

FOR INFORMATION

OPEN SESSION

TO: Academic Board

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

CONTACT INFO: christopher.lang@utoronto.ca

PRESENTER: See Sponsor

CONTACT INFO:

DATE: May 18, 2023 for May 25, 2023

AGENDA ITEM: 12(b)

ITEM IDENTIFICATION: Academic Appeals Committee, Individual Reports, Spring 2023

JURISDICTIONAL INFORMATION:

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

To hear and consider appeals made by students against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations and requirements and to report its decisions, which shall be final, for information to the Academic Board. The name of the appellant shall be withheld in such reports.

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

GOVERNANCE PATH:

1. **Academic Board [for information] (May 25, 2023)**

PREVIOUS ACTION TAKEN:

The last semi-annual report came to the Academic Board on November 17, 2022.

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, Spring 2023

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #424 of the Academic Appeals Committee
November 10, 2022

To the Academic Board
University of Toronto

Your Committee held a hearing on Friday, August 12, 2022, *via* audio-visual conference, at which the following members were present:

Academic Appeals Committee Members:

Ms. Sara Faherty, Senior Chair
Professor Mark Lautens, Faculty Governor
Ms. Susan Froom, Student Governor

Hearing Secretary:

Ms. Krista Kennedy, Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Appearing for the Student-Appellant:

Mr. O.R. (the Student-Appellant)

Appearing for the Faculty of Applied Science & Engineering:

Professor Thomas Coyle, Faculty of Applied Science & Engineering, Vice Dean, Undergraduate

I. Overview

The Student-Appellant appeals the April 18, 2022 decision communicated by the Chair of the Academic Appeals Board of the Faculty of Applied Science & Engineering, Professor Don Kirk. The Academic Appeal Board denied the Student-Appellant's request to adjust the Student-Appellant's final grade in MIE253H1, *Data Modelling*.

The facts of this incident are complicated, involving a course taken during one academic year (Fall of 2020) and continuing in progress during the following academic year and audited in Fall of 2021. The Student had a mishap writing the midterm in the Fall of 2020 and deferred his final exam until December of 2021. In the interim, there was more than one proposed and rejected remedy for the interrupted midterm exam, and the division appears to have lost track of (or never been properly made aware of) the midterm issue. It ends with this appeal, in which the Student-Appellant requests a different formula for calculating his course mark than the formula proposed by the Faculty of Applied Science & Engineering.

There is no dispute that a technical error interrupted the Student-Appellant's writing of his mid-term exam on October 29, 2020, and no dispute that the Faculty of Applied Science & Engineering had an obligation to provide a remedy for this unfortunate occurrence. The dispute revolves around the appropriate calculation of the final course mark when students start an exam and are not able to finish it through no fault of their own.

The Student-Appellant adds that the appeal also involves several unstructured frustrations and problems that ensued during the remaining writing time after the abrupt and incorrect shut down of his exam, and in conversations after the exam to remedy the early and incorrect shut down.

II. Facts

The Student-Appellant enrolled in MIE253H1, *Data Modelling*, during the Fall term of 2021. The course provided the following clear breakdown of assessment:

Midterm exam:	30%
Term work:	30%
Final exam:	40%

The Student-Appellant set about writing an on-line midterm exam on October 29, 2020. The standard writing time was two hours (120 minutes), but the Student-Appellant had an academic accommodation of additional writing time that brought his writing time to three and a half hours (210 minutes). Due to a technical error, the Student-Appellant's exam shut down at the two-hour mark, and he was unable to write any more.

The Student immediately notified his instructor that he was timed out early and deprived of the appropriate amount of time to write his midterm exam. The instructor responded promptly and attempted but was unable to get the Student-Appellant back into his midterm document. In the course of the first two hours of writing time (57%) of what should have been his allotted writing time, the Student answered nine of the thirty questions (30%) of the questions, and all of his responses were correct.

The instructor emailed back and forth with the Student repeatedly on October 29, the day of the exam, and the following day. On the 30th the instructor offered the Student the opportunity to write the exam the following day. The Student-Appellant chose not to do so because he was not confident that the instructor understood his concerns and because he was not available on that day.

The Student-Appellant contacted his accessibility services counsellor and continued to engage directly with the instructor, but due to medical circumstances, he was unable to resolve the issue and missed the deadline to submit a petition. The Student-Appellant's efforts to remedy the situation were delayed for medical reasons. The result of these mishaps was that efforts to remedy the interrupted midterm exam took place entirely informally, between the instructor and the Student-Appellant. This is a small detail, but it becomes important later in this complicated case that unfolded over two academic years.

There were several series of email exchanges, including in late November and mid-December of 2020. On December 19, 2020, the Student wrote to the instructor two times, proposing different schema under which his correct answers on the midterm be accounted for in the calculation of his final mark. The instructor responded to both emails promptly, each time ending his message with "The percentage will be applied to the exam." By this he meant that rather than the grade weight distribution listed above, the Student-Appellant's course mark would be determined by allocating 30% to term work, and 70% (the 30% originally meant to be measured by the midterm *plus* the 40% originally allocated to the final exam) to the final exam.

Further complicating matters, the Student-Appellant was required to defer the December 2020 final exam for medical reasons, and the Student was scheduled to instead write that final exam the following year.

The following year the Student-Appellant audited the course and prepared to write the final exam for the Fall, 2021 iteration of the course in order to complete his Fall, 2020 MIE253H1, *Data Modelling*, as per

the unrelated deferral of his final exam. More emails were exchanged during the Fall 2021 term. The Student-Appellant and instructor met *via* audio-visual conference in late October of 2021, and the Student wrote the following email after that meeting:

“Hi Professor,

Regarding the two exam options for my case that we discussed over Teams on Friday, I’d like to write the final exam with a 70% weighting (Final + Midterm Weight). I have also asked the Registrar’s office to send you notific[a]tion of the de[ferr]al final exam.”

At least for a short time it appears that the Faculty of Applied Science & Engineering and the Student-Appellant were in agreement about how to handle the interrupted midterm and how to calculate the Student’s course mark.

Unfortunately, this period of agreement was short-lived. In late December of 2021, there was another email exchange. The instructor invoked the Faculty of Applied Science & Engineering’s permission to defer the final exam in MIE253H1 to December of 2021, and concluded that he did not have the authority to apply the remedy of moving the weight of the October 2020 interrupted midterm exam to the final exam in order to determine the final course mark. On December 14th the instructor emailed the Student, writing, “Faculty of Applied Science & Engineering only authorized me to take your exam during this term. In consequence you[r] mark will be updated ONLY in the exam (40%).” It seems to this Committee, and to the Vice Dean of Undergraduate Studies who represented the division at the hearing, that the instructor misinterpreted the Examination Committee decision allowing the final exam deferral, believing it displaced the earlier decision to move the weight of the midterm to the final exam.

