THE UNIVERSITY OF TORONTO
GOVERNING COUNCIL

**Report #360 of the Academic Appeals Committee**
September 29, 2011

To the Academic Board
University of Toronto

The Academic Appeals Committee reports that it held a hearing on Tuesday, 21 June 2011, at 11:00 a.m., at which the following were present:

Assistant Dean Sara Faherty, Chair
Professor Ellen Hodnett, Faculty Panel Member
Mr. Kent Kuran, Student Panel Member

Secretary: Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Mr. Robert Hares, Law Student, Appeals, Discipline and Faculty Grievances

**Appearances:**

**For the Student-Appellant:**

The Student

**For the University of Toronto, Scarborough Campus ("UTSC"):**

Vice Dean Professor John Scherk;
Professor for POLC54H3 (hereinafter "the Professor"), Assistant Professor in Political Science, UTSC, via audio-video internet connection;
Ms. Sari Springer, Cassels Brock (Counsel for UTSC).

## I. The Appeal

The Student is appealing the decision of the Divisional Appeals Board, announced in a letter dated September 28, 2009, which denied her petition for a re-read of her term work and final examination in POLC54H3, *Intergovernmental Relations in Canada*. This letter informed the Student that "the committee felt that there were insufficient circumstances and details to warrant a re-read of your final examination" and that issue with course work "are matters to be worked out between the instructor and the student, unless there are particular extenuating circumstances" [page 4/54].

The Student was appealing the original denial of her petition for a re-read of her final examination and course work in POLC54H3, which was denied by the Subcommittee on Standing in a message posted on April 2, 2009.

## II. The Facts

It is fair to say that the procedural history of this petition and appeal has been somewhat confused and protracted. One reason for that may be that there were a number of petitions regarding different courses filed by the Student during this period. The petition for a re-read of her course work and final examination in POLC54H3, the subject of this appeal, was made, withdrawn, and re-asserted more than once.

The Student took the course POLC54H3, *Intergovernmental Relations in Canada*, during the Fall of 2008. At that time her academic standing was precarious. The Student had been placed on academic probation during the 2008 Winter Session, and during the 2008 Summer Session her status was "academic probation continues." The Student received a grade in of 66, or C.

The following events happened around March of 2009. There is some confusion regarding timing (for example, neither the Professor nor Vice Dean Professor Scherk recall the exact date of their discussion of the Student's petition for a re-read), but given the context of the multiple appeals and withdrawals of this petition, some uncertainty may have been unavoidable.

Upon receiving her course mark, the Student requested a copy of her final examination, and in early March she went to the Academic Advising and Career Centre. The Advisor at the Centre used the marks the Student reported to him or her, and calculated a final mark. Working with this Advisor, the student calculated her final grade in POLC54H3 to be a 67 rather than the 66 that had been recorded.

The Student approached the Professor who taught POLC54H3, and told her she had discovered a calculation error. Either during this meeting or through subsequent communications, the Professor advised the Student to request a clerical check, since the Student reported that she had detected a mathematical error. The Professor was sympathetic to the Student, and willing to correct any mistakes that had been made.

There are two e-mails from the Professor in evidence. The first, dated March 5, 2009 reads, "I agree to review your course grade based on revisiting the course items that you are contesting." It is unclear from the text of this e-mail whether the Professor was referring to the mathematical check, or a substantive re-evaluation of the Student's written submissions. However a week later she wrote an e-mail which seems to indicate that she was assuming a clerical check would be made of the mathematics of the grade calculation. The second e-mail, dated March 12, 2009, reads, "the registrar's office still assumes that you are intending to pursue a re-read of your examination and essay from C54. You should probably speak with them." In this e-mail it appears that the Professor now believed the Student had dropped her pursuit of a re-read and was simply requesting a clerical check.

It was around this time that the numerous administrative requests regarding POLC54H3 were filed:

- The Student had first petitioned for re-read of her final examination and term work on October 24, 2008—while course was still in progress and the final examination had not yet been administered.

- She filed her second petition on March 5, 2009. This petition requested a grade change, based on new calculations of Academic Advising and Career Centre.

- Based on the Professor's advice, the Student then cancelled the petition for a re-read and requested a clerical check instead.

