



FOR INFORMATION

PUBLIC

OPEN SESSION

TO: Academic Board

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

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PRESENTER: See Sponsor

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DATE: November 14, 2013 for November 21, 2013

AGENDA ITEM: 7c

ITEM IDENTIFICATION: Academic Appeals Committee, Individual Reports Fall, 2013

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. Academic Board [for information] (November 23, 2013)**

PREVIOUS ACTION TAKEN:

The previous semi-annual report was submitted to the Academic Board on June 3, 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.

DOCUMENTATION PROVIDED:

- Reports #366, 367 and 368 of the Academic Appeals Committee

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #366 of the Academic Appeals Committee
July 8, 2013

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Wednesday, June 19, 2013, at which the following members were present:

Professor Andrew Green (Chair)
Dr. Avrum Gotlieb, Faculty Member of the Academic Board, Governing Council
Ms. Mainawati Rambali, Student Member of the Academic Board, Governing Council

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

Appearances:

For the Student Appellant:

Ms. S.A. (the Student)

For the School of Graduate Studies:

Mr. Robert Centa, Counsel for the School of Graduate Studies
Professor Luc de Nil, Vice-Dean, School of Graduate Studies
Ms. Jane Alderdice, Director, Quality Assurance and Governance, School of Graduate Studies

The Appeal

This is an appeal from a decision of the Graduate Academic Appeals Board (“GAAB”) dated August 8, 2012 dismissing an appeal of the Student from a decision of Professor D. McDougall (the “Chair”), Chair of the Graduate Department of Curriculum, Teaching and Learning (CLT). The Chair had refused to allow the Student to withdraw her Notice of Withdrawal from the CLT graduate program.

The Facts

The Student began her studies in the Ph.D. program at CTL at the University of Toronto in 2007. While in the program she had difficulty obtaining a supervisor for her thesis. She failed her first comprehensive examination but the CLT provided her with an opportunity to rewrite the examination. In May 2011 after the submission of a second comprehensive examination, the Chair informed the Student that CLT would be requesting the termination of her registration. The Chair also provided her with the option of voluntary withdrawal from the program rather

than termination. After discussions, CLT provided her with an extension of candidacy until August 31, 2011 and the opportunity to retake the second comprehensive examination. The Student handed in her examination on July 15, 2011. Unfortunately the Student also failed this examination.

In an email and letter dated August 16, 2011, the Chair informed the Student that CLT would be requesting SGS terminate her registration. He also reiterated the possibility of voluntary withdrawal and stated that while termination could be appealed, withdrawal could not be appealed. The Chair and the Student met on August 22 to discuss these options. The Student also sought advice on the options from others on campus but stated that because of the timing of the decision (late August) she could not get adequate advice. On August 31, 2011 the Student met with the Chair and submitted a request to withdraw from the program. The CLT subsequently submitted this withdrawal to the SGS. The Student stated that at the time she felt withdrawal was the best way to provide an opportunity to continue her research.

In the Fall of 2011, the Student spoke with the University Ombudsperson. In November 2011 the Student notified the CLT that she was considering an appeal of her withdrawal. The Student in her appeal argued that she did not have adequate advice concerning her options at the time of her withdrawal. The Graduate Department Appeals Committee of CTL in a decision dated March 9, 2012 found there were no grounds to allow the student's appeal.

The Student subsequently appealed to the GAAB. Before the GAAB, the SGS argued that the Board did not have jurisdiction to hear an appeal of a voluntary withdrawal by a student. In a decision dated August 8, 2012, the GAAB dismissed the Student's appeal. It considered both the question of whether it had jurisdiction to hear the matter and, if so, whether it should allow the appeal. The GAAB found that even if it had jurisdiction to hear the matter, it would not on the merits allow the appeal. It then found that a voluntary withdrawal "is not a decision which is generally within the jurisdiction of the Board to decide. Therefore, it would generally quash an appeal of this nature." However, because the Chair and the Graduate Department Appeals Committee heard the appeal, the GAAB held the University should be taken to have abandoned any jurisdictional objection and that it could rule on the merits. As noted above, it dismissed the appeal.

