

UNIVERSITY OF TORONTO
GOVERNING COUNCIL

Report # 393 of the Academic Appeals Committee
December 14, 2017

To the Academic Board
University of Toronto.

Your Committee reports that it held a hearing on Thursday, November 9, 2017, at which the following members were present:

Professor Malcolm Thorburn (Chair)
Professor Paul Kingston, Faculty Governor
Ms. Amanda Harvey-Sanchez, Student Governor

Hearing Secretary:
Ms. Tracey Gameiro, Associate Director, Appeals, Discipline and Faculty
Grievances

Appearances:

For the Student Appellant:

Mr. R.S. (“the Student”)

For the Faculty of Kinesiology and Physical Education:

Professor Gretchen Kerr, Vice-Dean of Academic Affairs
Mr. Timothy Linden, Assistant Registrar, Office of the Registrar

The Appeal

This appeal relates to a decision of the Dean of the Faculty of Kinesiology and Physical Education dated 8 February, 2017 concerning the Student’s results in KPE 440 in the fall of 2016. The Dean’s decision rejected two of the student’s claims and provided a remedy for the third of his claims that the Student now deems to be inadequate.

The Facts

In the fall of 2016, the Student was in his fifth year of a KPE/Education concurrent education program. He had already completed all of his degree requirements for his bachelor’s degree in kinesiology. All of his courses in the 2016-2017 academic year were part of the education component of the concurrent education program. KPE 440, although

it is offered by the faculty of Kinesiology and Physical Education, is a prerequisite for successful completion of the B.Ed. degree.

1. The Video

One of the requirements of KPE 440 was to create a video and to upload it to YouTube. This assignment was worth 10% of the final grade in the course. The deadline for uploading the video was 27 September, 2016. The Student and his partner experienced difficulties uploading the video to YouTube, so they approached their instructor, Ms. Karlene Headley-Cooper, about their concern in class on the day it was due. They showed her a laptop on which the video was playing and asked her how they might hand it in. She indicated that arrangements could be made but because it was the beginning of class, it was not an appropriate time to do so.

The Student and his partner did not upload the video to YouTube. The Student's partner emailed Ms. Headley-Cooper at 4:00pm with a link to a video on "wevideo." Unfortunately, this was not a format that could be viewed by the instructor. It was only two weeks later, on October 12, 2016, that the Student contacted Ms. Headley-Cooper about the video. He wrote,

I just realised that I never ended up submitting XXX and I's 3-minute video from KPE440. I've tried to attach it to an e-mail a couple times but it appears that for some formatting reason, that is not possible. Is there a g-mail address with which I can give you access to it? (It is on my google drive). It is a video of the original playing online since we weren't able to upload it to youtube.

It was not for another two weeks (on October 26, 2016)¹ that the Student actually sent a link to the video to Ms. Headley-Cooper.

2. The Conference

Another requirement of KPE400 was participation in the mounting of an academic conference on a topic related to the course. This part of the course was worth 30% of the Student's final grade. 10% was concerned with participation (5% for an online form; 5% for a self-assigned reflection); 10% instructor marks (4% pre-conference; 6% day-of-conference); 5% for a pre-conference form; and 5% for a class mark.

The Student did especially poorly in the instructor marks part of this assignment: he received a pre-conference mark of 1/4 and a day-of-conference mark of 1/6. (By his own admission, he lost all 10 participation marks by failing to submit the online form or the self-assigned reflection.) In an email to the Student dated December 1, 2016, Ms. Headley-Cooper gave the following comments as justification for these marks:

¹ In her correspondence of October 28, 2016, however, Ms. Headley-Cooper suggests that she received the "submission that could be fully viewed" on October 17, 2016. In oral submissions, the Student indicated that the video was sent by his classmate on that date.

Pre-conference instructor mark: 1/4 –low engagement, minimal contributions and limited observations of participation during in-class work time for conference; important facilities scheduling conflict was not communicated to fellow classmates

[...]