- On March 9, 2009 and again on March 11, 2009 the Student filed new petitions. These subsequent filings appear to have been used to give updates and to add more information regarding the earlier filings.

- On March 12, 2009 the Student cancelled all of her petitions. She reiterated the cancellation via a letter dated March 18, 2009.

- Finally, on March 19, 2009 the student filed the petition that is the subject of this appeal, in which she asked for a re-read of her term work and final examination.

Around this time, and certainly after March 12, 2009 Vice Dean Professor Scherk had a brief meeting with the Professor during which they discussed the Student's petition for a re-read.

At some point the Professor sat down with the Student and went over the handwritten calculations performed by the Academic Advisor. The Professor detected a difference in the way the marks had been calculated—the Academic Advisor had applied a different rounding methodology than she had—and determined that the marks had been correctly calculated originally, and that no grade change was warranted.

The Student then returned to her original objective of requesting a substantive re-reading of her course work and final examination. During some of her informal interactions with the Student, the Professor orally agreed, and wrote in the March 12, 2009 e-mail quoted above, that she was willing to review the Student's work (we will address this later).

## III. The Student's Grounds for Appeal

The Student asserts four major grounds for her appeal:

1. The Professor agreed to re-read the written submissions;

2. There was a calculation error in the Student's grade for this course;

3. A grade change in this course would have significant consequences; and,

4. Administrators have been inappropriately involved in this process.

The student refers to several other grievances that are unrelated to POLC54H3 in her submissions, but the primary arguments for the appeal are listed above. We will address each of these below, listing first the Student's arguments, and then the Division's response.

## A. The Professor Agreed to Review the Grade

1. The Student alleges that the Professor agreed to re-read her final exam and course work in POLC54H3. The Student asserts that this agreement should override the Division's written policies, and should be sufficient grounds for granting a re-read.

The Student reports that a similar override of divisional policy was applied in a different course for which she made a request for a re-read. She explains that in PHLB07H3 a substantive re-read was granted on the sole grounds that the faculty member had agreed to perform the re-read, "Mrs. Victoria Burke who is professor of the course PHLB07H3 agreed in person to me that she is agreeing to do the re-read and based on that information alone the petitions committee granted the re-read." She now argues that for the sake of consistency a re-read should be allowed in this course, too.

The Student acknowledges that the Professor 's agreement was not unqualified, reporting that the Professor 's first impression was that the Student should request a clerical check (rather than a re-read), since the Student, at that time, was alleging a mathematical error in the calculation of her mark.

2. The Division disputes the Student's allegations that the Professor agreed to perform a re-evaluation of the Student's course work and final examination in POLC54H3, *Intergovernmental Relations in Canada*. While the Professor was willing to revisit the Student's grade, it was always her underlying assumption that any review would be conducted with the knowledge and consent of the Division. The Professor testified that it was her implicit understanding that any action she took regarding the Student's mark would be in compliance with Divisional policies. She believes she was clear about this in her meetings with the Student, and emphatically rejects the notion that it was ever her intention to violate Divisional policies.

On March 12, 2009, the Professor wrote an e-mail to the administration that states her understanding of what was going on in this petition: "This has clearly become a confused scenario that I am not sure or how this is to be resolved but I certainly welcome the meeting with John Scherk or any further contact with you." Later in the e-mail she explains "I repeatedly informed Ms. O' that I could not review her course work nor change her grade without formal documentation and initiation from your office. I replied to an email of hers indicating that I would review her course work. . . I was under the impression that I would be reviewing it only after she had approval from your office."

UTSC stands by the Divisional Appeals Board's finding that the Student's petition for a re-read did not submit sufficient circumstances and details to warrant a re-read of the final examination. It cites UTSC's Academic Calendar, to which the student was repeatedly referred. The section on Petitions explains that petitions for re-reads "will be granted only if you articulate clear grounds for reconsideration, addressing the substance of an answer in relation to the mark given

it or otherwise identifying the nature of the alleged misevaluation" [and] "show that the alleged misevaluation is of a substantial nature: in an objective answer, that a correct response has been counted as incorrect, or in a subjective or essay answer, that the response has been under-evaluated substantially." The Division asserts that the Student has not made a substantive argument, based on the content of the written submissions themselves, that her work should be re-evaluated by the Professor.