The Student subsequently appealed to the Academic Appeals Committee. The Student argued that she did not have adequate time or advice at the time of withdrawal, particularly if the entire context of her experience within CLT is taken into account. The University argued that the Committee did not have jurisdiction and that even if it did, it should not allow the appeal.

Jurisdiction

As noted above, the GAAB found that it did not generally have jurisdiction to hear an appeal from a voluntary withdrawal by a student. The GAAB's jurisdiction is conferred by Section 3(a) of By-Law #3 of the Graduate Education Council of SGS which states that the GAAB "shall hear and determine appeals of students registered [in SGS] concerning grades in a course or a component of a grade in a course, or concerning any other decision with respect to the

application of academic regulations and requirements of a student.” The Academic Appeals Committee’s Terms of Reference have similar language under section 2.1 where the Terms of Reference state that the Committee’s function is “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...”

In its decision, the GAAB stated that “while the phrase ‘decision with respect to the application of academic regulations and requirements to a student’, has a wide scope, it does not include every type of dispute between a student and the University. Most simply, in deciding not to accede to the Student’s request to rescind her withdrawal, the University authorities involved were not applying an ‘academic regulation or requirement’ in coming to their conclusion, although the Student’s academic career is obviously greatly affected by the decision under appeal.” Your Committee agrees with this statement. Just because an action has academic consequences does not mean it is necessarily a relevant decision with respect to the application of academic regulations and requirements. A withdrawal is a decision a student can make at any time during a program. It is not a decision about the application of an academic regulation or requirement in the same way as a grade or a time period for completing a program.

The GAAB ruled on the merits of the Student’s appeal as the Chair and the Graduate Department Appeals Committee heard the appeal. However, as noted in Motion Decision #359-1 of the Academic Appeals Committee by Chair Hamish Stewart dated August 25, 2011 in a different context, “The jurisdiction of the GAAB and the AAC does not depend on what University officials or students think it is but on their Terms of Reference, as interpreted by their Chairs.” In this case, the Committee finds there is no jurisdiction to hear an appeal of the Student’s withdrawal.

Because the Committee finds it does not have jurisdiction to hear the appeal, it is precluded from ruling on the merits of the Student’s appeal of her withdrawal. However, the Committee notes that the Student expressed significant concerns about the stress and impact of the withdrawal including from her inability to obtain advice on her options. The Committee notes that to the extent they do not currently exist, the University should consider ensuring that options for students to obtain advice on such matters are in place and clearly identified to the student at the time withdrawal is considered.

The appeal is dismissed.

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #367 of the Academic Appeals Committee
October 7, 2013

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Wednesday, 11 September 2013, at which the following members were present:

Professor Hamish Stewart, chair
Professor Elizabeth Cowper
Mr. Andrew Girgis

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

Appearances

For the Student Appellant:

Mr. A [REDACTED] K [REDACTED] D [REDACTED], the Student

For the Faculty of Applied Science and Engineering:

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

The Student appeals from a decision of the Academic Appeal Board (AAB) of the Faculty of Applied Science and Engineering, dismissing his appeal from a decision of the Committee on Examinations (CE) of that Faculty, which granted in part the Student's petition for special consideration.

Scheduling of the Appeal

The Student sought an expedited appeal on the ground that the August examination session of the Summer 2013 semester would be his last opportunity for an effective remedy. The Student filed his appeal on 17 June 2013; the Faculty responded on 9 August; and the Student replied to the Faculty's response on 16 August. All of these filings are within the time lines contemplated by your Committee's appeal process. Thus, in the event, it proved impossible for the office of Appeals, Discipline and Faculty Grievance to assemble a panel of your Committee in time to hear the appeal before the end of the Summer 2013 term. The appeal was heard at the earliest possible time, in September 2013, well in advance of your Committee's regular hearing week

(near the end of October). It is, in any event, the view of the Chair of your Committee that if your Committee had allowed the appeal, it would have been possible to craft a remedy appropriate to the Student's situation.

