



TO: Members of the Academic Board

SPONSOR: Nancy Smart, Senior Judicial Affairs Officer
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DATE: April 30, 2009

AGENDA ITEM: 8(a)

ITEM IDENTIFICATION:

Semi-Annual Report: Academic Appeals Committee, Individual Reports, Winter 2009

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 5.3.3 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.

RECOMMENDATION:

For information.

UNIVERSITY OF TORONTO

GOVERNING COUNCIL

REPORT #328 OF THE ACADEMIC APPEALS COMMITTEE

January 21, 2009

Your Committee reports that it held a hearing on Friday, December 19, 2008, at which the following were present:

Assistant Dean Renu Mandhane, Chair
Professor Elizabeth Cowper
Mr. Ken Davy
Professor William Gough
Professor Louise Lemieux-Charles

Ms. Nancy Smart, Judicial Affairs Officer
Ms. Mette Mai, Assistant Judicial Affairs Officer
Ms. Bonnie Goldberg, Representative of the Judicial Affairs Office

In Attendance:

Ms. S. A., the Student
Professor Gordon Anderson, University of Toronto Mississauga, the Respondent

I. The Appeal

The Student is appealing the July 18, 2007 decision of the University of Toronto Mississauga ("UTM") Academic Appeals Board, denying the Student's petition for late withdrawal without academic penalty from four courses completed during the 2002-2003 academic year: BIO152H5 (Fall Term), PSY100YF (Full Year), CHM140Y5 (Full Year), and ERS120H5 (Winter Term).

II. Facts

The Student enrolled in the Faculty of Arts and Science at UTM in the Fall of 2002. In her first year of studies, she completed BIO152H5, PSY100YF, CHM140Y5, ERS120H5, and ANT102H5 and received final grades as follows:

- BIO152H5 - 47% (F);
- PSY100YF - 58% (D+);
- CHM140Y5 - 42% (F);
- ERS120H5 - 51% (D-); and
- ANT102H5 - 67% (C+).

Between October and November 2002, the Student's father, who lived in Iran, was hospitalized due to a car accident. As a result of her father's accident and his prolonged recovery, the Student had difficulty concentrating on her studies and experienced stress about the financial implications for her family. During this period, the Student continued to attend class and submit assignments. The Student did not seek academic or other counselling from UTM during this period.

The Student's grades improved over the remaining three years of her program, and she graduated from the University of Toronto in June 2007 with a Bachelor of Science degree. The Student is currently enrolled in her second year of medical school in the Caribbean.

III. Previous Decisions

On May 17, 2007, approximately four years after completing her first year courses, the Student filed petitions for late withdrawal without academic penalty from BIO152H5 and CHM140Y5. Your Committee did not have before it a copy of the Student's petition for late withdrawal in BIO152H5.

In support of her petition in relation to CHM140Y5, the Student wrote as follows:

I realize that the deadline for applying to petition has passed for CMH140 but I have strong reasons for doing so now. First,...the year I took CHM140 was my first year in university, and hence I was not familiar with the university system of rules and regulations including petitions. I did not apply for the petition in later years because I thought I would not stand a chance. Now, that I have almost finished my degree and I have decided to go to graduate school, I realize that I may not be able to do so, because the CHM140 failed grade dramatically lowers my GPA....My failure in CHM140 is not without its reasons. In addition to the fact that I was a first year student and adjustment to university life did not come easy for me, another unforeseen situation interfered with my capacity to do well academically on the first year; my father was hospitalized for one month during the Fall of 2002 as a result of a major car accident...My father's recovery took almost two years. Given that I was far away from my father, I was deeply distressed and agonized by his accident and his consequent medical problems. Hence, it became difficult for me to concentrate on my studies...

On June 8, 2007, the Student filed a petition for late withdrawal without academic penalty from ERS120H5. Your Committee did not have before it a copy of the Student's petition for this course.

