



**FOR INFORMATION**

**OPEN SESSION**

**TO:** Academic Board

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

**CONTACT INFO:** [christopher.lang@utoronto.ca](mailto:christopher.lang@utoronto.ca)

**PRESENTER:** See Sponsor

**CONTACT INFO:**

**DATE:** November 15, 2018 for November 22, 2018

**AGENDA ITEM:** 7b

**ITEM IDENTIFICATION:** **Academic Appeals Committee, Individual Reports, Fall 2018**

**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] (November 13, 2018)
2. **Academic Board [for information] (November 22, 2018)**

**PREVIOUS ACTION TAKEN:**

The last semi-annual report came to the Academic Board on May 31, 2018.

**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:**

- Academic Appeals Committee, Individual Reports, Fall 2018

**UNIVERSITY OF TORONTO  
GOVERNING COUNCIL**

Report # 395 of the Academic Appeals Committee  
**May 23, 2018**

To the Academic Board  
University of Toronto.

Your Committee reports that it held a hearing on Thursday, April 12, 2018, at which the following members were present:

Ms. Vanessa Laufer (Chair)  
Professor Avrum Gotlieb, Faculty Governor  
Ms. Mama Adobea Nii Owoo, Student Governor

Hearing Secretaries:

Mr. Chris Lang, Director, Appeals, Discipline and Faculty Grievances  
Ms. Tracey Gameiro, Associate Director Appeals, Discipline and Faculty Grievances

**Appearances:**

**For the Student Appellant:**

Mr. F.Z. (the “Student”)

**For the Faculty of Arts and Science:**

Mr. Robert A. Centa, Counsel, Paliare Roland Rosenbert Rothstein LLP  
Ms. Emily Home, Counsel, Paliare Roland Rosenbert Rothstein LLP  
Professor Melanie Woodin, Associate Dean, Undergraduate Issues and Academic Planning,  
Faculty of Arts and Science

**The Appeal**

The student appeals a decision of the Academic Appeals Board of the Faculty of Arts and Science (the “AAB”) of June 12, 2017 (the “Decision”) that denied the student aegrotat standing, late withdrawal without academic penalty, and the opportunity to rewrite the deferred exam of September 23, 2011, regarding course PHY331H1S (the “Course”). The student is seeking the above-noted remedies on medical, procedural and compassionate grounds.

## The Facts

In winter 2011, the student, a member of Woodsworth College, was enrolled in the Course at the Faculty of Arts and Science. Due to a transit delay, all deferred exams being written on September 23, 2011 commenced at 9:10 instead of 9:00 am. The Student arrived just after that time and began writing the exam.

At 11:43 a.m., two-and-a-half hours into a three-hour exam, the Student got up and approached the Chief Presiding Officer (CPO), stating that he felt sick to his stomach. The CPO indicated that the Student could go to the washroom and then return to finish the exam. The Student indicated that he could not come back. The CPO asked whether the student wished to abandon the exam. His reply was that he was unsure. The CPO explained that if the Student were not abandoning the exam, it would be graded. The Student reiterated that he wasn't sure and said he would follow up with the CPO later.

After the exam, the Student visited a walk-in-clinic. However, it was closed.

On September 23, 2011, the Registrar of Woodsworth College wrote to the Student about his exam and requested they meet on September 27<sup>th</sup>. The Student accepted the appointment by email.

Later on September 23, 2011<sup>1</sup>, the Registrar communicated that Students cannot retroactively abandon an exam. Since the Student had not requested that the exam not be marked, it was delivered to the department for marking.

On September 24, the Student returned to the same walk-in-clinic where Dr. Kuzumi completed a University of Toronto Student Medical Certificate based on information supplied by the Student. It indicated that on September 23, 2011, the Student suffered from acute abdominal pains and diarrhea that "prevented the student from completing the exam on Sept 23, 2011."

The Student received a grade of 48% on the final exam.

Five homework assignments had been assigned in the Course of which the best three were to count for 10% of the final grade. The midterm test in the Course was supposed to count for 25% of the total grade. However, for reasons that are not relevant here, the Student missed the midterm.

The Student requested and received a reread of the final exam and recheck of the Course mark. Review of the final exam determined that all marks were assigned correctly and that grade did not change. However, as a result of an error in weighing the Student's course work, the Student's instructor re-weighted the Student's completed coursework from 10% to 35% of the Course.

The Student received a final mark of 61% in the Course.

---

<sup>1</sup> Respondent's Submissions at para 14 indicate September 23, 2011 while the General Exam Anomaly Report Form, Book of Documents, Tab 5 indicates September 26, 2011. The date discrepancy was noted but considered of no relevance by the Panel.

The Student graduated from the University of Toronto with an Honours Bachelor of Science in November 2014.

## **Decision**

### Preliminary Issues

#### *Timeliness*

At the outset of the April 12, 2018 hearing, the Committee asked for clarification from the parties regarding their mutual agreement about waiving issues of timeliness. Both sides confirmed that they had waived issues of timeliness with regards to the AAB 2014 Statement of Appeal. The Committee accepts this agreement by the parties.

With regards to the timeline between the submission of the petition in September 2011 and the petition being forwarded by the Registrar, the Committee put our minds to this and carefully considered the issues. We noted that page 619 of the Faculty of Arts and Science's Rules and Regulations outlines the elements that are required in petitions as follows: "Petitions must 1) state the student's request; 2) the reasons for the request in a clear and concise manner; and 3) be accompanied by relevant supporting documentation." It is the Student's responsibility to ensure their appeal is complete. Specifically, the Petition to the Committee on Standing form that the Student signed states: "You are responsible for submitting a statement and full and official supporting documentation with your petition. If the College permits you to submit an incomplete petition you will be given a maximum of 3 weeks to provide the documentation to make your file complete. After that time, the petition will be considered late and will not be considered unless you convince the Faculty that there were extraordinary reasons for the lateness." The Student also checked the box on the form indicating "Supporting documentation has been provided. I am aware that the petition **will not be forwarded** to the Faculty for consideration without complete documentation to verify the reasons for the request." (Emphasis added)

The Committee is of the view that it is reasonable for the AAB to determine that the Student had not met all of these requirements when he filed the petition on September 27, 2011. The petition was accompanied only by the signed medical certificate and the student's email to the Registrar dated September 26, 2011. This Committee is of the view that it was reasonable for the AAB to determine the petition submitted was incomplete and that the Student had "ample opportunity to inquire about the status" with the Registrar or Petitions Office. We also find it reasonable for the AAB not to consider the September 26, 2011 email from the Student to the Registrar to be an accompanying statement, as it could reasonably be viewed as a response to the Registrar's invitation to the Student to meet to discuss his exam.

This Committee notes, however, that going forward, it would be helpful for the College or Division, as the case may be, to establish a policy that indicates to the student when his or her

petition has been received, whether or not it is found to be complete and to notify him or her of what, if anything, is outstanding. A deadline for completion should be explicit.

### Remedies Sought

#### ***Aegrotat Standing***

According to the University Assessment and Grading Practices Policy, January 26, 2012, “Aegrotat standing granted on the basis of term work and medical or similar evidence where the student was not able to write the final examination in the course. AEG is assigned by a division upon approval of a student’s petition. It carries credit for the course but is not considered for averaging purposes.” According to page 617 of the Faculty of Arts and Sciences Rules & Regulations 2011-12 Academic Calendar, Aegrotat standing “... may be authorized only by petition....” Page 619 of the policy further indicates with regards to Medical Documentation in support of Petitions that “... The claim of illness ... is not sufficient grounds in itself to guarantee approval of the request.” Page 620 of the policy with regards to Petitions Regarding Examinations also states that “Students must not only take responsibility for making appropriate judgements about their fitness to attend examinations, but also must accept the outcome of their choices.”

On September 23, 2011, the student completed two-and-a-half hours of a three-hour exam. The Medical Certificate of Dr. Kuzumi contains information that was supplied to the doctor by the Student indicating abdominal pain and diarrhea. Your Committee finds it reasonable that the AAB came to the conclusion that the impact of medical circumstances were not severe enough to grant aegrotat standing. Furthermore, as per the policies outlined above, illness is not sufficient grounds in itself to guarantee approval.

The Student completed two-and-a-half hours of a three-hour exam and passed the Course. Your Committee finds that the fact that the CPO asked about abandoning the exam does not mean the Student could have actually abandoned the exam at that time, but rather, it was information that was to be relayed to others who would make that determination. Based on this, and the overall record, your Committee finds it was reasonable for the AAB to have concluded that the Student had completed, not abandoned, the exam.

Before the deferred exam, the Student had only completed 35% of the Course based on homework assignments as he had missed the mid-term exam. Moreover, the Student’s instructor had re-weighted the student’s completed coursework from 10% to 35%. On the basis of this term work, your Committee finds it reasonable for the AAB to conclude that the student had not completed sufficient coursework to warrant aegrotat standing.

