

FOR INFORMATION

PUBLIC

OPEN SESSION

TO: Academic Board

SPONSOR: Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty
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PRESENTER: See Sponsor
CONTACT INFO:

DATE: November 7, 2024 for November 14, 2024

AGENDA ITEM: 7(a)

ITEM IDENTIFICATION:

Semi-Annual Report: Academic Appeals Committee, Individual Cases, Fall 2024 (Reports 435 and 436)

JURISDICTIONAL INFORMATION:

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

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

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

GOVERNANCE PATH:

1. Academic Board [for information] (November 14, 2024)

PREVIOUS ACTION TAKEN:

The last semi-annual report came to the Academic Board on May 23, 2024.

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 2024

UNIVERSITY OF TORONTO
GOVERNING COUNCIL
Report #435 of the Academic Appeals Committee
July 4, 2024

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Thursday, April 11, 2024, at which the following members were present:

Academic Appeal Committee Members:

Sara Faherty, Chair
Professor Sotirios Damouras, Faculty Governor
Nelson Lee, Student Governor

Hearing Secretary:

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

For the Student Appellant:

S.R.K. (the “Student Appellant”)

For the Toronto School of Theology:

Catherine Fan, Paliare Roland Rosenberg Rothstein LLP

I. Overview:

This is an appeal from a decision made after a hearing on May 16, 2023, by the Toronto School of Theology Academic Appeals Committee (TST-AAC). The Student Appellant filed two appeals that were heard together.

- (1) The first appeal (filed on December 2, 2021) disputed the grades she received on her Specialization and Breadth comprehensive examinations and asked for different examiners to re-evaluate the examinations.
- (2) The second appeal (filed on December 20, 2021) challenged the fairness of an administrative action communicated in a November 2, 2021 letter from Associate Director Professor Jesse Billet which established a 15-day deadline for her to transfer from the ThD program to the ThM program. The Student Appellant asked to have her eligibility restored to apply for that transfer.

The TST-AAC denied both appeals.

The Student Appellant’s Notice of Appeal to this Committee raises the issues that were addressed in the TST-AAC decision after the May 16, 2023, hearing, and it resurrects many other issues connected to her long and often unhappy tenure at the Toronto School of Theology (TST). Complex and important issues such as:

- the Student Appellant’s perception of bias against her,
- whether she was appropriately accommodated for bereavement and disabilities,
- procedural misunderstandings about how to register for examinations,

- misunderstandings about the timing of her examinations,
- disconnects on getting feedback about her examinations,
- the fact that the Student Appellant felt stress and intimidation during her oral defence, and
- changes to the composition of her Committee

are intertwined with the narrow issues in front of this Committee, and several of them have already been brought to the Governing Council's Academic Appeals Committee and decided in two previous decisions.

The response to the December 2 appeal, asking for a re-evaluation of her exams by different faculty from the original assessors was complicated because related and overlapping questions had twice been posed to the TST-AAC, decided by that body, and later appealed to and decided by the Governing Council's Academic Appeals Committee. The TST-AAC tried to disentangle issues that had already been decided by those binding decisions. It determined that the TST had appropriately accommodated the Student Appellant and provided qualified faculty members to assess her work. The TST-AAC found that its policies and regulations had been applied fairly.

The TST-AAC also made findings on the December 20 appeal. A difficult aspect of the TST-AAC's policy about allowing ThD students to transfer to the master's program is that it is premised on transfer applicants being *current* ThD students. The policy's timing allowed the Student Appellant a pathway to the master's program, but it would result in her voluntarily withdrawing from the ThD program before knowing whether her appeal had been successful. While the Student Appellant did not address this point in front of the TST-AAC, the TST raised the possibility of a different solution: an administrative path that would entail her re-applying for Admission to Emmanuel College and then invoking section 12 of the ThD/PhD Handbook to request to transfer to the ThM on recommendation of her supervisor. The TST-AAC found that the rules had been applied fairly since she did not make a transfer when she was still enrolled and suggested that the Student Appellant pursue the alternate path set forth by the TST.

II. The Facts

Previous Reports by the Governing Council's Academic Appeals Committee

We will rehearse the facts of this case here, but first note two important points in the timeline: the Student Appellant has already challenged the results of her comprehensive examinations at the TST in front of this Governing Council Academic Appeals Committee twice before this. Some of the issues have been directly decided by a previous panel of the Academic Appeals Committee. Others have been discussed in part but not finally decided at this Committee, and still others are closely connected to issues decided here. The principle of estoppel applies not only to issues that have been directly articulated in previous cases. It also applies to issues related to previously litigated issues (cause of action estoppel) that could have been raised in an earlier action. The Student Appellant had an opportunity to challenge Professor Wilson's presence on her Committee in her earlier submissions to this Committee. She did (unsuccessfully) assert that he was improperly included as an assessor of her Analytic essay and its oral defence at that time. She continues to make that assertion in this action and has added that he should not have been an assessor of her Breadth and Specialization examinations either. The similarity in these claims and the underlying facts, which are asserted over again in this action, lead your Committee to the conclusion that this question could have and should have been expressly asserted then. It is so closely intertwined with the issues before this Committee that it could be inferred that it was implicitly decided at the time the earlier decisions were made. We must include many of these points to contextualise the issues raised by the Student Appellant but will limit our findings to issues that have not been decided before and could not have been raised before.

Comprehensive Exams

The Student Appellant first registered at the TST in September of 2012. She completed her course work in 2015. In that academic year the Student Appellant worked with a Committee made up of Professor Paul Wilson (Supervisor), Dr. Dorcas Gordon, and Professor Glen Taylor.

