

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #372 of the Academic Appeals Committee
April 25, 2014

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on March 18, 2014, at which the following persons were present:

Professor Hamish Stewart, Chair
Professor Hugh Gunz
Ms Alexandra Harris

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

Appearances:

For the Student Appellant:

Mr. M [REDACTED] K [REDACTED] A [REDACTED], ("the Student")

For the Faculty of Applied Science and Engineering:

Professor Peter Herman, Chair of the Committee on Examinations
Mr. Khuong Doan, Associate Registrar, Student Services

I. Overview

The Student appeals from a decision of the Faculty's Academic Appeals Board (AAB), dated August 15, 2013, dismissing his appeal from a decision of the Committee on Examinations (CE), dismissing his petition (#8997) for late withdrawal without academic penalty from CIV100 (Winter 2012). The appeal is allowed. The Student's grade of F is vacated and the notation WDR is substituted.

II. Preliminary Motions

The Student requested that your Committee's meeting be held in private because his medical issues might be "discussed and/or disclosed during the hearing." The only additional person

attending the hearing was one of the other Chairs of your Committee, who wished to observe the proceeding. She undertook to keep confidential any medical information concerning the Student that was discussed at the hearing. In light of that undertaking, the Student agreed to her presence during the hearing. It was therefore not necessary to rule on his motion.

The Faculty asked the Chair to redact from your Committee's decision the names of all the Faculty's faculty and staff who were involve in the Student's case, on the ground that these individual were not acting in their individual capacity. As your Chair explained in more detail in Report #367, the fact that someone is not acting in an individual capacity is not normally a sufficient reason to redact that person's name from the decision of a court or administrative tribunal. The motion is therefore dismissed. That said, your Committee did not find it necessary to identify any individuals by name in this Report.

III. Proceedings in the Faculty

The Student has faced a number of very serious medical challenges since enrolling in the Faculty. The Faculty does not question any of the Student's medical evidence. Therefore, your Committee refers to the Student's medical issues only to the extent necessary to decide the appeal.

The Student enrolled in the Faculty in the Fall 2011 term. During that term, he failed two courses, CIV100 and MAT186. In the Winter 2012 term, he repeated both of these courses. He passed MAT186. The final examination for CIV100 was scheduled for April 23, 2012. The Student became ill while writing the exam and was granted a deferred exam, to be written on July 4. During May and June, 2012, the Student encountered a number of further medical problems, some of them apparently unrelated to his illness in April. On July 4, the Student experienced severe chest pain (apparently unrelated to his difficulties in April) and spent the day in a hospital emergency department. He therefore missed the deferred exam.

On July 7, 2012, the Student petitioned the EC for late withdrawal from the entire Winter 2012 term. That petition was granted. In August 2012, the Student petitioned the EC again, stating that he had intended to seek late withdrawal only from CIV100, not from the entire term. That petition was granted in part; the earlier decision withdrawing him from the Winter 2012 term was vacated, but instead of granting late withdrawal from CIV100, the EC reinstated the deferred examination, which was now scheduled for December 2012. During the Fall 2012 term, the Student asked to have the exam deferred again, to April 2013. The Faculty granted this request and the deferred exam was scheduled for April 26, 2013. The Student missed that deferred exam.

On May 8, 2013, the Student petitioned (#8997) the CE for retroactive withdrawal from CIV100. The petition was supported with a University of Toronto "Verification of Student Illness or Injury" form completed by a family physician. The physician stated that during the week of April 23-30, 2013, the Student was "significantly impaired in ability to fulfill academic obligations." On May 15, the CE dismissed the petition without reasons, stating only that it was denied and that the result from his Winter 2012 registration would be entered. The Student

appealed to the AAB, stating “I do not understand the reason for the denial.” On August 15, 2013, the AAB wrote to the student stating that his appeal was dismissed:

The Board reviewed the written submissions of the petition and appeal, and considered your statements at the hearing, and found that no additional evidence was provided in this case to support granting your exceptional request.

The Student appeals to your Committee.

IV. Reasons

During the hearing, there was much discussion of why the medical evidence placed before the EC in the summer of 2012 was sufficient to justify the Student’s late withdrawal from the entire Winter 2012 term, but not from one course taken during the Winter 2012 term. The Faculty’s representatives explained that the Faculty’s programs generally proceed on a term-by-term basis, so that it was in a sense easier to justify late withdrawal from an entire term than from a single course. Even accepting this explanation, your Committee was inclined to the view that late withdrawal from CIV100 in August 2012 would have been an appropriate solution. However, since the EC’s decision of August 2012 is not under appeal, it is not necessary to decide that point.

In April 2012, the Faculty quite appropriately granted the Student a deferred examination in CIV100 as an accommodation for his illness. Through no fault of his own, the Student was unable to write the deferred examination on any of the subsequent scheduled dates. It is common ground between the Student and the Faculty that, by the summer of 2013, an additional deferral was not a realistic option. At that point, the Student petitioned the EC (#8997) for late withdrawal from CIV100. The EC dismissed his petition without reasons. In its reasons dismissing the Student’s appeal, the AAB stated that late withdrawal without academic penalty is an exceptional remedy. Your Committee agrees: in Report #348, for example, it stated that that “late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations”. At the hearing, the Faculty’s representatives added that students should not be able to improve their transcripts retroactively by “cherry-picking” courses from which to withdraw late. Your Committee agrees with this statement as a general principle. However, in your Committee’s view, the Student was not attempting to cherry-pick but to find an appropriate solution for a difficult academic situation brought on by a number of medical problems, some of which were new since a deferral was originally granted in April 2012. Your Committee notes that the Student does not seek any remedy for the F that appears on his transcript for CIV100 (Winter 2011). Moreover, your Committee finds it difficult to understand why the AAB stated that there was “no additional evidence” before it. The additional evidence, unavailable when the EC rendered its various decisions throughout 2012, was the Student’s medical explanation, filed with petition #8997, for his inability to write the deferred examination on April 26, 2013. The Faculty does not challenge this evidence. Its decision to evaluate the Student’s performance on the basis of the examination originally written on April 23, 2012, effectively unravelled the accommodation that the Faculty had granted him. The Student’s performance in CIV100 was in effect evaluated on the basis of an examination which the Faculty had already, and rightly,

recognized was not a proper test of the Student's understanding of the course material. In your Committee's view, that was not a fair application of the Faculty's policies. Late withdrawal without academic penalty from CIV100, Winter 2012 session, is an appropriate remedy for the Student's situation.