

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #366 of the Academic Appeals Committee
July 8, 2013

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Wednesday, June 19, 2013, at which the following members were present:

Professor Andrew Green (Chair)
Dr. Avrum Gotlieb, Faculty Member of the Academic Board, Governing Council
Ms. Mainawati Rambali, Student Member of the Academic Board, Governing Council

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

Appearances:

For the Student Appellant:

Ms. S.A. (the Student)

For the School of Graduate Studies:

Mr. Robert Centa, Counsel for the School of Graduate Studies
Professor Luc de Nil, Vice-Dean, School of Graduate Studies
Ms. Jane Alderdice, Director, Quality Assurance and Governance, School of Graduate Studies

The Appeal

This is an appeal from a decision of the Graduate Academic Appeals Board (“GAAB”) dated August 8, 2012 dismissing an appeal of the Student from a decision of Professor D. McDougall (the “Chair”), Chair of the Graduate Department of Curriculum, Teaching and Learning (CLT). The Chair had refused to allow the Student to withdraw her Notice of Withdrawal from the CLT graduate program.

The Facts

The Student began her studies in the Ph.D. program at CTL at the University of Toronto in 2007. While in the program she had difficulty obtaining a supervisor for her thesis. She failed her first comprehensive examination but the CLT provided her with an opportunity to rewrite the examination. In May 2011 after the submission of a second comprehensive examination, the Chair informed the Student that CLT would be requesting the termination of her registration. The Chair also provided her with the option of voluntary withdrawal from the program rather

than termination. After discussions, CLT provided her with an extension of candidacy until August 31, 2011 and the opportunity to retake the second comprehensive examination. The Student handed in her examination on July 15, 2011. Unfortunately the Student also failed this examination.

In an email and letter dated August 16, 2011, the Chair informed the Student that CLT would be requesting SGS terminate her registration. He also reiterated the possibility of voluntary withdrawal and stated that while termination could be appealed, withdrawal could not be appealed. The Chair and the Student met on August 22 to discuss these options. The Student also sought advice on the options from others on campus but stated that because of the timing of the decision (late August) she could not get adequate advice. On August 31, 2011 the Student met with the Chair and submitted a request to withdraw from the program. The CLT subsequently submitted this withdrawal to the SGS. The Student stated that at the time she felt withdrawal was the best way to provide an opportunity to continue her research.

In the Fall of 2011, the Student spoke with the University Ombudsperson. In November 2011 the Student notified the CLT that she was considering an appeal of her withdrawal. The Student in her appeal argued that she did not have adequate advice concerning her options at the time of her withdrawal. The Graduate Department Appeals Committee of CTL in a decision dated March 9, 2012 found there were no grounds to allow the student's appeal.

The Student subsequently appealed to the GAAB. Before the GAAB, the SGS argued that the Board did not have jurisdiction to hear an appeal of a voluntary withdrawal by a student. In a decision dated August 8, 2012, the GAAB dismissed the Student's appeal. It considered both the question of whether it had jurisdiction to hear the matter and, if so, whether it should allow the appeal. The GAAB found that even if it had jurisdiction to hear the matter, it would not on the merits allow the appeal. It then found that a voluntary withdrawal "is not a decision which is generally within the jurisdiction of the Board to decide. Therefore, it would generally quash an appeal of this nature." However, because the Chair and the Graduate Department Appeals Committee heard the appeal, the GAAB held the University should be taken to have abandoned any jurisdictional objection and that it could rule on the merits. As noted above, it dismissed the appeal.

The Student subsequently appealed to the Academic Appeals Committee. The Student argued that she did not have adequate time or advice at the time of withdrawal, particularly if the entire context of her experience within CLT is taken into account. The University argued that the Committee did not have jurisdiction and that even if it did, it should not allow the appeal.

Jurisdiction

As noted above, the GAAB found that it did not generally have jurisdiction to hear an appeal from a voluntary withdrawal by a student. The GAAB's jurisdiction is conferred by Section 3(a) of By-Law #3 of the Graduate Education Council of SGS which states that the GAAB "shall hear and determine appeals of students registered [in SGS] concerning grades in a course or a component of a grade in a course, or concerning any other decision with respect to the

application of academic regulations and requirements of a student.” The Academic Appeals Committee’s Terms of Reference have similar language under section 2.1 where the Terms of Reference state that the Committee’s function is “to hear and consider appeals made by students against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations and requirements...”

In its decision, the GAAB stated that “while the phrase ‘decision with respect to the application of academic regulations and requirements to a student’, has a wide scope, it does not include every type of dispute between a student and the University. Most simply, in deciding not to accede to the Student’s request to rescind her withdrawal, the University authorities involved were not applying an ‘academic regulation or requirement’ in coming to their conclusion, although the Student’s academic career is obviously greatly affected by the decision under appeal.” Your Committee agrees with this statement. Just because an action has academic consequences does not mean it is necessarily a relevant decision with respect to the application of academic regulations and requirements. A withdrawal is a decision a student can make at any time during a program. It is not a decision about the application of an academic regulation or requirement in the same way as a grade or a time period for completing a program.

The GAAB ruled on the merits of the Student’s appeal as the Chair and the Graduate Department Appeals Committee heard the appeal. However, as noted in Motion Decision #359-1 of the Academic Appeals Committee by Chair Hamish Stewart dated August 25, 2011 in a different context, “The jurisdiction of the GAAB and the AAC does not depend on what University officials or students think it is but on their Terms of Reference, as interpreted by their Chairs.” In this case, the Committee finds there is no jurisdiction to hear an appeal of the Student’s withdrawal.

Because the Committee finds it does not have jurisdiction to hear the appeal, it is precluded from ruling on the merits of the Student’s appeal of her withdrawal. However, the Committee notes that the Student expressed significant concerns about the stress and impact of the withdrawal including from her inability to obtain advice on her options. The Committee notes that to the extent they do not currently exist, the University should consider ensuring that options for students to obtain advice on such matters are in place and clearly identified to the student at the time withdrawal is considered.

The appeal is dismissed.