In 2017 the Student Appellant applied for and was granted a leave of absence for the 2017-2018 academic year. The Student Appellant returned to the TST in September of 2018. At that time the Division made it clear that no more extensions or leaves would be made available to the Student Appellant. It was established that the Student Appellant had one more year in which to write all three of her Comprehensive examinations (Specialization, Breadth, and Analytic). The Student Appellant was told the written exams would need to be submitted by the end of August 2019. The Student Appellant was aware of the August 31 deadline, well in advance of that date, as evidenced by her email dated March 1, 2019, in which she wrote, under the heading "Administrative Questions" "I know I need to complete my comps by the end of August 2019 as this is my second extension of my comps."

The Student Appellant registered her exam topics in February of 2019. There was an incomplete effort to register for the examinations. Registering for Comprehensive exams is a process that takes several steps. The Student Appellant completed some of those steps, apparently unaware that there were additional steps that needed to be taken before she would be formally registered. This created confusion and frustration on the part of the Student Appellant.

During this period there were fluctuations in the make up of the Student Appellant's Committee. This is something that seems likely to happen when a student's enrolment stretches out over many years. At some point during the Student Appellant's term of studies Professor Glen Taylor needed to be replaced. The composition of a graduate student's Committee is critical. It is vitally important that the members of the Committee have appropriate expertise. They are charged with setting the questions for the student's comprehensive exams and competently assessing the written submissions. They are also charged with conducting the oral component of the analytic exam. The composition of the Student Appellant's committee was made in consultation with the Student Appellant. On March 1, 2019, Professor Wilson suggested Professor Reynolds ("as he at least has some interest in aesthetics") and asked the Student Appellant whether she had any ideas for a Professor that might be knowledgeable about Coleridge and Wilder.

In September of 2019 the Committee and the Student Appellant agreed to change their examiners: Dr. Judith Newman replaced Dr. Glen Taylor as the Second reader of the Breadth Examination. The Student Appellant reports that "the substitution was agreed because the focus of the Breadth Examination included attention to 'women's reality' in biblical material." In an earlier discussion the Student Appellant sent some notes about the composition of her Committee. In an email dated August 27, 2019, the Student Appellant wrote to Professor Gordon, "I am 'S■■■ R■■■ K■■■'. I am writing this email as I wonder about a second reader of my Bible comp paper. Prof. Wilson told me you approached Prof. Newman for the second reader of my Bible comp paper. I just wonder as you have mentioned Prof. Ann Anderson or Prof. Nam Soon Song before. I would like to ask whether there are any reasons for changing your mind from having either of these professors. Is it necessary to have a second reader of the bible comp from the biblical field?" Clearly in the TST's view, subject matter expertise was necessary.

The Student Appellant's awareness of her deadlines was documented by the TST, and has been finally determined by this Academic Appeals Committee in Report #413:

"When she did return from her leave, in 2018, the Student Appellant met with her supervisory committee on or about September 25. The next day, she received an e-mail from her supervisor,

Professor Wilson, with respect to extending the deadline for completing her comprehensive examinations. He advised her that it would be the final allowable extension and echoed what Professor Skira had already told her: that her comprehensive examination would have to be completed by the end of the summer of 2019. He wrote:

‘Just so we are all clear...this will be your final extension meaning you must finish your comps by the end of the summer 2019. Since you entered Fall 2012 you cannot lapse and ask for terminal reinstatement. Your program must be competed in ten years, and you are now in your 6th.’”

Results on the Three Exams

1. The Student Appellant submitted all three of her written examinations close to the end of the year she was given to make her submissions. Her **Specialization Exam** (Pastoral) (TSP8001H) was submitted on Friday, August 9, 2019. The exam was graded by Paul Wilson and Thomas Reynolds (substituting for Glen Taylor). The Student Appellant received a 74. A passing mark is 77.
2. The Student Appellant received feedback on that first comprehensive exam, and then submitted her **Breadth Exam** (TSP8002H) on Tuesday, August 27, 2019. This exam was graded by Dorcas Gordon and Judith Newman (substituting for Glen Taylor). The Student Appellant received a 76. A passing mark is 77.
3. The Student Appellant did not receive feedback on that exam in the four days before she submitted her **Comprehensive Essay** (Analytic Exam) (TSP8003H) on Saturday, August 31, 2019. That exam was graded by Paul Wilson, Dorcas Gordon, and while the form lists Glen Taylor it also indicates that “Judith Newman and Thomas Reynolds were substituted as agreed by the student.” Student received a 74. A passing mark is 77.

The Student Appellant appeared in front of a different constellation of Governing Council’s Academic Appeals Committee on March 26 of 2021 (resulting in the May 10, 2021, Report #413) and later an appeal was conducted on the basis of written submissions (resulting in the July 4, 2022, Report #421). The issues driving these appeals are intertwined and sometimes overlapping, with the 2021 proceeding revolving around whether the Student Appellant was properly accommodated, whether it was appropriate to have Professor Judith Newman serve as her second examiner, whether the TST was biased against the Student Appellant, and whether she was entitled to launch an oral defence of her Analytic Comprehensive exam.

The last factor was extremely important because students at the TST are permitted to rewrite up to two unsuccessful comprehensive exams. The Student Appellant had not received a passing mark on any of her three exams, and the TST did not allow her to make new submissions. However, if the Student Appellant had been permitted to orally defend her Analytic exam, and if that oral defence resulted in raising the mark on that exam to a passing mark, then she would be permitted to rewrite her Specialization and Breadth exams, and to continue in the ThD program. In Report #413, the Committee rejected the other arguments, but decided in her favour on this factor, and determined that the Student Appellant should be allowed to defend her Analytic exam.