III. Issues

At issue in this academic appeal is the process of dealing with an examination that has been interrupted through no fault of the Student’s, and the appropriate calculation of a student’s course mark when a course component is invalidated. The fact that this course stretched over two terms, a year apart, complicated matters, and may have contributed to major players’ losing track of important details, but is irrelevant to this appeal.

Your Committee has been asked to answer three questions:

1. Is the Student-Appellant entitled to carry forward the remedy regarding his interrupted midterm from the Fall 2020 term into the Fall 2021 term?
2. What is the appropriate method for calculating the Student-Appellant’s term mark?
3. Did the errors made by the Faculty of Applied Science & Engineering Academic Appeal Board and adopted by the instructor burden the Student-Appellant and, if so, what is an appropriate remedy for the frustration he endured?

IV. Analysis

1. Is the Student-Appellant entitled to carry forward the remedy regarding his interrupted midterm from the Fall 2020 term into the Fall 2021 term?

This is the most straightforward question raised by this appeal, and the answer is certainly an unequivocal “yes.” We note that the Faculty of Applied Science & Engineering does not contest this point. On the

contrary, in his written response to the Student-Appellant's appeal, Vice Dean Undergraduate, Professor Thomas Coyle acknowledged that the instructor's assertion that he could not apply the previously agreed upon remedy concerning the midterm because the Undergraduate Assessment Committee's did not expressly tell him he could do so was "mistaken []".

The Faculty of Applied Science & Engineering supports applying the Student-Appellant's request for the remedy for the weight of the interrupted midterm to the final course mark, and so does your Committee.

2. What is the appropriate method for calculating the Student-Appellant's term mark?

The Faculty of Applied Science & Engineering has a process for calculating course marks when a course component is compromised: they typically add the weight of the missing assessment to the weight allocated to the final exam. The instructor offered the Student-Appellant an opportunity to rewrite the midterm, but the Student declined. After that the instructor twice told the Student-Appellant "the percentage will be applied to the exam." There is no disagreement between the parties that there are multiple possible methods for dealing with a compromised course component. Many different formulas can be generated for this purpose, and none of them would be perfect.

At one point in time the Student-Appellant seemed to accept the Faculty's typical practice, writing in his October 24, 2021 email that he wished to move the weight of the interrupted midterm to the final exam: "Regarding the two exam options for my case that we discussed over Teams on Friday, I'd like to write the final exam with a 70% weighting (Final + Midterm Weight)."

In his arguments, the Student-Appellant acknowledged, "I understand the faculty's typical and common consideration of adding the midterm test to the final examination and how that solution typically resolves testing incidents, however, because it typically is applied doesn't mean it's adequate or fair to apply here or in all outlier cases." The Student-Appellant does not establish that in his case the method is inadequate or unfair, and he does not explain how his case is an outlier.

The Student-Appellant has generated a different formula for calculating his mark, but your Committee is not convinced that the formula proposed is a fair one. He wishes to reap some of the benefits of his correct answers, without recognizing the disproportionate amount of time he spent writing those answers. Later in his arguments, he proposed applying a pro-rated version of his original formula, but this misses the point—the division does not need a new way to calculate the Student-Appellant's course mark. It already has a formula for doing so, that was clearly communicated to the Student early in the process, and that it applies to all other students in the same position. Even if the Student-Appellant's proposal were mathematically defensible, it would still be unfair to offer that remedy to this student, when it is not offered to other students. Your Committee believes it is important for the Faculty of Applied Science & Engineering to be consistent and transparent in how it deals with missed assessments, and believes the method typically used by the division, the one that was proposed by the instructor during the term the midterm was missed and selected by the Student-Appellant before he wrote his final exam, is the most appropriate one here.

3. Did the errors made by the Faculty of Applied Science & Engineering Academic Appeal Board and adopted by the instructor burden the Student-Appellant and, if so, what is an appropriate remedy for the frustration he endured?

The Student-Appellant writes that his confidence, trust, and security in the academic fairness and values of the Faculty of Applied Science & Engineering has been shaken by this incident. This is a sad turn of

events. Your Committee understands the Student-Appellant's frustration, and agrees that several errors were made by members of the Faculty of Applied Science & Engineering in handling this file.

First, the instructor engaged in lengthy exchanges with the Student about how to resolve his difficulties instead of referring him to the appropriate contacts in the department or instructing him to submit a petition. The instructor was correct in identifying the Faculty of Applied Science & Engineering's practice of moving the weight of compromised assessments to the final exam, however, this substantively correct response was arrived at informally, and the fact that the remedy was not given by the Faculty of Applied Science & Engineering may have led to the second error, because the interrupted midterm was not on the Faculty of Applied Science & Engineering's radar.

Second, when the Student ended up deferring his final exam in MIE253H1, *Data Modelling*, it may have been unaware of the separate arrangements that had been made between the instructor and the Student-Appellant. The instructor's December 14, 2021 email incorrectly interpreted the Faculty of Applied Science & Engineering's approval of a deferred exam due to the Student-Appellant's December 2020 illness and mistakenly believed it precluded the consideration he had already granted that the October 2021 midterm weight would be moved to the final exam. The Student-Appellant tried to explain that the midterm remedy was related to a different set of issues, but the instructor did not appear to be moved, concluding the exchange on December 29, 2022, with, "Unfortunately I must follow the rules. Faculty of Applied Science & Engineering only authorised me to provide you with a deferred exam. Nothing more."

Third, it seems the Undergraduate Assessment Committee's January 31, 2022 decision denied the Student-Appellant's petition for special consideration without actually understanding the Student-Appellant's request. We note that the request itself is somewhat unclear, and in his petition the Student-Appellant expressly mentioned that he was unable to submit the attachments he wished the Committee to consider. The Undergraduate Assessment Committee determined simply that there was insufficient reasoning for the Student-Appellant's request. Given the lack of clarity of the Student-Appellant's request, and the missing documents, it was inappropriate for the Undergraduate Assessment Committee to issue a decision. We believe a further inquiry would have been a better response than denying the petition. While the Undergraduate Assessment Committee did suggest that the Student-Appellant consult with his Academic Advisor, and inform him of an appeal process, given the lack of clarity and completeness of the request, a request for resubmission would have been a better approach.

Finally, the April 18, 2022 decision of the Academic Appeals Board incorrectly denied the Student-Appellant's request to adjust his mark based on the mid-term grade and weight. In its reasoning, the Board found that the deferred exam in December 2021 was a sufficient remedy, apparently not understanding that the Student-Appellant was asking for an additional remedy based on a different set of facts.

Your Committee might call this a comedy of errors, except there is nothing comedic about the level of frustration experienced by the Student-Appellant. There were serious miscommunications throughout this process, some of which are the responsibility of the Student-Appellant, whose email requests and petitions were not always clear. However understandable the decision-makers' lack of comprehension may have been, your Committee thinks they had a responsibility to seek more information when they did not understand the Student-Appellant's requests.

