



FOR INFORMATION

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: November 12, 2015 for November 19, 2015

AGENDA ITEM: 6(b.)

ITEM IDENTIFICATION: Academic Appeals Committee, Individual Reports Fall, 2015

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 19, 2015)**

PREVIOUS ACTION TAKEN:

The last semi-annual report came to the Academic Board on June 1, 2015.

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.

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

**Report #378 of the Academic Appeals Committee
July 3, 2015**

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on May 26, 2015 (the "Hearing") at which the following members were present:

Ms. Emily Orchard, Chair
Professor Elizabeth Smyth, Faculty Governor, Governing Council
Ms. Susan Froom, Student Governor, Governing Council

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

Appearances:

For the Student:

Ms. V. O. (The Student)

For the University of Toronto at Mississauga:

Ms. Michelle Kraus, Office of the Registrar, Petitions, University of Toronto Mississauga
Professor Kelly Hannah-Moffat, Vice-Dean Undergraduate, University of Toronto
Mississauga

The Appeal

The student, Ms. O, appeals from the decision of the Academic Appeals Subcommittee of the University of Toronto at Mississauga ("UTM") dated September 17, 2014, which refused her appeal for an exemption to the degree requirement to earn a CGPA of at least 1.85 in order to graduate with an Honours degree.

The Facts

The Student commenced her studies at UTM in the Fall of 2009. She registered for 4.0 credits, but only completed 3.5 credits, earning a CGPA of 1.33. As a result of her low grades, she was placed on academic probation. In the 2010/2011 Fall/Winter session, the Student completed an additional 5.5 credits. Her CGPA at the end of the academic year was 1.49, as a result of which she was placed on academic suspension for one year. She petitioned for, and was granted, relief from the one year

suspension on May 26, 2011, and was allowed to register for courses during the 2011/2012 Fall/Winter Session on a reduced course load of no more than 3.0 credits.

The Student registered for 3.0 credits in the 2011/2012 Fall/Winter term, completing the year with a CGPA of 1.70. At the end of the 2012 Winter term her academic status was reassessed as being of good standing.

The Student registered for a course during the Summer 2012 session, but failed the 0.5 credit, dropping her CGPA to 1.63. During the 2012/2013 Fall/Winter session, the Student completed 4.5 credits with a CGPA of 1.6. During her final year, the Student completed 3.5 credits with a CGPA of 1.73.

On December 22, 2013, the Student confirmed her graduation request on ROSI. She was assessed as ineligible to graduate with an Honours Bachelor of Arts/Science at the end of April 2014. Instead, she graduated with a Bachelor of Arts in June 2014.

During the 2014-2015 academic year, the Student attended the Ontario Institute for Studies in Education (OISE) and earned a Bachelor of Education and a specialization in French. She will be commencing her first teaching position in September 2015.

Committee's Decision

The Academic Appeals Subcommittee concluded that the Student did not have a compelling case to justify an exemption from university regulations. Your Committee agrees. Although this Committee applauds the Student's attempts to increase her CGPA while registered at UTM, she neglected to present any compelling grounds on which to grant the relief sought. The Student has been advised by the Office of the Registrar that if she enrolls in 2.0 credits and attains a final grade of 77 percent, she can raise her cumulative grade point average (CGPA) to the 1.85 required to earn an Honours degree. She was provided with this information before graduating and at each stage of the appeal process. During the hearing of this matter, this Committee confirmed that:

- there would be no restrictions on the courses in which the Student can enroll,
- she can take elective courses because she has already earned her degree;
- she can complete the courses during any academic session (during the day or in the evening);
- all divisional support and resources will be available to her; and
- there is no temporal limit on when she may complete the 2.0 credits.

In other words, the Student *literally* has the rest of her life in which to complete the required credits. She need merely register with UTM, complete the required 2.0 credits, and submit a request in writing to the Registrar's Office to upgrade her degree to an Honours Bachelor of Arts. The Student acknowledged that she is well aware of the options available to her, but advised the Committee that she does not see any value in pursuing undergraduate courses. Indeed, rather than

completing the required 2.0 credits immediately following graduation, she opted to complete her Bachelor of Education in the final year before the program became a two-year undertaking. Having now earned her B.Ed., the Student would prefer to focus her efforts on earning additional specialist certifications, which she claims will be of greater professional value to her. The Committee doesn't take a position on where the Student's professional development efforts are best directed. This is clearly a decision that the Student alone is in a position to make. However, the panel members were struck by the contradiction between the Student's submissions that she doesn't want her failure to earn an Honours degree to affect her career, and her simultaneous unwillingness to invest the time and effort required to earn said degree.

