



FOR INFORMATION

PUBLIC

OPEN SESSION

TO: Academic Board

SPONSOR: Mr. Christopher Lang, Director, Appeals, Discipline and Faculty
Grievances

CONTACT INFO: christopher.lang@utoronto.ca

PRESENTER: See Sponsor

CONTACT INFO:

DATE: May 26, 2014 for June 2, 2014

AGENDA ITEM: 12b

ITEM IDENTIFICATION: Academic Appeals Committee, Individual Reports Spring, 2014

JURISDICTIONAL INFORMATION:

Section 2.1 of the Terms of Reference of the Academic Appeals Committee describes the function of the Committee as follows:

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 and to report its decisions, which shall be final, for information to the Academic Board. The name of the appellant shall be withheld in such reports.

Section 5.3.4 of the Terms of Reference of the Academic Board provides for the Board to receive for information Reports of the Academic Appeals Committee without names.

GOVERNANCE PATH:

1. **Agenda Committee [for information] (May 20, 2014)**
2. Academic Board [for information] (June 2, 2014)

PREVIOUS ACTION TAKEN:

The last semi-annual report came to the Academic Board on November 21, 2013.

HIGHLIGHTS:

The purpose of the information package is to fulfill the requirements of the Academic Appeals Committee and, in so doing, inform the Board of the Committee's work and the matters it considers, and the process it follows. It is not intended to create a discussion regarding individual cases or their specifics, as these were dealt with by an adjudicative body, with a legally qualified chair and was bound by due process and fairness. The Academic Appeals Committee's decisions are based on the materials submitted by the parties and are final.

FINANCIAL IMPLICATIONS:

There are no financial implications.

RECOMMENDATION:

For information.

UNIVERSITY OF TORONTO
GOVERNING COUNCIL

Report # 369 of the Academic Appeals Committee
November 7, 2013

To the Academic Board
University of Toronto.

Your Committee reports that it held a hearing on Thursday, October 31, 2013, at which the following members were present:

Professor Andrew Green (Chair)
Professor Hugh Gunz
Mr. Rastko Cvekic

Mr. Chris Lang, Director, Appeals, Discipline and Faculty Grievances
Ms. Sinead Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Appearances:

For the Student Appellant:

Ms. S.M. (the Student)
Selwyn Pieters, Counsel for the Student

For the Faculty of Applied Science and Engineering:

Professor Thomas Coyle, Chair of the Examinations Committee
Professor Peter Herman, Chair of the Examinations Committee
Ms. Barbara McCann, Faculty Registrar

The Appeal

This is an appeal from a decision of the Academic Appeals Board (“AAB”) of the Faculty of Applied Science & Engineering (“Faculty”) dated April 11, 2013 dismissing an appeal of the Student from a decision of the Faculty’s Committee on Examinations (“Committee”) dated November 21, 2012. The Committee had denied the Student’s petition to be allowed to return to the Faculty despite having been refused further registration for not meeting the Faculty’s required sessional average.

Motions

In their written materials for this appeal, both the Student and the Faculty made motions requesting confidentiality. In her Reply to the Faculty’s Response in this appeal, the Student made a motion requesting a confidentiality order to close the hearing, to keep the name of any

party undisclosed and to keep any exhibit confidential. The Chair of your committee informed counsel for the Student that the practice of your committee was not to provide the name of the student in any report but to use only initials and further that any documents relating to the appeal were kept confidential by the Office of the Governing Council. Mr. Pieters, counsel for the Student, indicated that this practice was acceptable to the Student.