Fortunately, the Vice Dean of Undergraduate students at the Faculty of Applied Science & Engineering did finally piece together the Student-Appellant's file. He correctly identified his predecessor's errors in denying the Student-Appellant's request to move the weight of the midterm to the final exam.

There were errors made by the Student-Appellant as well, including failing to file a timely petition regarding the midterm mishap and not reducing the size of his attachments so he could submit them with his petition, either by editing them or including their substance in his petition. Overall, it was frustrating for the Student-Appellant to have to wait for this appeal process to get a coherent response from the Faculty of Applied Science & Engineering. The University does allow this appeal process, and it is through this process that the errors have been corrected.

Your Committee is sympathetic to the Student-Appellant on this count and hopes the Faculty of Applied Science & Engineering will improve its petition process to allow students with incomplete or confusing petitions to repair their requests before decisions are made.

V. Conclusion

The Student-Appellant was granted and is entitled to two separate academic accommodations he received during the Fall 2020 academic term. He was entitled to move the weight of his interrupted midterm to the final exam, and he was entitled to defer that exam to the winter of 2021. The Faculty of Science & Engineering disallowed the implementation of both of those accommodations at the same time, apparently thinking the exam deferral was offered *instead of* the re-allocation of the assessment weight, or, maybe more likely, being unaware of the issue with the midterm and the privately agreed upon remedy between the instructor and the Student. This was incorrect, which the Faculty now concedes. The Student-Appellant should receive both of those considerations.

Both the Student-Appellant and the Faculty of Applied Science & Engineering agree that the usual method of remedying interrupted assessments in the Faculty of Science & Engineering is to move the weight of the interrupted assessment to the course's final assessment. That is a legitimate method of dealing with interrupted assessments, and, importantly, is consistent with how the Faculty deals with other students in similar circumstances. The Student-Appellant's proposed alternate method of calculating the course mark favours him, but students are not entitled to choose the formula they prefer for calculating their marks. On the contrary, the Faculty has an interest in consistency and transparency in calculating marks.

It is unfortunate that the Faculty of Applied Science & Engineering lost track of the Student-Appellant's two separate sets of problems and two separate requests. The Student-Appellant may have contributed to the confusion by not following the formal process for resolving one of the issues, and in a lack of clarity in his communications. The remedy for correcting errors is to submit a petition and appeal, and the Student-Appellant has followed and succeeded in that process.

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #425 of the Academic Appeals Committee
January 9, 2022

To the Academic Board
University of Toronto

Your Committee reports that it held an electronic hearing, conducted by Zoom on Tuesday, November 1, 2022, at which the following members were present:

Academic Appeals Committee Members:

Dr. Erika J. Murray, Chair
Professor Douglas McDougall, Faculty Governor
Ms. Dveeta Lal, Student Governor

Hearing Secretary:

Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

For the Student Appellant:

Ms. R. R. (the “Student”)

For the Faculty of Arts and Sciences

Ms. Erin McNab, Director, Faculty Governance & Curriculum Services
Professor. William Ju, Vice Dean, Undergraduate

I. Appeal

The Student appeals the June 16th, 2022 decision communicated by the Chair of the Academic Appeal Committee of Faculty of Arts and Sciences, Associate Professor, William Ju. The Academic Appeal Committee of Faculty of Arts and Sciences denied the Student's request to either revert the Student's grade in an assignment to the original grade prior to a remaking, or to have another teaching assistant or the same teaching assistant from the course re-grade the assignment in BCH210H1, *Biochemistry I: Proteins, Lipids and Metabolism*.

II. The Facts

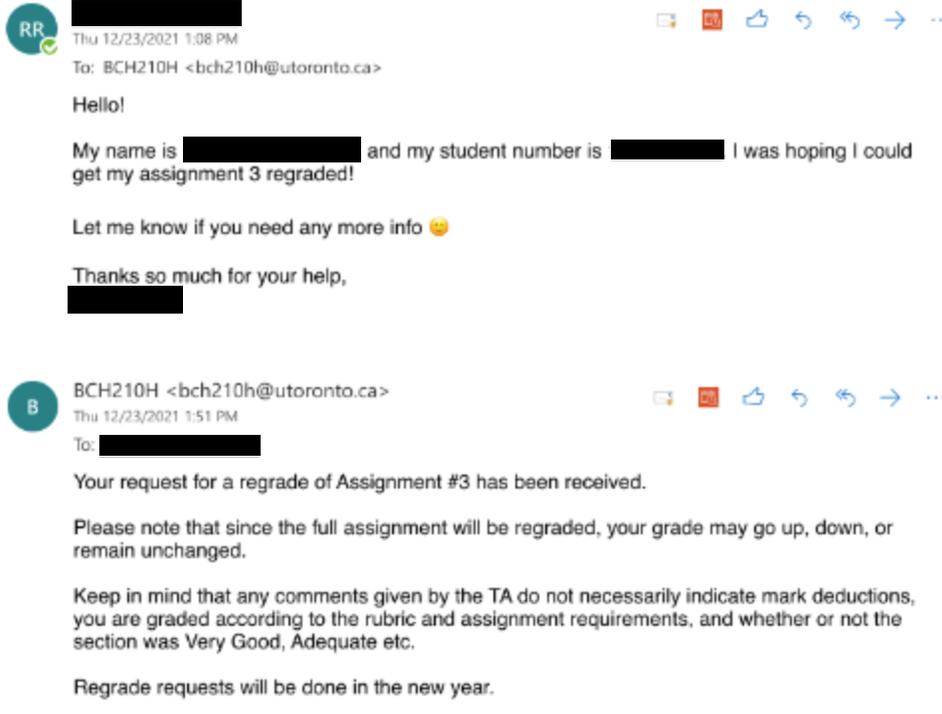
The facts of this matter, when distilled, though lengthy, are fairly straightforward. The Student ("the Student") was enrolled in BCH210H1 during the Fall term of 2021. The following is a breakdown of the assessments and associated marking scheme of the course:

- 10% Brain Break Questions after lectures (best 10 of 11 weeks)
- 15% Self-Assessment online quizzes (10x1.5% each, best 10 of 11)
- 20% Final Assessment, 36-hour completion period
- 45% Assignments (3 x 15% Assignments)

The assignment that is the subject of this appeal is one of three assignments worth 15% of the Student's grade, which was due on November 29, 2021 ("Assignment #3" or "the Assignment").

