

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #437 of the Academic Appeals Committee
April 24, 2025

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on March 12, 2025, at which the following members were present:

Academic Appeals Committee Members:

Cheryl Milne, Chair
Professor Donald Ainslie, Faculty Panel Member
Luke Calabretta, Student Panel Member

Hearing Secretary:

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

For the Student Appellant:

Frances Marinic-Jaffer

For the Toronto School of Theology:

Catherine Fan, Paliare Roland Rosenberg Rothstein LLP

In Attendance:

AB (the “Student”)

I OVERVIEW

The Student appeals to your Committee from the decision of the Toronto School of Theology (the “TST”) Academic Appeals Committee to dismiss her appeal because she had since graduated from her program while the appeal was still ongoing. The Student initially sought a review of her grade in a course that was part of the Regis-St. Michael’s Certificate of Theological Studies on the grounds that the instructor was biased in her assessment and failed to accommodate her disability. She has also raised issues of procedural fairness at the initial stage of the appeal at the level of the college. Before your Committee she has requested that the course in question be removed from her academic record.

II FACTS

In Winter 2022, the Student enrolled in the Certificate Program offered by Regis-St. Michael's Faculty of Theology at the Basis Degree level. The Student completed the requirements of the program in Summer 2023 and applied to graduate on August 31, 2023. The graduation took place on November 11, 2023. In the last semester of the program the Student enrolled in two courses, one of which was SMP3400/6400: Education, Media and Evangelization (the "Course"). The Course was open to enrollment to both Basic Degree and Advanced Degree (i.e. graduate) students.

The Course was an 8-day course that met between July 24, 2023 and August 3, 2023, with three graded components: a) preparation and participation (20%); b) digital sampling (30%); and c) final project (50%). The participation component required students to "come to class having read and reflected on the assigned readings" and "participate actively in class discussions and activities." The Course Outline also advised students that letter grades would be assigned based on the TST's Grading Scale where a grade in the 80-84% range was described as Excellent and one in the 77-79% range was Very Good. The Professor provided additional guidance advising students that achieving a grade in the A range required them to go "well above the basic expectations" and demonstrate both "critical engagement and original thinking," with the expectation for the Basic Degree program students being B-level work.

Prior to the commencement of the class, the Student advised the Professor by email that she had a scheduling conflict for two classes – July 24 and 26, 2023. The instructor noted that normally missing that much of the course would "fall into an 'automatic withdrawal from class' [sic] penalty," but she agreed to work out a compromise with additional work for the second missed class and a noted absence for the first class. In an email dated July 26, 2023, the Student confirmed that she was in attendance on July 24, 2023, but would be missing July 26 and August 3, 2023. She thanked the instructor for "providing the ability to earn participation credit in [her] absences." The Student told your Committee that in the end she missed only one class but was late for two other classes.

On the third day of the Course, the Student sought additional accommodation through the University of Toronto's Accessibility Services as she was having difficulty participating in in-class discussions. Her request was approved on July 27, 2023, and the instructor was asked to facilitate alternative means of the Student participating in the Course by submitting written reflections before each class. The Professor agreed to this request and accepted the written reflections on Course readings and discussions. The Student subsequently requested a meeting with the Professor to discuss her participation grade because she was concerned that she was being docked marks due to being late for two classes and absent for one other. Prior to the meeting, the Professor emailed the Student to assuage her concerns by stating that she was not being penalized for absences or lateness. She further stated that she was "meeting the expectations for participation" and would anticipate assigning the Student a grade in the B range by way of participation which was to be expected for a student in her cohort. The meeting took place on August 1, 2023, by Zoom and the Student sought guidance on how she might meet the higher grading expectations of the A range. The Professor suggested that she could make "more

robust use” of her written participation work and invited her to send additional reflections after class to demonstrate her engagement with the in-class discussions. The Student did so for the final three days of the Course.

The Student completed the Course with a final grade of 79% (B+) with this breakdown: a) preparation and participation – 79%; b) digital sampling – 80%; and c) final project – 78%. On August 30, 2023, the Student sent an email to the Professor challenging the grade in the course but focusing mainly on the final project. On September 8, 2023 the Professor responded by confirming her grade on the final project (a paper) and by extension in the Course.