The original, and ultimately rejected, position of the TST was that the Student Appellant did not need to write the Oral component of the Comprehensive Essay (Analytic Exam) (TSP8003H) because she had failed the three written examinations, and re-writes are allowed on at most two exams. Their view was that it was not possible for her to succeed, regardless of her performance on an oral examination. The Student Appellant argued that the oral component of the Analytic exam should take place. If her performance on that examination raise her score by three points, then she would have failed only two of her written examinations and then she would be eligible to rewrite her other two submissions. This is one of the issues that has already been considered and decided by a previous Committee panel of the Academic Appeals Committee.

That Committee found in the Student Appellant's favour on that issue in its Report #413, dated May 10, 2021. That Committee concluded that the Student Appellant should be allowed to complete an oral defence of her Analytic exam. They recommended that the Student Appellant work with the TST regarding timing, and that upon conclusion of the oral defence "the TST should assess the comprehensive essay and its oral defence together and assign an overall grade." The Committee was silent on the identity of the assessors, but it did go on to specify that if the Student Appellant were successful in her oral defence, then the TST should follow its normal practices and procedures to identify and confirm examiners to mark the two rewritten supplemental examinations if she became eligible to write them. The Student Appellant ended up scheduling her oral defense of her Analytic exam for October 26, 2021.

The administration of the oral defence of the Analytic examination was not smooth. The TST Director Pamela Couture worked with the University Ombuds Office, Accessibility Services, and Elsie Obeng-Kingsley from Student Progress and Support to arrange for the exam, which took place on October 26, 2021. The Student Appellant raised concerns about academic accommodations and raised objections to the presence of Professors Wilson and Gordon (the two faculty members who had assessed her written examination) on the oral defence Committee. On October 12, 2021, Ms. Obeng-Kingsley wrote to Professor Couture, thanking her for taking the time to explore whether other examiners with the relevant knowledge on the student's topic of theological imagination were available. The TST had been unable to identify other faculty members qualified to serve on the Committee.

As one of her accommodations, the Student Appellant asked that Professor Wilson not only turn his camera off, but also not speak during the defence, allowing Professor Gordon to ask all the questions. The Division asked the faculty members about this request, which they considered. They agreed that they could turn their video cameras off but did not agree to channel Professor Wilson's questions through Dr. Gordon. Professor Couture explained, "We had a lengthy discussion...about whether we should vary the format of the exam by asking Prof. Gordon to do all the questioning based on a series of time outs and conferences. They did not feel they could maintain the integrity of the exam in that format, especially since this exam is specifically in Prof. Wilson's area of expertise, with Dr. Gordon as the second reader." She also pointed out that she believes in depending on Accessibility Services to determine accommodations, and that lacking a definite recommendation from them they would proceed with both faculty members asking questions.

In the end, despite being accompanied by Elsie Obeng-Kingsley, from the University's Student Life Programs and Support, and having Professors Wilson and Gordon leave their cameras off (in addition to any other exam accommodations recommended by Accessibility Services), the Student did not succeed in her oral defence, achieving a combined score of 74 for the essay and its oral defence. 77 was the passing mark.

The Student Appellant's concerns about the administration of the oral defence made their way to this Governing Council's Academic Appeals Committee again, and were dealt with in its Report #421, dated July 4, 2022. Once again, there were overlapping, and repetitive issues raised by the Student Appellant. She alleged that the TST did not properly implement the remedy set forth in Report #413 and asked to be allowed to repeat the Analytic exam and oral defence "with different and relevant examiners/advisors/supervisors." Her allegations in this appeal were that (1) she was not given enough time to write her Analytic essay due to confusing administration; (2) the student was unwell when she took her oral examination; and (3) the student was forced to take the oral examination with an examiner with whom she had serious stresses. Report #421 resolved some issues regarding the appropriate pathway for appeals. (New issues needed to be brought before division, and old issues were quashed because they had already been decided.)

In that decision the Senior Chair found that the remedy granted by Report #413 "was implemented in accordance with its terms." It disallowed some of the issues raised on the grounds that they were not related to the implementation of the remedy set forth in Report #413. It disallowed some issues on the grounds that they were new issues that had not been properly heard by the Division before coming to this Committee. Finally, it disallowed some issues because they had been finally determined by Report #413. When read together, Reports #413 and #421 indicate that the issue of the constitution of the Committee hearing the Student Appellant's oral defence was to be conducted by the Committee members who had assessed the written essay (Comprehensive Essay (Analytic Exam) (TSP8003H).

The Breakdown in the Relationship with Professor Wilson

This is the Student Appellant's third interaction with the Governing Council's Academic Appeals Committee. She argues that after the Report #413 determined she was entitled to an oral defence; she became aware of a communication from Professor Wilson that caused her to stop trusting him and made it inappropriate for him to continue sitting on her Committee for purposes of assessing her oral defence of her Comprehensive essay.

The next hearing in front of the Governing Council Academic Appeals Committee, like the current case, involved the Student Appellant's challenge to the way the TST implemented the decision set forth in Report #413.