In their Response to the appeal, the Faculty asked the Chair to redact from all recordings or publications relating to this appeal the names of all staff who acted on behalf of the Faculty. The reasons given by the Faculty were that each Faculty staff member “acted on behalf of and as a representative of the Faculty, only, and not in his/her individual capacity” and that in past appeals Faculty staff had suffered difficulties as a result of their involvement in matters relating to appeals. In addressing an identical motion from the Faculty, Chair of your committee Hamish Stewart in Report 367 dismissed the motion stating he “might look more favourably on such a motion where there was some allegation concerning personal misconduct by a member of the faculty or staff, particularly if your Committee found that allegation to be unfounded.” While there is no direct allegation against a particular individual in this appeal, given the sensitive nature of the appeal and the references to advice provided to the Student, the Chair of your Committee grants this motion.

The Facts

The Student began her studies in the Faculty in 2008. She successfully completed her first year. However, in the Fall of 2009 her average fell to 48%, below the 60% level which in the Faculty triggered probationary status. She was therefore placed on “PRO2” with the result that she was forced to withdraw from the program for eight months and on return to repeat the session for which she did not meet the required average. The Student made a number of petitions relating to this probationary status. The basis for her petitions was that in the Fall of 2009 a family member became ill with a mental illness. Each of these petitions was denied on the basis of lack of documentation. Further, in the summer of 2009 she was diagnosed with Mitral Valve Prolapse, a condition described by her as being exacerbated by anxiety.

While on probation, the Student met with an academic advisor who advised her that if she was struggling she should take a reduced workload. In the Fall of 2010, however, the Student returned to the program and took a full load. At some point in this school year, the Student states that she was diagnosed with anxiety and was prescribed medication. In the Winter term of 2011, the Student suffered anxiety during an exam. She petitioned the result of this exam and provided medical documentation. The petition was granted and she was given an assessed mark.

In Fall of 2011, the Student took a full load. However, she missed a final exam. She petitioned concerning this exam, providing medical documentation of a physical illness (not relating to anxiety). The Faculty allowed this petition, granting the Student a make up exam to be taken in the Winter term. The Faculty in the past had not granted any deferred exams. In this case, the Faculty stated it emailed students on January 20, 2012 indicating the deferred exams would be taken during two weeks in February. It subsequently emailed the Student on January 30, 2012 that her exam would be held on February 16, 2012. According to the Student, this deferred exam

fell during a week of midterms for her other courses and resulted in her missing a lab for one course.

As a result of her performance on the deferred exam, the Student's average for Fall 2011 was 59.4%. As this average was below the 60% rule, it would in general trigger the progressive probationary response by the Faculty. Given that the Student had been on probation because of poor performance in Fall of 2009, failing to make the 60% average for Fall 2011 would mean the Student would be denied further registration in the program. The Faculty, however, waived the 60% rule in this instance. At the hearing, the Faculty stated that it waived the rule given the timing of the deferred exam and that the Student's average was so close to the cut off.

The Student therefore continued in the program in the Winter of 2012. She petitioned one of her exams that term on the basis that she had suffered from an anxiety attack. Her petition was denied because while she had obtained medical documentation that she suffered from anxiety disorder, the documentation was insufficient as it was not obtained within 24 hours of the exam and did not provide sufficient evidence of the severity of the symptoms. On further appeal, the AAB upheld this decision, noting also that they were not provided with any evidence of a long-term diagnosed anxiety disorder that might have provided context for the appeal.

Her average for the Winter term of 2012 again fell below the 60% rule. Her average was 58.4%. As a result, the Faculty refused her further registration in the program. It is this decision that resulted in this appeal. The student petitioned the decision to the Committee. She asked to be placed on PRO2 status once more because of the workload that she had taken on (despite the advice of her academic advisor) and her wish to seek help through the disabilities office because of her anxiety and stress issues. The Committee in its decision dated November 21, 2012 denied the petition. Its complete reasons were:

Denied based on insufficient reasoning or invalid reason. The Faculty intervenes to accommodate petitions only in the most severe situations. Your claims do not meet the standard to offer remedies. Valid reasons to intervene with the awarding of final marks or academic credit are usually serious illness, injury or bereavement.