**B. There Was a Calculation Error in the Student's Grade for this Course**

1. The Student reports that on March 5, 2009, after she had requested and received her final exam, she went to UTSC's Academic Advising and Career Centre and received their assistance in calculating her final grade. She submitted the Advisor's handwritten calculations to this Committee. The calculations indicate that her final grade should have been a 67%, rather than the 66% that was reported. The Student asserts that the difference in the two marks was small, but significant, as a 67% would have sufficiently raised her average to remove her from academic probation.

2. The Professor testified that she reviewed the handwritten calculations with the Student during a meeting. She also reviewed them again during the hearing. She confirmed that all of the marks the Student reported to the Academic Advising and Career Centre were accurate. She explained the variance in outcome by pointing out that the Academic Advisor had rounded each grade up or down individually, before calculating the final sum. The Professor testified that in calculating all of the students' marks in this course, she calculated the final sum, and then rounded the total number up or down. In this case, because the Advisor rounded two addends up individually, rather than calculating the sum and then rounding them up, he or she had a slightly higher end result.

Vice Dean Professor Scherk testified that while the Division has no policy regarding the methodology by which faculty calculate their marks, it does insist that all the students in a class be treated consistently. In other words, he explained, the Professor was free to round up addends individually, and then total them; or total them, and then round up the result. She is not however free to choose a different methodology for a single student, because it happened to inflate her grade. The Professor testified that it had never been her intention to do so.

**C. A Grade Change in this Course Would Have Significant Consequences**

1. The Student expresses great urgency for the need for a grade change, on the grounds that there would be significant consequences if the grade were changed. She feels there are disproportionate consequences of the Division's denial of her petition, because the slight inflation of this grade might result in her being removed from academic probation. She submitted several lists of the repercussions of her being on academic probation, or being suspended, including several funding cancellation and reduction notices. She repeatedly stresses the small variance between the two outcomes. "A .29 mark is very little and minor for me not to have this re-read and I will submit below the stand still ripple effect of a suspension on my finishing my program and completing my degree or transferring into another program or campus."

2. The Division refers again to its policy on granting re-reads. Any student requesting a re-read of written submissions must make a case that the work submitted was incorrectly valued by the grader. The sensitivity of a student's academic standing is not listed as a reason for granting re-evaluation of submitted work.

The Division asserts that it made a good faith effort to keep the Student apprised of all relevant deadlines and committee meetings. It submits a list of the filings and cancellations submitted by the Student, any many messages posted by the Registrar's office informing the Student of the status of her various filings.

**D. Administrators Have Been Inappropriately Involved in This Process.**

1. The Student is very concerned with the role that Vice Dean Professor Scherk has played in this process. The Student believes that the Professor acted under the specific directions of Vice Dean Professor Scherk, alleging that Vice Dean Professor Scherk contacted the Professor and told her she cannot change the Student's grade. She also alleges deliberate delay in her case.

The Student reports that at one point in this process, the Professor told her that Vice Dean Professor Scherk had informed her (the Professor ) that the petitions committee had already met and denied the Student's petition. The Student continues, "this information was false because I had not submitted my documentation as yet as of that date and the committee did not meet as yet regarding my re-read. The committee did not meet until March 31, 2009 and they denied my petition on April 2, 2009" [page 24/54]. The Student concludes that this demonstrates Vice Dean Professor Scherk's "pre-mediated prejudice" against her [page 25/54]. The Student submits that there was a meeting on March 19, 2009 to "discuss my re-read even though the re-read was cancelled."

The Student has little trust in the procedures in place at UTSC, complaining that she saw a secretary opening a letter addressed to the Committee on Academic Appeals, and pointing out that the letter had "private and confidential" written on the outside of the envelope. She specifically requests that various personnel, including Vice Dean Professor Scherk, not be involved in the decision-making process of her petition for a re-read. She also believes that the fairness of the processing of her petition was undermined when an administrator forwarded an e-mail that was intended for the administrator to her professor. She complains that at one point she went to her professor's office for a meeting she had scheduled, and that the professor locked her office door as if she was not there. The Student continues, "I decided to knock and she opened the door not knowing that it was I who was on the other end" [page 29/54]. The Student also alleges that a teaching assistant spoke to her without making eye contact and used a harsh tone of voice when asking her to complete a form, and that this treatment was different from the way the teaching assistant spoke to other students in the classroom.