Day-of-conference instructor mark: 1/6 – representation of observations made during the Conference regarding student contribution to Conference atmosphere/environment, advertising/social media, attendance, scheduling, flow, professionalism, teamwork, presentation, and attendance to sessions.

The Student insists that both of these instructor-assigned marks are much lower than he deserved. The Student acknowledges that he did not do very much in preparation for the conference, but this was true of many others, as well. In his January 27, 2017 email to Dean Jacobs, he wrote, “the KPE440 conference was put on by 30 students when it realistically could have been completed by as little as 5; there simply was not enough work to go around.”

Concerning the day-of-conference mark, the Student argues that Ms. Headley-Cooper mistakenly believed that he was not at the conference because he was not in a picture taken at the end of the evening. He argues that he was very engaged in the conference. In his January 27, 2017 email to Dean Jacobs he wrote: “I assisted many students with their ‘day-of’ duties. [...] I networked with conference presenters and attempted to ask critical questions after keynote presentations.” Further, the Student alleges that Ms. Headley-Cooper “did acknowledge some of [the ways he participated in the conference] when I spoke to her after class one day, and told me my mark would be adjusted, but it has not been changed since the meeting.”

3. Professionalism

The Student’s final concern is his professionalism mark in KPE440. As of November 29, 2016, he had received a mark of 9.5/16. At first, the Student’s main concern on this topic was that he lost marks for being absent from a number of classes that conflicted with a “teaching in Catholic school” class that is a prerequisite to being able to work in catholic schools in Ontario. But once Ms. Headley-Cooper was given the relevant documentation, she adjusted his mark accordingly (on October 13, 2016).

The Student’s remaining concerns are some challenges to the appropriateness of specific grades he was assigned on specific days and a grade of 0/2 he was assigned for the class of November 29, 2016.

4. Instructor Bias

The Student made clear in his oral presentation to this committee that he thought all of these concerns should be understood in light of a worry about the instructor's unprofessional conduct toward the Student.

In the fall of 2016, the Student had a leadership position in the Kinesiology and Physical Education Undergraduate Association (KPEUA). In that capacity, it was his task to allocate use of the Benson Student Lounge (BSL). He was asked to book the BSL for the KPE440 conference. He agreed to look into it. As it turned out, he booked another event for the same time, so the conference had to be moved to another location. Ms. Headley-Cooper indicated to the Student that he had not communicated the room conflict to his classmates "in a timely manner."

In his email to Dean Jacobs dated January 27, 2016, the Student alleges that Ms. Headley-Cooper informed "a staff member, Ron Castro, that she had assigned [the Student] a '0' grade on the 3-minute video assignment, and alleg[ed] that [the Student] had changed the booking of the BSL as a retaliatory measure." The Student added: "Not only did this compromise my academic confidentiality but it also slandered my personal reputation with KPE staff..."

On January 13, 2017, Ms. Headley-Cooper wrote the Student a letter apologizing for having breached his student confidentiality.

Decisions Below

After having spoken to Ms. Headley-Cooper about the matters listed above without success, the Student approached Professor Catherine Amara, Director of Undergraduate Studies, for a grade appeal. In an email dated December 19, 2016, Professor Amara indicated that she was responding only to a concern about the grade on the video. She wrote:

It's up to the student to take the responsibility of handing in work on-time and/or communicating issues with the instructor in a timely fashion or to accept the consequences for failing to do so. It is unfortunate, that this did not happen in your case. [...] Your mark for this particular assignment will stand as zero.

On January 27, 2017, the Student wrote to the Dean of the Faculty of Kinesiology and Physical Education, Ira Jacobs, to raise all four of the concerns above. In an email dated February 8, 2017, the Dean delivered his decision on these matters. Concerning the first three matters, he wrote:

After reviewing the collective documentation and considering my conversations with those involved, I do not question the validity of the assessment vehicles employed by the course instructor, nor the grades that were assigned by her. I think that the timelines associated with the various assessment vehicles were

clearly communicated to students as were the consequences of not meeting those timelines. Therefore, I will not be initiating any further actions about items two and three in your email [i.e., the grades for the conference and professionalism].”