After a lengthy history of poor academic performance, the Student has simply not met the academic standards that the university has set in order to award an Honours degree. The requirement of a cumulative GPA of 1.85 is a minimum threshold that Your Committee can only envision being waived in the most extraordinary of circumstances, if ever. Unfortunately, the Student's belief that hard work alone justifies the granting of an Honours degree is simply not justified and cannot be the basis upon which this Committee grants a petition to waive a fundamental degree requirement. The Student has been provided with a very clear explanation of the steps she needs to take in order to earn an Honours degree. She can complete these steps whenever she is ready to do so and can take as little or as much time as she wishes. Your Committee notes that the Student should be very proud of her accomplishments and understands her inclination to focus her efforts on her teaching career at this stage. However, her desire to "move on with life" does not justify the granting of extraordinary relief. As noted by this Committee in Report Number 295, the University's academic standards are established for sound reasons of academic policy and cannot simply be waived by this Committee for reasons extraneous to the university environment.

For all of these reasons, the Committee rejects the Student's appeal.

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #379 of the Academic Appeals Committee
July 27, 2015

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Monday, June 29, 2015, at which the following were present:

Ms. Renu Mandhane, Chair
Professor Salvatore Spadafora, Faculty Governor
Mr. Ben Coleman, Student Governor

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

In Attendance:

For the Student:

M. P. S. M., the Student
Ms. Nicole Wilkinson, Ms. Tegan O'Brien, and Ms. Sherice Annis, Downtown Legal Services, representatives for the Student

For the University:

Professor Luc de Nil and Ms. Kendra Hawke, School of Graduate Studies, University of Toronto, the Respondent
Professor Brent Sleep, Department of Civil Engineering, University of Toronto, Respondent
Ms. Lily Harmer, Paliare Roland Rosenberg Rothstein LLP, representative for the Respondents

I. The Appeal

The Student is appealing the 14 October 2014 decision of the University of Toronto School of Graduate Studies ("SGS") Graduate Academic Appeals Board ("GAAB"), denying her appeal for late withdrawal without academic penalty from CIV531F, a course in which she was enrolled during the Fall 2013 session and for which she received a grade of FZ.

The appeal is dismissed.

II. Facts

The Student is a relatively recent immigrant to Canada, arriving from Iran with her family in the fall of 2012. She enrolled in the Master of Applied Science program in the fall of 2013.

To date, the Student has failed three courses, CIV531F which is the subject of this appeal; CIV1598H, for which she received late withdrawal without academic penalty; and CIV1532H which she took in the winter of 2014. As a result of the two FZ marks that remain (CIV531F, CIV1532H), she is facing termination from her program.

Throughout the fall of 2013, the student faced personal difficulties that arose as a result of: (1) marital problems between her parents, including her mother's decision to return to Iran for a period of just over 2 months, and associated emotional impacts on the Student and her sister; and (2) additional household responsibilities necessitated by care for her father who broke his wrist on December 5, 2013. These personal difficulties are discussed in more detail below.

According to the Student, her parents began experiencing marital difficulties in September 2013. As the Student and her sister lived with her parents, this understandably created stress for the entire family, including the Student.

On or around October 10, the student's mother planned a trip to Iran and had reserved a plane ticket by the end of October. At the hearing, the Student confirmed that her mother booked a return ticket and was expected to return to Canada. Indeed, her mother travelled to Iran on November 5, 2013 and returned on January 13, 2014. While her mother was in Iran, there were additional household responsibilities that fell to the Student.

Sometime in mid-October, prior to the add/drop date of October 28, 2013, the Student approached her graduate advisor to explore the possibility of dropping some courses. During this meeting, her advisor explained that dropping courses was an option available to the Student, but that doing so would delay her graduation and ultimately he advised against it. By her own admission, the Student did not reveal to her advisor that she was having personal problems because she did not want him to view her in a negative light. There is no evidence that she talked to him again at a later date about dropping courses.

On October 18, the Student received an email from the SGS which clearly reiterated the add/drop date and the responsibility placed upon students to assess their own situation and ability to complete the course requirements. The email stated:

The Fall 2013 drop deadline is **October 28th**, please note this in your calendars if you are considering dropping a course.

Grad students are expected to be sufficiently self-aware to be able to gage their own progress in any coursework undertaken. The graduate grading policy does not require graded assignments prior to the graduate drop deadline (February 28,

2013 [*sic*]). Not knowing drop deadlines is not a valid reason for a late drop. Not assessing one's progress and taking the appropriate decisions within the specified drop deadlines is not a valid reason for a late drop. Waiting for mid-term results, is not a valid reason for a late drop.