The Student appealed this decision to the AAB. She provided further description of the illness of her family member and of her own struggles with anxiety and stress. She also provided a medical form dated March 1, 2013 signed by a psychologist. On the form, the psychologist placed the Student in the 'moderate' category of illness, which according to the form means the student "may be able to fulfill some academic obligations but performance considerably affected e.g. able to attend some classes, decreased concentration, assignments may be late." The psychologist's note states that the Student is 'exhibiting symptoms of depression and anxiety. Although she is progressing well, she would benefit from her school's cooperation in assisting her through a successful recovery.'

In its decision dated April 11, 2013, the AAB dismissed the Student's appeal. It found that "no rule, regulation, policy or principle was applied to you unfairly." After noting it had reviewed all the information including the evidence from March 2013, "the Board felt that no new reasoning

was presented, and that the additional evidence submitted was not sufficient to justify the exceptional request. The Board feels it is unfortunate that your current academic status does not allow you to continue in the program but views that state as a condition of multiple previous 'last chances' granted through the Faculty's progressive probationary structure and through several granted petitions in your past sessions."

The Student subsequently appealed to your Academic Appeals Committee. The Student asked that the 60% rule be waived and that she be reinstated in the program. At the hearing, Mr. Pieters stated that given the timing of this appeal, the Student was asking to be reinstated as of January 2014. The Student argued that the appeal should be allowed on medical and compassionate grounds.

Decision

The Faculty has a progressive probationary program to aid students struggling to meet the program requirements. Its progressive nature provides these students with the opportunity to recover from a poor academic performance in a session. The Faculty has at times provided relief to students from the application of this program. It is important to ensure, however, that a high bar is set to obtain such relief in order to maintain the integrity and standards of the Faculty.

In this case, the AAB was faced with a student who was clearly struggling with the program, who had admittedly taken on a full course load despite some advice otherwise, and who had provided evidence of anxiety issues but had not sought accommodation through Accessibility Services. The Faculty had granted petitions of the Student in the past but the AAB decided that in this case the Student did not warrant the very exceptional remedy of a waiver of the 60% rule.

At the same time, however, the Faculty had provided relief from the 60% rule for this Student for the Fall 2011 term. The waiver for the Fall 2011 term in fact related to events that occurred during the Winter 2012 term that is the basis of this appeal. The Student wrote the deferred exam during a week in which midterms were held and school was on-going. According to the Faculty, this timing was part of the reason for the waiver of the 60% rule for the Fall 2011.

During the hearing, the Faculty noted that 2011/12 was the first year in which it granted deferred exams. It initially stated that such deferred exams would be held during the 2012 Winter reading week but then emailed students that the deferred exams would be held in a two week period which included reading week but also a week of term. The Faculty stated that because of student concerns, it has since changed its process going forward such that timing of deferred exams will now be set in consultation with the student.

The Faculty felt that the scheduling of the Student's deferred exam during midterms provided in part a basis for relief relating to the Fall 2011 term. The Student argued that this timing also impacted her performance in the Winter 2012 mid-terms, particularly given her documented severe anxiety issues which the Faculty does not dispute, and caused her to miss a lab in a different course. The Faculty during the hearing stated that if a student reached the point of a petition for a waiver of the 60% rule it was generally unlikely in light of past performance that

his or her performance would improve unless something changed dramatically. In this instance, given the transitional issues for the Faculty in setting deferred exams and its subsequent changing of its policy in the face of student concerns, the evidence of the Student's severe anxiety issues and the evidence from the Student's psychologist that the Student is 'progressing well' and from the Student that she is willing and now financially able to take on a lighter course load, your committee believes it would have been reasonable for the AAB to also grant relief from the 60% rule for the Winter 2012 term.

In light of the Student's request to be placed on PRO2 status in her initial petition to the Examination Committee, your committee allows the appeal with the student to be placed on PRO2 status with a return in January 2014 and the student repeating the Winter 2012 session. While not making it a condition of this status, your committee strongly recommends that the student work with both her academic advisor and the University's Accessibility Services to find a workload along with any necessary accommodations that provide her with the best opportunity to succeed in the program.