#### ***Late Withdrawal Without Academic Penalty***

Late withdrawal without academic penalty after the end of classes (WDR) is a mechanism to assist students where circumstances beyond the student’s control arose after the last date for course cancellation, and as per the Faculty’s Petition Guide, is not appropriate where a student has

completed everything in the course. As stated earlier, it was reasonable for the AAB to determine that the Student did not abandon the exam, and therefore finished the course, especially since he requested (and received) a regrade. Further evidence that the Student finished the course was that when the Student encountered difficulties completing coursework, he was accommodated by his instructor who re-weighted the Student's completed coursework from 10% to 35% of the Course. Furthermore, when the Student was unable to write the final exam when first scheduled, he requested and received a deferral. Accordingly, your Committee does not find WDR an appropriate remedy under these circumstances, and we find the AAB determination reasonable.

The Committee has had the opportunity to consider the facts of the Student's case alongside the facts of what the Student suggested was a similar case. The Committee turned our minds to this and examined all the issues raised. We are of the opinion that there are significant differences between the Student's case and that which he cited. Thus, it is not persuasive, instructive or relevant here. We agree with the submissions of the respondent as stated at paragraphs 60, 61, 62.

### ***Re-write of Deferred Exam***

The Committee also turned its mind to the Student's request for a rewrite of the deferred exam. We note, as per page 619 the Faculty of Arts & Science policy regarding Medical Documentation in support of Petitions, "... The claim of illness ... is not sufficient grounds in itself to guarantee approval of the request." Moreover, as per page 620 of the policy with regards to Petitions Regarding Examinations, "Students must not only take responsibility for making appropriate judgements about their fitness to attend examinations, but also must accept the outcome of their choices."

Furthermore, as noted above, the Committee is of the view that the Student did not abandon the exam. The Student completed two-and-a-half hours of a three-hour exam and passed the Course. Your Committee believes it was reasonable for the AAB to determine that writing for two-and-a-half of three hours is close to the end of the exam. We were not persuaded by the Student's oral submission that ten minutes before the end of the exam is the definition of close to the end. Rather, we find that there are other reasonable explanations for the rule requiring candidates to remain seated at their desks during the final ten minutes of each examination (Rule 10, page 615 Faculty of Arts and Sciences Rules & Regulations 2011-12 Academic Calendar), such as reducing potentially distracting movement or noise that could negatively impact candidates during the final ten minutes, and allowing for presiding officers to collect and tally the exams while remaining students stay seated.

Rule 9 on the same page of the Faculty of Arts and Sciences Rules & Regulations states that "In general, candidates will not be permitted to enter an examination room later than fifteen minutes after the commencement of the examination, nor to leave except under supervision until at least half an hour after the examination has commenced." Such a rule makes it clear that leaving after a half hour of commencing an exam is acceptable. Accordingly, it is reasonable for the AAB to

determine that leaving after two-and-a-half hours of a three-hour exam is not “close to the end” under the policy.

Even if this were not the case, your Committee believes too much time has passed so that it would place an undue burden on the Student to review all contents of the course and prepare for a supplemental examination, while an instructor would also be required to recreate an appropriate exam after considerable time passage, especially since grades were assigned to the class over six years ago. Even if we are incorrect about the reasonableness of the AAB decision with respect to the issues of illness or abandoning the exam, given that it has been some time since the Student both took the Course and graduated, the Committee is of the view that an exam rewrite is neither fair nor reasonable under these circumstances.

### Allegations of Bias

At the hearing, the Student submitted that the Registrar of Woodsworth College is biased. In paragraph 8 of his written reply dated November 2017, he also indicated his concern that she was on the Committee on Standing in 2012-13 “... and any inquiry for this course in 2012 may jeopardize ... other petitions in failed courses.” However, no evidence was presented supporting this argument, and there is nothing in the record to indicate to us that there is any merit in this argument.

During the April 12, 2018 hearing, counsel for the respondent, Mr. Centa, mentioned that the Student had applied for judicial review of an AAC case included in the Respondent’s materials. The Respondent was advising this Committee of the status of that case, in the eventuality that the AAC case was overturned on judicial review. In response, the Student submitted that the disclosure of this information could bias the Committee and is irrelevant. Your Committee does not believe that this would bias us, but we agree with the Student that it was irrelevant for our purposes, and therefore bore no influence on our deliberations or conclusions.

### Adequacy of Reasons

The Student also argued that the reasons of the Petitions Committee were inadequate. With regards to this issue, the decision that is the subject of this appeal is that of the Academic Appeals Board of the Faculty of Arts and Science (the “AAB”) of June 12, 2017, for which detailed reasons were provided. We find no basis for this argument.

Even if this Committee is wrong about the reasonableness of the AAB in terms of the merits of the appeal and the various remedies requested, the Student still fails on the issue of timeliness, as he was responsible for ensuring the appeal was filed correctly and in a timely manner. It is clear that it is the Student’s responsibility to do so for his appeal. The Student submits that by signing at the top of the sheet, the Registrar accepted it as complete. However, there is no evidence supporting this proposition, and we are not in a position to make any conclusions about what the Registrar’s signature means – does it confirm what the Student is saying; does it simply acknowledge she saw



the medical form; does it mean that is what the Student handed in to her? The answer is that we simply do not know.

On April 27, 2018, just over two weeks after the April 12, 2018 hearing had been completed, the Chair was forwarded an email with attachments from the Student by way of the Office of Appeals, Discipline and Faculty Grievances (“ADFG”). The Student and then ADFG, copied counsel for the Respondent on these materials. The Chair reviewed the Student's information very carefully, which mentioned two issues – the fact that the Student arrived ten minutes late for the hearing, and the fact there was a fire alarm in another building during part of the hearing. The Chair found this information irrelevant. The Committee simply waited after the scheduled start time to give the ADFG Office time to try to contact the Student, as we did not want to start without him, especially if he were on his way. In terms of the fire alarm, it did not prevent us from hearing everything the Student said at the hearing. Neither of these would have changed the outcome of this appeal.

This Committee reviewed all materials and submissions very carefully, and turned our minds to all the issues raised.

For the reasons outlined above, your Committee affirms the decision of the Academic Appeals Board of the Faculty of Arts and Science of June 12, 2017, finding it to be a fair and reasonable application of its policies.

The appeal is dismissed.

# UNIVERSITY OF TORONTO

## GOVERNING COUNCIL

Report # 396 of the Academic Appeals Committee  
**June 5, 2018**

To the Academic Board  
University of Toronto.

Your Committee reports that it held a hearing on Tuesday, May 29, 2018, at which the following members were present:

Professor Andrew Green (Chair)  
Professor Mohan Matthen, Faculty Governor  
Ms. Mala Kashyap, Student Governor

Hearing Secretary:  
Ms. Tracey Gameiro, Appeals, Discipline and Faculty Grievances

### **Appearances:**

#### **For the Student Appellant:**

Ms. N.C. (the “Student”)

#### **For the John H. Daniels Faculty of Architecture, Landscape and Design:**

Dean Richard Sommer  
Ms. Andrea McGee, Registrar & Assistant Dean, Students

### **The Appeal**

The Student appeals a decision by the Associate Dean Academic at the John H. Daniels Faculty of Architecture, Landscape and Design (the “Faculty”) dated October 23, 2017 (the “Decision”). In the Decision, the Associate Dean dismissed an appeal by the Student from a decision by the Associate Chair, Undergraduate Studies of the Department of Germanic Languages and Literatures (the “Department”) dated June 21, 2017 (the “Department Decision”) denying her request for an increase in her grade in GER372H1S (the “Course”). The Student seeks an increase in her grade for the Course. The Student based her appeal on a number of grounds including primarily that the Professor for the Course had promised to give her extra marks on one test but had failed to do so.

## The Facts

In Winter 2017, the Student was enrolled in the Course as part of her minor in Business German. On February 17, 2017, the Student states that she wrote the first test in the Course ("Test 1") and that the Professor returned it in the week of February 27, 2017. At that time, the Student states that the Professor did not provide an overall mark on Test 1 as he could not read the Student's answer on part of the exam. According to the Student, he allowed the Student to read her answer to him. On the same day, the Student states that she pointed out to the Professor a mistake in the marking of a different part of the test and that he agreed to increase her overall mark by 2% to take account of that mistake. The Professor then took the test away to provide a final mark.

The Student states that the Professor returned Test 1 to her on March 6, 2017 with a final mark of 84%. On March 8, 2017, the Student emailed the Professor thanking him for going over the test with her and stating that she

Realized that for Teil II. C. fur Welches Wort passt nicht? that my mark for the fourth question with OHG that we went over last time is not updated (the case where I crossed off the right ones and ticked the left over OHG). I just wanted to email you to make sure that is still ok.