A teaching assistant ("TA") originally marked the Student's Assignment #3. On December 23, 2021, the Student was informed she received a 78% grade on the Assignment. On the same day, the Student emailed the course instructor, Professor Patterson ("the Professor"), requesting that her Assignment #3 be regraded. The Student received the following response from Professor Patterson:

Initial communication with Dr. Patterson requesting a Regrade



In the new year, on January 3, 2022, the Student received a response from the Professor indicating that the Professor had gone through the Assignment (not a TA) and that the Professor's regrade mark was 56% (a 22% drop in mark). Professor Patterson noted to the Student "What the TA gave you was more than generous", that the Student's mark was now a 56% and that "I know this probably wasn't the outcome that you were hoping for, but I do need to abide by the regarding policy." The Student responded to the Professor concerned about the 22% drop in grade and inquiring about the associated policies. Professor Patterson responded to the Student indicating that the grade was final, that "there is nothing else that can be done at this point," that "the class is very large", has "policies on regrading" and also noted to the Student to "try not to worry".

On January 7th, 2022, the Student reached out to her Registrar of the Academic Advising Office, Victoria College, in order to see how to appeal the Professor's 56% regrade. The Registrar responded asking the Student to reach out to the Undergraduate Administrator ("UG Administrator"). The Student outlined in her email to both the Registrar and UG Administrator that she understood there was a risk that her grade may go down upon a re-grading, however, she understood/expected that "Profs and TA's usually share similar expectations of what kind of work students are expected to produce". The Student submitted the request for a regrade promptly on December 23rd, the day she received the Assignment back. The Student expected the re-grading to be done by the TA or another TA, however, the Professor did the regrade on January 3rd, reducing the Student's grade by 22%. The Student explained, "This came as a shock to me as I didn't expect such a discrepancy between what the TAs expected and what Prof. Patterson expected."

On January 11th, 2022, The UG Administrator, Ms. Jennifer Haughton, responded to the Student with the Registrar cc'ed indicating that the re-marking was properly done since the Assignment was "thoroughly reviewed" by Professor Patterson, which resulted in the lower mark than the TA and that "this re-marking request is final". An hour later, the Student received an email from Ms. Yvette Ali of the Registrar noting "I thought the department would be more flexible", and that the Student had now "fully explored that option" (for an appeal/review of the regrade) and recommended that the Student not pursue the matter further and, at this point, the Student would "just" have to "live with the re-grade assigned."

On January 12th, 2022, the Student responded to the UG Administrator requesting a phone conversation. The Student noted in that correspondence that the entire process was unclear to her, was causing the Student stress and anxiety, and that the Student was seeking "a way for me to thoroughly understand the steps that lead to this decision." The Student never received a response from the UG Administrator.

On January 24th, 2022, the Student wrote to the Registrar inquiring about any appeal process and again emphasized the Student's concern that she genuinely did not think that the Department took the time to review the matter and that, when she asked about the review process, she did not receive a response.

On January 26, 2022, the Registrar responded to the Student indicating that, since the Assignment was only worth 15%, "the matter could not be escalated further (as per the rules)", however, although the department is not obligated to review a request for appeal, "it was still worth asking".

At this stage, the Student followed up with the Dean's Office to pursue her concerns and appeal. Over a 2-month period, from January to March 2022, the Student met or corresponded, and needed to follow-up on several occasions with Professor William Ju, who was Associate Dean, Student Affairs at the time (presently Acting Vice Dean, Undergraduate). Professor Ju sought to assist the Student with her request to have her regrade reviewed, indicating he was reaching out to discuss the matter with the Undergraduate Chair and then confirmed that he believed the Undergraduate Chair and himself would be "reaching out to the instructor to see if we might chat first" (i.e., before the Student pursued an appeal). Professor Ju then apologized for the matter "taking much longer than I know you wanted." It is unclear how the discussion went with the Professor, however, ultimately Professor Ju advised the Student to set up a meeting with the Associate Chair directly and to prepare an appeal to the Vice Dean directly.

The Student did so and emailed Dr. Craig Smibert, acting Undergraduate Chair of the Department of Biochemistry, on March 22, 2022. She met with Dr. Smibert on April 6, 2022. On April 27, 2022, Dr. Smibert emailed the Student to advise that he had reviewed the assignment and, "after careful consideration," supported Dr. Patterson's amended grade.

The Student then followed up by emailing Dr. Liliana Attisano, Interim Chair of the Department of Biochemistry, on April 28, 2022. On May 16, 2022, Dr. Attisano responded via email that she had also reviewed the documentation and agreed with Dr. Patterson's amended grade.

Following Dr. Attisano's decision, the Student emailed Professor Ju on May 18, 2022, for advice about next steps. Professor Ju advised the Student that the next step in the appeal process was to put together an appeal to the Faculty, with documentation, and to send it for review and consideration by the Vice-Dean, Undergraduate, Professor Randy Boyagoda.

The Student appealed to the Faculty of Arts & Science via email on May 29, 2022, requesting an official academic appeal, attaching documents explaining her rationale and providing supplementary material and correspondence. In evaluating the appeal, Dr. Randy Boyagoda, Vice-Dean Undergraduate for the Faculty, reviewed the materials provided by the Student and met with Dr. Liliana Attisano on Wednesday, June 8, 2022, to discuss the Student's appeal and the process. On June 16, 2022, Dr. Boyagoda emailed the Student with the Faculty's decision in her appeal:

I am satisfied, on behalf of the Dean, that the relevant policies and procedures associated with your request for an appeal were followed at the department level, and that your appeal was given fair consideration. This concludes the consideration of your appeal at the divisional level.

On August 11, 2022, the Student then appealed to the Academic Appeals Committee of Governing Council, raising the following three concerns:

1. that her work was not graded to a standard equitable with other students;
2. that her work ought to have been regraded by a TA, rather than the instructor; and
3. that she was insufficiently informed about how her appeal was being assessed.

The Student sought the following two remedies:

1. that her mark for Assignment #3 be reverted to the original 78%; or
2. that another or the same TA from the course re-grade her work.

The Faculty's Academic Appeals Committee dismissed the Student's appeal, finding that the appropriate procedures were followed, the Student was treated fairly, and the marking standards applied were consistent with those applied to all other students who did the assignment. Specifically, your Committee reasoned that given the low weight of the Assignment, the Student was not entitled to any remarking consideration beyond the instructor level, nonetheless she received special consideration, and that, at all stages, the Student's requests were seriously and fairly considered. The Committee also found the remedies sought by the Student were not appropriate.

III. Issues

At issue in this academic appeal is the re-grading process of an assignment worth less than 20% originally graded by a TA, re-graded 22% lower by the course Professor, and the appropriate academic appeal processes related to the remarking request.