On the matter of the late video, Dean Jacobs notified the student that there was a remedy available to him. He wrote:

[T]he course instructor, upon reflection about the background you provided, has decided to create a replacement course requirement, worth 10% of the course grade. Ms Headley-Cooper will communicate with you very shortly with details and deadlines in that regard.

The Student initially accepted this proposal. In an email reply dated 13 February 2017, the Student wrote “I will complete the make-up assignment diligently and hopefully achieve some success in the course as a result...” The Student did not complete the make-up assignment, however. In part, he says (in his statement of appeal), this is because of “pre-existing and acquired mental health issues... extreme anxiety and depression.” And in part, this is because the new assignment “was much more daunting and rigorous than the original assignment (making the two unworthy of equal weighting for their proportion of the course grade).”

Concerning the matter of bias, Dean Jacobs wrote, “from reading her letter to you about the disclosure of your grade to a staff member, I know that she was and remains sincerely regretful and apologetic about that disclosure.” He did not deem any further action required on this matter.

The Student now appeals the Dean’s decision to the AAC, seeking the following remedies:

1. The marking of the video and other small assignments from KPE440H;
2. The opportunity to produce another video submission;
3. Aegrotat standing in KPE440H;
4. Removal of KPE440H as a degree requirement for the Bachelor of Education degree;
5. The option to take a course other than one instructed by Ms. Headley-Cooper to fulfil the specified degree requirement.

Decision

The central focus on the Student’s appeal is his mark on the video assignment. Indeed, although he made submissions to Dean Jacobs on other matters, his written submissions to the AAC and the faculty’s written reply are concerned exclusively with this matter.

On this matter, Dean Jacobs's decision was clearly a reasonable, even generous one. There was no reason why the Dean had to provide any remedy for the Student who had clearly run afoul of the course lateness policy. The course policy reads (on p. 3): "Late assignments will have marks deducted at the rate of 1 mark per day late up to a maximum of 7 after which (7 days) the assignment will not be marked and you will receive a mark of 0 for that assignment."

The Student suggests that assignments should be treated as though they had been submitted as long as they have been date-stamped in some reliable way. The actual submitting of the assignment to the professor in the prescribed way, the Student suggests, is a formality that we should be able to see past. But that is not so. There are many reasons why students must not only *complete* but also *submit* their assignments on time. Instructors should be able to grade assignments together to ensure that they are all subject to the same standard. Instructors cannot be expected to ascertain whether each assignment was actually completed by the deadline if it was not in their possession at that point. And students need to be in the habit of actually providing deliverables to others at the time when they are expected. For these reasons and more, universities and other educational institutions regularly impose clear lateness policies and regularly enforce them. A fifth-year student has had ample notice of these policies and should be expected to follow them.

The committee notes that Ms. Headley-Cooper took additional steps to assist students with the deadline, writing an email to them on the due date (September 27, 2016) indicating that "if you are having difficulties with this process [of uploading the video to YouTube], I ask that you please be patient and keep calm – I am happy to help make sure that your video gets submitted on time." That is, she made clear that she would provide whatever assistance was required should students have trouble with the process. Had the student reached out to Ms. Headley-Cooper on this matter beyond his initial encounter in class on September 27, 2016, things might have turned out quite differently. But he did not.

Nevertheless, in light of the Student's petition to the Dean, Ms. Headley-Cooper was willing to allow the student another chance to save his grade in the course by submitting a replacement assignment. It is beyond the scope of this committee to decide whether the new assignment was an appropriate substitute for the first. But we note that the Student expressed in the clearest possible terms his willingness to complete it. This committee will not look past the expressed views of the instructor, the Dean and even the Student that this was an appropriate remedy. If the Student chose not to complete the replacement assignment – already an extraordinary measure – then he must bear the consequences.

Finally, on this matter, the Student mentions in his appeal to this committee that one of the reasons why he did not complete the make-up assignment was that he was suffering from mental health problems. The only evidence submitted to support the Student's claim of mental health problems were three email confirmations for appointments at the university health service. Since these emails did not indicate what the appointments were

for, much less what diagnosis or course of treatment was determined, they do not substantiate his claim. This was not supported by any evidence either in the Student's written materials or in his oral presentation.