The Student states the Professor did not respond to this email. The first test was worth 20% of the final grade.

Later in March, the Student sought an explanation for a grade of 83% on a presentation also worth 20% of the final grade. The Professor did respond to this email and increased her mark without comment to 84%.

At the end of the Course, the Student found out that her overall mark was 84.4%. She emailed the Professor for a breakdown of her grades for the different components of the Course. She again mentioned the additional 2% on Test 1 about which she had emailed the Professor. The Professor responded on April 12, 2017 that he had "been very helpful this semester in that I gave you a chance to read your first test to me because I could not read your writing". He also stated "I feel I have been very generous and co-operating. 84% is an excellent grade." He did not mention the Student's claim about the additional 2%.

The Student then asked again for a breakdown of all the marks. On April 15, 2017, the Professor emailed her the marks including a mark on Test 1 of 84%. The Student subsequently emailed to re-iterate her concern about the 2% and sought to meet with the Professor. The Professor was unable to meet with her but left a second test ("Test 2") for her to pick up. He did not address her question about Test 1.

On April 21, 2017, after reviewing Test 2, the Student emailed the Professor. She noted a mistake in the marking on Test 2 and again mentioned the 2% issue on Test 1. In reply the Professor wrote:

To directly address your grade change request, I have no intentions of changing your mark. I tried to indirectly make this clear; however, that hasn't worked.

On April 26, 2017, the Student again emailed her concern about the 2%. She received no response. The Student noted on a number of occasions that the mark was important for her as it would increase her overall GPA and, she believed, her chances of getting into graduate school.

As a result, the Student began the appeal process. She appealed first to the Associate Chair, Undergraduate Studies of the Department. The Associate Chair rejected the appeal in the Departmental Decision. The Departmental Decision stated that:

According to the Academic Handbook "appeals must be made in writing in a timely manner, and no later than two weeks after the work was returned, explaining why the student believes the mark was inappropriate, and summarizing all previous communications in the matter" (5.14). Your appeal for Test 1 does not meet the timeline criterion for reassessment.

The Departmental Decision also rejected the other grounds raised by the Student for a grade increase relating to her marks on the oral report, for participation and on Test 2.

The Student appealed this decision to her Faculty. The Faculty denied the appeal in the Decision. The Decision merely states (in total):

I have given your appeal for GER372H1S careful consideration. I support the pedagogical academic assessment by the Associate Chair, Undergraduate Studies, Christine Lehleiter, and I am denying your request for a grade increase.

The Student appeals this Decision to your Committee.

### **Decision**

The Committee's task is to decide whether the Decision denying the Student's grade appeal was reasonable.

In her submissions, the Student raised concerns about the participation mark, the oral report mark and Test 2. Each of these components was worth 20% of the final grade. The Student did not stress these points at the hearing. In considering these points, your Committee finds that the Decision was reasonable. The Professor had discretion in marking the participation and oral components of the grade and in fact considered and raised the mark on the oral report. Further, the Department undertook a re-read of Test 2 and indicated there were no grounds for changing the grade. The Department noted the Student had the opportunity to submit Test 2 for re-grading, which she has not apparently done. Your Committee finds the Decision reasonable on these matters.

In terms of Test 1, the Departmental Decision found that the Student was out of time to appeal Test 1 as the Academic Handbook stated that any such appeal must be launched within two

weeks of the work being returned. It therefore did not deal with the merits of the Student's claims about Test 1. The Decision does not seem to address Test 1 at all as it refers to supporting the "pedagogical academic assessment" by the Department and does not directly discuss the timing of the appeal of Test 1.

In its submissions to your Committee, the Faculty merely stated that the Student "did not appeal marks she now takes issue with within the time required under policy, and there is nothing in the record that shows that Professor Hagar made any mistakes in rendering her final grade." As a result in terms of Test 1, we have no assessment by the Department or the Faculty of the reasonableness of the grade for Test 1. We have a statement by the Student about a promise of an extra 2% by the Professor but nothing from the Professor, the Department or the Faculty about this issue.

What we do know is that according to the uncontested evidence of the Student, the Professor did not return Test 1 with a final mark until March 6, 2017. On March 8, 2017, the Student emailed the Professor about the apparent promise of an increased mark and asking whether it was okay. The Professor did not respond, and there is, again according to uncontested evidence by the Student, apparently nowhere he kept marks such that students can determine their grades on an on-going basis (such as Blackboard). The question then is whether the Student is out of time for appealing because although she emailed the Professor promptly, he did not respond to her email about the grade increase.

For convenience, we repeat the policy as set out in the Department Decision:

According to the Academic Handbook "appeals must be made in writing in a timely manner, and no later than two weeks after the work was returned, explaining why the student believes the mark was inappropriate, and summarizing all previous communications in the matter" (5.14).

Your Committee finds it reasonable to read this policy as placing a heavy onus on the Student to take responsibility in appealing decisions. The policy clearly states that the decision must be appealed "no later than two weeks after the work was returned" and we cannot question the fairness of the policy itself.

However, in the exceptional circumstances of this appeal, we find that the policy was not fairly applied to the Student. The Student states (and it has not been contested by the Professor) that the Professor had promised her an increase, that when she found out it was not given she immediately contacted him asking if it was still okay and that the Professor did not respond. She clearly contacted him within two weeks of receiving her work back with a grade. In general, the Student should not be able to rely on a mere assertion as evidence that she can assume the mark had been changed. However, if a student is misled into thinking that a particular mark had been given and then only later finds out that it was not, it is unfair to find that the student can no longer appeal the grade. In this instance, neither the Department nor the Faculty had anything but the uncontested evidence from the Student that she had been promised this increase. The Professor never contested the fact that he had promised her the extra marks nor did he provide any assertion at all about the marking other than later stating that he had been generous. He does

mention that he “tried to indirectly” make it clear that he would not increase her mark. However, it would seem unfair if the Student was found to not be able to appeal if the Professor was purposely silent when she mentioned that he had agreed to increase the mark. Even that silence might have been acceptable if at some point somewhere in this whole process, the Professor had provided some response to this claim of a promise of extra marks. However, despite repeated inquiries by the Student, he never addressed the issue. The Department and the Faculty then were faced with uncontested evidence from the Student that the Professor had promised and failed to increase the mark (including a contemporaneous email) and nothing denying that assertion later. While a mere assertion by the Student of the increase would be insufficient, we can see no attempt by the Department or the Faculty to determine if there was any basis for her assertion that the Professor had promised the increase, even if it only consisted of a ex poste statement by the Professor that there was no such promise, and that the Student had been misled into thinking the mark had been increased.

Your Committee therefore finds that in the exceptional circumstances of this appeal, the Decision was not reasonable in finding that the appeal was out of time. As neither the Department Decision nor the Decision dealt with the substance of the Student’s claims on Test 1, the appeal is allowed but rather than grant the remedy requested by the Student of increasing the grade, we remit the appeal back to the Department to consider the substance of the Student’s appeal on Test 1.

**UNIVERSITY OF TORONTO  
GOVERNING COUNCIL**

Report # 397 of the Academic Appeals Committee  
**July 10, 2018**

To the Academic Board  
University of Toronto.

Your Committee reports that it held a hearing on Friday, June 1, 2018 at which the following members were present:

Assistant Dean Sara Faherty (Chair)  
Professor Normand Labrie, Faculty Governor  
Mr. Aidan Fishman, Student Governor

Hearing Secretary:  
Ms. Krista Osbourne, Administrative Clerk, Appeals, Discipline and Faculty Grievances

**Appearances:**

**For the Student Appellant:**

Ms. A.M. (“the Student”), *via* audio-video connection.

**For the Faculty of Arts and Science:**

Professor Melanie Woodin, Associate Dean, Undergraduate Issues and Academic Planning  
Mr. Thomas MacKay, Director, Faculty Governance & Curriculum Services

**The Appeal**

This appeal relates to the Student, A.M.’s, request to have the Biology & Physics Major Program removed from her academic record. The original program required students to take as few as three courses from Biology, which is what A.M. did. She laments that the word “Biology” appears first in the title of the major, since she ended up taking many more Physics courses.

A.M. raised the issue that the major, which no longer exists, is misleading and that the impression that it creates has created confusion and been detrimental to her career. The Student is concerned that this rationale was over-emphasised in earlier decisions regarding her petition, and that she also wants the Biology & Physics Major removed on the independent principle that she is entitled to a meaningful transcript, regardless of the practical consequences. The Student cites the University of Toronto Transcript Policy, which reads, in part, “The transcript should be a meaningful reflection of the student’s academic activity and achievement.” Your Committee does not believe the earlier decisions were incorrect in their assessment of the external difficulties experienced by the Student, however for the purposes of this appeal, the panel focused on the purely principled argument.