This Committee considered the following four issues:

1. Were the relevant academic remarking policies and procedures applied correctly, consistently, and fairly?
2. Were the communications to the Student that the regraded mark is final, that there was no right to appeal reasonable, made without delay and through a demonstrably fair interpretation and/or application of the relevant policies? Was the Student entitled to any re-marking consideration beyond the instructor level?
3. Was the Faculty decision that the appropriate procedures were followed and that the Student was treated fairly, made through a demonstrably fair interpretation and/or application of the relevant policies, processes and procedures that were relied upon or invoked in its making?
4. If the Student was entitled to an Academic Appeal of the regrading of an Assignment worth less than 20% of the course mark and the appeal decisions were not made through a demonstrably fair interpretation and/or application of the relied upon relevant policies, processes and procedures invoked in its making, what is an appropriate remedy for the Student?

IV. Analysis

1. Were the relevant academic re-marking policies and procedures applied correctly, consistently, and fairly?

This Committee finds that there was unfairness and inconsistency in the application of the relevant policies at issue in this appeal. Section 5.14 Requests to Re-Mark Assignments & Terms Tests, Academic Handbook For Instructors, Faculty of Arts and Science provides that “[i]f a TA originally marked the work, the remarking request should go first to the TA and any appeal of that should go to the course instructor.” This is the policy that *should* have been followed. However, in the Student’s case, there was no TA involved in the regrading process. Instead, the Professor of the course did the regrading with a 22% reduction in the Student’s grade. The Committee found that this aspect of the policy was correctly followed since the guidance reads “should”, rather than “must”. This Committee agrees and accepts that “should” denotes a recommendation of that which is advised but not required in order to conform to the policy. However, at the hearing, this Committee questioned the fairness associated with the Professor not following the policy to have the TA who originally graded the assignment do the regrading. This Committee finds that the Faculty Committee unfairly accepted the Faculty’s argument that it would not have been appropriate for the instructor – or the department, or the Faculty – to reach out to the TA outside of the terms of their contract. The Assignment was completed on

November 29, 2021, the re-grade request was made promptly by the Student on December 23, 2021, the day the Student received the grade, which, at the hearing, the Faculty acknowledged may likely have been within the time frame of the TA's contract. Moreover, at the hearing, the Faculty was questioned by this Committee whether it is the case that, when a Student submits a remarking request near the end of an academic term of a TA grade, if it is consistent across the Faculty that such remarking requests do not generally and therefore should not go first to the TA who originally marked the work? The Faculty conceded that no, TA's are regularly engaged to do remarking at the end of academic terms and beyond, however, not in this case.

Your Committee also found that "Indeed, [the Student] independently reached out to another teaching assistant in BCH210 to ask about re-marking possibilities; this teaching assistant notes that they cannot help as they are no longer employed in a marking contract for BCH210." At the hearing and in the Student's written submissions to this Committee, the Student submitted that "this is a blatant misquote of the evidence" and speaks to the unfairness of the process and bias of the lower Committee reviewing the facts of the case. This Committee agrees with the Student. Indeed, the evidence indicates that the Student did reach out to another TA of the course for an independent re-grading. That TA, Ms. Rachel Shannon, responded indicating she "was not on the marking team for this particular assignment." The TA suggested (along the lines of the policy) that "it would be better if you asked the TA who did the mark[ing]". That TA did not in any way note that they could not help with the regrading because they were no longer employed in a marking contract for BCH210 like the Committee found and relied upon in their reasoning.

Besides being treated unfairly throughout the Student's lengthy review and appeal processes, the crux of the Student's argument in written and oral submissions is that, by having the Professor, not the TA, do the remarking, the Assignment was not graded to a standard consistent and equitable with all other students marked by TA's. Your Committee found and during the hearing before this Committee, the Faculty also argued that, since the Professor used the same rubric that was used by the TA's for all students, the grading standard of the Professors' regrade of the Student was necessarily consistent across all students in the course. This Committee does not agree and instead accepts the submission of the Student, who at the hearing, asked the Faculty member representative, Professor William Ju, if, as a scientist, they were aware of the concept of inherent biases. The Faculty conceded that certainly there can be differences in evaluators, individuals will evaluate differently even if given the same rubric, however, the Faculty then argued that this Committee needs to defer to the professionalism of the Professor. In essence, the Faculty argued that, since it was the Professor of the course who did the regrade using the same rubric as the TA's, the regrading absolutely must have been done fairly and to the same grading standard applied to all students in the course. This Committee does not agree that any grader, including professors, should be afforded absolute deference to their grading and hence why section 5.14 of the policy and other University policies exist. However, this Committee does agree that academic graders, in particular professors, ought to be accorded significant deference in their grading. At issue in this unusual case, having a 22% regrading discrepancy, is whether the Faculty's decision that the Professor's regraded mark was final, is a reasonable one, made without unreasonable delay through a demonstrably fair interpretation and/or application of the relevant policies, processes and procedures that were relied upon or invoked in its making? This Committee unequivocally finds, "no".

The unfortunate and unique circumstances before this Committee and faced by the Student is the significant 22% discrepancy in re-grading, which, on its face, raises the valid concern of a reasonable apprehension of bias and thus unfairness. Of importance to this Committee is there was no evidence to indicate that the Student was incorrectly awarded additional grades for questions on the Assignment, in other words, it is not the case nor the submission of the Faculty that the TA made fundamental calculation errors. The fact before this Committee, as well as the lower appellant levels, is essentially that the Professor did the re-grading less generously than the TA. This Committee finds that it is not necessary for the Student to prove whether there was inherent, implicit or unconscious bias in the Professor's re-grading in order to bring the fairness of the re-grade into question. Indeed, the fairness of a decision-making process can be undercut by the mere perception of bias, where that perception is deemed to be reasonable. In this unique case, this Committee finds the 22% discrepancy in re-grade raises a reasonable apprehension of bias on part of the Professor, particularly when the policy provides that the re-marking should first go to the TA who did the original marking, and importantly, the evidence indicates the Professor explaining to the Student that the standard applied by the TA "was more than generous" than that of the Professors.

2. Were the communications to the Student that the regraded mark is final, that there was no right to appeal reasonable, made without delay and through a demonstrably fair interpretation and/or application of the relevant policies? Was the Student entitled to any re-marking consideration beyond the instructor level?