Motions

In his Reply to the Faculty's Response, the Student made two motions asking the Chair of your committee to request the Faculty to provide certain additional information concerning his term work in the Winter 2013, when the Student was, without the permission of the Faculty, auditing certain courses. In the best case imaginable for the Student, the additional information requested for CHE230 might strengthen the Student's case to some extent, while the additional information requested for CHE223 would only marginally affect the instructor's assessment. But even in this best case scenario, the additional information would not affect your Committee's decision. The Chair of your committee therefore dismisses these motions.

In their Response, the Faculty asked the Chair to redact from your Committee's decision the names of all of the Faculty's faculty and staff who were involved in the Student's case, on the ground that these individuals "acted on behalf of and as a representative of the Faculty, only, and not in his/her individual capacity." The fact that an individual was acting in an official or institutional capacity is not by itself a reason for redacting that person's name from the decision of a court or other tribunal. The reasonable reader of law reports and tribunal decisions understands that individuals are not acting in their personal capacity when they are, for instance, exercising the powers of a peace officer, corporate officer, or university administrator. The Chair of your committee 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. However, there is no hint of any such allegation here. The Chair of your Committee therefore dismisses this motion.

Proceedings in the Faculty

The Student was enrolled in the Faculty's BASc degree program in Chemical Engineering. Owing to his poor performance in the Fall 2012 term, the Student's academic status as of January 2013 was "Refused Further Registration". On 15 January, the Student petitioned the CE for special consideration on the ground that he might have been suffering from ADHD. This petition was dismissed for want of adequate documentation. On 25 February, the Student submitted a revised petition, with additional documentation concerning his ADHD diagnosis and the course of treatment he was pursuing. The Student sought reinstatement into the program, as of January 2013, or in the alternative a waiver of the "60% rule" that had resulted in his being refused further registration. On 26 March, the CE allowed the petition in part, effectively granting the student his alternative remedy. The entirety of its decision reads as follows:

Your academic status, 'Refused Further Registration', is lifted to 'Academic Repeat Probation – Withdraw for eight months.' You are permitted to continue in Fall 2013-4 without repeating the failed term. Note that you must maintain a 60% average until you successfully remove the probationary status or else you will be refused further registration (details can be found in the Academic Calendar).

PT, Fall 2013 Registration to take Elective only.

Thus, the CE did not give any reasons for refusing to reinstate the Student, or indeed for granting the alternative remedy. The Student states that he was advised by his academic counselor that the CE's reasons were that "ADHD requires 3-4 months to stabilize" and "it is now too late to be reinstated".

Meanwhile, without the consent of the Faculty, the Student was attending the classes that he would have been enrolled in, had he not been refused further registration, and submitted some work in some of these classes, which was marked by the instructors in these courses. It is not entirely clear from the record when the Faculty became aware of this situation, but it would have been on or before 27 March 2013, when the Student submitted a further petition to the CE (referred to in the materials filed as the "Second Consideration"). The supporting documentation indicated that the Student had been attending classes throughout the semester in the hope of being reinstated.

On 29 April, the Student appealed from the CE's decision to the AAB. He claimed that by 26 February, his condition had stabilized. He noted that he had been attending classes and he filed some examples of the work he had done for these classes. He drew the AAB's attention to his immigration and financial situation. The Student is a citizen of Mauritius and his study permit expires in August 2014; he stated that to get an extension, he would be required to demonstrate that he had funds to support himself through an additional year of study.

The Student also complained of a number of procedural irregularities in the CE's process, including delay, failure to provide reasons, and failure to encourage him to submit appropriate documentation of his condition.