On October 6, 2023, the Student emailed the Basic Degree Director to appeal her final grade basing her claim chiefly on the Professor’s expectation or bias that she should receive a B grade, and that the Professor had penalized her in the participation grade by not accommodating her disabilities. She noted in the appeal documents that she was seeking an increase in her grade by 0.5-1.0%. In acknowledging receipt of the appeal on October 6, 2023, the Director indicated that a decision would be rendered within 30 days. In an email dated October 16, 2023, the Director sought clarification as to whether the Student was seeking to appeal the final grade or the grade on the final essay. In her response, the Student stated that “I am stating that I am appealing the overall course grade and the important contributions to consider are they [sic] points that the instructor gave me for the final essay and for participation.” The follow up email from the Director seeking the Student’s consent to proceed with the appeal does not specifically state whether the appeal relates only to the final paper or the Course grade. However, in an email in which the Director answers the Student’s questions about the procedure, he states that “the paper will be corrected by three faculty members.” The Student consented on October 21, 2023, to the process which was described as sending the collected material to three instructors who would independently consider the appeal.

Materials were sent for review by the Director on November 8, 2023, and the decision to confirm the grade was communicated to the Student on November 29, 2023 – 18 days after her graduation. She was advised of the decision to uphold the grade assignment of 79% which was the final Course grade. In the letter to the Student, the Director stated, “In line with the protocols of the grade appeal process, you are entitled to further contest this decision by submitting an appeal to Dean J. Skira.”

The Student submitted an appeal to Dean J. Skira on December 8, 2023, initially seeking an increase in her Course grade to at least 80%, and in correspondence dated January 1, 2024, alternatively to remove the record of the Course from her transcripts. She repeated her claims of bias in the grading of the Course and the lack of accommodations for the participation component as grounds for her appeal. On January 11, 2024, the Dean rendered his decision to dismiss the appeal. In his decision he considered the arguments related to alleged bias of the Professor and the lack of accommodation for the participation grade. He reviewed the materials submitted by the Student that related to both issues but determined that neither claim was founded. In the last paragraph of his decision, he stated, however, that the appeal was being dismissed because the Student had graduated, citing section 16.1.1 of the TST Basic Conjoint Degree Handbook (the “BCD Handbook”).

The Student filed her appeal of the Dean's decision with the TST Basic Degree Academic Appeals Committee on April 11, 2024. On April 17, 2024, the Academic Appeals Committee dismissed her appeal based on section 16.1.1 of the BCD Handbook and the fact that she had since graduated.

III POLICIES

The applicable policies are a combination of the policies of the individual college applicable at the time the Student initiated the appeal¹ – Regis St. Michael's College (Regis Policy) – and the BCD Handbook. There are inconsistencies between the two and within the BCD Handbook that could lead to confusion for students trying to navigate the appeal process.

There is consistency in the initial steps to appeal a decision related to course marking but not in the timelines. Under section 11.8.2 of the BCD Handbook, a student who is dissatisfied with a final grade in a course must seek an explanation from the instructor within two weeks of receiving the grade. Under the Regis Policy the student must consult with the instructor "within two months of the matter or decision complained of, or within two months of the end of the course, whichever is later." Following this step the BCD Handbook states that the student must seek a review by the official designated by the College within one month of the decision by the instructor. Under the Regis Policy that person is the Basic Degree Director. No time frame is set under the Regis Policy to initiate this review, but the Basic Degree Director must communicate the decision to the student within 30 days.

The process of review when a student believes that a recorded grade is incorrect under the applicable Regis Policy is that the "BD director designates three instructors who independently consider the appeal and evidence and makes one of the following decisions: the assigned grade should remain; the course instructor should be asked to reconsider the grade in light of information collected, and the reconsidered grade stands, or a grade change is warranted." The Regis Policy states that "[s]tudents have the right to appeal the decision of the BD Director to the Academic Dean" within 14 days of receiving the decision. There is no provision in the Regis Policy that states that a student may not take a step in the appeal process at the college level after they have graduated.

