

**UNIVERSITY OF TORONTO**

**GOVERNING COUNCIL**

**REPORT #328 OF THE ACADEMIC APPEALS COMMITTEE**

January 21, 2009

Your Committee reports that it held a hearing on Friday, December 19, 2008, at which the following were present:

Assistant Dean Renu Mandhane, Chair  
Professor Elizabeth Cowper  
Mr. Ken Davy  
Professor William Gough  
Professor Louise Lemieux-Charles

Ms. Nancy Smart, Judicial Affairs Officer  
Ms. Mette Mai, Assistant Judicial Affairs Officer  
Ms. Bonnie Goldberg, Representative of the Judicial Affairs Office

In Attendance:

Ms. S. A., the Student  
Professor Gordon Anderson, University of Toronto Mississauga, the Respondent

**I. The Appeal**

The Student is appealing the July 18, 2007 decision of the University of Toronto Mississauga (“UTM”) Academic Appeals Board, denying the Student’s petition for late withdrawal without academic penalty from four courses completed during the 2002-2003 academic year: BIO152H5 (Fall Term), PSY100YF (Full Year), CHM140Y5 (Full Year), and ERS120H5 (Winter Term).

**II. Facts**

The Student enrolled in the Faculty of Arts and Science at UTM in the Fall of 2002. In her first year of studies, she completed BIO152H5, PSY100YF, CHM140Y5, ERS120H5, and ANT102H5 and received final grades as follows:

- BIO152H5 - 47% (F);
- PSY100YF - 58% (D+);
- CHM140Y5 - 42% (F);
- ERS120H5 - 51% (D-); and
- ANT102H5 - 67% (C+).

Between October and November 2002, the Student's father, who lived in Iran, was hospitalized due to a car accident. As a result of her father's accident and his prolonged recovery, the Student had difficulty concentrating on her studies and experienced stress about the financial implications for her family. During this period, the Student continued to attend class and submit assignments. The Student did not seek academic or other counselling from UTM during this period.

The Student's grades improved over the remaining three years of her program, and she graduated from the University of Toronto in June 2007 with a Bachelor of Science degree. The Student is currently enrolled in her second year of medical school in the Caribbean.

### **III. Previous Decisions**

On May 17, 2007, approximately four years after completing her first year courses, the Student filed petitions for late withdrawal without academic penalty from BIO152H5 and CHM140Y5. Your Committee did not have before it a copy of the Student's petition for late withdrawal in BIO152H5.

In support of her petition in relation to CHM140Y5, the Student wrote as follows:

I realize that the deadline for applying to petition has passed for CMH140 but I have strong reasons for doing so now. First,...the year I took CHM140 was my first year in university, and hence I was not familiar with the university system of rules and regulations including petitions. I did not apply for the petition in later years because I thought I would not stand a chance. Now, that I have almost finished my degree and I have decided to go to graduate school, I realize that I may not be able to do so, because the CHM140 failed grade dramatically lowers my GPA....My failure in CHM140 is not without its reasons. In addition to the fact that I was a first year student and adjustment to university life did not come easy for me, another unforeseen situation interfered with my capacity to do well academically on the first year; my father was hospitalized for one month during the Fall of 2002 as a result of a major car accident...My father's recovery took almost two years. Given that I was far away from my father, I was deeply distressed and agonized by his accident and his consequent medical problems. Hence, it became difficult for me to concentrate on my studies...

On June 8, 2007, the Student filed a petition for late withdrawal without academic penalty from ERS120H5. Your Committee did not have before it a copy of the Student's petition for this course.

On June 19, 2007, the Committee on Standing at UTM at first granted and then subsequently denied the Student's requests relating to CHM140Y5 and ERS120H5. The Student was advised via email that the Committee on Standing had granted her requests in relation to both CHM140Y5 and ERS120H5 on the basis of "extenuating circumstances." However, within approximately 15 minutes, she received a second set of emails denying her requests. The Committee on Standing stated that it "does not accept the circumstances that you have presented

as justification for granting late withdrawal from a completed course.” Moreover, in relation to CHM140Y5, the Committee on Standing noted that, since the Student had written a deferred exam in August 2003, they were unable to grant her late withdrawal.