The Student is also extremely frustrated with the length of time that this appeal has taken, arguing that the Division has a responsibility to have its Appeals Board meet over the summer months, and stressing the anxiety the delay from June to September has caused her. In a section of her submissions titled, "Repercussions of a "Winter" Term Suspension, the Student lists eight

consequences of her possible suspension. This section includes notices from the Ontario Ministry of Training, Colleges and Universities, Student Support Branch and the Ontario Universities Application Centre, and several applications for awards and prizes with deadlines in May of 2009 [pages 30-31/54]. The Student suspects that she was deliberately misinformed about various committee meeting dates and deadlines. She concludes, "It would appear that I am being treated differently, and I don't know why."

Finally, the Student refers to a number of other grievances she has against the Division, including a problem she had with Vice Dean Professor Scherk early in her career at UTSC, and a sexual assault complaint she has filed against another student. She gives no details about these earlier issues.

2. The Division asserts that it has maintained neutrality towards the Student, and that its policies have been applied consistently and fairly. The Division submitted numerous e-mails and messages sent to the Student by administrators and faculty members.

Both Vice Dean Professor Scherk and the Professor recall their discussion of the Student's petition. Vice Dean Professor Scherk testified that he reminded the Professor that while she, the Professor, had the freedom to allocate weight to assignments however she chose, and to calculate marks under what ever rules she chose, it was imperative that every students' grade be calculated the same way. The Professor testified that Vice Dean Scherk spoke to her exclusively about the importance of calculating grades consistently across all the students, and did not give any direction on any specific students or their marks.

## IV. Reasons for Decision

This Committee has considered each of the Student's arguments. We have unanimously concluded that the Appeals Board of UTSC was justified in denying her request for a re-read. The Student's appeal to the Governing Council is denied. Following are our reasons for the denial.

### A. The Professor Agreed to Review the Grade

When the Student went directly to a faculty member to ask for a change of her mark, she was not complying with the Division's policies, which require an administrative body to allow or disallow such requests. As it happens, this faculty member, the Professor, was relatively well-versed in UTSC policies, and was able to direct the Student to what seemed to be the appropriate administrative process. Based on the policies as written in UTSC's Academic Calendar and explained in writing to the student, this Committee is convinced that the Professor gave the Student appropriate advice regarding a clerical check, since the Student's original theory was that her grade had been calculated incorrectly.

Once it was determined that there had not been a mathematical error in the Student's grade calculation, again, it was outside Divisional policy for the Student to ask the faculty member to review her written submissions. The Professor has testified that in fact she never intended to violate Divisional policies.

The Student seems to have been genuinely confused about the significance of the Professor's apparent willingness to re-evaluate her written submissions. However the fact that the Professor did not expressly spell out her intention to comply with Divisional policies in the e-mail she wrote on March 5, 2009 does not negate her reasonable assumption that any interaction she had with the Student would be transparent and above board. The fact that she repeatedly referred the Student to Divisional policies and encouraged her to communicate with the registrar's office is further indication of her intentions to follow the rules established in the Academic Calendar.

Whether the Professor orally agreed to do something that was against Divisional policy is immaterial. Even if she had, it would have been in violation of Divisional policies for her to do so, and she would have been justified in rescinding any such offer. It is clear that the Professor never agreed that she would do anything in violation of Divisional policies.

The Student makes no substantive arguments about the academic quality of her written submissions. In the only statements she makes about the work she did in POLC54H3, she argues, "In the final exam, my mark is a 14.5 or 15 out of 20 on the essay portion and I will state that if 14.5 were recorded, my answer was worth 15 or 16. I have entered into the answer date and time/or event, definitions, significance, and examples." This comment is conclusory and sheds no light on the quality of the answers she gave in her term work and final examination, and it does not constitute the "clear grounds for reconsideration, addressing the substance of an answer in relation to the mark given it or otherwise identifying the nature of the alleged misevaluation" that the Division's policies require.