On June 19, 2007, the Committee on Standing at UTM at first granted and then subsequently denied the Student's requests relating to CHM140Y5 and ERS120H5. The Student was advised via email that the Committee on Standing had granted her requests in relation to both CHM140Y5 and ERS120H5 on the basis of "extenuating circumstances." However, within approximately 15 minutes, she received a second set of emails denying her requests. The Committee on Standing stated that it "does not accept the circumstances that you have presented

as justification for granting late withdrawal from a completed course.” Moreover, in relation to CHM140Y5, the Committee on Standing noted that, since the Student had written a deferred exam in August 2003, they were unable to grant her late withdrawal.

On June 20, 2007, after receiving the denial of the petitions in relation to CMH140Y5 and ERS120H5, the Student submitted another petition requesting late withdrawal without academic penalty from PSY100Y5. In her petition, the Student stated:

As a first year student who was new to Canada, it became difficult for me to cope with pressure caused by my father’s accident. Given that I was far away from my father, I was deeply distressed by his injuries. Therefore, most of my first year courses including PSY100 suffered and my grades did not reflect my true educational capacity.

Your Committee did not have before it a copy of the UTM Committee on Standing’s decision in relation to this course.

The Student eventually appealed to the UTM Academic Appeals Board. Again, your Committee did not have before it a copy of the Student’s appeal to the UTM Board.

The Student’s appeal was denied by the UTM Academic Appeals Board. In a letter dated July 18, 2007, the Board wrote as follows:

1. On the basis of your presentation at the meeting, and that the case stems from courses taken during the 2002/03 academic year, the members of the Board decided that you did not have a compelling case for an exemption from the University regulations that apply to all students.
2. The circumstances you presented for late withdrawal from the above courses as having little or no knowledge of university regulations and having to stand in line for approximately one hour to see an academic counselor in the Office of the Registrar were not deemed as exceptional circumstances. At the same time, you acknowledge being aware of drop dates and rules for deferred exams, having petitioned to write a special deferred exam for CMH140Y5 during the winter of 2003. The Board found it difficult to accept that you were not able to obtain advice from any of your professors or the Office of the Registrar staff during the entire academic year in question.
3. In addition, since you failed BIO152H5 during the first semester, the Board found that you should have realized that you were unable to successfully complete the academic year, and considered dropping the rest of your courses.

The Student now appeals to the Academic Appeals Committee of Governing Council.

IV. Decision

a. Submissions

In her written submissions to your Committee, the Student noted that her father's accident in the Fall 2002 and recovery through to July 2003 negatively affected her performance in BIO152H5, PSY100YF, CHM140YF, and ERS120H5. In relation to missing the deadline to petition, she wrote as follows:

When I first started my university life at UTM, I was new to Canada and I had little knowledge of university rules and regulations. I did not know that there was such thing as petition and that there was a deadline for it. A few years later, when I discovered about petitions, I did not decide to petition for late withdrawal of my first year courses because I thought [*sic*] I would not stand a chance because of passing the deadline. Then I heard of students who were granted petitions even after passing the deadline and it was here that I decided to apply for these positions.

At the hearing, the Student also expressed frustration with the conflicting emails that were sent to her in June 2007 by the UTM Committee on Standing, which first allowed and then denied her petitions. She explained that she had believed that she been granted the petitions and was deeply disappointed as a result of the conflicting messages in the emails.

UTM explained that the conflicting email messages were the result of an administrative error within the Registrar's Office and also acknowledged that the error was unfortunate. Your Committee is of the opinion that, while this administrative error was regrettable, there is no evidence to suggest that the Student suffered significant hardship as a result of the conflicting emails sent no more than 15 minutes apart. Therefore, your Committee did not consider the administrative error as determinative of the merits of this appeal.

b. Reasons

The Student is seeking late withdrawal without academic penalty from four courses that she took more than five years ago: BIO152H5, PSY100YF, CHM140Y5, and ERS120H5. The Student claims that she performed poorly in the courses as a result of personal circumstances that occurred during her first term at the University. The issue before the Committee is whether UTM should have allowed the Student's appeal, some four years after completion of the courses, based on extenuating circumstances.