The Student Appellant defended her Analytic exam on October 26, 2021. The examiners were Professors Wilson and Gordon, who had evaluated the written Analytic essay. The Student Appellant was not successful in raising the overall grade on the Analytic examination. The Student Appellant sought the remedy of being permitted to re-write and conduct a new oral defense of the Analytic exam "with different and relevant examiners/advisors/supervisors." This request echoes earlier requests made concerning the Specialization and Breadth examinations. The identity of the examiners for the Student Appellant's Oral defense was directly raised in that appeal. The Student Appellant challenged the validity of the outcome of that examination score on three grounds, one of which was that she had been required to take the Oral examination with examiners with whom she had serious stresses. This is important, because that issue is raised again in the present appeal. We note that the decision of the previous Report was final, and that it is binding on your Committee.

Report #421 addresses this challenge carefully and thoroughly. It concluded "[t]here is nothing in the remedy granted by your Committee in Report 413 to suggest that the oral defence should be conducted by examiners other than those who had read the analytic essay." The Report reviews the Student Appellant's concerns about Professor Wilson and the email he wrote reporting that the Student "has made no progress and will be seeking an extension." Like the author of that Report, your Committee is uncertain why the Student Appellant has such a strong reaction to the language in that Report. It is the role of Committee

Supervisors to monitor student progress and keep the institution apprised of their progress. The language in this Report, which the Student Appellant identified as the “most horrible” example of Professor Wilson’s treatment of her, seems neutral and accurate to your Committee. We are persuaded that the Student Appellant’s reaction is genuine, but we cannot agree that this language on the part of Professor Wilson, nor the other inconsequential clerical errors that may have occurred over the years the Student Appellant has been enrolled at the TST, objectively warranted his removal from the Student Appellant’s Committee. We note that Report #413 specifically directed the TST to identify a new set of Committee members if the Student Appellant were successful in orally defending her Analytical essay and was given the opportunity to rewrite her Specialization and Breadth examinations. This would be where we would expect to see direction on the identity of Committee members for the Oral defence of the Analytic exam, but it seems the University Academic Appeals Committee panel agreed that the standard practice of having the Committee members with appropriate expertise who meet with a student over the course of their studies to collaboratively define examination topics, then set the examination questions and assess the final written submissions. The members of the Committee are expected to be the most appropriate examiners to conduct the oral examination of the same.

If, as the Student Appellant argued, and this Academic Appeals Committee determined in Report #413, the Comprehensive Exam (TSP8003H1) was a single examination composed of two parts (the written essay and the oral defense of that essay) then it is fair to conclude that the faculty assessors who graded the written essay should also assess the oral defence. The Oral defence was of the third, analytic essay and it was included as part of that examination. That is what led to the conclusion that the Oral defense had to be allowed before a failing grade could be assigned. But this same proposition also supports the conclusion that the people who graded the written component were intended to grade the oral component—it was a single evaluation. The panel quoted the Student Appellant’s submission that “the third comprehensive examination **includes the oral assessment**” [Emphasis added by the Academic Appeals Committee that decided Report #413]. The Committee pointed out that the TST’s rule 8.6.3.3, was entitled “The comprehensive essay and oral defense” and found that this “suggest[s] that the two elements—the essay and its oral defence—are inextricably linked.” They quote the rule’s mandate that “**The grade for the third examination includes an assessment of the oral defence.**” Finally, and most specifically, the Committee quoted the Handbook’s dictate that “**After the defence, the Student Appellant will be excused while the examiners (a) determine a letter and number grade for the comprehensive essay with the oral defence.**” All the language quoted from the Handbook contemplates the examiners who assign a mark to the third essay are the same examiners who conduct the oral examination. In their interpretation, these are two parts of the same examination. The Committee that decided #413 concluded that it was unreasonable for the TST to evaluate the Student Appellant’s comprehensive essay without including her oral defence of that essay as an essential component of that evaluation. The Committee’s Remedy was to instruct the Student Appellant to begin preparation for defending her comprehensive essay and instructed that the TST “should assess the comprehensive essay and its oral defence together and assign an overall grade to that effort with both thoroughness and expedition.” It instructed the TST to “follow its normal practices and procedures as outlined in its Handbook, to identify and confirm the examiners to mark the two supplemental examinations if she becomes eligible to write them.”

Reports #413 and #421 determine that the constellation of faculty members who conducted the oral defence was appropriate. The Division has argued that issue estoppel and cause of action estoppel dictate that it is inappropriate for the Student Appellant to continue to raise arguments arising from the examinations that were administered in August of 2019 and have been heard and determined by the Academic Appeals Committee. This Committee has heard and determined the Student Appellant’s request to retake her examinations with “new and relevant examiners” and these requests included a request for new examiners for her oral defence.

Report #421 reads, in pertinent part:

“As to [the student appellant’s appeal in TST to change the examiner for taking the Oral examination], in her appeal to [the Graduate Studies Council Academic Appeal Committee (GSCAAC)], the student asked for the remedy of “[r]etaking the exams with new relevant examiners ([Book of Documents (BoD)], p. 126). The GSCAAC dismissed her appeal and therefore did not grant this remedy. On her appeal to your Committee the Student again asked for this remedy (BoD, p. 136). Your Committee did not grant it. She asks for it again (BoD, p. 210). She cannot, because your Committee’s decision in Report 413 was final.”