The Student's belief that a re-read in another course was granted on the sole basis of an instructor's willingness to do so is not supported by any evidence. In fact, an e-mail submitted by the Student supports the opposite conclusion. In an e-mail sent from the administration to the Chair of the Department of Social Sciences on September 18, 2008, an administrator discussed another petition. It informs the Chair that the petition and examination are attached, and reads, "it appears that she has made a prima facie case for rereading. Please note that this does not imply validity of her case but simply that she has made one. Therefore I would be grateful if you would arrange for the instructor to reread the exam and if you would inform me of the result when it has taken place. If the rereading does not result in an increase in grade, I would be grateful if you would provide some comments which can be passed on to the student. The need of the student for higher marks to avoid or improve some academic consequences is, of course, irrelevant. The re-reading should be in the context of the way the entire class was graded and should address the entire examination." This e-mail was in reference to a different class than the one the Student invokes as an example of a petition for a re-read being granted solely due to the agreement of the instructor, but it indicates that the Division follows its policies carefully [page 5 of 11 page fax of February 4, 2010].

### B. There Was a Calculation Error in the Student's Grade for this Course

It seems clear that the Professor never intended to calculate the Student's grades in a manner inconsistent with the other students' grade calculations. She was led to believe that there had been a calculation error in the Student's mark, and when the instructor reviewed her own

calculations and saw the calculations performed by the Academic Advising and Career Centre, she clearly explained that the outcomes were slightly different because the Advising Centre had used different rounding methodology than the Professor had used. Specifically, the Professor assigns each separate assignment a mark, calculates the weighted amount towards the final grade, tallies a sum, and then rounds the result up or down. At the Academic Advising and Career Centre, whoever calculated the Student's mark rounded each mark individually before totalling the term mark. Predictably, this led to a slight variance in the final number. The Professor testified that she explained this to the Student as soon as she detected the reason for the variance. She offered another brief explanation of the mathematical significance of rounding methods at the hearing. The Student did not respond to this explanation.

There was no error in the calculation of the Student's mark. Rather, the person at the Academic Advising and Career Centre seems to have been unaware of the rounding methodology used by the Professor. Perhaps he or she was unaware that the rounding methodology used to calculate a mark can affect the resulting average. If the advisor gave the Student the impression that he or she had found an error when in fact the different results are explainable by different rounding methods, then the advisor, unfortunately, gave the student incorrect information. However if that person made a mistake, it still cannot justify the remedy of granting a re-read in the absence of a substantive argument.

In any event, the Professor's testimony is convincing on this point: her re-calculation of the Student's marks did not warrant a grade change. The Professor's initial confidence that she would change the grade pursuant to a re-calculation was based on the premise that the facts the Student had given her were correct, and that there had been an error in the calculation. The first time the Professor saw the numbers and the Advising Centre's calculations, she noticed that they had used different rules for rounding the numbers, and advised the student that there had been no error and there would be no grade change.

It is unfortunate if the person with whom the student interacted at the Academic Advising and Career Centre was ill-prepared to counsel this student. It must be disappointing for the Student to have her hopes raised and then find that in fact there had been no error. Nonetheless, these misunderstandings do not have any relevance to whether the Student's written submissions were under-valued by the Professor when she graded them. The Student appears to misapprehend the nature of the request for a re-read. She must discuss the academic content of her written work, and support her request with an explanation for why she believes the substance of her work was under-valued. In the absence of such an argument, UTSC does not permit a re-read.

### C. A Grade Change in this Course Would Have Significant Consequences

The Student is understandably frustrated over the outcome of the Professor's calculations. She comments on the "mere .29% of a mark" that resulted from the differences in rounding, and how that small difference had such significant impact on her academic standing. However this frustration does not constitute a substantive argument about the fairness of the specific marks given to the written submissions in POLC54H3, *Intergovernmental Relations in Canada.*

When a student is on academic probation, and his or her overall standing is highly sensitised to marks, it is tempting to isolate one single assignment and attribute the overall total to that single mark on that individual assignment. However the Student's overall average reflects *all* of her course work, written submissions, and examinations, in all of her courses. While the potential consequences of a low mark may have an impact on his or her motivation to make an argument that his or her written submissions were undervalued, they do not actually substitute for such an argument. The Student has not offered a single reason that she believes the marks on her term work or final examination in POLC54H3 were assigned unfairly—she simply iterates that she is unhappy with the marks and their affect on her academic standing.