Your Committee notes that UTM allowed the Student to petition for late withdrawal, years after completion of the courses and the events that gave rise to her difficulties. This demonstrates that UTM was attune to and willing to consider the Student's circumstances despite the highly unusual time frame in which the Student launched her petitions. Your Committee agrees that UTM appropriately allowed the Student to petition for late withdrawal without academic penalty despite the lengthy passage of time.

With respect to whether UTM should have allowed the Student's appeal based on extenuating circumstances, your Committee considered the reasons behind the ability of students to withdraw late without academic penalty. The remedy of late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations. The idea of "drop dates" is predicated upon the University's legitimate expectation that a student will make a decision whether to continue in a course a few weeks into the term. By the drop date, the student is expected to have assessed his or her situation and made a decision. Once the drop date passes, the implication is that the student has decided to continue in the course. Exceptions to this policy are rare, but could include situations where unexpected circumstances occur after the drop date, where already-existing circumstances worsen, or where already-existing circumstances do not resolve.

In reaching its decision, the UTM Appeals Board rejected the Student's submission that she was unaware of University regulations, in part, based on the fact that, in the Winter of 2003, she had petitioned and was granted the opportunity to write a special deferred exam in CHM140Y5. The UTM Appeals Board also found that, since the Student had failed BIO152HF in the Fall of 2002, she should have realized that she would be unable to successfully complete the academic year and considered dropping the rest of her courses. Your Committee agrees with this analysis.

Further, the Student presented no information to the UTM Academic Appeals Board to demonstrate that she was unable to attend classes, missed assignments, or sought counselling for the stress she was facing as a result of her father's accident. The Student did not present any new information to your Committee that the Academic Appeals Board did not also have before it

While your Committee is sympathetic to the hardship the Student was experiencing during the 2002-2003 academic year, the University offers ample opportunity for students who experience unforeseen or worsening problems to withdraw from courses or seek other remedies, both prior to and after its stated deadlines. Indeed, in this case, the Student had availed herself of one of these remedies in the Winter of 2003 when she petitioned to and was granted the opportunity to write a special deferred exam in CHM140YF.

Although we recognize that students who are experiencing emotional difficulty may not always be able to deal with problems concurrent with their onset, your Committee finds that this Student had sufficient information about her progress and the possible impact of her father's accident on her academic performance to have launched the petitions during the 2002-2003 academic year, or shortly thereafter.

Indeed, even if the panel were to accept that the Student was unaware of the University's policies on late withdrawal without academic penalty until after the 2002-2003 academic year, the Student states in her appeal that she did not petition for late withdrawal upon learning of the policy since she thought she "would not stand a chance because of passing the deadline." The Student submitted to your Committee that it was only upon hearing of other students, at this University and other institutions, who were granted similar remedies that she believed she should petition. Your Committee does not view the Student's independent assessment of the merits of her case as sufficient cause to delay the launch of a petition until some four years after completion of the courses at issue.

Your Committee does not believe that this case merits allowing an appeal in circumstances where a student, who was or should have made herself aware of the relevant policies, decides to wait until she is nearing the completion of her degree and assessing her chances of obtaining entry to graduate school to launch her petition. If your Committee granted this appeal, it would set a precedent of removing grades from transcripts, well past established deadlines.

Your Committee acknowledges and is sympathetic to the hardship faced by the Student during her first year of university due to her father's accident. However, based on the information presented by the Student in the petition and the appeal, we find that UTM appropriately applied its discretion in not granting late withdrawal without academic penalty.

During the hearing, it came to your Committee's attention that one of the panel members on the UTM Academic Appeals Board who had been involved in determining the Student's appeal, had also been one of the her instructors in PSY100YF, albeit some five years earlier. While there was no suggestion of impropriety by this panel member, your Committee recommends that UTM clarify its policy on potential conflicts of interest in relation to the students and faculty members selected to hear academic appeals in their division so as to prevent possible future appearances of bias.