If you are having difficulty in a course but are unsure about dropping we urge you to come into GB105 and speak with us [emphasis in original].

The Student did not lead any evidence to suggest that she did not receive this email or that she did not understand its contents.

On October 22, the Student wrote a mid-term in CIV531H which she failed. However, she would not have learned of her grade on the mid-term until after the add/drop date of October 28.

The deadline for withdrawal from courses came and went; the Student did not drop any courses on October 28, 2013.

On November 12, 2013, the Student's sister left the family home in distress to stay with a friend in Waterloo. The Student was unable to ascertain her sister's whereabouts for three days (until November 15, 2013). During this three-day period the Student was worried and had difficulty studying. Her sister returned to the family home a further nine days later (i.e. around November 21, 2013).

On December 5, 2013, the Student's father fell and broke his wrist and the Student spent the night with him in the hospital emergency department. (The Student wrote an exam in CIV1598 the next day, December 6, which she failed. She has been granted late withdrawal without academic penalty for that course.)

Between December 5 and December 20, the Student was required to assist with the care of her father, due primarily to the injury to her father's wrist.

On December 20, 2013, the Student wrote her final exam in CIV1532H. She obtained a mark of 30.6 on the exam, which was insufficient to pass the course.

Pursuant to s. 7.2.3 of the SGS Calendar, where exceptional circumstances such as personal issues adversely affect a student's performance, they may make a written request for special consideration. This request must be submitted to the instructor or the Coordinator of Graduate Studies no later than two business days following the exam. Medical certificates or appropriate evidence must be submitted to support such requests. The Student did not submit such a request.

Sometime in early January, the Student would have learned that she failed CIV1532H. On January 24, 2014, Ms. Kendra Hawke, the Graduate Programs Coordinator in the Department of Civil Engineering, sent an email to the Student noting that she had failed two courses and inquiring as to whether the Student was planning to appeal the results.

After learning of her failing grades and possible termination from her program of study, the Student filed a petition for late withdrawal without academic penalty from two courses, including CIV531H.

III. Previous Decisions

By way of letter dated June 9, 2014, the Student's petition was denied by the Department of Civil Engineering's Graduate Departmental Academic Appeals Committee which stated that:

While the Committee acknowledges your request for special consideration and is sympathetic towards your circumstances, there is not sufficient proof of your distress without the documentation of a medical certificate.

The Student appealed this decision to the GAAB. On October 14, 2014, the GAAB denied the Student's petition for late withdrawal without academic penalty from CIV531H finding that:

The Student's family circumstances, though difficult, did not change after the drop date. Moreover, the Student has never provided any documentation of any unanticipated circumstances that affected her performance in CIV531H. The GDAC's dismissal of her appeal from the FZ in CIV531H was eminently reasonable.

The Student now appeals the decision of the GAAB to the Academic Appeals Committee of Governing Council.

IV. Decision

Submissions

In her written and oral submissions to your Committee, the Student argued that there was a significant change in her personal circumstances after the October 28 add/drop date that justifies the extraordinary remedy of late withdrawal without academic penalty. In particular, she points to her: (1) mother's departure to Iran (November 5), (2) sister's "disappearance" for 3 days (November 12-15), and (3) father's wrist injury (December 5).

The School of Graduate Studies argues that circumstances (1) and (2) were foreseeable in advance of the drop date, since the mother's departure was known as of October 10, and her sister's "disappearance" was an extension of existing circumstances and/or happily resolved well in advance of the final exam. In relation to (3), her father's wrist injury, SGS argues that the injury was relatively minor and occurred some two weeks in advance of the exam. SGS also points to a lack of medical or other compelling evidence to establish that special consideration is warranted.

Reasons

This Committee accepts that the Student was distressed by her family situation in the fall of 2013, and that the Student's academic performance was likely affected by these factors.

However, such a finding is insufficient to merit the extraordinary remedy of late withdrawal without academic penalty.

This Committee has repeatedly affirmed that the remedy of late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations. The idea of “drop dates” is predicated upon the University’s legitimate expectation that a student will make a decision whether to continue in a course within a reasonable period of time. By the drop date, the student is expected to have assessed his or her situation and made a decision. 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 however detrimental to the student’s performance they may be. Exceptions to this policy are rare, but may include situations where unexpected circumstances arise after the “drop date”, where pre-existing circumstances significantly worsen, or where pre-existing circumstances that were reasonably expected to abate do not.