Although we do not fully understand her reasoning, your Committee is sympathetic to the Student Appellant’s claim that there had been a breakdown in her relationship with her Committee members before she sat for her oral defence. Based on her acquisition of an email she had not seen before (it is unclear when she became aware of the document), the Student Appellant establishes that she lost confidence in Professor Paul Wilson. Even apart from the binding decisions cited above, we cannot agree that this loss of trust absolutely required the TST to use different examiners for the oral defence of the Student Appellant’s Comprehensive examination. The evidence set forth by the Student Appellant to justify the breakdown is not compelling. The Student Appellant ties the breakdown to a report that was written in 2017 that stated that the Student Appellant “has made no progress and will be seeking an extension.” This Governing Council’s Academic Appeals Committee addressed this problematic document in its Report #421:

“the ‘official academic report written in 2017’ appears to be a report of the Student’s supervisory committee, dated September 15, 2017, which states in material part that the Student ‘has made no progress and will be seeking an extension.’ The supervisory committee consisted of Professors Taylor, Kervin, and Wilson; as noted, Professor Wilson was one of the Student’s examiners in October 2021. It is not clear when the Student received the supervisory report, why she found it objectionable, or how she thinks it might have affected the conduct of the oral examination.”

The Student Appellant found the 2017 Homiletics Report problematic for more than one reason. First, she did not receive a copy of the report. Though the 2016 annual report had been sent to the Student Appellant, the 2017 Homiletic Report was not sent to the Student Appellant. The report had been written and submitted to GCTS on September 15, 2017, by Prof. Paul Scott Wilson.

Second, it erroneously included the name of a faculty member who was not, in fact, on her Committee (Professor Kervin was not on her Committee—the Report should have included Professor Dorcas Gordon in place of that name.) She may also have been troubled by the brief content of the email. Like the Senior Chair who authored Report #421, your current Committee does not fully understand why the Student Appellant found the report problematic or thinks it should disqualify Professor Wilson from acting as the Chair of her Committee.

Despite a clear argument for keeping Professor Wilson on the Committee, the TST made a good faith effort to comply with the Student Appellant’s request. In an email dated October 4, 2021, the Director of the TST, Professor Pamela Couture explained, “I have had conversations with the School of Graduate Studies and three possible TST examiners who have the knowledge of the subject matter of “theological imagination” who could potentially be qualified to substitute for Professor Wilson on the third exam. But none is available to step into his place as they have either been involved [in] your examination and appeal already or are on research leave. Therefore, I cannot substitute another professor without compromising the integrity of the exam.”

The TST consulted extensively with the Ombuds Office to help resolve the Student Appellant's concerns about the oral defence. On October 14, 2021, Kristi Gourlay wrote a lengthy email to Pamela Couture. She explained that she had consulted with Accessibility Services and noted that while they gave accommodations like extra time or using software to support audio or visual disabilities "[d]isability-related academic accommodations do not generally include making decision on who is responsible for academically evaluating a student—that is at the discretion of the academic unit." She noted that the academic unit could offer considerations to address a student's concerns, but only insofar as "the considerations do not impact the integrity of the academic work or compromise learning objectives."

In addition to the ultimately unsuccessful efforts to find suitable, qualified replacements the Toronto School of Theology accommodated the Student Appellants requests to mitigate her anxiety about facing her assessors by allowing the Student Appellant to be accompanied by supportive staff members, by appointing a different faculty member to take the lead in questioning and asking Professors Wilson and Gordon to leave their cameras off during the oral defence.

Deadline for transferring from the ThD program to the ThM program.

The Student Appellant also raised the issue of a letter sent by Associate Director of Graduate Programs, Jesse Billett on November 2, 2021. That letter imposed a deadline of November 17 (15 days from the date of the letter) to voluntarily transfer. The deadline fell within the 30-day period the Student Appellant had to appeal the decision to withdraw the Student Appellant from the program.

The November 2, 2021, letter from Professor Billett was implicated in the Student Appellant's previous appeal to the Governing Council's Academic Appeals Committee. In her earlier appeal, the Student Appellant identified a different provision of the letter. ("If you believe that the remedy was not correctly implemented, you may wish to seek further redress from the Academic Appeal Committee of the Governing Council of the University of Toronto.") This was considered and decided by Report #421.

The issue raised now involves a different section of the November 2 letter, that reads: "If you would like to graduate with a ThM (Option II), you will need to fill out a "Change of Program Request" form and ask the Emmanuel College Graduate Director, Prof. HyeRan Kim-Cragg, to sign it and submit it to the GCTS office (gcts.office@utoronto.ca) If you wish to take this route, completed form must be received by the GCTS Office no later than 4:00 pm on Wednesday November 17, 2021."

The Student Appellant did not address this issue in the hearing below nor did she raise it at the hearing in front of your Committee. We surmise that the Student Appellant felt that while her eligibility to appeal the decision to remove her from the ThD program was still open she did not want to voluntarily transfer out of the ThD program. The Student Appellant may find it problematic to be required to make that decision when they were still hoping to revive their enrolment in the ThD program. We note that the TST has been in the process of discontinuing components of its programming, and some of the options available to the Student Appellant in late 2021 may not still be feasible.

III. Decision

One theme that emerges in many of the Student Appellant's documents and arguments and that was repeated during the hearing is her desire to "explain correctly what really happened to the student during her doctoral study." (Page 13 of Student Appeal Package.) The submitted materials and the hearing provided genuine opportunities to understand the Student Appellant's perspective. The Student Appellant's experience throughout her time at the TST has been troubled and plagued by tragedy. She acknowledges that she has struggled with mental health issues. The Student Appellant has been disadvantaged by passage of time. There was attrition over of faculty members who retired or moved to

different institutions. There was turn over among the administrators. The number of issues that were raised and disputed by the Student Appellant continued to decrease the pool of faculty members who were available to work with her, as some faculty felt conflicted their previous involvement with the Student Appellant posed a conflict of interest. These issues are not the fault of the Student Appellant, but they are not the fault of the TST, either. These are thorny issues and they have been complicated by the pending closure of the ThD program.

