

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 286 OF THE ACADEMIC APPEALS COMMITTEE

December 1, 2003

Your Committee reports that it held a hearing on Thursday November 20, 2003, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair
Professor Pamela Catton
Professor Gretchen Kerr
Mr Adam Watson
Professor John Wedge

Mr Paul Holmes, Judicial Affairs Officer

In Attendance:

Ms S. (the "Appellant")
Professor Gordon Anderson, University of Toronto at Mississauga

This is an appeal from the decision of the Academic Appeals Board of the University of Toronto at Mississauga ("UTM"), dated April 24, 2003. The Academic Appeals Board ("the Board") refused to grant late withdrawal without academic penalty from PSY210H5 ("PSY201" or "the course"). The Appellant was unable to write a scheduled third deferral of an examination in this course in February 2003 due to medical reasons. The Committee on Standing had refused to entertain any further petitions for this course in its decision dated January 20, 2003, granting the third deferral. Hence the Committee did not hear the issue of late withdrawal without academic penalty and the Academic Appeals Board refused to grant late withdrawal without academic penalty from the course. The Appellant appeals to this Committee for late withdrawal without academic penalty from PSY210.

The Appellant was given three deferrals of the final examination in PSY210, in addition to an opportunity to write the regularly scheduled examination. Each time, a medical condition rendered the Appellant unable to write the examination. The Appellant was awarded a final grade of "F", although she completed the coursework (including a term test and essay) with very high grades.

For nearly thirty years, the Appellant has suffered from migraine headaches, the severity of which causes her to lose vision, experience pain, nausea and vomiting, and necessitates the cessation of all activity. The Appellant continues to experience residual effects for days or weeks after the initial onset. The Appellant is registered with the *AccessAbility*

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Resource Office at UTM, to which she has provided medical documentation verifying the chronic nature of her condition. Her condition has been classified as a disability, and she has been provided with numerous accommodations, including the provision of a task lamp, extensions of time, and opportunities to write make-up tests and deferred examinations.

In the ten years since the Appellant has been pursuing her degree, she has obtained 10 credits with 5 more to go. When healthy, the Appellant is a conscientious and bright student, as evidenced by the high grades she has obtained. When she gets sick, she has availed herself of the University's generous policy toward make-up tests and deferred examinations, and has sought and received late withdrawal without academic penalty in several courses.

The Academic Appeals Board, in its April 24th decision, wrote that this specific request was turned down because the Appellant did not present a compelling case for an exemption. The Board believed that the Appellant was given sufficient opportunity to complete the course and reasonable accommodation was made by the University. In its written submissions, UTM noted that so much time had passed since the student had taken the course as to render the remedy of late withdrawal unreasonable and unfair. During oral submissions to your Committee, the University volunteered that the Appellant would have been given a fourth deferred examination had she so requested. The Appellant indicated that this was not known to her.

The University acknowledged that its position had become "enough was enough" where this Appellant was concerned, and asked this Committee to answer such questions as to whether the University could reasonably take the position that it had granted enough accommodations to a particular student. However, your Committee does not have the jurisdiction or inclination to set policy limits for an individual department. It is up to that department to decide whether there should be a limit on the number of deferred examinations afforded a student, or on the number of requests it will entertain to accommodate a student with a valid medical condition. Questions of this nature should be resolved internally.

Regarding the specific issue before your Committee, we heard that the Appellant sought late withdrawal without academic penalty because she believed she had already been reasonably accommodated by the university in PSY210 and did not expect continued indefinite deferrals. Contributing to the Appellant's belief that this was the most appropriate path to pursue was the Committee on Standing's January 20, 2003 decision that "no further petitions for this course will be considered." She expected to obtain this remedy, based on her well-documented medical condition, valid medical notes, and the past practice of UTM in allowing her this remedy, having obtained it for seven courses. The Appellant was concerned that because her condition is chronic, she cannot predict her performance in future courses, leading to the worry that she will obtain other failed grades and ultimately be unable to graduate. Given that there was nothing different about this situation from past situations, she was surprised that her request was turned down.

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Upon learning at the hearing that the University would have permitted her to schedule a fourth deferred examination, the Appellant indicated that she would have gladly attempted to write another examination, but also noted her concern that if she once again got sick, was it feasible that she would be able to apply for a fifth or sixth deferral. Being unable to predict the course of her illness and having already waited a long time to complete this course, she wished to remove the course from her transcript entirely.

We accept that the Appellant applied for late withdrawal for this course with the reasonably held belief that this was the only option available to her in order to remove a failing grade that was a result of her chronic condition. This belief was based on past practice as well as the Committee on Standing's stated unwillingness to consider other petitions. Further, we agree with the Appellant that there was nothing different about this particular accommodation request than similar requests she had made in the past. Accordingly, your Committee is prepared to grant late withdrawal without academic penalty to this student from PSY210. The Appellant has made enormous effort despite many challenges to obtain her degree and she is encouraged to complete it to the best of her ability. However, recognizing the extraordinary nature of this remedy, and given the evidence tendered at the hearing that the Appellant would have been permitted to schedule another examination, the Committee is prepared to grant the appeal but offer the Appellant a choice as to remedy.

Within ten working days of the date of release of this decision, the Appellant shall notify Professor Gordon Anderson, or if he is not available, the UTM officer empowered to act in his place, *as to whether she wishes to withdraw from PSY210 without academic penalty, or write a final examination to complete the remaining requirements of the course*. In default of timely notification, the Student shall be deemed to have elected late withdrawal. If the examination is chosen, it should be written during the next feasible period for the writing of deferred examinations at UTM, which your Committee assumes will be Reading Week 2004. If reasonably feasible, the examination should be set and marked by the instructor who offered the course in the fall of 2002, based on the course content as it then existed. The decision of Professor Anderson, or if he is unable to act, of the UTM official carrying out his duties, as to the feasibility of carrying out these instructions in whole or in part is final. If Professor Anderson or his substitute decides that it is not feasible to carry out these instructions, the Student shall be notified as to what form of examination is feasible. The Student may within five business days from such notification advise Professor Anderson or his substitute whether she wishes to proceed with such examination as can be arranged, or to withdraw from the course without academic penalty. In default of timely notification, the Student shall be deemed to have elected late withdrawal. Finally, if the student elects the remedy of deferred examination, and is unable due to valid medical reasons to write the examinations, she may continue to petition for deferred examinations in PSY210.

The appeal is allowed.

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Respectfully submitted,

Paul J. Holmes
Secretary

Bonnie Goldberg
Chair

Release Date: December 1, 2003

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