In this case, the Student argues that her situation become unexpectedly more difficult after the drop date. Yet, the Student did not file sufficient medical or psychological evidence to support this finding, and her own affidavit does not mention the psychological distress that she claims impacted her performance in CIV531H.

In particular, this Committee finds that, in relation to her mother’s departure to Iran, the date of the trip was known well-before the drop date and the additional workload that fell upon the Applicant after her mother left in November was reasonably foreseeable in advance of the drop date.

While the sister’s “disappearance” for three days was not itself reasonably foreseeable, this Committee finds that the stress and anxiety that it placed on the Student *was* reasonably foreseeable since it was an extension of the family issues that arose as a result of the marital problems ongoing in the house since September. Stated differently, had the marital issues between her parents resolved well in advance of the final exam, we would not have expected there to be a significant impact on the Student’s performance.

In relation to the father’s broken wrist, the Committee finds that this event was not sufficiently serious to grant the extraordinary remedy of late withdrawal without academic penalty for an exam written nearly two weeks after the event in question.

Finally, it is notable that, even if we were to accept the Student’s characterization of the events as a significant deterioration of existing circumstances, we would have expected her to reach out to her course instructor, graduate advisor, student coordinator or someone else within the University to discuss her situation well before the exam, or at least immediately afterwards. The Student did not do this at any point between October 28 and the end of the term.

Your Committee unanimously dismisses the Student’s appeal.

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #380 of the Academic Appeals Committee
August 31, 2015

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Monday, August 24, 2015, at which the following members were present:

Professor Andrew Green (Chair)
Professor Elizabeth Smyth, Faculty Governor
Ms. Susan Froom, Student Governor

Secretary: Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances
Observer: Ms. Joanne Deboehmler, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Appearances:

For the Student Appellant:

Ms. H.K. (the Student)

For the University of Toronto Mississauga:

Professor Kelly Hannah-Moffat, Professor and Vice Dean Undergraduate,
University of Toronto Mississauga
Ms. Michelle Kraus (by phone), Assistant Registrar, Academic Standards and
Petitions

I. The Appeal

This is an appeal from a decision of the Academic Appeals Subcommittee ("AAS") of the University of Toronto Mississauga ("UTM") dated March 13, 2015 dismissing an appeal of the Student from a decision of UTM's Committee on Standing ("COS"). The COS had denied the Student's petition for late withdrawal without academic penalty for five courses taken in the 2012-2013 academic year: HIS395H5F, EAS466H1S, HIS330H5S, HIS385H5S and RLG330H5S.

II. The Facts

The Student graduated from the University of Toronto with an Honours Bachelor of Science degree in 1998. In 2012-2013 she enrolled at UTM as a non-degree student in order to aid her applications to professional schools. The Student took courses in a range of areas including history, forensic science, religion and East Asian studies.

The Student experienced difficulties in a number of these courses, particularly in the Winter term as she had health problems and was involved in a number of court cases. For HIS395H5F, she was granted an extension of time to complete a make up test in February 2013 and again in March before being refused a third extension requested in April 2013. During the Winter term, she contacted her professors about her class work and participation marks both prior to and following the drop date for courses. During term, she also requested re-grading for a number of her courses.

On March 22, 2013, the Student met with UTM Vice Principal Academic and Dean Mullin. The Student wished to speak about her marks in her courses and her contact with some of her professors. At the meeting, Dean Mullin raised issues with the Student's behavior both with respect to some of her professors and in class. Dean Mullin also provided the Student with a letter setting out these concerns as well as outlining her responsibilities as a non-degree student and the potential consequences of failing to adhere to those responsibilities. At the hearing the Student stated that she was surprised by these concerns.

In May 2013, the COS refused the Student's requested extensions of time for EAS466H1S, RLG330H5S and HIS385H5S. The COS found that the documentation provided did not corroborate the explanation in the petition or that the work had already been submitted and graded.

By the end of the year she had received a C+ in one of the courses subject to this appeal and an F in the other four courses. In addition she received an A- in another course taken in this period. She took a seventh course in this period but was subsequently granted a late withdrawal in the course for medical reasons.

In November 2014, the Student petitioned for late withdrawal for the five courses. She did not appeal these decisions until 2014 as it was at that point that she decided to apply for professional schools. The COS refused her appeals on January 14, 2015. The decision for each course was that late withdrawal could not be granted after a student shows their intent to complete a course by writing the final examination (or the final term test/assignment in courses without final exams).