The Student Appellant has offered a moving description of having felt misunderstood and having experienced miscommunications, alienation, invisibility, and forgottenness. While your Committee does not agree that Professor Wilson's actions were unfair to the Student Appellant, we acknowledge that her anxiety about him was very real to her. The record shows that since her return to the program after Report #413 determined she should be allowed to conduct an oral defence of her Comprehensive examination the TST has worked with Accessibility Services and the Student Crisis Response Programs, and the University Ombudsperson to accommodate the Student Appellant's needs and provide a pathway to completion of her degree. In addition to the efforts to find suitable, qualified replacements, the TST accommodated the Student Appellant's requests to mitigate her anxiety about facing her assessors by allowing the Student Appellant to be accompanied by supportive staff members, by appointing a different faculty member to take the lead in questioning and asking Professors Wilson and Gordon to leave their cameras off during the oral defence.

The TST accommodated the Student Appellant's requests up until the point of impairing the academic integrity of the oral defence. While your Committee was moved by the Student Appellant's subjective perceptions, we cannot find the TST's actions to protect academic integrity to have been unfair or unreasonable.

Your Committee appreciates a remedy proposed by the Division in an earlier divisional hearing where they suggested that the Student Appellant apply for readmission to Emmanuel College and then make a request to transfer to the master's program. We continue to support that path of resolution if it is still possible. The TST has indicated that the program in question is being discontinued, and this may no longer be a feasible option. We view this as another unfortunate consequence of the length of the Student Appellant's tenure.

IV. Conclusion

Your Committee is mindful that our role is carefully limited by its Terms of Reference. Our function is "[t]o hear and consider appeals made by students in the application of academic regulations and requirements and to report its decisions, which shall be final".

The Student Appellant's appeal must be judged against the TST's ThD Handbook and their academic regulations. Although the Student Appellant experienced some difficult and painful circumstances, we cannot assess their impact, or that of the provided (and accepted) accommodations, on her comprehensive exam results.

The Committee cannot assess whether the grades were just or right either; we can only opine on the process. The Student Appellant's main grievance was that Professor Wilson should not be part of the oral examination committee because he was biased. We believe this issue was correctly addressed in Report #421, which determined that the written and oral parts of the Analytical exam are linked and are not meant to be assessed by a different committee composition.

Report #413 determined that the TST should have conducted the Oral exam for procedural completeness, and it expressly stated that the Oral examination was not a separate or new examination; in fact it decided, "[f]urthermore, your Committee recommends that, upon the conclusion of the Student Appellant's oral

defense, the TST should assess the comprehensive essay and its oral defense together and assign an overall grade to that effort with both thoroughness and expedition. Your Committee also recommends that the TST follow its normal practices and procedures, as outlined in its Handbook, to identify and confirm the examiners to mark the two supplemental examinations, if she becomes eligible to write them”.

The Student Appellant was given a chance to properly complete her comprehensive examinations with the Governing Council’s Academic Appeals Committee’s first decision on this matter, (Report #413), which was not meant as an opportunity to retake the oral part under a new committee composition (as expressed in the Governing Council’s Academic Appeals Committee’s second decision on this matter, Report #421). The Student Appellant is currently asking the Governing Council’s Academic Appeals Committee to disregard all her comprehensive exam marks as unjust and reinstate her in the TST ThD program.

Your Committee does not find any grounds on which we can retroactively dismiss the grades of the Student Appellant’s first three written comprehensive exams. Moreover, the claim that they are unjust was not brought up in the first two appeals, which would have been the appropriate time and place for consideration of those issues.

Your Committee feels compassion for the Student Appellant. She went through difficult personal circumstances. The TST has provided an opportunity to take an oral examination that might have raised her grade on one exam and made her eligible to retake the other two. It provided accommodations to the extent recommended and possible within the parameters of academic integrity. We cannot find justification for disregarding her deficient performance on her comprehensive examinations and reinstating her in the program.

Appeal dismissed.

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #436 of the Academic Appeals Committee
July 8, 2024

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on March 22, 2024, at which the following members were present:

Academic Appeals Committee Members:

Dr. Erika Murray, Chair
Dr. K. Sonu Gaind, Faculty Governor
Annabelle Dravid, Student Governor

Hearing Secretary:

Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

For the Student Appellant:

S.G. (the “Student”)

For the Leslie Dan Faculty of Pharmacy:

Dr. Jamie Kellar, Associate Dean, Academic, Leslie Dan Faculty of Pharmacy

I. Overview

This is an appeal from a decision made on November 8, 2023, by the Faculty of Pharmacy’s Committee on Appeals (the “Faculty’s Committee on Appeals”). The Faculty’s Committee on Appeals did not grant the remedies sought by the Student, which included being promoted to Year 2 of her Doctor of Pharmacy program (the “Program”) or to write twelve supplemental examinations for failed Year 1 courses. The decision to not allow the Student to progress to Year 2 of her Program originated from the Faculty of Pharmacy (the “Faculty”) assessing the Student’s performance in Year 1 of the Program. The Student had failed twelve of thirteen courses, and due to a lack of professional competencies required to work with the public, was therefore unable to complete her summer experiential rotation. In accordance with its policies, the Faculty communicated to the Student that the Program requires that the Student repeat Year 1 and pass her courses before she may proceed to Year 2 of studies. The Faculty has, however, considering the circumstances of the Student, made a special accommodation offering the Student to write four supplemental exams, despite the Student’s low annual GPA. To date, the Student has neither accepted nor rejected this academic proposal by the Faculty. Instead, the Student maintains, and this was the basis for her appeal before your Committee, that despite the

Faculty's policies, she essentially ought to be granted greater special consideration to write all twelve exams or, not to write any of the twelve exams and instead be granted a passing path into Year 2 of the Program. Your Committee finds the Student's appeal to be baseless, against the Faculty's policies, and against the best interest of the public. Accordingly, the appeal is dismissed.

