

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #314 of the Academic Appeals Committee
March 9, 2007

Your Committee reports that it held a hearing on Tuesday, February 20, 2007, at which the following were present:

Professor Emeritus Ralph Scane, Senior Chair
Professor Jan Angus
Mr. Kristofer Coward
Professor William Gough
Ms Maureen Somerville

Dr. Anthony Gray, Judicial Affairs Officer

In Attendance:

the Student Appellant

For the Faculty of Arts and Science:

Ms Sari Springer (Counsel)

Ms Elaine Ishibashi, Associate Registrar

Professor Suzanne Stevenson, Acting Vice-Dean, Undergraduate Education and Teaching

This is an appeal from the decision of the Academic Appeals Board of the Faculty of Arts and Science, dated February 2, 2006, which dismissed an appeal from a decision of the Committee on Standing, dated September 27, 2005. The latter decision dismissed a petition to permit late withdrawal without academic penalty from the course RLG211Y1Y, taken in the 2003 – 2004 academic year. The Student received a grade of “F” in this course.

The Student entered the B.A. programme at St. Michael’s College in the Fall Term of 2003. She was then 17 years old and had completed high school in three years. In her first term, she took three full courses and one half-course, which latter course she completed with a grade of “B”. In the second, or Winter term, she continued the three full courses and added a new half course. She received a grade of “B” in the half course, and grades of “C” and “B-” in the two full courses other than RLG211Y1Y which she completed that year. Her cumulative GPA at the completion of the Academic year was 1.93, and accordingly she entered the following academic year in good standing. The purpose of this appeal is to remove the failed subject from her transcript.

We note that the Student did not file her first petition in this matter until May 2, 2005, over 5 months after the deadline of November 25, 2004, and did not file an appeal from the negative

decision on that petition to the Committee on Standing until August 24, 2005. The further appeal to the Academic Appeals Board was not filed until November 30, 2005. The Student stated that she was unaware of the appeals process or its deadlines. At any rate, the late filings were waived by the appeal bodies below, and are referred to here merely as an explanation for some of the time elapsed in the appeal reaching your Committee.

The basic reason given by the Student for her failure in the course RLG211Y1Y is that she was overwhelmed by extracurricular demands upon her time arising out of her assistance to her father with respect to family litigation, and emotional stress as well as time demands flowing from the serious illness of an aunt and a grandmother during the academic year.

Unlike the other courses the Student took in the 2003–04 academic year, in which final examinations formed the major component of the course mark, the course in question was graded solely on four take-home assignments and a tutorial grade. The Student states that it is for this reason that the factors to which she attributes her failure in this course did not have so adverse an effect on the remaining courses she took in this academic year.

The Student states that the course syllabus stated that the late penalty for papers in the course was 1% per day, but that the course instructor had told the class at the beginning of classes that this was not a firm figure. The Student handed in the first assignment, due October 9, 2003 on December 4, 2003, about six weeks late. The instructor reduced the original mark on merit from “B+” to “C-”, as a lateness penalty, and added the comment, “[h]anding assignments in on time will give you the mark you deserve.” The second assignment was due on November 27, 2003, but was apparently not handed in until March 4, 2004, well past the “drop date” for the course, February 15, 2004. This paper was failed by the instructor for lateness. The third paper, due February 24, 2004, was tendered only on April 8, 2004, and was not accepted due to lateness. The fourth paper, due April 8, 2004 was handed in in early May, 2004.

The Student was working up to 27 hours per week during the Fall term of 2003 to meet her financial needs. In addition to this outside job, she was also working at home as her father’s secretary, particularly with respect to a lawsuit in which her father was embroiled, and which during most of the relevant time he was carrying on without professional assistance, again for financial reasons. The actions had been substantially dormant for some time, but in September, 2003, the Superior Court of Justice for Ontario instituted status reviews for dormant cases on its lists, and, on September 16, 2003, ordered a pre-trial conference of the parties to take place on February 5, 2004. In late February, 2004, a trial date in May, 2004 was assigned. Revived activity in the lawsuit caused the Student to become heavily involved in the preparation of the documentation required, as well as work in the management of her father’s companies.