The Student appealed these decisions of the COS to the AAS. The AAS dismissed the appeal in a decision dated March 13, 2015. The AAS found that the Student had not presented a compelling case for an exemption from UTM's policies on late withdrawal. The Student had

argued that her meeting with Dean Mullin on March 22, 2013 and the related letter had prevented her from pursuing late withdrawal within the appropriate timelines. The AAS, however, found that the Student had also failed to provide documentation for two missed exams in 2012 without an adequate explanation. Further, the Student had argued that the courses had unclear expectations. The AAS found that the expectations were clear and were not convinced that the re-grading or alternate grading processes were inappropriate or biased against the Student. Finally, the AAS also noted that the Student had successfully completed one course in Winter 2013 and could not satisfactorily explain why she was successful in one course but had to withdraw from another due to circumstances beyond her control.

The Student appealed this AAS decision to your Academic Appeals Committee. She asked for removal of HIS395H5, EAS466H1, HIS330H5, HIS385H5 and RLG330H5 from her transcript and any other remedies the Committee deems appropriate.

III. Decision

At the beginning of the hearing, the parties were asked if they consented to the composition of the panel. In her materials, the Student noted that she had won a National Scholarship and that she was involved in a court case in which Governing Council was a respondent. One of your Committee had been involved in the past in awarding National Scholarships and two of the members of the Committee are Governing Council members. Neither party objected to the composition of the panel. In discussing the issue, it became clear that the panel member was involved with a different award than given to the Student. Further, the lawsuit did not involve either panel member.

In her written materials for the appeal, the Student stated that she 'produced outstanding academic work for all of these academic courses in the 2012-2013 academic year based on the requirements as they were communicated to all of the students in each of these classes at the outset of each assignment.' At the oral hearing, the Student gave two main reasons for her request for withdrawal. First, she was disturbed by her meeting with Dean Mullin and the related letter. At least in part she felt she could not pursue her options with respect to withdrawal or other remedies about the courses she was involved in without being denied the ability to enroll in further courses in the University. Second, she was surprised by the results of her re-grading requests.

Your Committee has consistently found that late withdrawal from a course without academic penalty is an extraordinary remedy and should only be granted in rare and compelling circumstances. Out of fairness to all students, the University publishes policies for withdrawing from courses and expects students to adhere to those policies. If the student wishes to withdraw from a course, she may do so without penalty by the published drop date for the term. Once the drop date has past, the student is assumed to have decided to continue with the course. As has been noted by your Committee in prior decisions, 'Exceptions to this policy are rare, but could include situations where unexpected and unforeseeable circumstances occur after the drop date,

where already existing circumstances become unpredictably worse, or where already existing circumstances do not reasonably resolve.’ (Report 375).

However, in addition to the option of dropping the courses before the drop date, UTM academic policies also provide that a student may withdraw from a course without making a petition or providing supporting documents, provided the student makes the request before the last day of classes and has not written the final exam (or final test/assignment for courses without a final exam). The student’s transcript would have the course with the notation ‘LWD’. To provide further options for relief, a student may also petition for withdrawal from a course after the last day of classes provided she has not completed the final test or assignment for the course. If the late withdrawal is granted, the student’s transcript has the notion ‘WDR’.

In this case, the Student had difficulties throughout the winter term both prior to and after the drop date. She knew of the drop date for the courses. She sent a number of emails in March 2013 to her professors, noting that the drop date was approaching. However, the Student did not avail herself of the option of withdrawing by the drop date. She stated at the hearing that she felt at the time of the drop date that she could still successfully complete the courses. Further, the Student completed the final assignment in the relevant courses. The policies on both withdrawal without petition and withdrawal with petition, clearly set out in the Academic Calendar, note that these options are not available if the student has completed the course’s final assignment. The Student stated that she did not look into all her options, in part due to her interactions with the Dean and to her waiting for the results of the re-grades. UTM noted during the hearing that the Student had been informed on multiple occasions of the deadlines involved in petitions.

The AAS reviewed the Student’s reasons for requesting exemption from these policies, including both the interaction with the Dean and the re-grading process, and found that neither provided compelling reason for granting an exemption from the University’s policies. Your Committee finds that the AAS decision was not unreasonable. In fairness to all students, such exemptions must be rare and reserved for particularly unusual and unique circumstances. It was not unreasonable for the AAS to find that the interactions with the Dean did not provided sufficient reason for the Student not pursuing late withdrawal within the appropriate time frame. The Student had been struggling prior to the drop date, had brought petitions for extensions of time in 2012/2013 without sufficient documentation and had successfully completed another course at the same time. In addition, given the documentation before it, it was not unreasonable for the AAS to find that the re-grading process was not unfair. Further, UTM noted during the hearing that the Student’s re-grading requests went through the processes applicable to all students.

The appeal is dismissed.