



FOR INFORMATION

PUBLIC

OPEN SESSION

TO: Academic Board

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

CONTACT INFO: christopher.lang@utoronto.ca

PRESENTER: See Sponsor

CONTACT INFO:

DATE: May 21, 2020 for May 28, 2020

AGENDA ITEM: 16(b)

ITEM IDENTIFICATION:

Academic Appeals Committee, Individual Reports, Spring 2020

JURISDICTIONAL INFORMATION:

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

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

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

GOVERNANCE PATH:

1. **Academic Board [for information] (May 28, 2020)**

PREVIOUS ACTION TAKEN:

The last semi-annual report came to the Academic Board on November 21, 2019.

HIGHLIGHTS:

The purpose of the information package is to fulfill the requirements of the Academic Appeals Committee and, in so doing, inform the Board of the Committee's work and the matters it considers, and the process it follows. It is not intended to create a discussion regarding individual cases or their specifics, as these were dealt with by an adjudicative body, with a legally qualified chair and was bound by due process and fairness. The Academic Appeals Committee's decisions are based on the materials submitted by the parties and are final.

FINANCIAL IMPLICATIONS:

There are no financial implications.

RECOMMENDATION:

For information.

DOCUMENTATION PROVIDED:

- Academic Appeals Committee, Individual Reports, Spring 2020

UNIVERSITY OF TORONTO

GOVERNING COUNCIL

Report # 407 of the Academic Appeals Committee
December 12, 2019

To the Academic Board
University of Toronto.

Your Committee reports that it held a hearing on Thursday, November 20, 2019, at which the following members were present:

Professor Malcolm Thorburn (Chair)
Professor Douglas McDougall, Faculty Governor
Ms. Susan Froom, Student Governor

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

Appearances:

For the Student Appellant:

Mr. N. B. (“the Student”)

For the University of Toronto Scarborough (“UTSC”):

Professor Mark Schmuckler, Vice-Dean Undergraduate
Dr. Curtis Cole, Registrar and Assistant Dean Enrollment Management

The Appeal

This is an appeal of a decision of the UTSC Subcommittee on Academic Appeals (“the Subcommittee”) rendered on 24 July 2018 with reasons written by the Chair, Professor Nick Cheng. In the Subcommittee’s decision, they denied the Student’s appeal to be awarded a four-year honours bachelor of science (HBSc) degree in geography.

This appeal raises two distinct issues. The first is the procedural issue of timeliness. The Student failed to appeal the Subcommittee’s decision within the prescribed time of 90 days from the time of the decision. The deadline for filing an appeal would have been on 22 October 2018; the Student filed his appeal only on June 10, 2019 – roughly eight months past the deadline for appeal.

The second issue concerns the merits of the appeal. It arises only should the Student succeed on the issue of timeliness. He argues that the Subcommittee's decision of July 24, 2018 denying his request to be awarded a four-year geography HBSc should be overturned.

This Committee agreed to hear submissions both on timeliness and on the merits of the appeal.

Timeliness

On the issue of timeliness, the Student argued that he was delayed in submitting his appeal, first, because he experienced printer problems and, second, because he became busy with other matters. When pressed to say whether he had attempted to obtain the assistance of Downtown Legal Services with his appeal, the Student said that he had called them, but they had told him that there were no services for students. He was unable to remember the name of the person who had told him this.

Professor Schmuckler for UTSC pointed out that all materials relevant to the appeal were available online and fully readable. He insisted that the printer issues and the Student's busyness with other matters were not extenuating circumstances. These were precisely the sorts of matters that the 90-day time for appealing were designed to consider.

We agree with UTSC on this matter. The Student's appeal must be barred on grounds of timeliness. His delay was egregious – almost eight months late – and without any reasonable reason. To waive the issue of timeliness in this case would be tantamount to overruling the deadlines themselves. We are not willing to do so.

In virtue of our finding on timeline, our reasons below on the merits of the appeal are moot. Nevertheless, we feel it is important to address some of the concerns raised on the merits of this appeal all the same, for two reasons. First, it is important to explain to the Student precisely why his request is being denied. Although he filed his appeal much too late, the original reasons for judgment from the Subcommittee were very brief and unilluminating. Second, considering the merits of this appeal allows us to provide some guidance to the Student toward another, different avenue that might be of assistance to him.

The Facts

Because of the thinness of the submissions of both parties, the statement of the facts set out here are somewhat spotty. We believe that the facts presented here are nevertheless sufficient to justify our reasons for decision.