There was considerable discussion in this appeal of the difficult issue of the responsibilities of both the university and the student in the context of mental health concerns. During the hearing, the Faculty clearly stated that it recognized students' need for accommodation and set out a range of initiatives it takes to inform students of the University's Accessibility Services. At the same time the Student in this instance did not take advantage of these services even though it seems likely she would have benefited from them. Surprisingly, she neither sought out these services of her own volition nor apparently was pointed towards these services by the Faculty in their dealings with her. It is unfortunate that neither party recognized the possibility of accommodation in this instance. Your committee is of the view that the Faculty may wish to consider whether there are further steps it could take to aid students in such situations. Further, the Student experienced severe anxiety issues during exams, which led to a range of petitions and disputes over documentation. To the extent that the Faculty does not have such systems in place, it would be useful to consider procedures to aid in these types of situations such as placing a statement on each examination of what to do in the event of illness or distress during the exam (as is done in other parts of the university to aid in identifying to the student the time sensitive nature of addressing the concerns) or training of invigilators in recognizing and addressing student distress.

The appeal is allowed.

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #370 of the Academic Appeals Committee
March 27, 2014

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Tuesday, March 25, 2014 at which the following members were present:

Ms. Andrea Russell, Chair
Professor Elizabeth Cowper
Ms. Mainawati Rambali

Secretary: Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Appearances:

Ms. V [REDACTED] M [REDACTED], the Student Appellant (“the Student”)

For the School of Graduate Studies (SGS):

Mr. Robert Centa, Lawyer for the Division
Ms. Jane Alderdice, Director, Quality Assessment and Governance
Professor Luc De Nil, Dean’s Designate
Professor Harry Elsholtz (LAMP)

Decision of the Panel

Procedural Background

On October 11, 2013, the Student filed a Notice of Appeal against a July 15, 2013 decision of the Graduate Academic Appeals Board (GAAB). The GAAB decision dismissed the Student’s appeal from the SGS decision to terminate her registration in the Ph.D. program in the Department of Laboratory Medicine and Pathobiology (LMP).

The Division’s Response was received on December 17, 2013, and the Student submitted a Reply on January 31, 2014. The Student indicated in her Appeal that she would like an expedited hearing.

In her Reply and in her large number of subsequent emails to the Office of Appeals, Discipline and Faculty Grievances (ADFG Office), the Student indicated that she would like to call 13 witnesses to testify for her at the full hearing of this matter. Given the uniqueness of this request and the relatively large number of witnesses that the Student sought to call, the Chair issued a Direction requesting that the Student summarize the issues to which each of these witnesses might testify. Following receipt of the Student's submissions on this point, the Chair issued a second Direction, scheduling a pre-hearing conference.

The pre-hearing conference was held on March 3, 2014, in order for the Student and the representative of the Respondent to discuss with the Chair matters of evidence, to set the hearing date, and to clarify certain matters regarding procedure for the Student. At the pre-hearing conference, the Student indicated affirmatively to the Chair that she understood that it was her responsibility to secure a representative for herself, should she wish to have one join her at the full hearing. The Student also indicated that there were four witnesses from among the 13 that she was interested in calling who were most relevant to the hearing.

Following the pre-hearing conference, and having considered the Student's written and oral submissions regarding witnesses, along with the Academic Appeals Committee's Terms of Reference, the Chair issued a third Direction, dated March 4, 2014, indicating that the Student could call relevant witnesses to testify at the hearing. The Chair also reminded the Student in that Direction and at the pre-hearing conference that it was her responsibility alone to confirm any witnesses' attendance at the hearing.

At the full hearing held March 25, 2014, no witnesses appeared for the Student, who was unrepresented. The Student did, however, indicate that she had received some advice from lawyers and paralegals in preparing her submissions. The Student and Respondent made verbal submissions, and the Student presented some points in Reply.

