

REPORT NUMBER 280 OF THE ACADEMIC APPEALS COMMITTEE

Monday, June 2, 2003

Your Committee reports that it held a hearing on Monday, June 2nd, 2003, at which the following were present;

Professor Emeritus Ralph Scane, Chair
Professor Clare Beghtol
Professor Sherwin Desser
Mr. Chris Ramsaroop
Mrs. Susan Scace

Secretary: Mr. Paul Holmes, Judicial Affairs Officer

In Attendance:

For the Appellant:

Ms S., the Appellant ("the Student")
Ms Elee Scarlett, Counsel
Mr. Jeremy Speight
Professor Aurel Braun
Professor David Wolfe

For the Faculty of Arts and Science:

Vice-Dean Susan Howson

This is an appeal from the decision of the Academic Appeals Board of the Faculty of Arts and Science, dated February 14, 2003, dismissing an appeal from a decision of the Committee on Standing of that Faculty, dated December 3, 2002. The latter decision, which was a reconsideration of a previous decision dated October 22, 2002, dismissed a petition from the Student to be allowed late withdrawal without academic penalty from the course POL242Y1Y, which was taken during the Summer Term of 2002. The Student completed this course and was awarded a grade of "C".

The Student enrolled in the B.A. programme at Victoria College in the Fall Term of 1998. In the Summer Term of 2002, she enrolled in the course POL242Y1Y, Introduction to Research Methods, which the Department of Political Science requires for a specialist degree in that area of study. The Student also enrolled in a course in Canadian literature in that term, which she completed with a final grade of "A-". The courses began on May 13, 2002, and POL242Y1Y ended July 29, 2002. Unfortunately, during that term the

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student was diagnosed with a serious medical condition. An ultrasound taken in mid-January had revealed an abnormality in the bladder. A follow-up cystoscopy on May 14, 2003 revealed a tumour, which at that time, pending a biopsy, was hoped to be benign. Surgery to remove the tumour took place on June 5, 2003. On July 12, 2003, the surgeon advised the Student that the tumour was malignant. The Student suffered some infection from the invasive procedures and missed a significant amount of time from class while recovering. She was under considerable stress awaiting the diagnosis, and more when the diagnosis was received. The Student's medical condition is well documented, and your Committee is satisfied that if the only issue was whether the Student was so affected by the physical and psychological effects of her medical problems during the Summer Term of 2002, that the University could not fairly rely upon her grade in POL242Y1Y as a measure of her achievement in that course, the issue would easily be resolved in favour of the Student. Your Committee has noted that the same medical and psychological conditions would be present during the literature course taken in the same term, in which the Student received a grade of "A-". However, your Committee accepts the Student's explanation that, in the literature course, she was working in more intellectually congenial and familiar territory than in the political science course, which involved at least basic statistical methods. She also received substantial personal assistance and extensions of time from the instructor in the literature course.

The problem that the Student must overcome is that, not only did she fail to seek to withdraw from POL242Y1Y before the "drop date" of July 21, 2002, but she completed the course and received a mark in it before seeking any relief. She is not seeking similar relief with respect to the literature course taken concurrently. On many occasions, panels of your Committee have stressed that permission to withdraw without penalty after the deadline for dropping courses will rarely be granted. In Report Number 264, dated March 14, 2002, your Committee explained the University's policy as requiring that a student aware of difficulty, past or reasonably to be anticipated in the future, make a choice as to whether to continue, and accept the consequences of that choice. A student is not to be allowed a substantially risk free gamble that anticipated difficulties will be overcome.

What the facts of this case bring into focus is that the University's policy assumes that the student may reasonably be considered to be in a position to make an informed election by the drop date. If, due to intense psychological stress, a student is in no position to weigh competing considerations reasonably at the time the election must be made, the policy which underlies rigorous protection of drop dates is not engaged. In this case, little more than a week expired between the receipt by the Student of the news that the growth removed had been malignant, and that she would require regular examinations for recurrence, on July 12, 2002, and the drop date, July 21, 2002. Also, only a further week expired before the last class, involving final presentations and submission of final assignments, in POL242Y1Y. Your Committee concludes that this Student was in a state of extreme emotional upset, from which she had no reasonable time to adjust and recover. She was also receiving advice from parents and others to carry on with her courses and complete her degree. Ordinarily, a student must be responsible for acting on advice the student accepts. Here, however, the advice is relevant, not because the Student accepted it, but because its presence contributed to the stress the Student was undergoing at the

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critical time. Because of the short period between the drop date and the end of the course, the Student really had no time to recover before all the evaluations for the course were completed and submitted.

The above conclusions are sufficient to dispose of the appeal, but there are other matters raised in this appeal which your Committee wishes to address.

Before preparing her initial petition to the Committee on Standing, the Student attended upon a counsellor at Victoria College. Your Committee understands that this person is no longer working in the University. The counsellor assisted the Student in the preparation of the petition. The Student later discovered that the face page of the original petition contained a handwritten note made by the counsellor, sometime after the petition was signed by the Student, and without the knowledge of the Student. This note, among other matters, contained the statement, "to me, her intent to finish the course was there to the end". This observation is clearly relevant to a critical issue in the appeal. Vice-Dean Howson advised your Committee that this statement would not have been seen by the Committee on Standing, because that Committee deals with petitions anonymously, and the face page, containing the Student's name, would have been removed before the petition document was placed before the Committee. Whether the gist of the note could have got before that committee is not at this time important, because it certainly had no effect on your Committee. However, it is a very worrying breach of confidentiality on the part of an advisor of students who must be in the position to receive information on a confidential basis from students in order to assist them. Your Committee recommends that Governing Council ask the appropriate senior University administrators to issue a warning that staff of the University who undertake to advise or counsel students, whether as formal counsellors or as incidental to another role, and who receive a student's confidences in the course of performing that undertaking, must not divulge the information received or make any comment based upon it, without the student's permission.

Also, your Committee is concerned by the reasons for judgment of the Academic Appeals Board. In the materials filed with the Committee on Standing and the Board, the Student strongly emphasized that she wished to pursue graduate work, and that she feared that the grade in POL242Y1Y would likely prevent her acceptance. The Academic Appeals Board, as far as its reasons reveal, seems to have concentrated exclusively on this issue, which is not relevant to the question of whether the Student was entitled to late withdrawal. The Board, basing itself upon the experience of its members, advised the Student that it did not believe that withdrawal would materially assist the Student' chances of success in a subsequent application to a graduate school. It felt that, for such a purpose, the Student would be better served by allowing the existing grade to stand, and supplementing the application with medical and academic references "that testify to the challenges you faced so courageously in successfully completing POL242Y1Y." The Board added that the Student might use the Board's decision as part of the suggested material. The Board stated that "it is for this reason that the Board members voted not to grant your appeal." The advice was obviously well meant in the Student's interest, and your Committee has no objection to a decision containing what a tribunal, on the basis of

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its experience, believes will be helpful counsel to a student. Your Committee has itself offered advice on previous occasions. However, the exclusive concentration upon the better course of action to achieve the Student's goals in launching the appeal resulted in the Board failing to consider, as far as its reasons reveal, what were the necessary conditions to permit late withdrawal in this case, and whether the Student had established the existence of those conditions. If the Student had done so, she was entitled to the relief sought, whether it was wise to proceed to take it or not. Any advice should follow after the decision called for by the appeal, not control the decision as it appears to have done here.

The appeal is allowed. The grade in POL242Y1Y will be vacated, and the Student will be permitted to withdraw from that course without academic penalty.

June 11, 2003

Paul J. Holmes
Secretary

Professor Emeritus Ralph Scane
Senior Chair