The Student enrolled at the University of Toronto Scarborough (UTSC) in 1981 and he continued to study there, on and off, until 1993. He was suspended from the program at some point and was eventually permitted to re-enrol, which he did in the winter of 1987. He was again suspended from the program in the winter of 1989. He eventually returned to UTSC and continued to study there until 1993. In 2015, he was awarded a B.A. degree. Over the course of his studies, the Student successfully completed 22 academic credits.

The parties agree that the 1981 UTSC academic calendar is the correct standard by which to determine whether the Student met the requirements of a four-year HBSc. According to that calendar, there are five specific requirements for the HBSc degree in geography:

- (1) pass at least twenty courses;
- (2) among these, pass at least thirteen B- or C-level courses;
- (3) complete a specialist program; or two major programs; or a major and a college program;
- (4) earn a grade of “C-” or better in at least fourteen courses, including at least two B- or C-level courses;
- (5) Earn a cumulative grade-point average of 1.5;
- (6) For a bachelor of science degree, pass at least nine B-level and C-level courses in science.

According to UTSC, the Student completed (1), (2), (4), and (5) from this list, but not (3) and (6).

The Student does not have the credits for a specialist in geography, as required under (3). As outlined in a document submitted to the Committee on November 20, 2019, there are three requirements for this program (either in human settlements or in environmental geography) that the Student has not completed.

The Student also does not have the B- or C-level credits required for an honours bachelor of science degree as set out in item (6) from this list. He has completed 5.5 science credits toward the nine required under item (6), but UTSC is willing to count a further course (zoology 200Y) toward this total, bringing it up to 6.5 credits. Even with this concession, however, the Student is not close to meeting requirement (6) of the HBSc degree.

In his oral submissions, the Student did not contest the description of the program requirements or his progress toward meeting them as set out by UTSC. He simply insisted that he was not far from the requirements. He mentioned that were he to be given credit for some of the courses he failed, he might be somewhat closer to the degree requirements for the HBSc in geography.

Decisions Below

The Subcommittee rejected the Student’s request to be awarded a four-year HBSc degree with very few reasons provided. The Subcommittee simply stated that “[d]egrees are granted to students when academic requirements are met, regardless of environmental factors such as faculty/staff strikes, inefficient audio and visual technological systems, and building maintenance disruptions. Furthermore, the Subcommittee firmly believes that granting a degree that was not earned would devalue the credentials, which are granted to students by the University judiciously.”

It is clear that, on the merits, this appeal would fail. The Student has not made the case that he has met the requirements for the four-year HBSc degree that he is seeking. He has also failed to provide any good reason for overturning this decision. In his notice of appeal, he argues that “facts must be focused on (eg. science background of courses/programs, similar content courses). Also, that some programs have a curriculum [sic] that incorporated a similar body of courses.” He has not provided any reason why this Committee ought to look beyond the categorisation of courses given to them in the academic calendar. Further, the Committee was not given any reason why the Student’s own circumstances (“a lack of suitable career employment” that motivate him “to confirm and rejuvenate the repertoire of qualifications ...”) should alter its understanding of his qualifications for the degree he seeks.

Decision

The Committee dismisses this appeal on the issue of timeliness. The Student’s appeal is well outside the prescribed time limit, without any suitable explanation. Further, however, this Committee is of the view that were we to proceed to the merits, we would dismiss the appeal on these grounds, as well. The Student is not close to meeting the requirements for the degree he is seeking. Should he wish to earn the degree, the UTSC has made clear that he is welcome to enrol and obtain the required courses.

Additional Remarks

UTSC, in its oral submissions, suggested that the Student has met the requirements of a three-year BSc degree. They indicated that although they were not in a position to guarantee that he could exchange his three-year BA for a three-year BSc, they indicated that they saw no obstacle to his doing so. Since this would go some way toward meeting the Student’s objective, and would do so consistently with the UTSC academic calendar’s demands, we urge the Student to pursue this option.

This committee would like to add, as a final comment on this process, that it would have been useful for the Subcommittee to have taken the time, as we have done, to make clear precisely why the Student’s request was being denied and what other options were available to him. Where this sort of guidance is available at first instance, it may satisfy the parties and avoid further appeals to this Committee.

UNIVERSITY OF TORONTO

GOVERNING COUNCIL

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

To the Academic Board
University of Toronto

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

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

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

Appearances:

For the Student Appellant:

Ms. J.P. (the “Student”), by Skype

For the University of Toronto Mississauga (“UTM”)

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

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

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

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

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

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

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

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

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