Your Committee congratulates the Student on her success in obtaining entry into graduate studies, especially in light of the difficulties she experienced in her first year at UTM. However, your Committee is of the view that UTM's decision was appropriate in the circumstances and unanimously denies the Student's appeal.

The appeal is dismissed.

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #329 of the Academic Appeals Committee

March 18, 2009

The Academic Appeals Committee reports that it held a hearing on Thursday, February 19, 2009, at which the following were present:

Assistant Dean Kate Hilton, Chair
Professor Brian Corman
Professor Elizabeth Cowper
Mr. Kenneth Davy
Professor Michael Marrus

Ms. Mette Mai, Assistant Judicial Affairs Officer

In Attendance:

Mr. G. G (the "Student")
Professor John Scherk, Vice-Dean, UTSC

The Appeal

The Student is appealing the decision of the UTSC Subcommittee on Academic Appeals, dated June 10, 2008, which denied the Student's petition to rewrite the final examination in ECMA04H3.

Facts

The Student enrolled in an Honours Bachelor of Arts program at UTSC in the Fall 2006 Session. During the Fall 2006 term, he enrolled in four half-credit courses, one of which was ECMA04H3.

On December 9, 2006, the Student wrote the final examination in ECMA04H3. He was ill with gastroenteritis at the time and did poorly on the examination (53%). On December 10, 2006, the Student visited the doctor and obtained a medical note confirming his illness. The Student petitioned to rewrite the examination, and his petition was ultimately granted by the Subcommittee on Academic Appeals on June 1, 2007. In its decision the Subcommittee advised the Student that he should be prepared to rewrite the exam in the August 2007 examination period and that further opportunities to write the exam would "be granted only in very exceptional circumstances".

However, in August 2007, the Student became ill with pneumonia. He visited his doctor and was advised not to attempt to write any of his examinations. The Student petitioned to write deferred examinations in three courses, and for an extension of time to rewrite

the final exam in ECMA04H3. On September 25, 2007, the Student received a letter from the Registrar's Office which granted the petition on the basis of the medical documentation provided. The Registrar's letter indicated that the Student would be required to rewrite ECMA04H3 during the December 2007 examination period. The letter also stated:

Please also note that the new grade will stand (ECMA04H3) whether it is higher or lower than the one originally awarded....You are advised to make every effort to write in the December examination period for it is very unlikely that a petition for another extension will be granted.

On December 6, 2007, the Student's uncle attempted suicide. The Student's uncle had been struggling with depression and addiction for some period of time, and the Student and his family were very distressed about the situation. On December 7, the Student rewrote the examination in ECMA04H3 and obtained a mark of 41%. The Student wrote final examinations in three other courses on December 11, 13 and 17, with good results.

On January 18, 2008, the Student's uncle died.

On February 29, 2008, the Student petitioned to rewrite the examination in ECMA04H3 for a second time, on the basis that he had been unable to focus on his examination due to the suicide attempt of his uncle. The petition was denied on the basis that the Student had been able to complete three other exams during the same time period and under the same circumstances.

On March 20, 2008, the Student appealed to the Subcommittee on Academic Appeals. The Subcommittee denied the Student's petition on June 10, 2008. In its decision, the Subcommittee wrote:

While the committee sympathized with the difficulties which this situation presented to you and your family, it was not clear that these difficulties significantly impacted your performance in ECMA04 and did not affect your performance on the other exam dates. The situation of your uncle's deteriorating health had been going on for some months. There was no reason to assume that the events of December 6 were going to be different from earlier episodes....You did not immediately petition for special consideration based on the events of December 6. If you had acted before you knew the outcome of your exam, particularly with some documentation to confirm events, this might well have been considered a very exceptional circumstance in which special consideration was merited. Instead, your decision to petition on January 25, 2008, was based on your knowledge of your (adjusted) mark in ECMA04.

On September 9, 2008, the Student appealed to the Academic Appeals Committee of Governing Council, requesting once again that he be allowed to rewrite the final examination in ECMA04H3.