He now sought the following remedies (Student's appeal to AAB, p. 2, emphasis removed):

1. To be granted credit for CHE223 and CHE230 in the form of an assessed grade/aegrotat standing/deferred examination.
2. To be given an opportunity to obtain credit for the remaining three courses ... through deferred examinations. As from then, another decision may be made to allow the results of the deferred exams to either count for 100% of the course mark or to serve as criteria for granting aegrotat standing.

The AAB obtained "term work reports" from the instructors in the courses the Student had attended. These reports are normally used where the Faculty assesses a mark for a student who, for one reason or another, has not completed all the work for a course. The instructors' assessment of "what the student's final course mark might have been" were as follows:

- CHE210: "<50%"
- CHE210: "<10%"
- CHE222: none indicated (the Student apparently completed no work in this course)

- CHE223: “Difficult to assess because student did not complete all assignments or the final exam.”
- CHE230: “71%.”

The AAB met on 27 May and sent its decision to the Student on 28 May 2013. The AAB found that the CE’s decision was reasonable. With respect to the Student’s procedural complaints, the AAB acknowledged that the CE’s failure to provide reasons was “unfortunate” but found that “the decision itself was fair and reasonable given the timeline and evidence that was available.” With respect to the original request for reinstatement, the AAB said that “given the timeline of the evidence submitted by you (on February 26, indicating that preliminary treatment for your newly-diagnosed condition was underway), re-instatement in the Winter 2013 session was not appropriate.” With respect to the specific remedies now sought by the Student, in lieu of reinstatement, the AAB said: “Your request was not found to fall within the Faculty’s guidelines for offering deferred exams, aegrotat standing, or assessed grades.”

The Appeal

The Student appeals from the AAB to your Committee.

Decision

The Student’s Procedural Complaints

Your Committee finds that the CE should have provided the Student with reasons for its decision. It is a basic and uncontroversial principle of procedural fairness that a tribunal that makes decisions affecting the rights and interests of the parties before it should provide the parties with reasons for its decision for the benefit of the parties, the public, and any tribunal that might review the decision. The reasons need not be lengthy or intricate, but should indicate the facts and the principles that led the tribunal to its conclusions. As your Committee stated some 12 years ago, in another case where the CE provided no reasons (Report #258 of the Academic Appeals Committee, December 14, 2001, p. 5):

... elementary fairness to a student seeking relief requires that a tribunal publish at least a summary of the reasons for its decision. Published written reasons for a decision not only make the process more transparent, and therefore more credible, but may guide the student and the division with respect to future matters. They will also be of assistance to superior tribunals to which an appeal is taken.

However, your Committee finds that the CE’s failure to provide reasons does not affect the outcome of this appeal. Your Committee is reviewing the decision of the AAB. The AAB did provide reasons which are adequate for the purpose of review. The ultimate issue for your Committee is whether that decision was reasonable.

Your Committee does not accept the Student’s position that the delay, if any, in the CE’s processing of his petition had any impact on his situation. The Student’s petition, with documentation, was submitted on 26 February, at which point the Winter 2013 term was half

over. Your Committee finds even if the CE had dealt with the Student's petition immediately, it is unlikely that its decision would have been any different.

As noted above, the Student's petition was originally filed on 15 January, and was re-filed with additional documentation on 29 February. The Student argued that the Faculty's processes infringed the following guideline for academic appeals (see Governing Council, Policy on Academic Appeals Within Divisions, 3.v):

Divisional processes should encourage a student's confidential disclosure of appropriate information at the earliest possible stage particularly with respect to diversity, accommodation and other personal issues that may be relevant to the disposition of an appeal.

This guideline requires divisions of the university to encourage students to provide "appropriate information", that is, documentation that will support their petitions or appeals. This documentation will often be "confidential", so that a division will not have access to it unless the student provides it. Divisions of the university should encourage students to support their appeals with suitable documentation, but they cannot direct students as to what information to provide. It therefore remains the responsibility of a student to make his or her case for a remedy in the appeal process. (Your Committee believes that this guideline also requires divisions of the University to provide a supportive environment for disclosure and to ensure that when students do disclose confidential information, the information is not disseminated any more broadly than necessary. But these points do not arise in this case.)

