

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #379 of the Academic Appeals Committee
July 27, 2015

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Monday, June 29, 2015, at which the following were present:

Ms. Renu Mandhane, Chair
Professor Salvatore Spadafora, Faculty Governor
Mr. Ben Coleman, Student Governor

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

In Attendance:

For the Student:

M. F. [REDACTED] S. [REDACTED] M. [REDACTED], the Student
Ms. Nicole Wilkinson, Ms. Tegan O'Brien, and Ms. Sherice Annis, Downtown Legal Services, representatives for the Student

For the University:

Professor Luc de Nil and Ms. Kendra Hawke, School of Graduate Studies, University of Toronto, the Respondent
Professor Brent Sleep, Department of Civil Engineering, University of Toronto, Respondent
Ms. Lily Harmer, Paliare Roland Rosenberg Rothstein LLP, representative for the Respondents

I. The Appeal

The Student is appealing the 14 October 2014 decision of the University of Toronto School of Graduate Studies ("SGS") Graduate Academic Appeals Board ("GAAB"), denying her appeal for late withdrawal without academic penalty from CIV531F, a course in which she was enrolled during the Fall 2013 session and for which she received a grade of FZ.

The appeal is dismissed.

II. Facts

The Student is a relatively recent immigrant to Canada, arriving from Iran with her family in the fall of 2012. She enrolled in the Master of Applied Science program in the fall of 2013.

To date, the Student has failed three courses, CIV531F which is the subject of this appeal; CIV1598H, for which she received late withdrawal without academic penalty; and CIV1532H which she took in the winter of 2014. As a result of the two FZ marks that remain (CIV531F, CIV1532H), she is facing termination from her program.

Throughout the fall of 2013, the student faced personal difficulties that arose as a result of: (1) marital problems between her parents, including her mother's decision to return to Iran for a period of just over 2 months, and associated emotional impacts on the Student and her sister; and (2) additional household responsibilities necessitated by care for her father who broke his wrist on December 5, 2013. These personal difficulties are discussed in more detail below.

According to the Student, her parents began experiencing marital difficulties in September 2013. As the Student and her sister lived with her parents, this understandably created stress for the entire family, including the Student.

On or around October 10, the student's mother planned a trip to Iran and had reserved a plane ticket by the end of October. At the hearing, the Student confirmed that her mother booked a return ticket and was expected to return to Canada. Indeed, her mother travelled to Iran on November 5, 2013 and returned on January 13, 2014. While her mother was in Iran, there were additional household responsibilities that fell to the Student.

Sometime in mid-October, prior to the add/drop date of October 28, 2013, the Student approached her graduate advisor to explore the possibility of dropping some courses. During this meeting, her advisor explained that dropping courses was an option available to the Student, but that doing so would delay her graduation and ultimately he advised against it. By her own admission, the Student did not reveal to her advisor that she was having personal problems because she did not want him to view her in a negative light. There is no evidence that she talked to him again at a later date about dropping courses.

On October 18, the Student received an email from the SGS which clearly reiterated the add/drop date and the responsibility placed upon students to assess their own situation and ability to complete the course requirements. The email stated:

The Fall 2013 drop deadline is **October 28th**, please note this in your calendars if you are considering dropping a course.

Grad students are expected to be sufficiently self-aware to be able to gauge their own progress in any coursework undertaken. The graduate grading policy does not require graded assignments prior to the graduate drop deadline (February 28,

2013 [sic]). Not knowing drop deadlines is not a valid reason for a late drop. Not assessing one's progress and taking the appropriate decisions within the specified drop deadlines is not a valid reason for a late drop. Waiting for mid-term results, is not a valid reason for a late drop.

If you are having difficulty in a course but are unsure about dropping we urge you to come into GB105 and speak with us [emphasis in original].

The Student did not lead any evidence to suggest that she did not receive this email or that she did not understand its contents.

On October 22, the Student wrote a mid-term in CIV531H which she failed. However, she would not have learned of her grade on the mid-term until after the add/drop date of October 28.

The deadline for withdrawal from courses came and went; the Student did not drop any courses on October 28, 2013.

On November 12, 2013, the Student's sister left the family home in distress to stay with a friend in Waterloo. The Student was unable to ascertain her sister's whereabouts for three days (until November 15, 2013). During this three-day period the Student was worried and had difficulty studying. Her sister returned to the family home a further nine days later (i.e. around November 21, 2013).

On December 5, 2013, the Student's father fell and broke his wrist and the Student spent the night with him in the hospital emergency department. (The Student wrote an exam in CIV1598 the next day, December 6, which she failed. She has been granted late withdrawal without academic penalty for that course.)