II. The Facts

The Student was admitted into the Program from the admissions waitlist three days before the start of the 2022-2023 academic year. The Student did not request to defer her admission. The Student performed poorly in both semesters of Year 1: **she earned a failing grade below 60% in twelve of her thirteen courses**. The Student passed a single course with a grade of 60%, which is the lowest possible passing grade. The Student's final grades were consistent with her performance on term work prior to the final exams. Following the end of the second semester of Year 1, on May 24, 2023, the Registrar emailed the Student to confirm that the Student had failed her Year 1 and that she would be required to re-take all Year 1 courses.

The Student submitted a petition requesting to progress to her Year 2 of studies and to participate in the Year 1 experiential rotation, despite her failing grades. She explained her extenuating circumstances: she was unhoused for two months of the first semester of Year 1 and had suffered physically, mentally, and emotionally from the trauma of grieving her mother's tragic death in late fall of that year. The Student expressed her fervent desire to **graduate on time** both due to family expectations and wanting to **remain with her academic cohort**. The Student had previously filed numerous petitions during the period from November to April, beginning after her mother's death. The Faculty granted these petitions, permitting the Student to extend assignment deadlines and write makeup exams in early 2023 after deferring her five November exams. However, the Student's petition to progress to Year 2 without repeating Year 1 was denied, and **she subsequently sought permission to write twelve supplemental examinations for the twelve of thirteen (12/13) courses that she failed or she sought special consideration to "clear" courses without taking a supplemental examination**.

The Student appealed the denied petitions to the Faculty's Committee on Appeals, asserting that if not for her difficult personal circumstances, she would have been successful. In her own words: "My academic performance was poor, but I attended every lecture, workshop, lab and exam. I learned. I tried my best." (Student's appeal materials, p. 8) The Student also attached a brief medical note from a physician recommending that "for medical reasons" the Student "receive special consideration regarding her failed year" (Student's appeal materials, p. 9).

Essentially the Student sought, and maintained before your Committee, any remedy that would permit her to progress to Year 2 of the Program, including "passing" a course without a supplemental, writing twelve supplementals, or being granted *Aegrotat* standing in her courses.

The Faculty's Committee on Appeals unanimously denied the Student's appeal, citing the Faculty's "obligation to graduate students who are academically capable and competent in their field" (Student's appeal materials, p.10). The Faculty's Committee on Appeals noted that, "there

is not enough evidence that [the Student] met the competencies,” and that allowing the Student to write twelve supplemental examinations was “not realistic”, nor would the Program be “setting [her] up for success” if they allowed the Student to progress to Year 2 based on her academic record (Faculty’s Response, p. 11).

On appeal before this Academic Appeals Committee, the Student repeated her request for *Aegrotat* standing and requested reinstatement to the Program at the Year 2 level. The Student again submitted that her mental health was severely affected by her mother’s passing and that, despite her poor grades, she has “learned all course materials and performed to the best of [her] ability.” In responding to the Student’s appeal, the Division submitted that the Program must uphold its standards, which the Student has not met, and that the Faculty treated the Student fairly and provided appropriate support.

III. Decision

The Student challenges the Faculty’s decision because the decision does not permit her to progress to Year 2. Her overall argument is that in view of her unfortunate and challenging life circumstances throughout her Year 1, it was unreasonable and/or unfair that the Faculty’s special accommodation only allowed the Student to re-write four of the twelve Year 1 exams that she had failed and that the Student must repeat Year 1.

The function of this Academic Appeals Committee is to hear and consider appeals made by students against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations. Since each division of the University is required to have its own appeal processes, the Committee is in effect a reviewing body and not a forum for fresh decision-making. Put simply, the Committee decides whether the Division’s decision was reasonable. In considering the reasonableness of the decision of the Divisional appeal body, this Committee is to consider the facts and whether the academic regulations and requirements were applied *correctly, consistently, and fairly*¹; and ultimately whether the decision was an unreasonable one, or if it was made through a demonstrably unfair interpretation and/or application of the relevant policies, processes and procedures that were relied upon or invoked in its making.² If the decision was unreasonable or there was an unfair interpretation and/or application of the relevant policies, processes or procedures, only then should the Committee interfere with the decision³.

In order to make a finding on whether or not the Division’s decision was unreasonable or unfair, this matter inherently involved this Committee, in view of the facts, reviewing the University’s Assessment and Grading Practices Policy, the Pharmacy Faculty Calendar on “Grading Practices” and facts of the matter. This Committee finds that the Division’s decision was reasonable and that all other appellant committees showed no unfairness to the Student, but rather compassion. The Division’s decision was more than reasonable and fair in requiring the Student to repeat Year 1 while only being permitted to write four supplemental exams.