Your Committee finds that the Faculty did not violate this guideline. The CE's response to the Student's original petition clearly indicated that the documentation provided by the Student was insufficient. The Student was therefore encouraged to provide appropriate information, and he did so in his revised petition. The Faculty was not required to inquire of the Student whether there was further documentation, unknown to it, that might assist the Student in building his case.

The Reasonableness of the AAB's decision

The AAB was faced with the following situation. In the Fall 2012 term, The Student had performed so poorly in his program that he had been refused registration for the Winter 2013 term. The Student had, however, provided medical evidence of a previously undiagnosed condition (ADHD) that likely helped to explain his poor performance. Meanwhile, the Student had, without the permission of the Faculty, been attending classes and doing some term work. The AAB sought some additional information from the instructors of the courses the Student had been attending, and learned that they were on the whole not optimistic about his potential performance. The Student asserted that his ADHD was well-controlled and was confident that he could succeed. It is evident that the AAB did not agree with this assessment, characterizing the Student's medical evidence as showing his "preliminary treatment for your newly-diagnosed condition" and stating that it "expects you to continue to receive appropriate treatment for your condition and to work towards managing your difficult circumstances using all resources available to you, including the University's Accessibility Services." The AAB agreed with the

CE that it would be appropriate to lift the Student's status to "Academic Repeat Probation – Withdraw for eight months."

Your Committee agrees with the AAB that the Student's situation fell well outside the circumstances in which a deferred examination, aegrotat standing, or assessment of grades would be given. To grant one of these remedies in this situation would have been not just exceptional but highly unusual. The Student was not enrolled in the Winter 2013 term and the basis for assessing his performance in the courses he audited was very thin. It was therefore reasonable for the AAB to take the view, as it appears to have done, that the Student was unlikely to be successful if granted the remedies he requested. The AAB was not required to accept the Student's assertion that his treatment had been "successful" and that he was "just like a normal student". The medical evidence did not strongly support this assertion. Dr. Doron Almagor's letters, which were considered by the CE and were before the AAB, merely state that the Student had been diagnosed with ADHD and spoke in very general terms about his treatment. Dr. Kiran Clair's letter of 26 March 2013 states that the Student was stable and his prognosis was "good". It does not support the Student's assertion that his treatment had been completely successful. It appears that the AAB accepted Dr. Clair's opinion and decided that it justified giving the Student another chance, in the form of the opportunity to re-enter the program in September 2013. Your Committee finds that this was a very reasonable decision.

The appeal is therefore dismissed.

Professor Hamish Stewart
Chair, Academic Appeals Committee of Governing Council

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #368 of the Academic Appeals Committee
October 15, 2013

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Tuesday June 4, 2013 at which the following members were present:

Mr. Tad Brown, Chair
Dr. Sarita Verma
Mr. Chirag Variawa

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

Appearances

For the Student Appellant:

Mr. J [REDACTED] B [REDACTED], the Student

For the University of Toronto Faculty of Law:

Professor Ian Lee, Associate Dean, Faculty of Law

The Appeal

The Student is appealing a decision of the Appeal Committee of the Faculty of Law dated November 22, 2012. The decision of the Appeal Committee of the Faculty of Law dismissed an appeal by the Student of the decision of Academic Standing Committee of the Faculty of Law dated June 2012 in which the student petitioned to change a grade on his transcript for the first year Criminal Law course (LAW124Y1) (the "Course") from a letter grade to a grade of "Credit" accompanied by an explanatory note indicating that the Faculty of Law had failed to adhere to its administrative obligations. The student has also petitioned that the Faculty provide him with a letter of apology that would include a brief plan on how the Faculty intends to prevent such administrative deficiencies in the future. The issue originated from the Student's concern with the mark received on the

first assignment in the Criminal Law course and his request that the assignment grade be omitted from a Statement of Grades on first term tests and assignment which the Faculty issues to first-year students early in the second term.