On June 20, 2007, after receiving the denial of the petitions in relation to CMH140Y5 and ERS120H5, the Student submitted another petition requesting late withdrawal without academic penalty from PSY100Y5. In her petition, the Student stated:

As a first year student who was new to Canada, it became difficult for me to cope with pressure caused by my father’s accident. Given that I was far away from my father, I was deeply distressed by his injuries. Therefore, most of my first year courses including PSY100 suffered and my grades did not reflect my true educational capacity.

Your Committee did not have before it a copy of the UTM Committee on Standing’s decision in relation to this course.

The Student eventually appealed to the UTM Academic Appeals Board. Again, your Committee did not have before it a copy of the Student’s appeal to the UTM Board.

The Student’s appeal was denied by the UTM Academic Appeals Board. In a letter dated July 18, 2007, the Board wrote as follows:

1. On the basis of your presentation at the meeting, and that the case stems from courses taken during the 2002/03 academic year, the members of the Board decided that you did not have a compelling case for an exemption from the University regulations that apply to all students.
2. The circumstances you presented for late withdrawal from the above courses as having little or no knowledge of university regulations and having to stand in line for approximately one hour to see an academic counselor in the Office of the Registrar were not deemed as exceptional circumstances. At the same time, you acknowledge being aware of drop dates and rules for deferred exams, having petitioned to write a special deferred exam for CMH140Y5 during the winter of 2003. The Board found it difficult to accept that you were not able to obtain advice from any of your professors or the Office of the Registrar staff during the entire academic year in question.
3. In addition, since you failed BIO152H5 during the first semester, the Board found that you should have realized that you were unable to successfully complete the academic year, and considered dropping the rest of your courses.

The Student now appeals to the Academic Appeals Committee of Governing Council.

## **IV. Decision**

### ***a. Submissions***

In her written submissions to your Committee, the Student noted that her father's accident in the Fall 2002 and recovery through to July 2003 negatively affected her performance in BIO152H5, PSY100YF, CHM140YF, and ERS120H5. In relation to missing the deadline to petition, she wrote as follows:

When I first started my university life at UTM, I was new to Canada and I had little knowledge of university rules and regulations. I did not know that there was such thing as petition and that there was a deadline for it. A few years later, when I discovered about petitions, I did not decide to petition for late withdrawal of my first year courses because I thought [*sic*] I would not stand a chance because of passing the deadline. Then I heard of students who were granted petitions even after passing the deadline and it was here that I decided to apply for these positions.

At the hearing, the Student also expressed frustration with the conflicting emails that were sent to her in June 2007 by the UTM Committee on Standing, which first allowed and then denied her petitions. She explained that she had believed that she been granted the petitions and was deeply disappointed as a result of the conflicting messages in the emails.

UTM explained that the conflicting email messages were the result of an administrative error within the Registrar's Office and also acknowledged that the error was unfortunate. Your Committee is of the opinion that, while this administrative error was regrettable, there is no evidence to suggest that the Student suffered significant hardship as a result of the conflicting emails sent no more than 15 minutes apart. Therefore, your Committee did not consider the administrative error as determinative of the merits of this appeal.

### ***b. Reasons***

The Student is seeking late withdrawal without academic penalty from four courses that she took more than five years ago: BIO152H5, PSY100YF, CHM140Y5, and ERS120H5. The Student claims that she performed poorly in the courses as a result of personal circumstances that occurred during her first term at the University. The issue before the Committee is whether UTM should have allowed the Student's appeal, some four years after completion of the courses, based on extenuating circumstances.

Your Committee notes that UTM allowed the Student to petition for late withdrawal, years after completion of the courses and the events that gave rise to her difficulties. This demonstrates that UTM was attune to and willing to consider the Student's circumstances despite the highly unusual time frame in which the Student launched her petitions. Your Committee agrees that UTM appropriately allowed the Student to petition for late withdrawal without academic penalty despite the lengthy passage of time.