Analysis

The Panel unanimously dismisses the Student's appeal. The Panel does so having thoroughly reviewed all of the Student's written and oral submissions, including a large number of emails that the Student sent to the ADFG Office following submission of her Reply.

Quite simply, the Student raised no new evidence in her oral or written submissions that was either persuasive or relevant to the Appeal. All of the evidence that the Student raised at the hearing had either been addressed in the GAAB's decision, or was irrelevant to the question of the reasonableness of the GAAB decision and of the Respondent's decision to terminate her registration.

In her written submissions, the Student did indicate some specific concerns with the GAAB decision. The Panel finds that none of these concerns are persuasive or warranted. The Student's allegation that the GAAB was "biased" against her because it issued an unfavourable decision against her remains completely unsubstantiated. The Panel finds the GAAB decision to be thoroughly argued, reasonable, and substantiated by the evidence. On matters of procedure, the Student indicated in her written submissions that the case should have been sent by the GAAB

back to a departmental appeals body for a hearing at the department level. However, it is well established in SGS Policy 11.3.4 (which is easily accessible on the SGS website) and in the Terms of Reference for the Academic Appeals Committee, that the appropriate body to hear appeals from the GAAB is this Academic Appeals Committee. The Appellant also indicated in her written submissions that another ground for her appeal to the GAAB had been “compassionate grounds”, but did not indicate what these grounds were. The Appellant did at numerous times mention her immigration status in relation to the appeal, but indicated herself at the hearing that this status was simply a “governance” matter and a “complication” that she did not want to be further mentioned, and her immigration status was not presented as the basis for her seeking compassion from this Panel. Thus it was not a relevant issue to her appeal.

At the hearing, the Respondent’s representative cogently summarized the reasons for the Respondent’s decision to terminate the Student’s registration from the LMP Ph.D. program, and the basis for the conclusion that the GAAB decision was reasonable and based upon the evidence. We agree with the Respondent.

The Panel found the decision of the Respondent to terminate the Student to be entirely reasonable, particularly as the record indicates that this decision came only after numerous clear written and verbal warnings to the Student that her academic standing in her program was in jeopardy.

These warnings were repeated at a specifically convened meeting with the Student on February 27, 2013. In a March 1, 2013 letter, LMP Department Coordinator Dr. Harry Elsholtz summarized the meeting and listed four specific conditions that the Student must accept in order for her to continue within the program. The Student was clearly told that failure to meet the conditions would be “grounds for termination from the Ph.D. program.” The written record indicates that the Student not only failed to implement but also outright rejected these conditions for continuation within the program.

In addition, the reference in the GAAB decision to SGS Policy 9.1-- which stipulates that a student’s choice of thesis topic and choice of supervisor and committee are subject to the approval of the graduate unit-- was helpful in underlining the second policy rationale for the Respondent’s decision to terminate the student’s registration from her doctoral program. This policy is reasonable and the Respondent’s application of the policy justified in this case.

We therefore agree with the GAAB that the Department and SGS acted fairly and reasonably in deciding that her registration should be terminated.

For all of these reasons, the Panel rejects the Appeal.

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #371 of the Academic Appeals Committee (Chair Only)
March 27, 2014

To the Academic Board
University of Toronto

This appeal was conducted on the basis of written submissions in order to determine jurisdiction as per Section 3.1.7 of the Academic Appeals Committee Terms of Reference. The parties did not attend.

Chair

Professor Hamish Stewart

Student

Mr. C [REDACTED] D [REDACTED]

Division

School of Graduate Studies

Preliminary Issue

The Student enrolled in the Faculty of Arts and Science (the Faculty) in 2011. During the Summer 2013 term, he participated in the 2013 Summer Abroad France program. Students in this program receive a University of Toronto undergraduate credit (not a transfer credit). The Student took a French language course at the Institut d'études françaises de Touraine in Tours, equivalent to the Arts and Science course FSL421Y0, "French Language IV". His instructor in Tours assigned him a mark of 14.49/20. This mark was multiplied by 5 to convert it to a mark out of 100, and accordingly, the Student's grade for FSL421Y0 appears on his University of Toronto transcript as 72 (B).