In contrast, the BCD Handbook states in section 16.1.1 in respect of appeals to the TST that an "appeal may be made by a person not currently registered who was registered at the time the adverse grade was submitted or the adverse decision was taken, unless the student has since graduated from the degree program." The Academic Dean applied this section in rejecting the Student's appeal in this case as did the TST Academic Appeals Committee. It should be noted, however, that under section 12.3 of the BCD Handbook, "[s]tudents must apply to their college of registration to graduate at the convocation ceremony immediately following their eligibility to graduate." That meant the Student was required to apply to graduate on November 11, 2023.

¹ We note that the policy available on the Regis College website for the Conjoint Basic Degree Program was amended on November 20, 2023. The previous applicable policy was provided by Counsel for the College.

There is no provision suggesting a deferral pending an appeal in either the Regis Policy or the BCD Handbook. Counsel for the Division argued that the Student ought to be aware of this possibility because the website for the Faculty of Arts and Sciences warns students that they might have to be prepared to defer graduation if they submit a petition within the four-month timeframe before graduation. No such warning seems to have been made to TST students.

The other relevant policy to this appeal, because the Student has raised issues of accommodation, is section 13 of the BCD Handbook – Accommodations for Students with Disabilities:

13.1 Principle of non-discrimination

Under the Human Rights Code of Ontario, every person has the right to equal treatment without discrimination because of disability. The TST and its colleges aim to provide students with disabilities (including physical, learning, and mental health disabilities) the opportunity for the same quality of educational experience as that available to students without disabilities. To that end, the TST and its colleges will comply with its legal obligations by arranging reasonable accommodations for students with disabilities. Accommodations do not alter program or course requirements or expectations.

IV DECISION

Jurisdiction

It is well settled that your Committee does not have the jurisdiction to consider the merits of an assigned grade. As noted by Senior Chair Hamish Stewart in Motion Decision #359-1:

The purpose and function of the AAC, according to s. 2.1 of its Terms of Reference, is to decide “appeals made by students against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations and requirements”. Its jurisdiction is therefore limited to considering whether those academic regulations and requirements have been applied correctly, consistently, and fairly. Its remedial jurisdiction is limited to making orders of an academic nature; such as allowing a student to withdraw late without academic penalty, granting aegrotat standing, granting a request to write a deferred examination. It is well recognized that the AAC has no jurisdiction to re-read a paper or examination to consider the merits of the grade assigned, or to review decisions about admissions.”

On a grade appeal, your Committee will not consider the substantive academic merits of a student’s work. As noted in Report #434, “Instead, your Committee will consider whether the division in question reasonably applied its own policies and procedures concerning grading; if not, your Committee will provide a remedy. (See, also for example, Report #413.)”

While the perceived unfairness of the Course grade was the Student's main concern, she has sought the removal of the Course from her transcript. Section 11.11.3 of the BCD Handbook provides that the contents of transcripts should include the student’s enrolment history including chronologically the courses taken at all TST member colleges. Your Committee has previously

interpreted the University of Toronto Transcript Policy, which has similar wording, as deeming it “inappropriate for this Committee to direct a division to grant a remedy that violates the integrity of its records” (Report #411). [See also Report #397.]

Finally, as noted in Report #368, “it is not the jurisdiction of this Committee to change Faculty policy but rather ensure that it was applied fairly and consistently.”

Does the TST policy bar an appeal because the student graduated?

The decision of the TST on April 17, 2024, dismissing the appeal without a hearing on the basis that the Student had graduated is a reasonable, albeit strict, interpretation of section 16.1.1 of the BCD Handbook. The section appears to operate as a bar to the appeal rather than a filing deadline, which could have otherwise been adjusted to accommodate the circumstances and avoid prejudice to the Student (s.16.1.3). We note that the Student met all filing deadlines at the college level.

This presents as one of those situations in which your Committee finds the policy itself unreasonable but not its interpretation or application. It is particularly problematic for graduating students who are required to apply to graduate at the convocation immediately following completion of their degree requirements (s.12.3) without any notice or provision for deferral. Graduating students are effectively barred from appealing to the TST Appeals Committee in respect of any courses in their final semester. Despite the reference by Counsel for the Division to the website of the Faculty of Arts and Sciences where graduation deferral is mentioned as a possibility, this is not a consistent approach across the University and there are examples of appeals that have been heard on their merits by your Committee following the graduation of a student [see for example Reports #397 and #378].