The Student expressly rejects the Division's explanation that it does not retroactively alter transcripts, relying on the Division's subsequent recognition of her General Physics Major as evidence that the Faculty of Arts and Science does, indeed, make retroactive changes to transcripts.

### **The Facts**

The Student, A.M., enrolled as a Faculty of Arts and Science undergraduate student at Trinity College in the fall of 1988. In November of 1991, she was conferred a 3-year Bachelor of Science degree. This conferral was based on the program requirements A.M. had completed at the end of the 1991 summer session. Completion of the Biology & Physics Major (which no longer exists) was confirmed as a requirement of the 3-year degree. At that time, the Biology & Physics Major was the only program major for which A.M. had met the degree requirements.

Subsequent to this degree conferral, A.M. enrolled in additional sessions ultimately converting her 3-year degree to a 4-year degree, and in the course of those additional studies, completing the requirements for a minor program in English, a minor program in Mathematics, and a general major in Physics. That general major was initially left off A.M.'s transcript, and was formally confirmed during the summer of 2016. All of these major and minor programs now appear on A.M.'s transcript.

It is not clear why the General Physics Major in physics was not captured in the transcript earlier than 2016. At some point around 2001, the Student requested to have the General Major in Physics recognized. In an email dated October 12, 2001 Brian Statt, the Undergraduate Associate Chair of the physics department confirmed that with a substitution of one course for another course, A.M. had completed the requirements for the General Major. Professor Statt explained that he would await her POSA form. At that point the trail goes cold—the Major in General Physics was not formally recognized until fifteen years later. We do not know why no further action took place for so long. In 2016 A.M. petitioned to have her transcript show a completed Major in General Physics program and to have the original major of Biology and Physics removed. The General Physics Major was recognized, but the Faculty did not agree to remove the completed Biology & Physics Major.

The Division argues that Student was competent to make her original decision to graduate with a 3-year degree in Physics & Biology in 1991. It was the only Major Program available to her at the time she graduated, because it was the only program for which she had met the Major requirements. The Student explained that she chose the Major because at the time she was “frantic to make something fit,” and the Biology & Physics title was the only title that fit. A.M. told this Committee that she chose the Biology & Physics Major because she did not have any other options. The Faculty of Arts and Science points out that the 3-year degree conferral had legal and financial consequences from which the Student benefitted, and that it would be a distortion of the academic record of the Student to remove the Major now.

The Division asserts that the primary function of transcripts is to present an accurate historical record of students' studies. It was willing to include the additional Major Program in Physics and English Minor Program of Study when they were completed (in one case, due to an oversight of some kind, many years after it was completed), but it will not agree to remove the first degree from A.M.'s transcript. The Faculty of Arts and Science emphasizes that the retroactive recognition of the Major Program in Physics was approved only because A.M. had actually met the Major requirements at the time she earned her 4-year degree. Even though the Major was recorded *post hoc*, it reflected the academic record *at the time the degree was earned*. In other words, the recognition was a correction of the record, not a change to the Student's history.



The Division also explained that when a student can demonstrate extenuating circumstances that are compelling changes can be made to transcripts. Again, those are rare, and are framed as corrections to the record in the sense that they are granted only when the Faculty believes that had the Student made a request for an accommodation at the time it was needed such a request would have been granted. Those exceptions are made when a student can show that he or she was too unwell to request an accommodation at the time. Retroactive changes based on compassion are granted when events are shown to be out of a student's control.

### **Decisions Below**

In a decision dated January 13, 2017, the Committee on Standing denied the Student's request to have the Biology & Physics Major removed from her undergraduate transcript. The Committee wrote that a matter of academic history and record (*i.e.*, the completion of a program of study pertaining to and integral to the composition of the Bachelor of Science, conferred November 1991) should not be retroactively altered.

The Academic Appeals Board heard the Student's petition on November 3, 2017. In a letter dated November 16, 2017 the Board informed A.M. that they had unanimously voted to deny her appeal of the Committee on Standing's decision on the grounds that there was no compelling need for an exception to the general rule that transcripts should not be retroactively altered. The Board determined that A.M. was fit to make the decision to graduate with a Biology and Physics Major.

### **Decision**

This appeal raises the issue of the purpose and function of student transcripts. The Student asserts that transcripts should be "meaningful," and asserts that given her subsequent completion of the degree requirements for both a Minor in English a Major in Physics, it would be more meaningful for her transcript to omit any reference to her first degree in Biology & Physics. However the Student herself repeated several times during the hearing that "anyone who looked at [her] transcript could see" that she does not have a strong background in Biology and that she has studied physics and math much more extensively. This Committee agrees with the Student on this point, and interprets that reality as an indication that the transcript *is* accurate and meaningful. It correctly lists the title of the Major Program she completed in 1991, it goes on to show additional courses, the fact that she converted her 3-year degree to a 4-year degree, and that she completed many more courses in Physics and Math later in her academic career. The additional Physics Major and Math Minor underscore these pursuits. The fact that it reflects her history of starting with a 3-year degree in Biology & Physics and then persistently building on that is an accurate reflection of how her studies progressed.

For these reasons, your Committee does not agree with parties' argument that there is a tension between this Student's transcript being "meaningful" and its being "accurate." The transcript currently lists the Major Programs the Student has completed. The Division was clear about its reasoning for allowing a completed Major program to be retroactively added to a transcript. The Faculty of Arts and Science relies on the rules and requirements in place at the time a student convoked, and if a request to list a Major would have been granted had been made at the time, it is willing to state that the student met the requirements. This is because it was accurate at the time of graduation, and remains accurate as targeted to that date.

The Division is not willing to remove a completed program, however, because to take that off would make the transcript less accurate, not more accurate. The academic history would be falsified, because the Student would not have been eligible to graduate in 1991 without the Biology & Physics Major. It was the only Program of Study for which she had met the degree requirements.

### **Additional Remarks**

Two possible additional steps arose during this appeal over which this Committee has no jurisdiction. First, the Registrar for the Faculty of Arts and Science has offered to write a letter explaining the circumstances of her academic history on behalf of A.M. if she should find that useful. Second, during the hearing, the Student suggested that she believes she has also completed the requirements for a Major Program in Mathematics. One of her requested remedies is to change her Minor in Math to a Major in Math. We do not have the expertise to determine whether her transcript shows that she met the requirements for such a change, nor do we have the jurisdiction to make such a change. A.M. has not made a formal request to have that Major listed on her transcript, but she is free to do so.

This Committee urges the Student to consider pursuing one or both of these options.

Finally, the Division, when prodded, was able to articulate a coherent and clear explanation of the circumstances under which it is willing to make changes to transcripts. This Committee suggests that this explanation be included in its transcript policy or calendar so students can clearly understand the factors that go into these decisions.

### **Conclusion:**

The Students' request for the removal of her Biology & Physics Major Program of Study completed in 1991 from her transcript is denied.

**THE UNIVERSITY OF TORONTO  
THE GOVERNING COUNCIL**

Report #398 of the Academic Appeals Committee  
**July 10, 2017**

To the Academic Board  
University of Toronto

Your Committee reports that it held a hearing on Wednesday, May 30, 2018 at which the following members were present:

**Panel:**

Mr. John Monahan, Chair  
Ms. Susan Froom, Student Governor  
Professor Ernest Lam, Faculty Governor

**Appearances:**

**For the Student Appellant:**

Mr. Eric Sherkin, Counsel, Levine Sherkin Boussidan Barristers  
Ms. M.M., the Student

**For the Division, School of Graduate Studies (“SGS”):**

Mr. Robert A. Centa, Counsel, Paliare Roland  
Ms. Emily Home, Counsel, Paliare Roland  
Prof. Charmaine Williams, Acting Vice-Dean, Students, SGS  
Dr. Natasha Crowcroft, Instructor, Laboratory Medicine and Pathobiology, Dalla Lana School of Public Health  
Dr. Nancy Baxter, Associate Dean, Academic Affairs, Dalla Lana School of Public Health

**Hearing Secretary:** Christopher Lang, Director, Office of the Appeals, Discipline Faculty Grievances

**I. Appeal**

The Student appeals a decision of the Graduate Academic Appeals Board (the “GAAB”) dated October 12, 2017.

In its decision, the GAAB had dismissed an appeal brought by M.M., a graduate student (“Student”) in the Dalla Lana School of Public Health (“School”), concerning a grade she had received on an

assignment in the course Scientific Overviews CHL5418 (“the Course”) and, as a result, in the course itself. One of the arguments put forward by the Student before the GAAB was that the mark that the impugned assignment had received - 70/100, or a B minus - reflected the application of a 10-point deduction for lateness, and that without such a penalty being applied, the paper had warranted a grade of at least an 80/100, or an A minus. The GAAB had found that the assignment in question had “received a mark of B- on its academic merits” and that “neither [the Tutor who originally marked the assignment] or [the Course co-Director who later marked the assignment] had ever applied the late penalty.”<sup>1</sup> [NOTE: Where we refer in the footnotes to “submissions,” we are referring to the respective party’s factum, and where we refer to “materials,” we are referring to the respective party’s Book of Documents.]