Decision

This Committee was impressed with the sincerity of the Student, and does not doubt that the Student and his family were greatly distressed by his uncle's suicide attempt.

The issue before this Committee is whether the Student's situation on December 7 (the date of his final examination in ECMA04H3) was substantially different from his situation on December 11, 13 and 17 (the dates of his three other examinations), such that he should be deemed to have been incapable of writing a successful examination on December 7, even though he was capable of writing successful examinations on the other dates.

In making this determination, this Committee must consider the fact that there is no medical evidence to support the Student's claim that his mental distress was sufficiently acute to prevent him from concentrating on his examination in ECMA04H3. This Committee must also consider the fact that the Student did not petition to rewrite the examination until January 25, 2008, after he had received his disappointing results. In light of these circumstances, the majority of this Committee is of the view that there is insufficient evidence to justify granting another opportunity to rewrite the final examination in ECMA04H3.

One member of the Committee is of the view that the Student's situation on December 7 was, in fact, different from his situation on December 11, 13 and 17 because of the proximity in time to his uncle's suicide attempt on December 6. This member would have granted the Student's petition to rewrite the examination.

The appeal is denied.

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

**Report #330 of the Academic Appeals Committee
March 30, 2009**

Your Committee reports that it held a hearing on Wednesday, March 18, 2009, at which the following were present:

Assistant Dean Renu Mandhane, Chair
Professor Ronald Kluger
Professor Louise Lemieux-Charles
Professor Rhonda Love
Mr. Olivier Sorin (Student)

Ms. Mette Mai, Judicial Affairs Officer

In Attendance:

Mr. S. M, the Student
Vice-Dean John Scherk, University of Toronto Scarborough, the Respondent

I. The Appeal

The Student is appealing the March 20, 2008 decision of the University of Toronto Scarborough ("UTSC") Committee on Academic Appeals, denying his petition for early return from a 36-month suspension imposed in the Winter of 2007.

II. Facts

In the Fall of 2003, the Student enrolled in the Bachelor of Science (Honours) program in the Faculty of Arts and Science at UTSC. Though he passed two courses in the Fall of 2003, he failed all of his courses in the Winter of 2004 and was placed on academic probation at the end of the session. During the 2004-2005 academic year, he failed all of his courses, and was suspended for twelve months at the end of the Winter session. At the time of his suspension, his sessional GPA was 0.0 and his cumulative GPA was 0.21.

Due to a change in policy at UTSC, the Student was allowed to return early from suspension. In the Fall of 2005 he enrolled in two courses at UTSC: he failed one course and received a C+ in the other course. He was suspended for twelve months at the end of the session. At this time, his sessional GPA was 0.85 and his cumulative GPA was 0.31.

The Student returned to his studies in the Winter of 2007 and enrolled in two courses at UTSC. He had previously attempted and failed both of these courses twice. He received a D+ in both courses. He was suspended for 36 months. At this time, his sessional GPA was 1.3, his annual

GPA was 1.3, and his cumulative GPA was 0.44. During the course of his studies at UTSC, the Student has earned a total of 2.50 credits.

III. Previous Decisions

On November 6, 2007, the Student petitioned to have his 36 month suspension deferred. In support of his petition, the Student wrote as follows:

In the Winter 2007 semester, I...completed two half credit courses...I find it difficult to study and work (full-time, nights) at the same period. Therefore, my marks were not as high as I could have achieved....As a result, I was suspended from the university for 36 months. If I had proper financial arrangement[s]...., I would avoid my academic setback. Therefore, I talked to OSAP about it. OSAP replied to me in [a] letter dated September 30, 2007 that if I show early return approval from University of Toronto, they can allow me to get OSAP...

The Student also provided medical documentation related to his previous suspensions.

On November 16, 2007, the Office of the Registrar at UTSC denied the Student's petition requesting early return from his 36 month suspension. The Registrar found that there was no new evidence to show that Student was ready to return to his studies.