Your Committee reasoned that given the low weight of the Assignment, the Student was not entitled to any remarking consideration beyond the instructor level. This Committee disagrees. This Committee finds that, despite section 5.14 providing that "[a]n appeal of a mark beyond the instructor may only be made for an item worth at least 20% of the course mark", the Special Consideration Appeal Policy should be applied to this case. The Special Consideration Appeal Policy, which was highlighted in evidence before your Committee, provides the grounds that the Student was eligible for remarking consideration beyond the instructor level. Indeed, the Arts & Science Academic Calendar provides:

Special Consideration Requests to Academic Department(s): Special consideration requests to academic department(s)/unit(s) (sometimes called Academic Appeals) concern issues arising within a course that relate to the pedagogical relationship of the instructor and the student, such as the organization of a course, grading practices, or conduct of instructors. These fall within the authority of the academic unit sponsoring the course and are not the subject of Faculty petitions. Students are encouraged to discuss any issues regarding the academic aspects of a course first with the instructor. It is recommended that such discussions should be documented in writing where appropriate. The successive stages of special consideration request after the course instructor must be documented in writing. These successive stages are: the Undergraduate Coordinator or Associate Chair; the Chair or Program Director of the Academic Unit; then the Office of the Dean, Faculty of Arts & Science. A special consideration request must have been reviewed at the academic unit level before being referred to the Dean's Office; requests to the Dean's Office must be in writing

Given that section 5.14 provides that an appeal of a mark beyond an instructor may only be made for an item worth at least 20% of the course mark, this Committee did question the Faculty representatives at the hearing why the Student's appeals were considered by the Academic Unit, the Dean's Office, the Division, the Academic Appeals Committee ("the University Units") and now were before our Committee. The Faculty explained they "felt it was important that the

Student be heard”. In other words, the Faculty made clear to this Committee that there was no dispute that the Student should be accorded procedural fairness. Importantly, greater procedural fairness protection is usually required if a decision is considered final, but a decision need not be final in order to attract a high degree of fairness protection (See *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817).

This Committee finds it concerning that if it was not for the tenacity of the Student and the willingness of Professor William Ju to take the Student’s concerns of the 22% discrepancy in regrade seriously, the Student may have been left with the incorrect understanding that the “re-grade was final” (per the UG Coordinator), that “nothing else could be done” (per Professor) and that the Student would “just” have to “live with the re-grade assigned.” (per the Registrar). This Committee questioned and it was confirmed at the hearing before this Committee, that the delays in communications to the Student between January to April 2022, as between the UG Coordinator, Faculty and Dean’s Office (“the University Units”) were related to all of the involved University Units trying to ascertain what was the correct policy/procedure to follow given the 22% in regrade discrepancy and an assignment worth less than 20%. This Committee finds that the Student ought to have been promptly and clearly informed that, per the Special Considerations Policy, she could make an Academic Appeal of the Professors regrade in successive stages starting with the Undergraduate Coordinator or Associate Chair; the Chair or Program Director of the Academic Unit; then the Office of the Dean, Faculty of Arts & Sciences. Importantly, this Committee acknowledges that all such Special Consideration Requests will not nor shall be granted an appeal by the department/units. However, this Committee finds that, in order to be procedural fair to students, it is important that students not be told that “there’s nothing else that can be done” and “not to worry”, but instead that they be properly and promptly informed of their ability to make an appeal. This Committee emphasizes that, in many cases, appeals may be denied, however, in such circumstances to be procedurally fair, students should be provided with some form of reasoning as to why their appeal is being denied.

This Committee finds that the Professor unfairly indicated to the Student that the grade was final, that “per the policies” “nothing else could be done” and to “try not to worry”. Similarly, it was unfair for the Registrar to inform the Student that she would “just” have to “live with the re-grade assigned”. Furthermore, this Committee finds that it was unfair and procedurally incorrect for UG Administrator to tell the Student that the “re-marking request is final” without any explanation and/or reference to the relevant policy and then for the UG Administrator to not respond when the Student replied inquiring about the review process and how the Student could pursue an appeal. All of the involved University Units ought to have been more familiar with the relevant policies and instead informed the Student when she repeatedly inquired that, pursuant to section 5.14, an appeal of a mark beyond the instructor may only be made for an item worth at least 20% of the course mark, however, that pursuant to the Petitions and Appeal Policy, the Student could make a Special Consideration Request for Academic Appeal to the Department. This was not done. Instead, this Committee finds the Student was unfairly given the run around for months by the involved University Units, resulting in unreasonable delay and procedural unfairness.

3. Was the Faculty decision that the appropriate procedures were followed and that the Student was treated fairly, made through a demonstrably fair interpretation

and/or application of the relevant policies, processes and procedures that were relied upon or invoked in its making?

This Committee finds that, despite the Student, months later, finally being informed of her right to appeal, her appeals were not fairly heard or made through a demonstrably fair interpretation and/or application of the relevant policies, processes and procedures that were relied upon or invoked in its making. This Committee does not agree with the Faculty Committee's finding that "At all stages, [the Student's] requests were seriously and fairly considered." It appears clear to this Committee, pursuant to the procedural policies at issue, that once the Student was granted her appeal under Special Consideration, the Student's appeal ought to have first gone and have been considered by the UG Coordinator according to the following procedures under section 5.14:

- If the UG Coordinator believes a remarking is justified, then he or she will select an independent reader who will be given a clean, anonymous copy of the work. Without knowing the original assigned mark, and taking into account the context of the course for which it was submitted, the independent reader shall determine a mark for the work."; and
- If the recommended [i.e. independently graded] mark differs substantially from the original mark, the UG coordinator shall determine a new mark, taking both marks into account.

Instead, in the case of the Student, the UG Administrator informed the Student that the remarking was properly done since the Assignment was "thoroughly reviewed" by Professor Patterson, "which resulted in the lower mark than the TA" and that "this re-marking request is final". Importantly, when the Student responded inquiring about what processes and procedures were followed by the UG Administrator in reaching this decision, the Student received no response. It appears to this Committee that either the AG Administrator incorrectly thought that there was an absolute concrete no right of appeal on assignments worth less than 20% (issue addressed above), and/or was unaware of the procedures regarding having an independent grader (policy outlined directly above), and/or the UG Administrator did not believe a remarking was justified, despite a 22% discrepancy in regrading. It also appears to this Committee that Professor William Ju recognized the substantial discrepancy in regrade and the justification for the Student needing to have her case actually "heard", hence his commitment to the Student to speak to the Professor and his assistance in ensuring the Student was informed of her paths of appeal, albeit delayed and convoluted. This Committee commends Professor William Ju for his student dedication and integrity. However, this Committee finds it unfortunate and unfair that, at no point, did any of the involved University Units responsible for reviewing the Student's regrade, including the Faculty Committee, seek to have an independent grader involved, specifically by giving them a clean anonymous copy of the work without knowing the original assigned mark. Instead, this Committee finds that there was no independence in the review process of the Professor's regrade. All of the involved University Units, including the UG Administrator, the UG Chair, the Interim Chair, the Vice-Dean UG, instead, while knowing the original mark and without any anonymity, "looked over the Assignment" and "fully supported" the Professors regraded mark. This was procedurally unfair and unreasonable for the Faculty and your

Committee to find that the appropriate procedures were followed. In summary, this Committee finds that, by having no independent reader, no clean copy and no anonymity with respect to the review/appeal process, the Student was not treated fairly. The regrading review process was not made through a demonstrably fair interpretation and/or application of the relevant policies, processes and procedures that were relied upon or invoked in its making.

4. If the Student was entitled to an Academic Appeal of the re-grading of an Assignment worth less than 20% of the course mark and the appeal decisions were not made through a demonstrably fair interpretation and/or application of the relied upon relevant policies, processes and procedures invoked in its making, what is an appropriate remedy for the Student?

