the Student's academic performance in the three courses at issue may have been affected by the death of her grandfather, the committee was also persuaded by the evidence presented by Professor McDonald that the Student was performing very poorly in all three courses during the term prior to her grandfather's death, and that the Student was well aware of her precarious academic situation and the counseling services offered by the university and chose not to avail herself of them.

The committee also agreed with the written reasons of the UTSC Sub Committee on Academic Appeals that there were more appropriate remedies available to the Student that she ought to have pursued including requesting a rewrite of her final exams. The committee agreed with the written reasons of the Sub Committee on Academic Appeals that:

"the committee found it unfathomable why [the Student] had taken 2.5 FCE against standard warnings and the explicit advice of academic counselors when

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all she needed to graduate was 0.5 FCE. There were remedies available to her that made more sense than after-the-fact withdrawal from multiple courses, and she had not considered these, just as she had not considered dropping the courses before the exams. She had essentially gone ahead with a very ill-advised course of action, and suffered the consequence.”

The committee also considered all of the evidence presented by the Student about her past harassment and concluded based on the Student’s own evidence that the harassment was not taking place during the summer 2002 session, that it was not a factor in her poor performance for the three courses in question.

Nevertheless, the committee was persuaded by the fact that the Student needs only one half-credit in order to graduate, and by the fact that the death of her grandfather just prior to her final exams may have had a negative impact on her performance in those courses. The committee was also persuaded by Professor McDonald’s testimony that had the Student based her earlier appeals on a request to rewrite her final exams she would have been granted this relief.

Relief granted:

The Student’s request for retroactive late withdrawal from STAB22H, GGR314H and SOC304H is denied. The student’s request for a deferral of her three-year suspension is denied. At her election, the Student will be permitted the opportunity to rewrite the final examinations in any or all three courses subject to the following conditions:

1. Within 30 (thirty) working days of the date of release of this decision, the Student shall notify Associate Dean McDonald, or if he is not available, the UTSC officer empowered to act in his place, as to whether she wishes to elect to rewrite the final examinations in STAB22H, GGR314H and SOC304H. The Student’s existing term marks will remain in effect and will continue to factor into her final marks for each of the three courses according to the requirements of each of the courses. In default of timely notification, the Student shall be deemed to have elected not to pursue this remedy.
2. If the Student elects to rewrite the final examination in STAB22H, the rewrite will take place according to the schedule for deferred examinations at the UTSC campus. If the Student elects to rewrite the final examination in GGR314H and/or SOC304H, the examination will take place according to the deferred examination schedule of the Faculty of Arts and Science, St. George campus. If reasonably feasible, the examinations should be set and marked by the instructor who offered the course in 2002, based on the course content as it then existed. The decision of Associate Dean McDonald, or if he is unable to act, of the UTSC official carrying out his duties, as to the feasibility of carrying out these instructions in whole or in part shall be conclusive and not appealable. If the Associate Dean or his substitute decides that it is not feasible to carry out these

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instructions in full, the Student shall be notified as to what form of examination is feasible. The Student may within a further one week from such notification advise Associate Dean McDonald or his substitute whether she wishes to proceed with such examinations as can be arranged, or to let her final grades as they presently appear remain on her transcript unaltered. In default of timely notification, the Student shall be deemed to have elected to let the present grades stand.

3. If the Student elects to rewrite all or any of the final examinations, her standing shall be reassessed according to the final grades that she receives and the academic regulations of the University.

RELEASED:

JULY 25, 2003

Paul Holmes
Secretary

Jane Kidner
Chair