On November 19, 2007, the Student appealed the decision of the Office of the Registrar to the UTSC Subcommittee on Academic Appeals. The Student wrote the following in support of his petition:

I believe that I am ready to return to my studies...I have enclosed...OSAP letter, which indicates that OSAP agreed to give financial support, if I can return to my studies early.

The Student's appeal was denied by the UTSC Subcommittee on Academic Appeals Board. In a letter dated March 20, 2008, the Board wrote as follows:

1. Early return from suspension is normally granted only in cases where there has been some substantive and well documented change in the individual's life which indicates that their previous record of failures is not likely to recur. You provided no indication of such a change.
2. In October 2003, you were diagnosed as suffering from clinical depression. As indicated by a note from Dr. Rajendra, you were placed on a regime of appropriate medication. You explained in the hearing that your condition responded well to treatment. You explained to the committee that, by 2005, you were considered cured and you stopped taking medication. Although you provided no documentation for this fact, the committee accepted your word on the matter. Since the term which led to your 36 month suspension was Winter 2007, your medical history has no bearing on the present case.

3. If your appeal were granted, you would be required to achieve a sessional Grade Point Average of 1.60 or better until your cumulative GPA is raised above 1.60. Failure to achieve such marks at any point would result in your being denied further registration at the University of Toronto.
4. In the five years since your first enrolment at UTSC, you have attempted fifteen courses. You have failed ten of these courses. Your cumulative Grade Point Average is presently 0.44. The highest sessional GPA you have so far achieved is 1.30.
5. You managed weak passes in both classes in the Winter 2007 session. Since you had taken both courses twice previously, this does not represent a strong argument for the degree of improvement in academic performance that would justify special treatment.
6. Your suggestion that OSAP would give you funding, contingent on your being readmitted, did not strike the committee as at all certain nor was it sufficient grounds for granting the appeal.
7. To summarize, the committee felt that denying your appeal was in your own best interest.

In its letter dated March 20, 2008, the UTSC Subcommittee on Academic Appeals Board suggested that the Student save money during the suspension period to pay for his resumed education in 2010, consult with a career counselor to determine how to best develop his skills and talents, and take some courses at a community college in order to update his academic skills and study habits.

The Student now appeals to the Academic Appeals Committee of Governing Council.

IV. Decision

a. Submissions

In his written submissions to your Committee, the Student stated that his appeal was based on his “financial and medical condition.” However, at the hearing, the Student only made submissions in relation to his financial circumstances (since his medical condition was resolved as of March or April 2005). He stated that his poor academic performance in 2007 resulted from working full-time to support his family while attending university. He stated that he was required to work, in part, because he was not able to obtain OSAP in 2007 due to his academic history.

In support of his appeal, the Student submitted a letter from OSAP dated September 2, 2007. The letter states that, as a result of a previous restriction on eligibility, the Student would be required to submit the following before he would be considered for OSAP: (1) a letter of

explanation relating to current academic objectives, and (2) confirmation that existing student loans are in good standing.

The Student submitted a second letter to your Committee; this letter was not before the UTSC Subcommittee on Appeals. In a letter dated September 20, 2007, OSAP confirmed that, if the Student was able to successfully appeal for early return from academic suspension, he could request an OSAP appeal for further eligibility. At the hearing, the Student confirmed that he understood that these letters did not grant him OSAP funding, but only authorized him to apply for OSAP should early return from academic suspension be granted by your Committee.

b. Reasons

The Student is seeking early return from a 36-month suspension imposed at the end of the Winter 2007 session due to poor academic performance. The Student claims that he performed poorly as a result of his medical and financial circumstances.

The issue before the Committee is whether UTSC should have allowed the Student's appeal based on a change in the Student's circumstances. In determining this issue, your Committee considered the reasons behind the imposition of suspensions for poor academic performance.