With respect to whether UTM should have allowed the Student's appeal based on extenuating circumstances, your Committee considered the reasons behind the ability of students to withdraw late without academic penalty. The remedy of late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations. The idea of "drop dates" is predicated upon the University's legitimate expectation that a student will make a decision whether to continue in a course a few weeks into the term. By the drop date, the student is expected to have assessed his or her situation and made a decision. Once the drop date passes, the implication is that the student has decided to continue in the course. Exceptions to this policy are rare, but could include situations where unexpected circumstances occur after the drop date, where already-existing circumstances worsen, or where already-existing circumstances do not resolve.

In reaching its decision, the UTM Appeals Board rejected the Student's submission that she was unaware of University regulations, in part, based on the fact that, in the Winter of 2003, she had petitioned and was granted the opportunity to write a special deferred exam in CHM140Y5. The UTM Appeals Board also found that, since the Student had failed BIO152HF in the Fall of 2002, she should have realized that she would be unable to successfully complete the academic year and considered dropping the rest of her courses. Your Committee agrees with this analysis.

Further, the Student presented no information to the UTM Academic Appeals Board to demonstrate that she was unable to attend classes, missed assignments, or sought counselling for the stress she was facing as a result of her father's accident. The Student did not present any new information to your Committee that the Academic Appeals Board did not also have before it

While your Committee is sympathetic to the hardship the Student was experiencing during the 2002-2003 academic year, the University offers ample opportunity for students who experience unforeseen or worsening problems to withdraw from courses or seek other remedies, both prior to and after its stated deadlines. Indeed, in this case, the Student had availed herself of one of these remedies in the Winter of 2003 when she petitioned to and was granted the opportunity to write a special deferred exam in CHM140YF.

Although we recognize that students who are experiencing emotional difficulty may not always be able to deal with problems concurrent with their onset, your Committee finds that this Student had sufficient information about her progress and the possible impact of her father's accident on her academic performance to have launched the petitions during the 2002-2003 academic year, or shortly thereafter.

Indeed, even if the panel were to accept that the Student was unaware of the University's policies on late withdrawal without academic penalty until after the 2002-2003 academic year, the Student states in her appeal that she did not petition for late withdrawal upon learning of the policy since she thought she "would not stand a chance because of passing the deadline." The Student submitted to your Committee that it was only upon hearing of other students, at this University and other institutions, who were granted similar remedies that she believed she should petition. Your Committee does not view the Student's independent assessment of the merits of her case as sufficient cause to delay the launch of a petition until some four years after completion of the courses at issue.

Your Committee does not believe that this case merits allowing an appeal in circumstances where a student, who was or should have made herself aware of the relevant policies, decides to wait until she is nearing the completion of her degree and assessing her chances of obtaining entry to graduate school to launch her petition. If your Committee granted this appeal, it would set a precedent of removing grades from transcripts, well past established deadlines.

Your Committee acknowledges and is sympathetic to the hardship faced by the Student during her first year of university due to her father's accident. However, based on the information presented by the Student in the petition and the appeal, we find that UTM appropriately applied its discretion in not granting late withdrawal without academic penalty.

During the hearing, it came to your Committee's attention that one of the panel members on the UTM Academic Appeals Board who had been involved in determining the Student's appeal, had also been one of the her instructors in PSY100YF, albeit some five years earlier. While there was no suggestion of impropriety by this panel member, your Committee recommends that UTM clarify its policy on potential conflicts of interest in relation to the students and faculty members selected to hear academic appeals in their division so as to prevent possible future appearances of bias.

Your Committee congratulates the Student on her success in obtaining entry into graduate studies, especially in light of the difficulties she experienced in her first year at UTM. However, your Committee is of the view that UTM's decision was appropriate in the circumstances and unanimously denies the Student's appeal.

The appeal is dismissed.