The Student had also raised a number of allegations in her appeal before the GAAB of possible conflicts of interest on the part of senior administrators of her program at the School who had been involved at various stages of either her assessment in the Course or her appeals concerning that assessment. The GAAB found that the Student had “(fallen) far short of showing that anyone involved in the Student’s case was in a conflict of interest and duty or might be said to have a reasonable apprehension of bias.”<sup>2</sup> Accordingly, the GAAB had “nothing more to say about (that) aspect of the case.”<sup>3</sup>

The Student filed a Notice of Appeal of the decision of the GAAB on or about January 17, 2018. At the time, the Student also requested a closed hearing “due to the nature of the appeal involving bias against (the Student).”<sup>4</sup> Prior to the hearing, however, in a discussion with Counsel for both the Appellant and the Respondent, the former agreed to waive his client’s request for a closed hearing on the condition that his client would be referred to either by her initials or simply as “Student” in your Committee’s written decision.

According to the Student’s written materials, the original basis of her appeal was that the Course co-Director and her Tutor had “falsified the grading process for the course in order to give (the Student) a final grade of B”, such a mark being “inconsistent with (the Student’s) record.”<sup>5</sup> The initial remedies sought by the Student, as outlined in her written submissions, were the following:

- “the return (sic) of [the Student’s] final grade to A”<sup>6</sup>;
- the ordering of a “new appeal process” should the Student’s grade for Course Assignment #4 “not be restored to an A-” in recognition of the many alleged procedural irregularities in the current process<sup>7</sup>;
- the Student’s grade for participation changed from 4/5 to 5/5<sup>8</sup>;

---

<sup>1</sup> Respondent’s materials at Tab 16, p. 5.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Handwritten addendum to Appellant’s Notice of Appeal, January 17, 2018

<sup>5</sup> Appellant’s submissions at Par. 1.

<sup>6</sup> *Ibid.*, at Par. 2.

<sup>7</sup> *Ibid.*, at Par. 69.

<sup>8</sup> *Ibid.*, at Par. 71.

- a regrading of the Policy Options section of the Course's Assignment #4 by Dr. Susan Bondy, former head of the MPH Epidemiology program at the School that "would return [the Student's] grade to A+ on the assignment"<sup>9</sup>; and
- changing the Student's final grade for the Course to "A- at minimum."<sup>10</sup>

Upon questioning by your Committee, the Student amended her pleadings at the hearing so as to eliminate certain of the remedies she had been seeking, and to consolidate and clarify others. More specifically, at the hearing the Student asked your Committee to allow this appeal and to grant her the following two remedies:

- (i) Return the 10 marks to Assignment #4 that the Student alleges were deducted for lateness; and
- (ii) Order a re-read of the Policy Options section of Assignment #4.

For its part, the School has responded by submitting that the appeal should be dismissed because the Student's final mark on Assignment #4 had no marks deducted from it for lateness, and because the Policy Options section of the Student's Assignment #4 had already been read by two markers – both the tutor and the Course co-Director – who were largely in agreement on its relative strengths and deficiencies. Accordingly, there was no compelling reason to order yet another re-read.

More generally, the School asserts that at all stages throughout the Course, the Student who brings this appeal, along with all other students in the Course, was treated fairly and without bias with respect to marking and assessment.

## II. The Facts

The Student enrolled in the Masters of Public Health in Epidemiology program (the "Program") on a part-time basis at the Dalla Lana School of Public Health in Fall 2014. At the time, the Student was already a two-time alumna of the University of Toronto, having previously received a Bachelor of Science degree in 1989 and a Masters of Science degree in 1993. In the meantime, the Student had gone on to a career that included both academic and non-academic positions related to her educational background in toxicology and pharmacology, including several years as an instructor with another local university. She testified before your Committee that her enrolment in the Program was intended to expand her knowledge and enhance her employability in the field of public health epidemiology specifically.

The Course was offered in the Winter 2016 term, and the Student enrolled. The Course syllabus was provided to all students at or near the start of the term. It both outlined the marking scheme for the

---

<sup>9</sup> *Ibid.*, at Par. 72.

<sup>10</sup> *Ibid.*, at Par. 73.

course and set out the relevant deadlines. As outlined in a section of the Syllabus entitled "Evaluation"<sup>11</sup>, the marking breakdown for the Course was to be as follows<sup>12</sup>:

Assignment #1:

- A library search strategy on an assigned topic
- 20% of final mark
- Due by e-mail to tutors on or before February 1, 2016 by 11:59pm

Assignment #2:

- A group oral presentation and a one-page summary
- 15% of final mark
- Due February 11, 2016 in tutorial (attendance mandatory)

Assignment #3:

- A short answer assignment
- 20% of final mark
- Due by e-mail to course directors on or before March 24, 2016 by 11:59pm

Assignment #4:

- A final paper on the same topic as in Assignment #1
- 40% of final mark
- Due by e-mail to tutors on or before April 14, 2016 by 11:59pm

Participation:

- 5% of final mark
- "Ongoing attendance at and contribution to tutorials, as assessed by tutors"

Notably, as referenced above, the marking of the students' work would be shared by the Course Directors – of which there were two, Professors Natasha Crowcroft ("Crowcroft") and Liane Macdonald ("Macdonald") – and by tutors whose other responsibilities included leading regular tutorials for a pre-assigned group of the students in the Course. Your Committee heard that there were approximately 35 students enrolled in the Course, and that they were divided into five (5) distinct tutorial groups. The Student whose work is the subject of the present appeal was one of around seven students put into Group A.

The Syllabus indicates that the topic for both Assignment #1 and Assignment #4 would be "The impact of public health interventions to reduce hookah pipe use on health behaviours and outcomes." The Syllabus also indicated that "A late penalty of 10% per day (would) be applied to all late assignment submissions."

---

<sup>11</sup> Appellant's materials at B21, "Evaluation", page 9

<sup>12</sup> *Ibid.*

The Student failed Assignment #1, “which was worth 20% of the final mark and was marked by a tutor named Dr. Brent Moloughney. Dr. Moloughney later confirmed to the Student that her numerical mark on the paper had been “between 65-69”.<sup>13</sup>

Dr. Moloughney provided extensive comments to the Student on the work she had submitted for Assignment #1. He pointed out where the Student’s work was good – for instance, her decision to perform a “literature scoping” and to “(describe) why (the) topic (of hookah smoking was) important as a health risk” – and also enumerated several stylistic and substantive concerns and recommendations regarding the paper. These ran the gamut from some basic items, such as the Student’s failure to include a title, name or date with the paper, to the inappropriate use of the first-person throughout the assignment, to advice on the use of search terms, the use of Boolean logic, and the proper form for citations.<sup>14</sup>

The Student told your Committee that she had not expected to do particularly well on Assignment #1, but that she was not worried in the least as there were still “80 marks available” to her in the Course. She had approached the initial assignment in the Course as somewhat of a learning opportunity, and she did not challenge the mark provided to her by Dr. Moloughney. The Student told your Committee that she “didn’t care” about getting a low mark on Assignment #1, because she “knew (she) would be okay.”

The Student also told your Committee that she felt she had been able to improve upon her work for the balance of the term by reading Dr. Moloughney’s comments on Assignment #1 following his recommendations. Although she acknowledged that she “didn’t remember” all the ways in which she had benefited given the passage of time since early 2016, she did point to her enhanced understanding of Search and Boolean logic, how to use and cite references, and the appropriateness of arguing by analogy in policy papers, among other areas.

Later, the Student received strong marks for Assignments #2 and #3. For the second assignment, which was a group assignment and was marked by a tutor, she and her group members received a mark of A- (80/100); for the third assignment, which was submitted to and marked by the Course Directors, she received a mark of A (88/100).

During the course of the term, the final due date for Assignment #4 was extended for all students from April 14 to April 17. This change was communicated to all students in a lecture in early March 2016; Professor Liane Macdonald, Course Co-Director, personally reminded the Student of this in an e-mail dated March 16, 2016.<sup>15</sup>

The tutorial for Group A that was originally scheduled to be held on March 24, 2016 was postponed until March 31, 2016. All other tutorials groups were held on or about March 24, as originally indicated in the syllabus.

---

<sup>13</sup> Appellant’s materials at B79.

<sup>14</sup> Respondent’s materials at Tab 7.

<sup>15</sup> *Ibid.*, at Tab 3.