¹ Motion Decision 359-1 dated August 25, 2011, page 6

² Report # 413 dated May 10, 2021, page 8

³ *Ibid*

The Faculty’s decision was reasonable; it followed its policies: Failed Year 1

This Committee finds that the Pharmacy Faculty Calendar very clearly provides that: If a student’s annual GPA is less than 1.70, this will constitute a failed year. If a student fails a year, they must get permission to repeat the year and they must repeat the entire year, including all examinations.⁴ Furthermore, this Committee finds that absent a successful petition, students are not to be granted the ability to write any supplemental exams if their annual GPA is lower than 1.70, as was the case of the Student.

Fair petition: no unfair interpretation and/or incorrect application of the relevant policies, processes or procedures

Despite the Faculty following its policies, a student may submit a petition to request special consideration from the Program related to non-compliance with course requirements or impact on academic performance. Petitions must be submitted with supporting documentation that corroborates the basis for the petition. Petitions are submitted to the Registrar, who makes a decision in collaboration with the Program Director, and/or the Faculty’s Committee on Academic Standing, depending on the complexity of the situation and the need for further input.⁵ A student may appeal an unfavourable petition decision to the Faculty’s Committee on Appeals, which is the final decision-making body at the divisional level. Following a hearing, at which a student has the option to be represented by legal counsel and is given a full opportunity to argue their case, the Committee on Appeals sends a written decision with reasons to the student.⁶

In 2022-2023, the Pharmacy Faculty Calendar provided that, “If a petition and/or appeal relates to a particular course, and special consideration is given, this course may be cleared without a supplemental examination.”⁷ This Committee emphasizes the intent being of “a” single course. Furthermore, the Pharmacy Faculty Calendar also clearly provides that the petition process is not “a means to salvage courses and/or the academic record” and is intended for use by students who believe that illness or other circumstances have affected their academic performance or contributed to their non-compliance with course requirements.⁸ Finally, students may not write more than 2.0 credits worth of supplemental examinations. Beyond this limit, students must repeat failed courses and achieve grades above 60% in order to progress to the next year.⁹

The Program clearly and fairly explained why the relief the Student sought should be denied, and it also reiterated a proposal which it had offered to the Student after denying her petition. The Program had created this academic proposal in consultation with the Student’s Coordinator of Student Progress and Support, and this Committee agrees it is fair and reasonable and would best support the Student’s long-term success. Notably, despite the Student not being eligible to write supplemental exams because of her low annual GPA, the Program’s academic proposal would have permitted the Student to write 4 supplemental exams in the summer of 2023 so as to reduce

⁴ 2022-2023 Pharmacy Faculty Calendar (Page 42)

⁵ 2022-2023 Pharmacy Faculty Calendar (Page 41)

⁶ 2022-2023 Pharmacy Faculty Calendar (Pages 20-22)

⁷ 2022-2023 Pharmacy Faculty Calendar (Page 42)

⁸ 2022-2023 Pharmacy Faculty Calendar (Page 41)

⁹ 2022-2023 Pharmacy Faculty Calendar (Pages 41-42)

her courseload (and by extension, her fees) when she repeated the rest of Year 1 in the 2023-2024 academic year.

The Faculty's special consideration was reasonable: petition allowing 'only' four of twelve failed exams to be re-written

This Committee finds that the Faculty followed its academic policies and its decision was reasonable and fair. The program's academic requirements are that a student must achieve the minimum academic competencies in Year 1 before progressing to Year 2. The Student did not achieve the required academic competencies: she failed twelve of thirteen courses. These failures were not marginal: her annual GPA was 0.5 compared to the minimum required 1.70 annual GPA. Furthermore, the Student had not mastered enough course material to even be permitted to attempt her experiential rotation (which would involve direct patient care), which in addition to the course work, is an academic requirement that the Student did not complete as a requirement of proceeding to Year 2.

Though the life circumstances of the Student are certainly unfortunate, the Faculty did follow its policies, and granted the Student special consideration to write 2.0 credits worth of supplemental examinations. There is no reasonable amount of special consideration that ought to be awarded to any student to progress to Year 2 of Pharmacy studies that failed twelve out of thirteen Year 1 exams and who was unable to complete the required summer experiential rotation. Where the Program deviated from its policies and practises, it did so in an effort to accommodate the Student's difficulties and support the Student's long-term success in the program. The Program has gone beyond its obligations in crafting this thoughtful and supportive plan, which was tailored to her circumstances in an effort to extend leniency to the Student, given the hardships she had experienced.

Finally, it is important that this Committee highlight as the Faculty rightfully did: the pharmacy program is a national accredited educational program that must meet all accreditation standards, with the duty owed to the public in ensuring that its students meet all educational outcomes. Accreditation is the public recognition accorded to a professional program that meets established professional qualifications and educational standards through initial and periodic evaluation. The Program met its regulatory obligations to not allow the Student, who had not demonstrated competence in Year 1, to not be permitted to progress to Year 2.

IV. Conclusion

The Student's repeated requests to be allowed to write twelve of thirteen exams she failed in one academic year and to continue with her cohort of classmates, without basis in the Faculty's academic policies, demonstrates that she is attracted to academics and should be encouraged to pursue her passion for post-secondary education in some capacity. It also demonstrates, however, that she is failing to appreciate and acknowledge that the Faculty's course credits directed to a degree in pharmacy must be only awarded to those who demonstrate the requisite competencies, in any given year, under an accredited lockstep program. The Program is required to align its educational curriculum and its evaluation of students with professional competencies in view of the best interest of the public, which your Committee finds it has done. The Faculty has

provided the Student with the opportunity to re-write a maximum of four exams, and if successful, the Student will have a decreased course load and reduced tuition fees. The decision of the Faculty's Committee on Appeals was reasonable, made fairly, and consistent with the University policies. Appeal dismissed.