

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #375 of the Academic Appeals Committee
September 5, 2014

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Wednesday June 4, 2014 at which the following members were present:

Mr. Tad Brown, Chair
Professor Salvatore Spadafora
Mr. Rastko Cvekic

Secretary: Ms Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Appearances:

For the Student Appellant:

Mr. S [REDACTED] S [REDACTED], the Student
Mr. Samuel Greene, Legal Case Worker for the Student, Downtown Legal Services

For the University of Toronto Scarborough (UTSC):

Professor Mark Schmuckler, Vice Dean of UTSC

The Appeal

The Student is appealing a decision of the Subcommittee on Academic Appeals (SAA) at the University of Toronto Scarborough dated June 26, 2013. The decision of the SAA dismissed an appeal by the student for late withdrawal without academic penalty for two courses taken in the Summer Session 2012, namely ECM A04H3 (Introduction to Microeconomics: A Mathematical Approach), and MATA36H3 (Calculus II for Physical Sciences) (collectively the "Courses"). The Student is appealing on medical and compassionate grounds. The Student is seeking a remedy that would allow him to be granted late withdrawal without academic penalty from the Courses or, in the alternative, removal of the Courses from his academic record.

Facts

The Student first enrolled at the University of Toronto Scarborough in the 2011 Fall Session in Honours Bachelor of Science as a transfer student. In the Fall Session 2011, he earned 1.5 credits. In the Winter Session 2012, he earned another 1.5 credits. In the Summer Session of 2012, he enrolled in three courses including the two Courses that are the subject of this appeal.

The Student wrote the exams for the Courses on August 14, 2012 and August 18, 2012 respectively. The Student wrote the exam for the third course on August 23, 2012 and performed well receiving a final grade of B-. Upon learning that he had failed both of the Courses, the Student submitted a petition on September 7, 2012 requesting the opportunity to rewrite his final examinations in the Courses, or alternatively, that he may be granted late withdrawal from the Courses without academic penalty. In that petition, the Student included a medical note dated September 5, 2012 which indicated that the student had been seen with recurrent epistaxis (bleeding of the nose) from January 2012 through the time of the note. On September 25, 2012, UTSC informed the Student that his petition had been denied. In that decision, UTSC stated

“UTSC Policy clearly states: ‘If you choose to write an examination, you may not petition to rewrite it. In truly exceptional circumstances such as a significant illness that manifests itself during an examination, you may petition to defer the exam that you have begun. This would require both corroboration from the examination invigilator and documentation from a health care professional.’ There is no documentation from the invigilators or the instructors that indicates you left the examination room due to illness. The medical document does not show that you were ill on the day of the examinations August 14th and 18th 2012. You successfully completed another exam on August 23rd under similar circumstance. The medical document states that ‘As a result of the treatment instituted August 7/12 this patient has recovered well.’ There is no evidence or documentation to show that you were ill on August 14th and 18th. If you were ill on the day of the examinations, you had the option to request deferred examinations in both courses.”

The Student appealed the denial of his petition and submitted a request for review of the petition to the Subcommittee on Standing at UTSC. On March 20, 2013, the Student was notified that the Subcommittee had denied his request.

Previous Decision

The Student appealed this decision to the Subcommittee on Academic Appeals (the “SAA”) of the University of Toronto Scarborough requesting late withdrawal without academic penalty from the Courses. On June 26th, 2013, the SAA denied the Student’s appeal for the following stated reasons:

1. "Although the committee appreciates that you have been struggling with a condition that has caused you physical discomfort and psychological stress, documentation of a medical diagnosis, on which the rationale for the appeal is based, was not provided. In the absence of such documentation there are not sufficient grounds to justify granting the appeal.
2. Given that your appeal did not include any pertinent additional documentation to that originally provided in the petition to the Subcommittee on Standing, the committee carefully reviewed the decision of Standing and found it valid."

Decision

The Student provided additional evidence to your Committee which was not presented to the SAA. In particular, the Student provided additional medical documents that confirmed that the Student had been a patient of an otolaryngologist since 2011 where he had been treated for sinus congestion, coughing and epistaxis. In particular, the Student had visited the otolaryngologist a total of ten times during the 2012 calendar year (January 18, February 14, March 20, March 28, April 11, April 18, May 29, August 7, September 5 and December 3). In April 2013, the Student was recommended by a specialist "for consideration of septal surgery" to correct a deviated septum. The Student was successful in having the operation performed in India on September 6, 2013. The Student asserts that his full medical condition was not known at the time of Summer Session 2012 and had he known that his condition required surgery that he would have been able to decide to stop his academic undertakings until his medical matter had been resolved. All of the additional documentation provided to your Committee was dated some months after Summer Session 2012.

Your Committee has on a number of occasions dealt with petitions for late withdrawal from a course without academic penalty and has consistently stressed that this remedy will not be lightly granted. The remedy of late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations. The idea of "drop dates" indicates that the University expects that a student will make a decision whether to continue in a course by a set date in the term. But by the drop date, a 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 on in the course. Exceptions to this policy are rare, but could include situations where unexpected and unforeseeable circumstances occur after the drop date, where already existing circumstances become unpredictably worse, or where already existing circumstances do not reasonably resolve.

In the Courses that are under appeal, the Student had the option to drop the courses right up to the day before the examination. Requests for a deferral of the

examination could also be made within 24 hours of the examination with a medical note. The Student had successfully petitioned for a deferred final examination for an examination originally scheduled for December 2011 so had demonstrated that he was well aware of the process. While your Committee accepts that the sinus congestion, coughing and epistaxis were challenging for the Student, there was not enough evidence to support the impact that these conditions had on the Student's academic performance that would justify allowing this extraordinary remedy in accordance with the parameters set out above. In particular, the Student had been aware of these conditions and seeking treatment for some months before the examinations for the Courses. The Student had had a successful academic performance in the three courses that he took in the Winter Session 2012 as well as the third course that he took during the Summer Session 2012. Even with the additional medical information provided, there is no evidence to demonstrate that the conditions became unpredictably worse or that the Student was suffering from an acute episode at the time of the examinations for the Courses being appealed.

In addition, the Student had the opportunity to drop both of the Courses up until the day before the examinations of which he did not avail himself. There was not sufficient evidence presented to support the Student's assertion that he would have withdrawn from all of his courses or decided not to register for additional courses if he had known that surgery was recommended.

Therefore your Committee has determined that this case is not one which justifies the extraordinary remedy of granting late withdrawal from the Courses without academic penalty.

The appeal is dismissed.