

REPORT NUMBER 250 OF THE ACADEMIC APPEALS

COMMITTEE March 14, 2002

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Thursday, March 14th, 2002, at which the following were present:

Professor Emeritus Ralph Scane, Acting Chair
Professor Clare Beghtol
Professor Luigi Girolametto
Ms Wendy Swinton
Ms Geta Yadav

Secretary: Mr. Paul Holmes, Judicial Affairs Officer

In Attendance:

For the Appellant:

Ms L.C., the Appellant ("the Student")
Ms E. Morton, counsel

For the University of Toronto at Scarborough:

Associate Dean I. McDonald
Ms Sherylin Biason

This is an appeal from the decision of the Subcommittee on Academic Appeals of the U. of T. at Scarborough, dated July 5, 2001, denying an appeal from the Subcommittee on Standing of UTSC, dated April 9, 2001. The latter decision denied a petition from the Student, dated April 4, 2001, and, according to the UTSC submission, filed April 6, 2001, to drop the course CHMA02Y without academic penalty. April 6, 2001 was the last day of classes in that term.

The Student enrolled in the Honours B.Sc. programme at UTSC in the fall of 1999. She completed that academic year with an annual GPA of 1.67, entitling her to continue in good standing. However, in the following academic year, due in part to a grade of F in CHMA02Y, she dropped to a cumulative GPA of 1.43, and was placed on academic probation. If she is successful in this appeal, so that the grade in CHMA02Y is removed from the calculation, her

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cumulative GPA would be increased to 1.67, and she would be removed from probationary status.

The Student is a member of a family which immigrated to Canada. Her father is dead, and she was living with her mother, sister and an older brother who supported the family. The family comes from a cultural background in which marriages arranged by parents, or senior family members, were common in their home country. The brother decided that the Student should marry an uncle, still in the home country, whom the Student barely remembered, and in any case did not wish to marry. Intense pressure to carry out her brother's wishes was placed on the Student, to the extent that, although she had never lived apart from her family, and had no independent financial resources, she left home about the end of November, 2000, and went to share accommodation with a friend. To finance herself, she found a job which required her to work 30 hours per week. She also had a very lengthy commute to and from the campus.

Sometime near the end of February 2001, the Student returned to her home to help care for her mother, who developed a severe medical condition. The relationship with her brother was still strained, and she had to spend considerable time caring for her mother and assisting her to get to medical appointments.

The Student took four full courses in the 2000 - 2001 academic year. She passed three of these with grades sufficient to maintain standing, but for the failure in CHMA02Y. She failed all the term tests and tutorial quizzes in that course, and did not write the final examination, which was worth 35% of the overall grade. She asks to be relieved of the consequences of that failure on the ground that the stressful situation, merely outlined above, in which she found herself prevented her from performing adequately in the course in question.

Before addressing the substance of the appeal, your Committee notes an objection by UTSC to the Student introducing for the first time at this final appeal level the fact that she was subject to pressure, during the relevant period, to enter into an arranged and unwanted marriage. This situation was not disclosed by the Student either in the original petition, or in the material filed with, or her oral statement to the UTSC appellate committee. This is a serious objection, supported by the fact that several panels of your Committee have previously expressed concern about the waste of resources and time at all levels that failure to put forward the full case upon which the student is relying at the beginning of the process may entail. Your Committee has, in a previous appeal, decided that, due to the fact that, particularly in the early stages of the process, students often have little advice and no experience in what is involved in an academic appeal, it would be wrong to impose rules as rigorous as are imposed by appellate courts with respect to the receipt of new evidence before them. Nevertheless previous panels have made it clear that refusal to consider such evidence is an option open to your Committee. The issue will always be a difficult one for academic appeals committees. Your Committee believes that the best way to deal with it is to make sure that all students are clearly warned in writing, at the time that they are instituting the first steps of an appeal process, usually the initial petition, that they must make

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full disclosure of all relevant facts upon which they rely, however embarrassing or intrusive upon their personal sense of privacy and dignity those facts may be, at risk of not being allowed to raise these facts at later stages of the process. Appeal committees might then feel more comfortable in taking a much stricter view on admissibility. Your Committee recommends to the Governing Council that it take the necessary steps to make such a warning mandatory throughout the University.

In the instant case, the issue is not so clear-cut as it has been in some other cases. In her original petition the Student did disclose that the core problem was a "difference of opinion" at home, involving her brother, who "made it impossible to live at home". She did not elaborate further in her documentation, and apparently was not asked to do so when she made her oral submissions. However, your Committee considers that the essential nature of the issue, severe family friction leading to the Student feeling required to leave home, and find work to support herself, was sufficiently disclosed that it is prepared to allow the details to be filled in at this level.

With respect to the substance of the appeal, some of your Committee were concerned that corroborative evidence of the family problems at the root of this appeal which might be expected to be forthcoming from family members who would have direct knowledge of the situation was not tendered, nor was any explanation for its absence given. However, your Committee is satisfied that the pressure on this Student occasioned by her family circumstances was severe enough to justify relief, if that were the only requirement for success on the appeal.

The problem is that the last date for dropping this course without academic penalty was February 18, 2001. It is clear from previous decisions of your Committee, as well as from regulations of the various divisions of the University, that permission for late withdrawal without penalty may be granted, but such relief is far from a matter of course. The very existence of "drop dates" demonstrates that those charged with legislating University academic rules and regulations have adopted a policy that is far from paternal in this regard. Up to the "drop date", the University leaves the matter entirely in the uncontrolled discretion of the student. The student's reasons for dropping a course may range from merest whim to desperation. However, by that date, the student is expected to have assessed his or her circumstances, and made an election. If the student elects to continue with the course, the consequences of that election must be accepted, and no allowance will be made for the effect of circumstances existing at the drop date, including the continuation of those circumstances after that date if continuation should reasonably have been anticipated, however detrimental to the student's performance they may be. In short, the University, by adopting "drop dates" which are set considerably before the end of the relevant terms, has set its face against a student, at the time the "drop date" forces a choice, from gambling, substantially risk free, that the situation with respect to a course can be repaired.

Without attempting to be exhaustive, the obvious circumstances where this policy does not apply are when unanticipated circumstances arise after the "drop date", when then existing

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circumstances unexpectedly become significantly more severe, or when then existing circumstances were reasonably expected to abate, but did not.

Applying this analysis to the present case, your Committee finds that the Subcommittee on Academic Appeals of UTSC was correct in its reasons and its decision. By the "drop date", the Student was only too well aware of the burdens placed upon her by her family situation and the time demands of her job and her commuting. She knew that she had failing grades in her Fall Term tests and her midterm examination in CHMA02Y. She states that she did not know of her failing grade in a test in that course taken on February 10, 2002 until the day after the "drop date". If she had petitioned promptly after receiving that test mark, it is possible that the late receipt might have justified awarding the relief asked, but she did not. The difficulties she faced due to her mother's medical condition did not occur until around or after the critical date, but here, the Student cannot have it both ways. If her return to the family home as a caregiver was foreseen at the drop date, the caregiving burden should have been factored into her appraisal of her chances of completing all of her courses successfully. If it was not foreseen, the Student must have anticipated that her situation of living away from home and holding a job to support herself would continue. Your Committee believes that the Student gambled that she might somehow pull her courses together in the time remaining in the term, or, if she could not, would seek to withdraw from one or more of her courses near the end of term. This is exactly what the University's policy on dropping courses without academic penalty is designed to prevent.

The appeal is dismissed.

March 25, 2000