### D. Administrators Have Been Inappropriately Involved in This Process

The Student seems to be extremely mistrusting of UTSC and resentful of what she perceives to have been mistreatment by many different people in the Division. The Student's account of facts is confusing, and she appears to hold intense beliefs about what people said or did during discussions at which she was not present. However there is no evidence that anyone at the UTSC has acted unfairly towards the Student, or applied Divisional policies inconsistently. The Division submitted several e-mails from administrators and faculty that demonstrate UTSC's efforts to explain its policies to the Student, and to encourage her to follow them carefully.

There is no evidence that the protracted nature of this process is attributable to deliberate delays on the part of the Division. The Student submitted and withdrew several petitions at around this time, including two petitions relating to this course. Early in the process, there was clearly some confusion about whether the Student was requesting a re-read or a clerical check of her grade. These are two different processes, and the Student's initial argument (that her grade had been incorrectly calculated) seemed to call for a simple mathematical re-calculation, rather than a substantive re-read, which would entail a re-evaluation of the Student's underlying work. This may have caused some delay in the ultimate resolution of this issue, but the information appears to have been imparted in good faith. Other delays may have occurred due to the timing of committee meetings and the Student's submissions of petitions and documentation. Those kinds of delays are unfortunate, but there is no evidence that any of them were deliberate on the part of UTSC. The Student's opinion that the Committee should continue to meet over the summer months does not reflect an understanding of the workings of the Division, or the availability of key personnel.

The meeting which took place between the Professor and Vice Dean Professor Scherk was professional and appropriate. It was necessary, in part, because of the confusing nature of this petition. The Professor's March 12, 2009 e-mail to the administration, in which she describes her confusion and her efforts to be clear with the Student, captures her contemporaneous understanding of the Student's petition and demonstrates both the rationale for having that meeting and the Professor's clear intentions to comply with departmental policies. The Professor's and Vice Dean Professor Scherk's testimony about what happened at the meeting was consistent and plausible. The administration did not voice a preference for how the Professor calculated the marks in her course, but only reminded her that she should use the same methodology for every student in the class. The Student has submitted no evidence supporting her belief that Vice Dean Professor Scherk refused to allow the Professor to change any marks.

The Student's other grievances reveal her grave mistrust of the Division, but they do not justify granting a re-read when no substantive argument for one has been made. The Student's anxiety about Vice Dean Professor Scherk's involvement in administrative procedures, her dislike and suspicions about other administrators at UTSC, her anger when a faculty member's office door is closed or a teaching assistant appears less than friendly are not the kinds of grievances for which granting a re-read is an appropriate remedy. Regarding the allegations about events that occurred before her enrolment in this course (a prior dispute with Vice Dean Professor Scherk, a prior alleged assault by another student), your Committee observed that these issues are strongly felt by the Student. While we sympathise with the Student's distressed state, we did not find them to be relevant to the issue of whether her work warranted a re-read, and they are not part of the justification for this decision.Finally, the Student informed this committee that she now "automatically" requests a copy of her final examinations, requests a clerical check, and petitions for a re-read of all of her courses. The Student seems to continue to be confused about the need for substantive grounds before a petition for a re-read will be granted. Students who desire a re-read must provide substantive grounds that their work was undervalued, including the details of the alleged misevaluation in order to support their request. The Division has repeatedly explained the standard for granting a re-read to this Student, and the process is clearly explained in the Academic Calendar. This Committee is concerned that the Student's challenging every mark she receives is very likely to create confusion within the UTSC administration, cause more anxiety and stress to the Student, burden the Division, and could become abusive of the processes that have been put in place to provide all students recourse when they believe they have a substantive argument for a re-read.

**Conclusion**

The issue in this case is whether or not UTSC applied its policy on re-reads appropriately. The section on "Special Consideration, Petitions, and Appeals" of the UTSC Calendar sets forth the conditions under which a re-read will be granted, and the amenability of a faculty member to performing a re-read is not relevant to the question of whether or not a student has made a persuasive case that a re-read is justified. The Division has set forth clear guidelines. Your Committee has listened intently to all of the Student's arguments, and finds that she has not articulated any acceptable grounds for a re-read of her course work or final examination. None of her arguments speak to the academic quality of her term work or final examination, and she does not identify any reason for believing that her answers were undervalued.

For all of these reasons it is the unanimous decision of the panel that this Student's appeal and request for a re-read of her term work and final examination in POLC54H3, *Intergovernmental Relations in Canada*, is denied.