

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 275 OF THE ACADEMIC APPEALS COMMITTEE

Your Committee reports that it held a hearing on Tuesday March 11, 2003, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair
Professor Clare Beghtol
Professor Sherwin Desser
Professor Luigi Girolametto
Mr. Sean Mullin

Mr. Paul Holmes, Judicial Affairs Officer

In Attendance:

Ms. R., the Appellant
Mr Shaun Laubman, Downtown Legal Services
Ms Nicole Redgate, Downtown Legal Services
Vice-Dean Susan Howson, Faculty of Arts and Science, University of Toronto

The student appeals from a decision of the Academic Appeals Board of the Faculty of Arts and Science, dated April 16, 2002, denying her appeal for late withdrawal without academic penalty from PHL271H1F (the "course") taken in the Summer 2001 session. The student was appealing a decision of the Committee on Standing (dated September 4, 2001) denying her request for late withdrawal without academic penalty from the course. This was an appeal of a petition the appellant made which was denied (dated June 26, 2001).

The student continues to seek late withdrawal without academic penalty from PHL271H1F. The student requests this extraordinary remedy on compassionate, medical and procedural grounds. The appellant has since graduated from the University and is currently enrolled as a student at York University in a bid to upgrade her marks to assist in her application to law school.

During the summer of 2001, the appellant was enrolled in two courses, studying to write her LSAT on June 11, 2001, working at two part-time jobs, and participating in volunteer activities. The appellant has struggled with the medical condition of bulimia for many years, and as of February 2000, commenced treatment with a mental health counselor. The appellant's condition is exacerbated when she is under stress; one way that she manages her illness is to keep very busy and to engage in a multitude of commitments at the same time. It is when one of these activities begins placing undue stress on the

Report Number 275 of the Academic Appeals Committee

appellant that she experiences difficulty coping, severe bulimia, and an inability to function. She also takes an anti-depressant drug to combat her anxiety.

During the summer in question, the appellant earned a respectable 75% on the course's first assignment, worth 20% of her final grade. Although already struggling in this course, she earned this grade by working very hard and seeking additional help from her professor. The course essay was due on June 12, 2001, and worth 40% of the final grade. The appellant received an extension of two days from her professor to accommodate the LSAT examination on the 11th. The appellant has long desired to attend law school and writing the LSAT was an important step towards fulfilling this goal.

The appellant knew that she was experiencing extreme stress as a result of this course, a fact confirmed to her by her mental health counselor during their weekly sessions. She attempted to contact the course professor on June 10th, but did not receive a response. The course drop date was June 10, 2001. She tried to drop the course through the Internet, a day or two past the deadline, and was unable to do so. She petitioned for late withdrawal on June 13, 2001.

While waiting for the outcome of her petition, the appellant was concerned about continuing in her course. She wrote to the professor again on June 14th asking for assistance and explaining her difficulties. Her professor responded that she faced insurmountable difficulty in the course and recommended that she drop it. He also offered to support her petition to do so.

During this time, the appellant's bulimia worsened and the appellant recognized the need to eliminate the main source of her stress in order to get her condition under control. Thus, relying on her professor's email, on the advice of her mental health counselor and in recognition of the extremely poor state of her mental health at this time, the appellant did not complete any further course requirements and received a 15% final grade in the course. The appellant's petition was refused on June 26, 2001 for lack of compelling reasons not to complete the course. She appealed again to the Committee on Standing. The Committee on Standing refused her petition indicating that she had not provided compelling reasons for withdrawing before the deadline, and that she was responsible for monitoring her workload and prioritizing her activities.

The appellant appealed to the Academic Appeals Board on April 15th, 2001. The board voted, not unanimously, to deny her appeal. The Board held that the appellant was aware of her stresses before the deadline for withdrawal, and that she made her situation more difficult by taking a course without having taken the necessary prerequisites.

The ability to obtain late withdrawal without academic penalty is an extraordinary remedy, reserved for the most serious and unique of situations. The very existence of "drop dates" indicates that the University takes seriously the ability of a student to choose whether or not to continue in a course for any number of reasons personal to the student. By that date each term, the student is expected to have assessed his or her situation and made a decision. But once the date has passed, the University takes the position that the

Report Number 275 of the Academic Appeals Committee

student has decided, no matter what situation may have existed before the drop date or may arise after the drop date, to continue on in the course. Exceptions to the drop date regime are rare. Such exceptions include medical and compassionate grounds. Your Committee believes that this is a situation in which the appellant made the only choice available to her, which was to choose her mental health over her studies and not continue in the course. To penalize the student for this decision would be to disregard the serious medical and compassionate grounds surrounding her situation.

First, although the appellant initially missed the drop date for the course, the appellant took immediate steps to withdraw from the course. She initiated attempts to get out of the course within days of the drop date, without having been assessed a final grade in the course, and having already obtained a respectable mid-term mark. This is not an example of a retroactive attempt by a student to remove a poor performance in a course from a transcript. Rather, with the assistance of a professor and a counselor, the student identified the severity of her situation and took steps to ameliorate it.

Second, this appellant has demonstrated throughout her academic career a willingness to seek help from a multitude of sources when faced with academic or personal difficulty. The summer of 2001 was no exception. This is exactly the type of behaviour we ask of students in crisis. This appellant did everything in her power to get the help she needed, both from her mental health counselor and her professor.

The matter of the appellant's bulimia must also be considered. The University does not dispute that the appellant suffers from a serious medical condition. However, the University contends that the appellant did not raise the condition of bulimia in her initial appeal (dated June 13th, 2001), and only mentioned a medical condition of stress and depression in the further appeal to the Committee on Standing. Thus, the University contends that the bulimia is not a factor to be considered. The Committee disagrees. We accept the appellant's contention that the nature of her illness is not something that she wished to disclose until she absolutely had to. Further, we believe that the bulimia is at the root of many of the appellant's difficulties and cannot be separated out. For example, the University contends that the appellant should not have been juggling so many activities that summer and it is the overload of activities that caused her to experience difficulties. We have heard evidence that the appellant deliberately keeps herself busy with a multitude of activities, both because it is her nature to accomplish a lot and because her condition is lessened when she is focusing on other issues.

Your Committee also allows this appeal on procedural grounds. The Academic Appeals Board decision held that the appellant's difficulties were exacerbated by the appellant's registration in a course without having completed the recommended prerequisites. The appellant contends and the university agrees that there were no prerequisites for this course. While we heard evidence from the University that this was not the Board's main consideration, just one of many, we believe that the consideration of an erroneous ground in its decision is sufficient to cast doubt on the decision. Further, it appears that the Board did not consider the reliance that the appellant placed on her professor's advice that she drop the course and that he would support her attempts to do so. This was a critical aspect

Report Number 275 of the Academic Appeals Committee

of the appellant's decision to not continue in the course and should have been taken into account in the Board's decision.

Therefore, we grant the remedy of late withdrawal without academic penalty from PHL271H1F on compassionate, medical and procedural grounds. The appeal is allowed.

March 17, 2003

Paul Holmes, Secretary
Judicial Affairs Officer

Bonnie Goldberg, Co-Chair
Assistant Dean, Faculty of Law