The Student's second concern is his instructor-assigned mark for the conference. Here, we find that there is simply not enough credible evidence to support the Student's claims. First, it is unclear precisely how much his mark should change if he could establish that he was, indeed, at the conference on the day. Second, he provided nothing more than his own say-so to support his claim that he was there on the day. Third, the fact that the Student was neither in the end-of-day picture nor did he submit the forms that were given out at the end of the conference lend support to the instructor's claim that he was not present for at least some parts of the conference. In the absence of significant evidence otherwise, we have no reason to alter the instructor's evaluation of the Student's performance at the conference.

The Student's third concern is his mark for professionalism. Once again, this is a matter on which the instructor is entitled to considerable deference. Ms. Headley-Cooper provided a rubric for evaluation and broke down marks for the student class by class. She showed real willingness to adjust marks once the Student provided documentation to explain his absences from class. We see no reason to disturb those judgments.

The Student's fourth and final concern is his allegation of bias on the part of the instructor against him. It is indeed alarming when an instructor breaches student confidentiality as happened in this case. And it is also alarming when an instructor alleges that the Student has deliberately sabotaged the class's conference. But the instructor here has written a full and sincere apology to the Student already for this conduct. There is no evidence to suggest that any of the other matters were coloured by this one incident. Indeed, her willingness to change grades and to provide make-up assignments to the Student demonstrate quite the opposite.

For the above reasons, the appeal is dismissed. The student's final grade will remain as it is. As a result, the Student's request for remedies 1-4 is denied.

The Student's fifth remedy, however, is more easily provided. He sought assurance that he could take a course other than one instructed by Ms. Headley-Cooper to fulfil the specified degree requirement. On this matter, Professor Kerr made clear in her presentation before this committee that this student was an exemplary member of the faculty of kinesiology and physical education community, serving in a number of capacities and working diligently to improve student life at the faculty in many ways. She went on to say that the faculty would do whatever they could to make sure that the Student would be able to graduate from the program. In particular, Professor Kerr mentioned that she would be happy to write a letter to Victoria College requesting that the student be admitted to their comparable course on conflict resolution so that he could use that course as a substitute for KPE440. We expect the faculty to make good on that promise and also to do its utmost to convince OISE to accept the Victoria College course as a substitute for KPE440.

Additional Remarks

There are two matters that arose in this appeal on which this committee would like to express its view.

First, it was clear from the Student's written and oral submissions at the AAC and from the quality of his submissions to the decision-makers below that he could have benefitted significantly from more assistance from the Faculty in preparing his appeals. We recommend that the Faculty of Kinesiology and Physical Education put in place more robust measures to instruct and assist students with the academic appeals process, including providing more information about expectations around materials and appearing before any panels.

Second, although we see no reason to disturb the Dean's rulings in this matter, this committee is concerned with the lack of reasons provided by the Dean for his decision. The Dean's reasons were as follows:

After reviewing the collective documentation and considering my conversations with those involved, I do not question the validity of the assessment vehicles employed by the course instructor, nor the grades that were assigned by her. I think that the timelines associated with the various assessment vehicles were clearly communicated to students as were the consequences of not meeting those timelines. Therefore, I will not be initiating any further actions about items two and three in your email [i.e., the grades for the conference and professionalism].

As concerns the late submission of the video, these reasons make clear why the Dean has denied the Student's appeal. But as concerns the other matters in the appeal – his grade on the conference and for professionalism – the Dean's email provides no meaningful guidance to the Student or to others why his appeal has been dismissed. On these two matters, his reasons simply state his conclusion rather than provide reasons for it. We strongly recommend, as have many other AAC panels in the past, that decision-makers at the faculty level take care to provide meaningful reasons for their decisions. It is a duty incumbent upon all public decision-makers to justify their decisions in a way that provides meaningful guidance to those who are subject to those decisions.