Reasonableness of the Decision of Dean J. Skira

Regardless of your Committee’s conclusion, if we had found that the TST Academic Appeals Committee had jurisdiction to hear the appeal, we would have sent the matter back to them for a review of the decision of Dean J. Skira. Counsel for the Division invited us to address the merits of that decision and we do so for two reasons: 1) to provide some guidance on the application of the relevant policies at the college level to a graduating student and 2) to convey our view that sending this back to the TST Academic Appeals Committee would lead to a dismissal of the appeal on the merits because the substantive issues raised by the Student were dealt with by the Dean in a reasonable manner.

Your Committee concludes that Dean Skira’s decision is unreasonable in regard to only one issue – his application of section 16.1.1 to dismiss the appeal on the grounds that the Student had graduated from the program. The BCD Handbook clearly states that with course grades, the “Channels of Recourse” under section 16.2 are first to the instructor and secondly to the college of the instructor before taking the matter to the TST Basic Degree Academic Appeals

Committee. There is no provision in the then operative Regis Policy that would have barred a grade appeal by a graduated student. The Student had clearly commenced her appeal within the time limits set by the Regis Policy and had been advised that she had a right to appeal the BD Director's decision to the Dean in the letter dated November 29, 2023. Section 16.1.1 applies to the right to appeal to the TST, not to the college. In this regard we agree with the Student's submission,

“Furthermore, the dean's interpretation excludes any student in their final semester of studies, from successfully mounting an appeal, since the months-long timeline for grade appeal would likely extend past a graduation date. This is certainly not a fair imposition nor expectation for students as the act of graduation would exclude them from due process and would unfairly exempt them from consideration, even if the matter was initiated prior to graduation.”

As noted, the Dean in his decision, addressed the merits of the Student's claims that the Professor had exhibited bias in her grading and had failed to accommodate her disability in evaluating her participation grade. He reasonably concluded that the rubric and expectations set by the Professor did not constitute bias in her grading. Supporting this conclusion was the confirmation of the grade by the independent review conducted by three faculty members in accordance with the Regis Policy and several communications from the Professor to the Student on how she might elevate her grade and what the academic expectations were to achieve an A-level grade.

He also reasonably concluded that the Professor had accommodated the Student in accordance with the letter of accommodation from the Accessibility Office and further requests from the Student to address her medical and disability needs. These included written reflections both before and after class to meet the class participation requirements. The Professor also made clear to the Student that she was not being penalized for any class absences or lateness, and that she was being evaluated within the “bounds of her attendance.” In addition, the Professor provided advice on how the Student could meet the standards of an A-level grade “given her accommodations” through more robust written submissions. There was ample evidence upon which the Dean could reasonably conclude that the Professor accommodated the student as required by the BCD Handbook and the Ontario *Human Rights Code*.

Finally, the Student raised procedural issues related to the decision by the BD Director. As the Dean fully considered the substantive issues raised in her appeal from that decision on their merits, it is not necessary to comment on those issues.

Final Comments on Appeal Policies

In reviewing the applicable policies and procedures for this appeal, your Committee notes that the Regis Policy was changed as of November 20, 2023, to incorporate the following paragraph from the BCD Handbook into the preamble,

An appeal may also be made by a person not currently registered who was registered at the time the adverse grade was submitted or the adverse decision was taken unless the student has since graduated from the degree program (and subject to the timelines noted in the sections below).

However, it also states that the “right of appeal occurs after the student has exhausted all levels of academic appeal at the college level.” Thus, it seems to repeat the provisions that led to confusion by the Student and the Dean in respect of the implications of the Student’s graduation, and ought to be interpreted to permit appeals to proceed at the college level. If this statement is intended to foreclose any appeal post-graduation this is not clearly set out and does not advise students about the possibility of a graduation deferral.

Conclusion

The appeal is dismissed.