The Student submitted Assignment #4 to her Group's tutor, Dr. Sarah Frise ("Frise") and two other tutors, during the day on April 18, several hours after the deadline for its submission at 11:59pm on April 17. In a subsequent e-mail exchange that day, Frise wrote to the Student to confirm that the paper was late, and to advise that "(she believed) that the late submission will result in a 10% hit on your assignment grade based on the syllabus."<sup>16</sup> The Student replied as follows:

Hi, Sarah:

Yes, it took me a lot longer to do the tables and references than I thought it would, plus I had another exam and another assignment last week as well.

I figured I better get the content complete and take the hit then (sic) hand in an incomplete paper.

Thanks for all your help.

(Student)<sup>17</sup>

In answer to questioning by your Committee, the Student advised that she felt that the paper she had submitted for Assignment #4 could have warranted a mark as high as 90%. However, on or about May 24, 2016, Dr. Frise advised the Student via e-mail that her actual mark on Assignment #4 was a B-.<sup>18</sup>

In that same exchange, Dr. Frise provided the Student first with a brief list of positive comments about the paper, and then with a far longer and much more comprehensive list of both substantive and stylistic "Points to Consider for Improvement." The overall implication of this latter list was that these points related to areas of the assignment where the Student had lost marks. When read together by your Committee, the overall impression created by the two lists included in Dr. Frise's e-mail to the Student is that although the paper had some strong points, the Student had not submitted a paper that was deserving of a high mark.

One of the comments provided by Dr. Frise to the Student was that the "top 3 [policy] options (identified by the Student in the Policy Options section of the paper) did not seem appropriate."<sup>19</sup>

The Student asked Dr. Frise to provide her with a section-by-section breakdown of how her paper had been marked. Dr. Frise responded that "We don't routinely provide the marks by each section since you end up with an overall Grade average (vs. percentage). The marking rubric is really a guide

---

<sup>16</sup> Appellant's materials at A6.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, at B53.

<sup>19</sup> *Ibid.*, at B82, par. 9.



for us to provide some consistency between instructors and for you as students to understand how different sections are weighted.”<sup>20</sup>

Much later, just prior to the Student’s appeal being heard by the GAAB in October 2017, Dr. Frise’s marking sheet for Assignment #4 was submitted as a supplement to the School’s materials. [As noted by the GAAB, Counsel for the Student “consented to (its inclusion) and, at the hearing, he did not contest its authenticity or reliability.”<sup>21</sup>] This marking sheet shows that Dr. Frise gave the Student a mark of 9 points out of a possible 15 on the “Policy Options” portion of her paper.<sup>22</sup>

In her current appeal before your Committee, the Student asserts, in part, that “(she) lost approximately 15% on the assignment (#4) because Dr. Frise contradicted the instructions of (the Student’s) other tutor Dr. Moloughney with respect to the policy options section of the assignment.”<sup>23</sup> She goes on to describe how “Moloughney instructed the tutorial group on how to determine policy options/public health interventions...for hookah smoking based on argument by analogy.”<sup>24</sup> She also states that the appropriateness of arguing by analogy in such circumstances was confirmed by the Course Co-Directors, Drs. Crowcroft and Macdonald.<sup>25</sup> However, she asserts that Dr. Frise’s comment that the three policy options she had identified in her paper “did not seem appropriate” demonstrates an unwillingness to accept or credit the Student’s arguments by analogy<sup>26</sup>. It is this assertion that underlies the Student’s requested remedy of a re-read of the “Policy Options” portion of her paper by an objective third party.

Dr. Crowcroft told your Committee that, as a matter of course, assignments that received low or borderline marks by tutors were marked in a “parallel” fashion by one of the Course Directors. In the current situation, Dr. Crowcroft told your Committee that at some point between the submission of the late paper by the Student on or about April 18, and Dr. Frise’s e-mail exchange with the Student of May 24, 2016, she had personally reviewed the Student’s paper and had determined it to merit an even lower mark than had Dr. Frise. That is why, on the master Grading Spreadsheet provided by the Respondents, on the page summarizing marks given for all students in the Course for Assignment #4, the mark for the Appellant in this case is listed as 60/100 after the application of a 10-point deduction, and a notation is added to the right of the line that reads, “Note: Currently under review & loses 10% for 1 day late.”<sup>27</sup>

The Student asked Dr. Frise by e-mail on May 24 whether the B- that had been assigned her paper “(included) the 10% (she) indicated that (she was) going to remove for sending the paper in Monday

---

<sup>20</sup> *Ibid.*, at B81.

<sup>21</sup> Respondent’s materials, Tab 16, page 3.

<sup>22</sup> *Ibid.*, at, Tab 10.

<sup>23</sup> Appellant’s submissions, I – OVERVIEW, at paragraph 13.

<sup>24</sup> *Ibid.*, II – FACTS, at paragraph 26.

<sup>25</sup> *Ibid.*, at paragraph 27.

<sup>26</sup> *Ibid.*

<sup>27</sup> Respondent’s materials, Tab 6, page 4.

afternoon".<sup>28</sup> Dr. Frise replied "Yes it does."<sup>29</sup> It is the combination of both an ambiguous question and an ambiguous response that is at the core of the subsequent confusion that has arisen over whether the promised deduction was applied to the final mark of 70/100 that the Student received for her paper.

Not content with either her mark on Assignment #4 or with the final grade of "B" that she received in the Course, the Student met with Dr. Crowcroft, the Course Co-Director, to discuss her concerns at some point after her e-mail exchange with Dr. Frise of May 24 and either on or prior to June 3, 2016. On June 3, Dr. Crowcroft wrote an e-mail to the Student, in which she confirmed there would be no penalty for lateness applied to the Student's final mark on Assignment #4. Dr. Crowcroft wrote:

Thanks for meeting with me to discuss Assignment 4. Following our discussion, as agreed, I have reviewed the feedback from Sarah Frise, your assignment which I had parallel marked previously, and had a discussion with Sarah and Meghan. Overall I found Sarah's feedback to be well constructed and balanced.

... We had already double-marked any assignments that were in the lower range. The grade you had been given was significantly higher than the percentage I had assigned on marking in parallel...We had erred on the side of positive in accepting the Tutor's grade whenever it was higher.

*On the other issue of the late deduction and the delayed Tutorial, I have accepted that we should remove the late deduction as you requested. This has been done. Because we had already reduced the amount of the deduction your final grade was unchanged, however.* [Emphasis added]<sup>30</sup>

### III. The Merits

The Student and the Faculty both provided arguments regarding the substantive merits of the Student's appeal.

Both parties agreed that the School has a duty to ensure a fair process is instituted and is applied consistently. Demonstration of a lack of fairness in the process itself or in its application to the Student in question would warrant your Committee granting the present appeal.

As acknowledged by both parties at the hearing, fairness would also dictate that the Student's mark on Assignment #4 had been calculated using arithmetic that was correct. Your Committee agrees

---

<sup>28</sup> Appellant's materials at B52.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*, at B77.

with that position, and, by extension, would also extend it to the calculation of the Student's overall mark in the Course.

***(i) Allegations of Bias by Dr. Crowcroft against Student***

With respect to the calculation of her mark for Assignment #4, specifically, the Student told your Committee that her submission of that assignment several hours after the deadline for its submission at 11:59pm the evening before "gave an opportunity for Dr. Crowcroft to falsify the mark for the 4<sup>th</sup> paper." The Student was then given the opportunity, and took it, to provide evidence to substantiate her assertion that Dr. Crowcroft was biased against her personally, and that such bias motivated her falsification of the Student's mark.

However, despite providing a lengthy description of perceived differences of opinion between herself and other academics about the use of certain textbooks in courses she had taught at another university, and the perceived professional and/or personal alliances between and among various academics and practitioners with whom the Student may or may not have had some degree of real or imagined rivalry, the Student failed utterly to provide your Committee with any compelling evidence to show any personal or professional bias on the part of Dr. Crowcroft towards the Student that might reasonably be expected to manifest itself in the unfair application of marking practices towards the Student or that might in any way substantiate the Student's allegation that Dr. Crowcroft "falsified" her mark.

Your Committee therefore dismisses this assertion entirely, and is focused, instead and exclusively, on seeking to ascertain whether, on its face, the School's treatment of the Student with respect to the marking of her fourth assignment for the Course and in the calculation of her overall grade in the Course demonstrated unfairness towards her in the interpretation of application of the School's relevant policies, practices or processes.

***(ii) Confusing Communications***

Your Committee is in agreement with the GAAB that the School could have done a better job of communicating with the Student regarding the application or non-application of the penalty for lateness.<sup>31</sup> To its credit, the School itself acknowledges how its failure to communicate clearly contributed to the situation about which your Committee is now seized. As Counsel for the Respondent put it to your Committee, "Maybe if we had communicated differently or better, we wouldn't be here today." Indeed.