The University sets minimum academic standards that apply to all students. Where a student fails to meet these minimum standards, he or she can be suspended or denied further registration at the University. Implicit in the imposition of a suspension is the expectation that the student will use the time to address the circumstances that may have led to his or her poor performance prior to re-enrolling at the University. Consistent with this underlying purpose, early return from suspension is an extraordinary remedy that is normally only granted in cases where there has been some substantive and well-documented change in the student's circumstances which indicates that his or her previous record of poor academic performance is not likely to recur.

In applying this test, your Committee must accept the University's established minimum academic standards and the penalties imposed for failing to achieve them. However, your Committee is prepared to grant relief where it is just to do so based on the reasons behind the policy. This could include situations where, for example, a student has sought treatment for a medical condition while on suspension such that she is no longer dealing with the same issues that resulted in the suspension, or where the student demonstrates significant improvement in her academic performance through enrollment and completion of academic courses at another institution.

In reaching its decision, the UTSC Subcommittee on Appeals rejected the Student's submission that his circumstances had changed sufficiently to justify early return. The UTSC Subcommittee on Appeals found that the Student's medical history had no bearing on his appeal. The Subcommittee relied on Dr. Rajendra's note, which stated that the Student was no longer suffering from the effects of depression as of 2005. Given that the 36 month suspension at issue related to poor academic performance in 2007, the UTSC Subcommittee did not find his medical history from 2003 to 2005 relevant. The Student presented no information to the UTSC Subcommittee on Appeals to demonstrate that he continued to suffer from depression or any

other medical condition immediately prior to or during the Winter 2007 session, and presented no further medical documentation to your Committee. Therefore, your Committee agrees with UTSC's analysis regarding the Student's medical circumstances.

The UTSC Subcommittee on Appeals also found that the consideration of the Student's financial circumstances did not justify early return. Funding from OSAP was not certain and, even if it was obtained, the UTSC Subcommittee was not convinced that this would have a significant affect on the Student's academic performance. The Student presented no information to the UTSC Subcommittee on Appeals to demonstrate that he was unable to attend classes, missed assignments, or sought counselling for the stress he was facing as a result of working full-time and attending University during the Winter 2007 session. In the hearing before your Committee, the Student acknowledged that funding from OSAP was uncertain, and presented no further information regarding the impact of his financial condition on his studies during the Winter 2007 session. Therefore, your Committee agrees with the UTSC Subcommittee on Appeal's finding that consideration of the Student's financial circumstances did not justify early return.

As noted above, the UTSC Subcommittee on Appeals made a number of suggestions for ways the Student could use his time on suspension to better prepare himself for university studies. The Student has been suspended for well over a year, however, there was no information before your Committee to suggest that he has maintained steady employment, consulted with an academic counselor, or taken any courses at a community college to upgrade his academic skills and study habits. As a result, there was no further information before your Committee to demonstrate a change in circumstances that could justify early return from suspension.

Your Committee is sympathetic to the hardship the Student was experiencing in 2007 while attempting to balance his family commitments and studies. However, based on the information presented by the Student in the petition and the appeal, we find that UTSC appropriately applied its discretion in not granting early return from academic suspension. Your Committee is of the view that UTSC's decision was appropriate in the circumstances and unanimously denies the Student's appeal.

The appeal is dismissed.

THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL
REPORT #331 OF THE ACADEMIC APPEALS COMMITTEE

April 1, 2009

Your Committee reports that it held a hearing on Thursday March 12, 2009, at which the following members were present:

Professor Emeritus Ralph Scane (Senior Chair)
Professor Ellen Hodnett
Professor Chris Koenig-Woodyard
Ms. Anna Okorokov
Mr. John Stewart

Secretary:

Ms. Mette Mai

In Attendance:

For the Student Appellant:

Mr. D. S. (the Student)
Ms. A. S.

For the University of Toronto at Scarborough:

Vice-Dean Professor John Scherk

This is an appeal from the decision of the Subcommittee on Academic Appeals of the University of Toronto at Scarborough (UTSC), dated March 31, 2008, which dismissed an appeal from the decision on the Student's petition, dated January 9, 2008. The latter decision refused a request to grant a late withdrawal without academic penalty in the courses POLB90H3F, POL80H3F, IDSB07H3F and EESA07H3F, taken in the Fall Term of 2007.