In the written Statement of Appeal, the Student has reiterated his request that the following remedies be applied (1) the Faculty of Law issue a letter of apology to him acknowledging that it failed to adhere to its administrative obligations and (2) the Faculty change the final grade on the Student's transcript for the Course from a letter grade to a grade of "Credit". In the hearing the Student also requested as further remedies that the Faculty of Law pursue one of the following three options: (1) cease publishing the Statement of Grades to first year law students after the first term, (2) move a semester system, or (3) provide the option for an appeal of interim marks so that marks under appeal would be noted on the Statement of Grades.

Facts

In the Student's first year small group class, the Course, students were required to write a series of assignments and one of these is due in the first term. The Student received a C+ on his first assignment. His professor initiated a meeting with the Student to discuss this assignment. However the Student was still not satisfied with the professor's explanation of the grade. At the core of the discussion was whether the Student had answered the assignment as instructed. In the Student's view, there was a problem because there were no written instructions but only verbal instructions in class as to the assignment.

The Student sought to appeal his assignment grade but learned of the Faculty of Law's policy that an appeal can only be brought against a final grade in a course and not against an individual assignment grade. In first year full year courses this means at the end of the academic year. The Student then requested that the assignment grade be omitted from a Statement of Grades on first term tests and assignments which the Faculty issues to first year students early in the second term. This Statement of Grades may be used by the students for a number of purposes including applications for summer jobs at the end of first year. The Faculty initially refused this request. However, after a few repeated requests by the Student, the Faculty reconsidered their position and agreed to provide the Student with a Statement of Grades omitting the disputed assignment grade. The Student's final grade in the Course was B.

On June 22, 2012, the Student asked the professor to re-assess his grade in the Course by re-assessing his grade on the first assignment which is the first required step under the Faculty's appeal policy. The professor confirmed the original grade and provided written reasons for his decision. The Student did not pursue a further appeal of his grade.

Previous Decisions

On June 15, 2012, the Student submitted a petition seeking a change in his grade in the Course from B to CR. The Student further requested a notation on his transcript

explaining that “the Faculty of Law failed in its obligations to provide appropriate procedures to resolve disputes in the course and that this failure is recognized as having had a negative effect on [the Student’s] performance” and a letter of apology from the Faculty. The Faculty submitted the petition to the Academic Standing Committee (“ASC”). On June 22, 2012, the ASC denied the petition stating that it was “was not satisfied that the actions complained about actually prejudiced [the Student’s] performance.

The Student appealed the ASC’s denial of his petition to the Appeal Committee of the Faculty of Law. The Appeals Committee dismissed the appeal. In the written decision, the Appeals Committee stated that “the Faculty’s Policies permits the invocation of the appeal process for final grades awarded upon course completion but not for component partial evaluations as they come along and prior to the final grade as approved by the Faculty. This policy reflects, in our view, the Faculty’s position on a number of important considerations of both principle and pragmatics. So, what happened here, in this Committee’s view, is that the prime objection of the student became just the absence of such a right to a “timely” appeal. But, as the student correctly pointed out, this is not a matter of a grade appeal-it is a matter of objecting to the Faculty’s policy as not providing a timely process.”

The Appeals Committee concluded that there was no unfairness or unreasonableness in the manner in which this policy was applied to the Student. It stated that “Taking grades out of play on the basis that there is a complaint or appeal that has not been processed is not part of the Faculty’s policy. There is no “interim remedy” to be granted on the basis that an appeal will or may be launched later. A grade is not subject because an appeal has been launched or may be coming. To demand as a remedy in this case such a change in policy is not possible given our mandate. Nor would we want to change that policy via the narrow scope of this single complaint and the narrow and non-participatory nature of this adjudicative process. To change Faculty policy on this point would be a “big deal”. The right process for these changes lies elsewhere and involves a debate about the many substantive and pragmatic issues any change would entail- none of which have been, or should discussed in this appeal.”