That said, even the Student's apparently simple question posed by e-mail to Dr. Frise – "Does this grade include the 10% you indicated that you were going to remove for sending the paper in Monday

---

<sup>31</sup> Respondent's materials at Tab 16.

afternoon?”<sup>32</sup> – is not as simple or straightforward as it might initially appear. The question is complicated by the fact that a deduction from a grade operates by removing points from that grade. In other words, its “presence” is noted by the absence of something else. Therefore, asking if a deduction is “included” could conceivably be interpreted to mean, on the one hand, “has a deduction already been applied such that my mark has been made lower as a result?”, or, on the other hand, to mean “does the mark you have given still include the marks that will eventually be removed once the deduction has been applied?”.

Adding to this inherent complication where deductions are concerned, Dr. Frise replied somewhat enigmatically to the Student’s question, “Yes it does.”<sup>33</sup> It is the combination of both an ambiguous question and an ambiguous response that is at the core of the subsequent confusion that has arisen over whether the deduction was applied to the final mark of 70/100 that the Student received for her paper.

As the Respondent notes, “(the Student) could have been inquiring (i) whether her mark ‘included’ the deduction, that is, that the deduction had been applied, or (ii) whether her mark ‘included’ the 10% she had been warned would be removed.” The Respondent then goes on to assert that, “Regardless of what Dr. Frise intended to convey (in reply to the Student’s question), the fact remains that (the Student’s) paper was awarded a mark of B- before any deductions took place, as demonstrated on the master grade spreadsheet.”<sup>34</sup>

Counsel for the Respondent put it even more succinctly in making oral submissions before your Committee. The paper submitted by the Student appellant for Assignment #4 was “never, ever, ever” assessed a grade of any more than 70%.

Your Committee agrees, because there was no compelling evidence submitted by either party to suggest otherwise.

### ***(iii) Calculating the Student’s Final Course Grade***

Before the Student’s grade of 70/100 for Assignment #4 was finalized, just as Dr. Frise had originally determined it to be, it appears to have also been assessed a 60/100, and then a 63/100 at different points in the narrative. For instance, according to the summary page of the Master Grading Spreadsheet for the Course provided by the School<sup>35</sup>, the Student’s “Total weighted (adjusted)” Course mark was 73/100 for the Course when Assignment #4 was given only a 7-point deduction for lateness instead of a 10-point deduction. That is because a 10-point deduction for lateness resulted in a mark of 60/100 on the paper, or 24/40, while a mere 7-point deduction for lateness resulted in a mark of 63/100 on the paper, or 25/40. When added to the Student’s marks for the other

---

<sup>32</sup> Appellant’s materials, B52.

<sup>33</sup> *Ibid.*

<sup>34</sup> Respondent’s submissions at par. 35.

<sup>35</sup> Respondent’s materials at Tab 6

constitutive elements of the overall grade for the Course, the 7-point deduction pushes the Student's overall mark from a B- to a B<sup>36</sup>:

i.e.

- Assignment #1: 13/20
- Assignment #2: 13/15
- Assignment #3: 17.5/20
- Assignment #4: 25/40 (NB: 63/100 = 25/40)
- Participation: 4/5
- TOTAL: 73/100 (weighted)

Course Grade: "B"

However, while the final grade of "B" never changed, the numerical grade underlying it did change as a result of a subsequent decision by Dr. Crowcroft. As noted above, the Student met with Crowcroft in the latter's office on or about June 3, 2016 and, ostensibly because of the concerns raised by the Student about the delay in her group's final tutorial session to March 31, Crowcroft agreed to remove the entire penalty for lateness from the Student's mark on the paper<sup>37</sup>; as a result, instead of receiving 63/100, it received 70/100. This was the same mark that Frise had originally accorded to the paper, as seen on that tutor's marking rubric for Assignment #4.<sup>38</sup>

Part of the frustration of the Student is in trying to understand how, if a penalty that was at one point applied was later removed, how her final letter grade in the Course did not change. This appears to your Committee to be a simple function of arithmetic.

When converted to a mark out of 40 (since Assignment #4 was worth 40% of the overall grade in the Course), 70/100 is the equivalent of 28/40, which adds three (3) additional percentage points to the Student's overall course grade.. That is,  $73 + 3 = 76$ .

Because at the University of Toronto the range for a "B" for graduate students is from 73% to 76%<sup>39</sup>, the Student's final course grade remained a "B" even when the 7-point deduction that had earlier been applied to her paper was subsequently removed by Dr. Crowcroft. This would explain why Dr. Crowcroft advised both the Student and Dr. Baxter that no change in the Student's final course grade resulted from the "removal" of the lateness penalty from the Student's Assignment #4.<sup>40</sup> That is, the final Course grade was a "B" (or 73%) when a 7% lateness penalty was applied to Assignment #4, and it was still a "B" (or 76%) when the lateness penalty was removed and the paper's original mark of 70/100 restored.

<sup>36</sup> See comment by Dr. Liane Macdonald in Respondent's materials, Tab 6, page 6, cell AC20.

<sup>37</sup> Appellant's materials at B77.

<sup>38</sup> Respondent's materials at Tab 10.

<sup>39</sup> *Ibid.*, at Tab 5, page 3 of 9.

<sup>40</sup> See, for instance, Dr. Crowcroft's e-mail to Dr. Baxter at Respondent's materials, Tab 17.

**(iv) Policy Options**

Your Committee rejects out of hand the Student's assertion in her written submissions that the Student lost 15% of all potential marks (out of 100) on the Policy Options portion of her Assignment #4.<sup>41</sup> It is abundantly clear from both the marking rubric used by Dr. Frise to assess the Student's work on Assignment #4 and from the master grading spreadsheet used by the Course Co-Directors that the Student was awarded 9 points out of a possible 15 points for the "Policy Options" section of her Assignment #4.<sup>42</sup> There was no credible evidence shown to your Committee to contradict these documents, and certainly none that show the Student receiving a mark of 0/15 for the Policy Options section of her paper. The Student's assertion to that effect in her written submissions is therefore both inaccurate and misleading.

Moreover, as your Committee raised with the Student at the hearing, even if there were an inclination to submit the Policy Options section of Assignment #4 to another reviewer, a simple mathematical calculation confirms that there are not enough additional marks available to cause the Student's final mark to rise to the levels that she believes it deserves.

That is, the Student received 9 marks out of 15 on the Policy Options section of her assignment. If upon a re-read she were to receive an absolutely perfect mark of 15/15- something accomplished by only three of the Student's 38 classmates - that would account for only 6 more marks out of 100 on the assignment, or 76 out of 100, which would in turn translate as 30.4 points out of 40. In that instance, the Student's course mark would only rise to a B+, still falling short of the Student's assertion that your Committee "must [change the Student's final grade for the Course] to A- at minimum,"<sup>43</sup> "return [the Student's] final grade to A"<sup>44</sup>, or order the re-grading of the Policy Options section by Dr. Susan Bondy so as to "return (the Student's) grade to A+ on the assignment."<sup>45</sup>

ie.

- Assignment #1: 13/20
- Assignment #2: 12/15
- Assignment #3: 18/20
- Assignment #4: 30/40
- Participation: 4/5
- TOTAL: 78/100

Course Grade: "B+"

---

<sup>41</sup> Appellant's submissions, I-OVERVIEW, at par.13 and 14.

<sup>42</sup> Respondent's materials at Tabs 10 and 6, respectively.

<sup>43</sup> Appellant's submissions, CONCLUSION, at par. 73.

<sup>44</sup> *Ibid.*, I-OVERVIEW, at par. 2.

<sup>45</sup> *Ibid.*, CONCLUSION, at par. 72.

But beyond the fact that the end result desired by the Student from a re-read of the “Policy Options” section of her paper is not mathematically attainable, your Committee would question its ability to order such a re-marking in any event in the absence of any compelling evidence of unfairness in the application of the School’s marking policies, practices and procedures. In the current instance, your Committee did not read or hear any compelling evidence pointing to such unfairness.

Rather, your Committee heard that the Student, like all students in the Course whose marks for any assignment were on the lower end, had her paper “parallel” marked by Dr. Crowcroft. Your Committee also heard that, in instances where a parallel marker arrived at a lower mark than that calculated by the original marker, the higher mark would take precedence, as it did in this instance. Finally, your Committee both heard from Dr. Crowcroft and saw the notations made on the master Grading Spreadsheet by Dr. Macdonald indicating the School’s practice of weighting marks and exercising positive discretion in favour of raising students’ marks from one letter grade to another wherever reasonable and feasible to do so. As noted above, this practice worked to the benefit of the Student when her not-yet-final mark of 72 in the Course was raised to 73 by the reduction of the 10% lateness penalty to only 7%, before Dr. Crowcroft ultimately agreed to remove the deduction altogether and the Student’s numerical mark increased to 76. Though still a “B”, it is a strong “B” that shows the School applying its marking procedures to the Student in a way that was both fair and favorable to students.