The Student was dissatisfied with the conversion of his grade. In August 2013, he corresponded with Jennifer Danahy (program coordinator of the Summer Abroad France program), Professor Paray-Clarke of the French Department (academic co-ordinator in Tours), Professor Danièle Issa-Sayegh of the French Department (Associate Chair, Undergraduate Studies), and Ms Delphine Vincent-Göske (his instructor in Tours). Professor Paray-Clarke and Ms Danahy both pointed him to the following passage on p. 39 of the "When in Tours ...!" handbook, which was provided to the Student before his departure to France and which described the formula used by the Department to convert Institut grades to U of T grades (the "conversion formula"):

Institut grades will be multiplied by five to make them consistent with the U of T grading scale. ... The conversion of the final grade takes place at U of T, and it is the only adjustment that occurs.

Ms Danahy advised him that no further adjustment could be made unless Ms Vincent-Göske in Tours was willing to change the grade originally assigned. Ms Vincent-Göske advised him that it was not possible to change the marking of his tests because it corresponded to the French scale. She suggested that the Student speak to Mr Jean-Jacques Bolo, director of the Institut. It appears that the Student did not pursue this possibility.

The Student next petitioned the Dean of the Faculty. In his petition, the Student argued that the conversion formula did not adequately reflect the difference between French and U of T grading standards; moreover, he argued that the conversion formula was inconsistent with the agreement that he and other students had consented to by participating in the program, and in particular that it violated the grading policy announced in the course description on the France Abroad website (for the current version, see https://summerabroad.utoronto.ca/images/uploads/French_Language_Course_Information.pdf) (the “course description”):

Grade Conversion:

Please note that the Institut de Touraine employs a different grading scale than the University of Toronto. **In order to be consistent with the University of Toronto’s scale, grades for French language courses will be adjusted.** The grade conversion scale is available from the Professional & International Programs Office; submission of an application form is consent for implementation of the scale.

Some non-UofT students may receive the unadjusted Institut grade; some students may receive no grade at their home institution but instead will obtain transfer credits for the course(s) they completed. Remember: you will be obtaining a UofT credit and grade so your marks will be adjusted to be consistent with UofT’s grading system. Institut instructors are not given detailed information on the grade conversion scale so as to avoid alteration of marks. The conversion of the final grade takes place at UofT, and is the only adjustment that occurs.

On 22 November 2013, Associate Dean Anne-Marie Brousseau wrote to the Student, dismissing his petition. She stated that the Student had agreed to the conversion formula. She rejected his contention that there was any inconsistency between the conversion formula and the course description: “we do not subscribe to your contention that the information regarding mark conversion was not specific enough or was subject to interpretation”. She also stated that although the grading scale at French universities is generally lower than the grading scale in Canada, “this discrepancy does not apply to language courses in Tours, which are aimed at international students and taught by instructors who are aware of this fact.” She advised the Student that “for the last three academic years, the marks for the FSL421Y0 (Tours) have been consistent higher than for the FSL421Y1 (St. George).”

The Student now seeks to appeal to the Academic Appeals Committee of Governing Council (AAC) and asks for “change or removal of the numerical grade received in France as it appears on my UofT transcript, or a transfer credit to reflect the differences between the French and Canadian grading systems” (Student’s submissions, p. 3). The Faculty submits that the AAC lacks jurisdiction over the appeal

because it concerns the merits of a grade rather than the fairness of the application of an academic regulation or requirement.

The AAC's jurisdiction over "grade appeals" is defined as follows:

Request by the Student to appeal the final grade for a course, if the Student believes that the grade received in that course is not a proper assessment of his or her cumulative coursework. ... the Academic Appeals Committee cannot assess academic work and assign a grade. They can only determine if a policy was applied fairly and consistently.