Based on the detailed reasoning above, this Committee finds that, while the Student was not entitled to an Academic Appeal of re-grading since the Assignment at issue was worth 20% of the course mark, the Student was entitled to be informed of her right to appeal under the Special Consideration policy. Once the involved University Units accepted the Student's appeal under the Special Consideration Policy, the Student was entitled for the involved University Units to review the Student's appeal of the regrade through a demonstrably fair interpretation and/or application of relevant policies, processes and procedures invoked in its making. Specifically, by selecting an independent regrader and following the policy. This was not done. This process would have been prompt, fair to the Student, and alleviated countless hours, communications, meetings, and appeals, including before this Committee, should the Department have followed the policies in place. The issue now before this Committee is what is an appropriate remedy for the Student? This Committee did briefly contemplate requesting the Department to select an independent grader and having the relevant policy followed, however, in view of the procedural unfairness and unreasonable delay experienced by the Student, this Committee finds reverting the Student's grade in the Assignment to the original 78% is an appropriate remedy in the unique circumstances of this matter.

V. Decision

Appeal is allowed.

UNIVERSITY OF TORONTO
GOVERNING COUNCIL
Report #426 of the Academic Appeals Committee
April 13, 2023

To the Academic Board
University of Toronto

Your Committee reports that it held an electronic hearing, conducted by Zoom on Friday, March 10, 2023, at which the following members were present:

Academic Appeals Committee Members:

Cheryl Milne, Chair
Professor Jan Mahrt-Smith, Faculty Governor
Susan Froom, Student Governor

Hearing Secretary:

Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

For the Student Appellant:

Mr. T.S.C. (the “Student”)

For the Faculty of Applied Science & Engineering:

Professor Thomas Coyle, Vice Dean, Undergraduate

OVERVIEW

The Student appeals the decision of the Faculty of Applied Science & Engineering’s Academic Appeals Board dated August 25, 2022 denying his request to write a deferred exam in the 2022 Winter Session. The Student had been granted a deferral by the Undergraduate Assessments Committee for the exam schedule on April 25, 2022, in the course MIE100, due to illness but missed the deferral exam and petitioned for a further deferral. The Academic Appeals Board denied an appeal of the decision of the Undergraduate Assessments Committee for the second deferral. The Student claims that the decision granting him a deferral of the April 25, 2022, exam was not communicated to him in time to write the deferred exam held on May 18, 2022. The Faculty claims that the Student was made aware of the date and decision respecting the deferred exam and that the Student indicated that he would not be able to write it because he would not be in the country on that date. The Academic Appeals Board denied the appeal on the basis of insufficient evidence and justification to grant the request.

The Student asks your Committee to grant the appeal and an order allowing him to write a deferred exam, or alternatively, given the time that has elapsed, permitting a reweighted assessment based upon his earlier performance in the course.

FACTS

The exam period in question was during a period of high incidence of illness due to COVID-19. The Faculty of Applied Science & Engineering communicated clearly to students that if they had symptoms of illness they should not attend their final exam but make an illness declaration and petition for a deferred exam. Due to the high number of deferred exams, the Faculty set aside May 16 – 27, 2022, as the time to schedule all such deferred exams. Information was conveyed about how to petition for a deferred exam with the recommendation that students not come to campus if they have any symptoms. This information was posted on the Faculty website on April 11, 2022 and emails went out to students with the same message on April 19, 2022 and April 25, 2022. Included in these messages to students was the statement,

If you are sick or you are experiencing other extenuating circumstances that you feel will severely affect your performance, do not write your final exam. The Undergraduate Assessment Committee is less likely to grant a petition after a student has attempted the final examination.

The Student is an international student and was in his first year of the Undergraduate Engineering program. He came to campus on April 25, 2022, to write his final exam in MIE100. During the course of the exam, the Student became increasingly ill and left the examination approximately half-way through the allotted time. He submitted a petition to the Undergraduate Assessments Committee that day for a deferred exam. That Committee made a decision to grant the deferral the following day, on April 26, 2022. This was noted by the Student's Academic Advisor, JesusMiracle Chiadika on April 26, 2022, in the Faculty Portal. Due to the volume of deferrals, students were to be advised of deferral decisions by their Academic Advisors through email. The formal written decision of the Committee was not released until May 26, 2022. The deferred exam was scheduled for May 18, 2022.

The Student petitioned for a deferral of the May 18, 2022 exam on May 21, 2022. The circumstances indicated in the Portal state,

I could not appeal for my deferred exam for MIE100 on May 18 as I am not in Toronto. I am filing this petition to seek accommodation for the missed deferred exam. After a series of discussions with my advisor, I was told I would have to file a petition if I am not able to appear for the missed deferred exam. I am filing this petition after my scheduled deferred exam as the nature of the decision on my Final Exam Petition was explained to me after the exam had already begun (the status of that petition states "in progress," which was later explained to me that a no-action decision was taken as my advisor was aware that I would not be able to appear for my scheduled deferred exam since I am not in Toronto.

The Student's submissions to the Undergraduate Assessment Committee for a further deferral were in the form of a Special Considerations Petition because, as he stated, his decision on the original Final Exam petition had not yet been made. He also requested the deferral on the basis that he was out of the country on May 18, 2022, when the deferred exam was rescheduled. The Student was scheduled to leave the country on May 2, 2022 and communicated this to Ms. Chiadika who made a note of this in the Faculty Portal on May 2, 2022. What is not clearly set out in the Faculty Portal is whether the Student was told by Ms. Chiadika that his deferral was approved. The Student maintained in his submissions before the Academic Appeals Board that he was not advised of this decision. He stated that he was advised by email that the decision was "pending" and not yet final. The only evidence provided by the Faculty to counter this was the notation in the Faculty Portal and the fact that the Student was aware of the May 18, 2022, deferred exam date. However, due to the number of students taking deferred exams, this deferred exam schedule was made public to all students.

As a result of questioning by your Committee, it became apparent that there was an email trail between the Student and Ms. Chiadika that might address this discrepancy. The Student provided emails that he said were sent by him and Ms. Chiadika. In an email dated Friday, April 29, 2022 the Student advised her

that he was leaving the country in a couple of days but was seeking advice given that the “final petition result is still pending.” In an email response dated April 30, 2022, Ms. Chiadika states, “Your petition for a deferred exam is still under review, and a decision is yet to be made but I anticipate one being finalized next week.” Emails between the Student and another Academic Advisor named Makasha dated May 18, 2022 indicate that the Student was aware that there was an exam scheduled for that day but that the Faculty Portal still indicated that his petition was “in progress.”