In September, 2003, the Student’s aunt was diagnosed with breast cancer. She had surgery in late October, 2003, and commenced chemotherapy in December, 2003. In January, 2004, the Student’s 80 year old maternal grandmother was hospitalized with congestive heart failure and chronic renal failure. She was readmitted to hospital on January 28, 2004 for what was diagnosed as chronic anxiety, and discharged again on February 3, 2004. Both the grandmother’s and the aunt’s

conditions were a matter of deep concern to the Student's mother, the aunt's sister, and the Student's time and energy were also called upon to support her mother.

The Faculty of Arts and Science did not dispute the facts upon which the Student relied, nor the overall seriousness of the impact upon the Student, but did dispute that the facts justified the relief sought.

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 most thorough discussion of your Committee's interpretation of the University's position with regard to such requests of which this panel of your Committee is aware is found in Report # 264, dated March 14, 2002. In that Report, the then panel of Your Committee said:

It is clear from previous decisions of your Committee, as well as from regulations of the various divisions of the University, that permission for late withdrawal without penalty may be granted, but such relief is far from a matter of course. The very existence of "drop dates" demonstrates that those charged with legislating University academic rules and regulations have adopted a policy that is far from paternal in this regard. Up to the "drop date", the University leaves the matter entirely in the uncontrolled discretion of the student. The student's reasons for dropping a course may range from merest whim to desperation. However, by that date the student is expected to have assessed his or her circumstances, and made an election. 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", including the continuation of those circumstances after that date, if continuation should reasonably have been anticipated, however detrimental to the student's performance they may be. In short, the University, by adopting "drop dates" which are set considerably before the end of the relevant terms, has set its face against a student, at the time the "drop date" forces a choice, from gambling, substantially risk free, that the situation with respect to a course can be repaired.

Without attempting to be exhaustive, the obvious circumstances where this policy does not apply are when unanticipated circumstances arise after the "drop date", when then existing circumstances unexpectedly become significantly more severe, or when existing circumstances were reasonably expected to abate, but did not.

Your Committee is unanimously of the view the circumstances of this case cannot be brought within the exceptions to the general policy described in the above Report. By the "drop date", February 15, 2004, it was known that the demands imposed upon the Student by the lawsuit were intensifying. The setting of the May trial date, in late February, may have surprised the Student, and continued or increased pressure she had expected to abate somewhat, but in all the circumstances, your Committee does not consider that this provides sufficient excuse for the default with respect to the first three papers. The situation with regard to the aunt and grandmother was known. The grandmother was hospitalized again in March of 2004, for gastritis resulting from a drug she was

taking, and the Aunt was diagnosed with a cyst on the uterus, later diagnosed as benign, in late April, 2004. However, allowing that these circumstances increased stress upon the Student, they occurred after the Student had defaulted so severely with respect to the first three assignments in the course in question that her situation was almost certainly irreparable. The diagnosis of the aunt's later condition occurred after the last assignment was due.

The Student told your Committee that, after receiving back the first assignment, with a lateness penalty of one and one-half grades imposed, she felt that she would be able to complete the course safely, as she expected to write assignments at a level which, like the first, could absorb comparable late penalties and still pass. She criticized the course instructor for not warning her clearly that the penalty on the first assignment incorporated some leniency, and stated that, had he been more severe and awarded a "D", she would have dropped the course. Your Committee considers that the penalty imposed on the first assignment was sufficiently clear and severe that no reasonable student could have been lulled into a sense of security with respect to this instructor's approach to time defaults.

Therefore, the Student not coming within the exceptions, the only question remaining is whether the general policy should be revisited and amended, to enable the granting of relief to the Student. The minority of your Committee considers that, as the University now has several years experience of the effect of admitting students who are one year younger, due to the abolition of Grade XIII in Ontario, experience requires that the policy be amended to be more generous in allowing relief to younger first year students who make unwise decisions, and that such relief should be granted in this case. The majority of your Committee does not consider that it should attempt to revise a policy that has been generally applied by so many panels of your Committee, and, it assumes, by the various divisions, on the basis of this one case. If it were prepared to qualify the policy on the basis of one case, this is not the case that tempts it to do so.

Your Committee does recommend that the University undertake a review of the situation with respect to the younger students now being admitted in greater numbers, to consider whether policies should be reconsidered with this fact in mind, and whether the University needs to become more proactive than at present in reaching out to this particular group of students.

The appeal is dismissed.