**(v) Participation Mark**

Although the amended remedies being sought by the Student do not include a request for a reconsideration of her “Participation” mark, that mark bears mentioning in passing here nonetheless because the Student argued before your Committee that she deserved a perfect participation mark for the Course of 5/5, instead of the 4 marks out of 5 that she had been given. She asserted this was because she had attended all of the lectures and tutorials associated with the Course, and was an “extensive contributor” throughout.

Were the Student’s participation mark to be increased from 4/5 to 5/5 as the Student had originally sought in her appeal, her overall mark in the Course would go from 76/100 to 77/100, which would also imply that her letter grade would increase from a B to a B+. (NB: B+ for graduate students is a mark from 77/100 to 79/100, inclusive.<sup>46</sup>)

However, in reviewing the Master Grade Spreadsheet for the Course, it can be seen that of all the students in the Course, only one received a perfect participation mark of 5 out of 5 while four received marks of 4.5 out of 5, and everybody else in the course received the same 4 marks out of 5 that the Student had received.<sup>47</sup> There is certainly nothing on the face of that distribution of participation

---

<sup>46</sup> Respondent’s materials at Tab 5, p. 3.

<sup>47</sup> *Ibid.*, at Tab 6.

marks to indicate that the Student was being treated unfairly and, in the absence of any other evidence to corroborate such an assertion, your Committee finds that the participation mark she received was a reasonable one.

Therefore, even if the Student were still seeking the originally-requested remedy of a perfect mark of 5/5 for participation, which she is not, your Committee would decline to award it.

***(vi) Adverse Impact of Delayed Tutorial***

The Student made written submissions<sup>48</sup> and spoke about her concerns relating to the re-scheduling of her final tutorial session from March 17 to March 24, including the degree to which that postponement had adversely impacted her completion and submission of Assignment #4. Your Committee asked several questions of the Student about this issue. In doing so, your Committee was seeking to ascertain whether the delay of the final tutorial was unreasonable or had constituted unfairness towards the Student appellant when compared to other students in the Course.

Your Committee asked the Student whether she believed that she would have written a better paper if the tutorial had not been delayed. The Student replied that she would have done better because it would have given her an earlier opportunity to obtain clearer instructions and to ask any questions of her tutorial leader(s). However, your Committee takes note of the following:

- The Student confirmed that she had received, read and relied upon the syllabus for the Course at the beginning of the term that had provided her with the topic for her final paper, informed her that the final paper would be based upon the same topic as the first paper, advised her that both Assignments #1 and #2 would be “building blocks” for Assignment #4, and given her detailed timelines for the completion of her work. Students were therefore in a position to begin thinking about and preparing for the timely completion of Assignment #4 long before the final tutorial was held;
- When in her written materials the Student asserts that “(she) had 6.5 days less to write assignment #4 than the rest of the class,”<sup>49</sup> it overstates the facts by implying that the Student appellant was treated differently than all other students in the Course. In actuality, by her own testimony before your Committee, the Student confirms that she was one of seven (7) students in Tutorial Group A whose final tutorial was re-scheduled. No evidence was submitted to indicate how the rescheduled tutorial did or did not impact those other students.
- No evidence was presented to show that the Student had requested a specific exemption or extension in response to the rescheduling of the tutorial;

---

<sup>48</sup> Appellant’s submissions, I – OVERVIEW, par. 4 & 5

<sup>49</sup> *Ibid.*, II – FACTS, section sub-heading



- The Student confirmed at your hearing that she had enjoyed both formal and informal access to both Course Directors and tutors throughout the span of the entire Course, and found “everyone very open to discussion.” In fact, even when she submitted her late paper on April 18, the Student wrote to the responsible tutors:

“Thanks for the tutorials. They were very helpful.”<sup>50</sup>

At no time in that e-mail exchange did the Student refer to the delayed date for group “A”’s final tutorial as having interfered with her ability to complete the assignment in either a timely fashion or to the best of her abilities.

From the point of view of the School, Dr. Baxter, the Associate Dean of Academic Affairs for the School, confirmed that the Student had ongoing access to her tutors throughout the span of the Course. In her submission to the Graduate Academic Appeals Board on April 11, 2017, she wrote:

“(The Student) had access to her group Tutors and to Liane Macdonald (the course co-director) and Natasha Crowcroft.... (The Student) spoke with Liane Macdonald and Tutors about the assignment during the course. Thus, the change in the date of the tutorial did not materially disadvantage this student – students in her tutorial group had the same amount of time to complete Assignment #4 as all other students in the course and they had access to feedback throughout.”<sup>51</sup>

- In spite of having found the tutors to be “helpful” and approachable, the Student testified to your Committee that she had not availed herself of the opportunity to engage with any of her tutors about Assignment #4 outside of the formal tutorials.
- The School told your Committee that there is no policy constraining an instructor’s reasonable delay of a tutorial session and that, had the Student requested a specific extension in her deadline because of her detrimental reliance on the original timing of the final tutorial, it would have been considered. Again, in the event, no evidence of any such request having been made was presented to your Committee.

For all these reasons, your Committee does not find that, on its face, the delay in holding the final tutorial for group A, constituted either unreasonable or unfair treatment of the Student.

#### **IV. The Decision**

In considering this appeal, your Committee has asked itself whether the relevant policies and practices of the School have been applied fairly in this instance. The relevant policies and practices,

---

<sup>50</sup> Appellant’s materials at A6.

<sup>51</sup> *Ibid.*, at B72.

though largely unwritten, are those pertaining to the assessment and marking of students' Course assignments and their overall success in the Course itself. Your Committee neither heard nor saw evidence to indicate that they had been applied inconsistently, unfairly or with partiality.

However, as acknowledged by both parties at the hearing, fairness would dictate that the Student's mark on Assignment #4 had been calculated using arithmetic that was correct. Your Committee agrees with that position, and, by extension, would also extend it to the calculation of the Student's overall mark in the Course.

On that point, your Committee notes that the Master Grading Spreadsheet provided by the School shows that the Student earned the following marks during the Course:

- Assignment #1: 66/100 or 13/20
- Assignment #2: 80/100 or 13/15
- Assignment #3: 88/100 or 18/20
- Assignment #4: 63/100 or 25/40
- Participation: 4/5
- TOTAL: 73/100

However, given Dr. Crowcroft's subsequent agreement with the Student not to apply any deduction for lateness to her paper for Assignment #4, as outlined above, the mark for Assignment #4 was returned to 70/100 – the same mark originally given it by Dr. Frise. As a result, the amended calculation of the Student's final mark in the Course was as follows:

- Assignment #1: 66/100 or 13/20
- Assignment #2: 80/100 or 13/15
- Assignment #3: 88/100 or 18/20
- Assignment #4: 70/100 or 28/40
- Participation: 4/5
- TOTAL: 76/100

This was confirmed in the School's written submissions to your Committee, where it writes:

When Prof. Crowcroft removed the 7% late penalty applied to (the Student's) Assignment, her mark on the Assignment returned to the 70% she earned on the assignment. As a result, (the Student's) final grade increased from 73% to 76%. This means (the Student's) final grade in the Course remained a B.<sup>52</sup>

Therefore, if there were any inclination on the part of your Committee to "return" ten (10) points to the Student's Assignment #4 that she asserts were taken off unfairly for lateness, or if there were any inclination to submit the Policy Options section of that same assignment to another marker for

---

<sup>52</sup> Respondent's submissions, at par. 37.

consideration with the result that it received a higher mark than it had originally, any subsequent recalculation of the Student's final mark would have to start from a base mark of 76/100.

As it happens, your Committee is not inclined to take either of these steps.

First, your Committee is convinced that, though the language used by the School to communicate with the Student concerning the application or the non-application of the lateness penalty could have been clearer, the preponderance of evidence considered by your Committee is that the Student's Assignment #4 had never deserved a mark higher than 70/100. The evidence also shows that no penalty for lateness was ultimately factored into the School's calculation of the Student's final mark on either Assignment #4 or for the Course as a whole. Moreover, because Dr. Crowcroft agreed not to include any deduction for lateness in the calculation of the Student's final mark on Assignment #4, there are no points to be "returned" to it.

Second, the Policy Options section of the Student's Assignment #4 was already marked twice: first by Dr. Frise, the designated tutor, and second by Professor Crowcroft, the Course Co-Director. Your Committee sees no justification for the paper being marked by a third person in order, as the Student proposes, to "return (sic) (the Student's) grade to A+ on the assignment." There was no evidence presented to your Committee to substantiate the suggestion that the assignment had ever been assessed at anything above a B- level.

In summary, the Student earned a mark of 70/100, or a low B-, on her paper for Assignment #4, and a final mark of 76/100, or a high B, in the Course overall. In the absence of any reason to impugn the legitimacy or fairness of either these marks or the procedures used to arrive at them, your Committee dismisses the appeal on its merits.