Decision

The facts of this appeal are not in dispute between the parties. What is disputed by the Student is whether the application of the Faculty’s policy to only allow an appeal from a final course grade and not directly from an individual assignment grade causes the Student prejudice which warrants granting of one or more of the remedies requested by the Student. In particular, the Student questions whether the provision to first-year students of a Statement of Grades early in the second term which is used extensively by prospective employers looking to hire students for summer positions is appropriate when combined with the application of this policy which does not allow an appeal of those grades until the end of the academic year.

The Terms of Reference for the Academic Appeals Committee sets out in section 2(a)(i) the jurisdiction of Your Committee as “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.” [emphasis added] The role of Your Committee is to review the application of Faculty policies and to ensure that they applied fairly, reasonably and consistently. Your Committee finds that in this case the Faculty of Law’s policy on appeals was applied fairly and reasonably. Your Committee also finds that the Faculty of Law’s policy of not allowing appeals until the final grade has been issued is not inconsistent with the policies of the University.

As set out in the decision of the Appeals Committee of the Faculty of Law, the review of Faculty policy is a complicated matter which requires broad input and analysis of the various issues and outcomes. It is outside the jurisdiction of this Committee to change Faculty policy. As set out in section 5 (iii) of the University Policy on Academic Appeals within Divisions, “The Office of the Provost is responsible for monitoring the implementation of divisional appeals processes that are in compliance with this Policy. The Office of the Provost is also responsible for facilitating a periodic review of divisional processes for consistency to the Policy, for facilitating effective communication of the Policy and divisional processes, and for conveying information to the divisions about suggested best practices.” If there is to be a review of the Faculty policy in question, the responsibility falls with the Office of the Provost.

Your Committee was also presented with detailed submissions on the history, purpose and format of the Statement of Grades which is issued to first year students in the Faculty of Law early in the second term. The Faculty of Law started issuing Statement of Grades a number of years ago after a debate and decision by the Faculty Council. Previously the results of first term tests were issued informally which the Faculty submitted resulted in cases of misrepresentation by students in years past. As a result, the Faculty began issuing the formal Statement of Grades which included the crest, seal and signature of the Faculty. The form of the Statement of Grades contains a number of notations and disclaimers including the following statements:

“Except for Legal Process, which is a final grade, this is a statement of instructor-reported grades for FIRST TERM TESTS. First term tests are practice tests, administered primarily for pedagogical purposes.”

“However, if it is to the student’s advantage, they will count towards the student’s final grade. Final grades for these courses will be issued and approved after the end of the academic year.”

While the Statement of Grades does not explicitly state that the final marks may be appealable, it does state in bold letters that “This is not an official transcript.” For privacy reasons, one hard copy of the Statement of Grades is issued and available to be picked up by each student. While the Statement of Grades is required for many summer job positions, it is the student’s sole decision as to whether and to whom to distribute the

Statement of Grades. The Faculty reported that many students do not collect their Statement of Grades.

Therefore, your Committee finds that so long as the Statement of Grades is issued with clarity of purpose and intent, which the current format does, then it is a policy decision of the Faculty of Law as to whether to issue the Statement of Grades. As acknowledged by the Student, issuing of the Statement of Grades is a policy decision of the Faculty which requires balancing a number of goals. Again, it is not the jurisdiction of this Committee to change Faculty policy but rather ensure that it is applied fairly and consistently.

On the issue of whether written instructions were required for the assignment which was the subject of the dispute in this case, Your Committee finds that while providing written instructions may be best practice, they are not required. In this case, there was no evidence to support the conclusion that there were deficiencies or confusion in the verbal instructions provided.

Your Committee finds that the Faculty applied its policies fairly and reasonably and therefore there is no justification for the requested remedy by the Student of replacing the mark for the Course on the Student's transcript from B to "Credit". Similarly, there is no justification or jurisdiction for Your Committee to require a letter of apology from the Faculty.

The appeal is dismissed.