Your Committee provided an opportunity for the Faculty to submit additional evidence of this correspondence as well as the minutes of the Academic Appeal Board hearing to clarify the issues that might have been addressed in arriving at their decision. Professor Coyle forwarded an email from the Faculty’s Registrar confirming that the Academic Appeals Board does not take minutes of the hearing but that the notes kept as the basis for the decision were as follows:

[Student] AAB Hearing Scheduled August 25, 2022:

- Hearing is scheduled from 11 a.m. to 12 p.m.
- Student is admitted in at 11:20 a.m.
- Request to write deferred exam.
- Request: Denied.
- Board reasoning:
 - Not compelling argument.
 - The Board finds that the information provided was not strong enough to grant the appellant’s request.
 - No additional supporting documentation provided by the student.

In addition, Professor Coyle provided the event log from the Advisors Portal related to the petition regarding the April 25 exam. The notations respecting the status of this petition are consistent with the Student’s claim that a final decision had not been communicated to him. Despite the notation on April 26, 2022, that the Student should be granted SDF [Standing Deferred Notation] status was listed as “IN PROGRESS” on April 28, 2022; “REVIEWED PENDING” on May 2, 2022; “REVIEWED COMPLETED” on May 16, 2022; “RELEASE Decision” on May 26, 2022; and “CLOSED” on May 26, 2022. The Portal also indicates that the Student viewed the decision on May 26, 2022. Emails were also provided from the Academic Advisor which confirmed what the Student had previously sent and that he had not been advised of the final decision until May 26, 2022.

ISSUES

The role of your Committee is to evaluate whether the decision of the Academic Appeal Board upholding the refusal of the second deferral of the final exam was fair and reasonable. In reviewing the decision the following issues are relevant:

1. Was the decision of the Undergraduate Assessment Committee on the requested deferral of the April 25th exam communicated to the student in a clear and timely manner?
2. Given the communications from the Faculty respecting the deferred exam, was it reasonable to expect that the student would attend the deferred exam on May 18?
3. Was the Academic Appeal Board’s finding that there was insufficient evidence to grant the appeal of the Undergraduate Assessment Committee’s decision to deny the deferral reasonable?

1. Communication of the Deferral Decision

The Student maintained throughout the process that he was not advised of the decision respecting his initial petition for a deferral of the April 25 exam until May 26, 2022, and therefore was not certain that he would be permitted to write the May 18 deferred exam. While it would have been helpful had the Student provided the Academic Appeal Board with copies of the emails from Ms. Chiadika, the Faculty also provided an incomplete picture by only filing portions of the Portal entries and not the entire Advisors Portal notations. Those notations are inconsistent with the Faculty's position that the Student was clearly advised of the decision to grant the deferral and that he should write the exam on May 18. Those notations are, however, consistent with the Student's submissions that he was only told that a decision was pending. The emails subsequently provided to your Committee and not made available to the Academic Appeal Board confirm this.

2. Expectation of Attendance at the May 18 Exam

Despite the lack of clear communication to the Student about the decision to grant the deferred exam, the Faculty maintained that the Student ought to have attended the May 18 exam. While it might have been good advice for the Student's Academic Advisor to tell him to attend, there is no evidence that such advice was given. Rather, the advice given to the Student was simply to petition for another deferral given that he was no longer in the country and could not attend. The Student submits that he was left with the impression that he would be granted a deferral if he left the country. There was nothing to suggest to the Student that such a deferral would not be granted given the unclear communications from the Academic Advisor and the fact that he had not been advised of the decision to grant the original deferral.

The Undergraduate Assessment Committee denied the second deferral petition on the basis that "there was insufficient reasoning for the petition or that the reason stated is not one the Faculty provides accommodations for." The Student stated that he had made his arrangements to fly home in February and that changes at the last minute would be costly. Despite this he maintained that he would have arranged to come back if he was required. The Faculty would not normally accommodate a student's travel arrangements, but it is unclear whether all of the information respecting the communications to the Student were considered. Professor Coyle agreed that in the usual course, where one or two students were granted a deferral, the date of the rescheduled exam would often be more flexible to account for the students' availability. This was clearly not the usual set of circumstances given the incidence of illness during this exam period, but this ought to have been clearly communicated to the Student. The Student made it clear in his petition that in addition to his being out of the country, he was not made aware of the decision to allow him to write the exam on May 18.

It is noted that the general communications to students prior to the final exam period was that a deferral was *less likely to be granted* if the student attempted to write the exam and did not complete it due to illness. It is not reasonable for the Faculty to conclude that the Student ought to have attended this deferred exam without clear communication from the Faculty that he would be permitted to write it. Further the Faculty argued that it was fair to hold the Student accountable for not attending this exam because of the fairness to other students who had been able to make such arrangements. Your Committee notes that the assessment of the fairness of the decision to other students is not relevant to the determination of whether the decision was fair and reasonable for the Student in this appeal.

3. Reasonableness of the Academic Appeal Board Finding Respecting the Evidence

The Student presented his case to the Academic Appeal Board by providing a written statement outlining the circumstances for his request for the deferral and the confusion he experienced about whether he was granted the original deferral of the April 25 exam. He referenced communications with the Academic Advisor but did not provide copies of the emails. Your Committee was advised by Professor Coyle that the materials filed by the Faculty on this Appeal including the excerpts of the Faculty Portal were the

materials provided to the Academic Appeal Board. It is difficult to assess the reasonableness of the Academic Appeal Board's finding that there was insufficient evidence given that there is no clear record of what was filed before it and no detailed minutes of the hearing. In any event, it was apparent on the face of the record filed in this Appeal that the Faculty likely had information, including copies of the email correspondence between the Student and the Academic Advisor that was material to their decision. While ideally the Student could have made those available to the Board, your Committee notes that the Student was unrepresented. A few direct questions from your Committee led to some of these emails being made available immediately during the hearing. It is important that the Academic Appeal Board provides the opportunity for all students to understand and meaningfully present their case, regardless of representation.

It is also concerning to your Committee that the material filed by the Faculty in response to the Student's Appeal painted an incomplete picture of the information contained in the Advisor's Portal. Material provided after your Committee's questioning largely confirmed the claim by the Student that he was being told that the original deferral petition was still pending up until May 26, 2022, when he was advised that it had been granted. It is your Committee's conclusion that had the additional emails and Portal notations been made available, the Academic Appeal Board ought to have reached a different conclusion. It was not a reasonable finding that there was insufficient evidence to support the Student's appeal given that the Faculty had access to this material, and Faculty staff had generated Portal notations and emails that were largely confirmative of the Student's claims.

DECISION

The Appeal is allowed. The Student has requested that he either be permitted to write a deferred exam as part of the Winter 2023 final exam period, or to have his grade reassessed based upon his completed assignments in the course during the term. Your Committee recommends that the choice of appropriate remedy is best made by the Faculty, but notes that significant time has passed and suggests that this decision be made as soon as possible in the interests of the Student.