Between December 5 and December 20, the Student was required to assist with the care of her father, due primarily to the injury to her father's wrist.

On December 20, 2013, the Student wrote her final exam in CIV1532H. She obtained a mark of 30.6 on the exam, which was insufficient to pass the course.

Pursuant to s. 7.2.3 of the SGS Calendar, where exceptional circumstances such as personal issues adversely affect a student's performance, they may make a written request for special consideration. This request must be submitted to the instructor or the Coordinator of Graduate Studies no later than two business days following the exam. Medical certificates or appropriate evidence must be submitted to support such requests. The Student did not submit such a request.

Sometime in early January, the Student would have learned that she failed CIV1532H. On January 24, 2014, Ms. Kendra Hawke, the Graduate Programs Coordinator in the Department of Civil Engineering, sent an email to the Student noting that she had failed two courses and inquiring as to whether the Student was planning to appeal the results.

After learning of her failing grades and possible termination from her program of study, the Student filed a petition for late withdrawal without academic penalty from two courses, including CIV531H.

III. Previous Decisions

By way of letter dated June 9, 2014, the Student's petition was denied by the Department of Civil Engineering's Graduate Departmental Academic Appeals Committee which stated that:

While the Committee acknowledges your request for special consideration and is sympathetic towards your circumstances, there is not sufficient proof of your distress without the documentation of a medical certificate.

The Student appealed this decision to the GAAB. On October 14, 2014, the GAAB denied the Student's petition for late withdrawal without academic penalty from CIV531H finding that:

The Student's family circumstances, though difficult, did not change after the drop date. Moreover, the Student has never provided any documentation of any unanticipated circumstances that affected her performance in CIV531H. The GDAC's dismissal of her appeal from the FZ in CIV531H was eminently reasonable.

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

IV. Decision

Submissions

In her written and oral submissions to your Committee, the Student argued that there was a significant change in her personal circumstances after the October 28 add/drop date that justifies the extraordinary remedy of late withdrawal without academic penalty. In particular, she points to her: (1) mother's departure to Iran (November 5), (2) sister's "disappearance" for 3 days (November 12-15), and (3) father's wrist injury (December 5).

The School of Graduate Studies argues that circumstances (1) and (2) were foreseeable in advance of the drop date, since the mother's departure was known as of October 10, and her sister's "disappearance" was an extension of existing circumstances and/or happily resolved well in advance of the final exam. In relation to (3), her father's wrist injury, SGS argues that the injury was relatively minor and occurred some two weeks in advance of the exam. SGS also points to a lack of medical or other compelling evidence to establish that special consideration is warranted.

Reasons

This Committee accepts that the Student was distressed by her family situation in the fall of 2013, and that the Student's academic performance was likely affected by these factors.

However, such a finding is insufficient to merit the extraordinary remedy of late withdrawal without academic penalty.

This Committee has repeatedly affirmed that 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 within a reasonable period of time. By the drop date, the student is expected to have assessed his or her situation and made a decision. If the student elects to continue with the course, the consequences of that election must be accepted and no allowance will be made for the effect of circumstances existing at the drop date however detrimental to the student’s performance they may be. Exceptions to this policy are rare, but may include situations where unexpected circumstances arise after the “drop date”, where pre-existing circumstances significantly worsen, or where pre-existing circumstances that were reasonably expected to abate do not.

In this case, the Student argues that her situation become unexpectedly more difficult after the drop date. Yet, the Student did not file sufficient medical or psychological evidence to support this finding, and her own affidavit does not mention the psychological distress that she claims impacted her performance in CIV531H.

In particular, this Committee finds that, in relation to her mother’s departure to Iran, the date of the trip was known well-before the drop date and the additional workload that fell upon the Applicant after her mother left in November was reasonably foreseeable in advance of the drop date.

While the sister’s “disappearance” for three days was not itself reasonably foreseeable, this Committee finds that the stress and anxiety that it placed on the Student *was* reasonably foreseeable since it was an extension of the family issues that arose as a result of the marital problems ongoing in the house since September. Stated differently, had the marital issues between her parents resolved well in advance of the final exam, we would not have expected there to be a significant impact on the Student’s performance.

In relation to the father’s broken wrist, the Committee finds that this event was not sufficiently serious to grant the extraordinary remedy of late withdrawal without academic penalty for an exam written nearly two weeks after the event in question.

Finally, it is notable that, even if we were to accept the Student’s characterization of the events as a significant deterioration of existing circumstances, we would have expected her to reach out to her course instructor, graduate advisor, student coordinator or someone else within the University to discuss her situation well before the exam, or at least immediately afterwards. The Student did not do this at any point between October 28 and the end of the term.

Your Committee unanimously dismisses the Student’s appeal.