The Academic Background

The Student first enrolled at UTSC in the Fall Term of 2005, as a candidate for the Honours B.A. He accumulated 5.5 credits by the end of the 2006 Summer Term, and at the end of that term was in good standing. However, by the end of the 2006 Fall Term, his performance had deteriorated, and he was placed on academic probation. Following the 2007 Winter Term, his performance had continued to deteriorate, and he was suspended for four months. He returned for the 2007 Fall Term, when he enrolled in the four courses referred to above, which are the subject of this appeal. He failed each of these courses, and was then suspended for twelve months. That suspension has been served, and the Student has returned to his program and is currently enrolled at UTSC, on probation.

The Personal Background

The Student is a member of a family of European roots which immigrated into Canada in 1985. In Canada, the family was tightly knit, and an aunt of the Student was a core member, described by the Student and his sister, who assisted him on this appeal, as the “glue” who held the family units together. This aunt was diagnosed with cancer in about October, 2005. The Student was not made aware of the condition, and of its terminal nature, until October 2006. The Student attributes his deteriorating performance in 2006 and the Winter Term of 2007 to the stresses he was undergoing due to his concern over his aunt. The stress that the Student was suffering as a result of the Aunt’s deteriorating condition was the principal basis of this appeal. The Aunt died at the beginning of September, 2007, adding to the adverse effect upon him in the following term.

The Student stated that he found himself unable to concentrate or organize his mind to write essays or study his courses. He obtained very low marks in the first set of tests and papers returned to him in his courses. Nevertheless, he hoped that he could recover and pass the courses by the end of the term.

In August, 2008, the Student commenced seeing a psychiatrist, who diagnosed him as suffering from a depressive illness (Dysthymic Disorder) as well as Generalized Anxiety Disorder. Unfortunately, the medical report submitted to us is of limited assistance. It does not express an opinion as to how long the condition had existed, the effect it would be expected to have on his academic performance, and whether the condition might have significantly worsened after the drop date in November, 2007, that is, the date by which to withdraw from courses without academic penalty. The Student did not seek counselling or help, either medically or from faculty, during the Fall Term of 2007, although one course instructor had offered assistance. The Student explained that his parents were very strict about keeping problems within the family and that he had accepted their attitude.

Decision

Your Committee accepts that the Student was seriously affected by his aunt's death at the beginning of the Fall Term of 2007, and that this exacerbated the medical condition which it is prepared to assume existed during the term. The Student's academic performance was probably adversely affected by these factors. However, such a finding is not a sufficient basis to permit the revision of the academic transcript by permitting a late withdrawal from the courses in issue without academic penalty, thereby removing the failures from his record, and also removing the effect of those grades upon his Cumulative GPA. Previous panels of your Committee have repeatedly held that, absent some change of circumstances after the drop date for courses, a student must accept the consequences of his or her decision to continue with a course past that date, notwithstanding any debilitating factors which may be affecting the Student. The University will not allow a student a free gamble that he or she will surmount the debilitating factor and pass the course or courses, with the chance that late withdrawal may be permitted if the gamble fails. That is exactly what happened here. The Student was well aware from the beginning of the term that he was performing badly. He did not know his technical medical condition, but he was well aware that he was severely stressed, to use his own description of his condition, and your Committee does not believe that he had any reasonable expectation that his condition would significantly alleviate during the balance of the term. His state after the drop date was unchanged from what it had been before that date. He stated, both in his testimony and his argument that, even after receiving the poor marks in his early results, they represented only a proportion of the final mark and he thought he could improve sufficiently to pass. He was well aware that he was in difficulty academically. He had been on academic probation, and had undergone a four month suspension. In the circumstances, his decision not to drop the courses by the required date was a dangerous gamble on his part, and unfortunately it did not succeed.

The appeal is dismissed.