

UNIVERSITY OF TORONTO

GOVERNING COUNCIL

**Report # 408 of the Academic Appeals Committee
December 16, 2019**

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Thursday, December 12, 2019, at which the following members were present:

Professor Stephen Waddams, Chair
Professor Paul Kingston, Faculty Governor
Mr. Laurent-Philippe Veilleux, Student Governor

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

Appearances:

For the Student Appellant:

Ms. J.P. (the “Student”), by Skype

For the University of Toronto Mississauga (“UTM”)

Professor Andreas Bendlin, Acting-Dean, Academic Experience, UTM
Ms. Michelle Kraus, Assistant Registrar, Academic Standards and Petitions, UTM

This is an expedited appeal from a decision of the Academic Appeals Subcommittee of the University of Toronto, Mississauga, dated Sept 26, 2019, dismissing an appeal from a decision of the Committee on Standing, which refused to grant the Student’s petition for the lifting of a one-year suspension imposed for failing to maintain a required cumulative grade point average.

The Student relied on her having made an error in selecting one of her courses which required greater mathematical and scientific knowledge than she possessed (Solar System Astronomy), on her parents having filed for a divorce, on her father having suffered financial reverses in 2018, and on her mother having had cancer a few years previously. The petition was refused by the two committees of University of Toronto, Mississauga on the basis that the Student had not established

special circumstances sufficient to justify an exception from the suspension, and that the petition was not supported by documentary evidence.

The Student's error in selecting the Astronomy course is not, standing alone, a sufficient ground for your committee to allow this appeal. Errors in selecting courses are governed by the University rules relating to "drop dates" which establish a date at which a student may withdraw from a course without academic penalty. Normally this will give sufficient protection to a student who has made an error in course selection. In exceptional cases there may be ground for permitting late withdrawal without academic penalty, but this should be claimed directly, and normally requires proof of compelling circumstances arising after the drop date applicable to the particular course. Permission for late withdrawal without penalty was not, so far as we know, sought in this case.

The jurisdiction of your Committee is to "hear and consider appeals ... in the application of academic regulations and requirements ..." (*Terms of Reference*, 2.1). Previous decisions of this Committee have established that the Committee does not consider the merits of the underlying University rule, but does consider whether its *application* has been shown to be unfair, unreasonable, or inconsistent (see Report #368, October 15, 2013, pp 4 and 5, and Report #376, October 14, 2014, p 4).

In this case we have to consider the application not only of the written rules governing suspensions (exhibit B to Professor Bendlin's submission; Academic Calendar Archive 2018-2019 University of Toronto, Mississauga) but also the unwritten principle, found in various places in the University, that an exception to a University rule may be justified where compelling circumstances show that strict application of the rule would result in undue hardship. This is (in our opinion) a very desirable principle, but it necessarily contains elements of uncertainty: judgment is required by a University officer as to whether the circumstances put forward are sufficient to justify an exception from the underlying rule, whether sufficient proof has been made of the circumstances, and whether a link has been established between the circumstances and the student's academic performance.

These are not matters on which absolute rules can be laid down, and opinions will necessarily differ on their application to particular cases. Such differences do not establish, in themselves, that a particular decision has been made unfairly, unreasonably, or inconsistently. A University decision-maker can properly take account of administrative considerations, and of fairness to other students who may have conformed to the underlying rule. It is neither possible nor desirable to lay down precise rules to govern the infinite variety of special circumstances that may be in issue. While we would hesitate to lay down an absolute rule that documentary evidence is always essential, we would accept that it is not unreasonable for a University officer, in considering whether to make an exception to a regulation, to expect a substantial degree of precision both in establishing the existence of special circumstances, and in establishing a link between the special circumstances and the student's failure to meet the requirements of the underlying regulation, supported by such evidence as the nature of the particular case allows.

In this case we cannot conclude that the decisions made by the Committee on Standing, and by the Academic Appeals Subcommittee, were unfair, unreasonable, or inconsistent. Accordingly, the appeal is dismissed.