The Student's central complaint in this case is that the conversion formula does not adequately reflect the difference between French and U of T grading scales. The Faculty says that it does. This is in essence a disagreement about the wisdom of the procedure, not about the fairness of its application to the Student. On p. 4 of his submissions, the Student makes precisely this point: "I deemed the policy itself is 'unfair.'" But the AAC has no jurisdiction over the fairness of the policy. The AAC cannot change the Student's grade or otherwise modify his transcript on the basis that the procedure for converting Institut grades to U of T grades is unfair or unwise.

The Student relies on two Reports of the AAC to show that it has jurisdiction over his appeal. But both cases are quite different from his; both raise issues of the fairness of the process of arriving at a grade, not the fairness of the grading policies of the division in question or the academic merits of the student's work. In Report 291, the AAC considered the case of a student from the Faculty of Law who had received a D in a course. She alleged that the instructor had treated her unfairly during the process of choosing and drafting her final paper for the course; she did not allege that the mark itself was too low given the quality of her work, nor did she seek a higher mark from the AAC. She sought, and was granted, Aegrotat standing in the course. In Report 321, a student in the Faculty of Architecture alleged bias by an instructor; he did not allege that the Faculty of Architecture's grading policies were flawed. The Student has not alleged any unfairness or bias in Ms Vincent-Göske's evaluation of his work; to the contrary, he relies on her evaluation to show that he should receive a higher mark.

However, the Student has another complaint. He argues that the conversion formula is not what he, and other students in the Summer Abroad program, agreed to. If the Student alleged that he had been told he would be evaluated on one basis but was in fact evaluated on a different basis, or that the conversion formula had been concealed, then there would be a question of the fair and consistent application of University policy and the AAC would have jurisdiction. But I do not read the Student's complaint that way. On p. 2 of his petition to the Faculty, under point (b), the Student refers to the conversion formula and argues that it is inconsistent with the grading policy announced in the course description. His argument is about the meaning of the course description: that the statement in the course description that grades will be "adjusted to be consistent with UofT grading system" does not mean that the conversion formula will be applied, but that Institut grades will be adjusted to reflect U of T standards. But the course description explains how the adjustment will be made: it incorporates the conversion formula by reference and states explicitly that no further adjustment will be made. The Student contests this reading of the course description on the ground that it implies that "the French and Canadian systems are in fact the same", when they are not; therefore, he says, the conversion formula is inconsistent with the course description. But that is just another way of saying that the conversion formula does not adequately reflect the difference between French and U of T grading scales. The Student's claim that "the Summer Abroad

Department did not adhere to the ‘academic agreement’ to which all student participants consented” is merely a repackaging of his central complaint that the conversion formula is a bad policy.

Finally, the Student also complains about the quality of the reasons given by the Associate Dean in dismissing his appeal. He states that she did not address certain arguments that he made in his petition and that her response to one of them merely copied Ms Danahy’s earlier response “without any further elaboration”. Given my finding that AAC lacks jurisdiction over the Student’s appeal, it is not strictly necessary to comment on the quality of the Associate Dean’s reasons. However, I would like to add the following observations. It is well-established that when divisions of the university make decisions affecting the important interest of students, they should provide reasons that “at least reveal the core of the reasoning behind the decision” (Report 350 of the AAC, p. 3). The Associate Dean’s reasons amply satisfy this requirement. All five of the Student’s arguments are different ways of making his basic claim that the conversion formula does not adequately reflect the difference between the grading standards at the Institut and the grading standards at U of T and that therefore the conversion formula is inconsistent with the course description. The Associate Dean’s response addresses these points both procedurally and substantively. Moreover, she was entitled to rely on Ms Danahy’s earlier response; Ms Danahy’s explanation was clear and accurately reflected the Faculty’s position.

**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██████ K██████ A██████, (“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.