

UNIVERSITY OF TORONTO

GOVERNING COUNCIL

Report #342 of the Academic Appeals Committee

August 3, 2010

The Academic Appeals Committee reports that it held a hearing on Wednesday, June 23, 2010, at which the following were present:

Assistant Dean Kate Hilton, Chair
Professor William Gough
Professor Faye Mishna
Professor Sarita Verma
Mr. Olivier Sorin

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

In attendance:

For the Student Appellant:

Mr. M■Z■ (the "Student")
Mr. Daniel Goldbloom, Downtown Legal Services (counsel for the Student)

For the University of Toronto, Faculty of Applied Science and Engineering:

Professor Tom Coyle
Mr. Adam Fox

I. Preliminary Motion

The Faculty of Applied Science and Engineering ("Engineering") made a preliminary motion requesting that the names of any staff members from Engineering be removed from this decision, and replaced with position titles or by "the Faculty", in recognition of the fact that all such staff would have been acting in their capacity as representatives of the Faculty and not as individuals. The motion was granted.

II. The Appeal

The Student is appealing the decision of the Academic Appeals Board ("AAB") at Engineering, dated August 13, 2009, which denied his petition for late withdrawal without academic penalty from ECE530 and his request for aegrotat standing in ECE417, ECE422, ECE496 and SOC101, courses taken in the 2009 Winter session.

III. Facts

The Student commenced his studies at Engineering in the 2004 Fall session. In 2004-05, the Student obtained an annual GPA of 3.62, earning honours standing in the fall and winter terms. In 2005-06, the Student obtained an annual GPA of 3.33, earning honours standing in the winter term. In 2006-07, the Student obtained an annual GPA of 2.84.

In 2007-08, the Student did not enroll in any courses, as he was participating in a Professional Experience Year Internship Program. During this year, the Student began to struggle with his mental health, and in the spring of 2008, he was diagnosed as suffering from anxiety and depression. In July 2008, the Student began taking medication (Sertraline) to control his symptoms.

The Student completed his internship and returned to Engineering in the 2008 Fall session. Despite the medication, the Student continued to struggle with the symptoms of his anxiety and depression, which included insomnia, loss of appetite, anxiety attacks and poor concentration. He also experienced significant side effects from his medication, including nausea, dizziness, headaches and diarrhea. He stopped taking his medication in October 2008.

The Student's mental health problems significantly affected his academic performance. After the December 2008 examination period, the Student petitioned the Examinations Committee for aegrotat standing based on medical grounds. The petition was successful and the Student received aegrotat standing in three courses (ECE316, ECE345 and ECE410). The remaining two courses in which the Student had been enrolled in the 2008 Fall session were full-year courses (ECE496 and SOC101), and did not yet have final grades assigned.

In the 2009 Winter session, the Student continued to take courses, but his health problems persisted. The Student's anxiety was particularly acute during the examination period, and he did not perform well. The Student's sessional GPA for the 2009 Winter session was 1.71, which lowered his cumulative GPA from 3.26 to 2.97.

Despite his difficulties, the Student continued with his studies. Over the course of the 2009-10 academic year, he was much more successful in managing his illness, and his academic performance stabilized. At the end of the 2010 Winter session, the Student obtained an annual GPA of 3.5, and earned honours standing.

IV. Previous Decisions

In May 2009, the Student petitioned the Examinations Committee seeking relief in the five courses that he had completed in the 2009 Winter session. He requested late withdrawal without academic penalty for ECE530 (in which he had received a failing grade) and aegrotat standing in ECE417, ECE422, ECE496 and SOC101.

On June 2, 2009, the Examinations Committee rejected the Student's requests for late withdrawal without academic penalty and for aegrotat standing. Instead, the Examinations Committee decided to waive the 60% rule, which states that students may only advance to the

next year of the program if they have achieved an annual average of 60% or higher. The decision read:

Your petition has been reviewed and you have been given accommodation by the Committee on Examinations. The less than 60% rule has been waived and you have been given permission to continue to the next term in order to complete your degree requirements.

No additional reasons for the decision were given. However, in its response to this appeal, Engineering stated that the Examinations Committee had waived the promotional requirement in recognition of the fact that the student had “experienced encumbrance during the academic session”.

The Student appealed the decision of the Examinations Committee to the Academic Appeals Board at Engineering. On August 17, 2009, the Academic Appeals Board upheld the decision of the Examinations Committee. The decision, in its entirety, read as follows:

The Faculty of Applied Science and Engineering’s Academic Appeals Board met on August 13, 2009 to review the appeal that you submitted to the Office of the Registrar. While the Academic Appeals Board acknowledges your request for special consideration and is sympathetic towards your difficult circumstances, the Board decided to uphold the Committee on Examinations’ earlier decision and recommends no change be made to your academic record.

On November 12, 2009, the Student appealed to the Academic Appeals Committee of the Governing Council.

V. Decision

The main issue in this case is whether or not Engineering applied its policy on aegrotat standing appropriately, in light of the Student’s medical issues.

The University of Toronto policy on Grading Practices defines aegrotat as follows:

AEG: Aegrotat standing granted on the basis of term work and medical or similar evidence.

AEG is assigned by a divisional committee upon approval of a student's petition. It carries credit for the course but is not considered for averaging purposes.

Engineering uses the University’s definition of aegrotat in its Academic Regulations.

There was considerable discussion during the course of the hearing about Engineering’s practice with respect to granting aegrotat. To summarize, Engineering regards aegrotat as an extraordinary remedy, used most appropriately in situations where a student experiences a radical change in academic performance as a result of an unforeseen event, such as an illness.

Typically, Engineering regards such events as taking place within a defined and limited time period. Therefore, while a student might obtain aegrotat standing in two successive semesters, this would occur only in very rare circumstances. Chronic illnesses, in Engineering's view, do not merit the remedy of aegrotat standing since the symptoms are foreseeable and can be managed with appropriate planning and effort.

In this case, Engineering was prepared to grant aegrotat standing in the 2008 Fall term, in recognition of the fact that the Student's symptoms intensified unexpectedly during this period (particularly in reaction to his medication) and that he struggled to fulfill his academic requirements while managing his new illness. However, by the 2009 Winter term, Engineering was no longer prepared to grant aegrotat standing because it viewed the Student's symptoms as chronic. The Faculty expressed the concern that the Student's request for aegrotat standing in the 2009 Winter term indicated the Student's belief that a remedy of aegrotat would be available "in perpetuity".

This Committee is of the view that Engineering's policy on aegrotat was applied incorrectly in this case. First, while this Committee accepts Engineering's position that aegrotat is intended to address the academic consequences of unexpected events, it does not accept that such events will always fall neatly into a single academic term. Second, this Committee does not accept Engineering's interpretation that aegrotat standing should be available in cases of acute but not chronic illness. This interpretation is not supported by Engineering's policy, and if adopted, would disadvantage students suffering from chronic illnesses; such illnesses may flare up unexpectedly and cause disruptions in academic performance that should attract a remedy of aegrotat. Finally, this Committee recommends that Engineering's practice with respect to granting aegrotat standing should be incorporated into Engineering's policy and printed in the Academic Regulations so that it is available to all students.

In this case, the onset of the Student's depression and anxiety occurred over a number of months and affected his performance for an entire academic year. To extend the remedy of aegrotat for the first term and withhold it in the second term seems arbitrary and unfair, particularly in the case of ECE496 and SOC10, the Student's two full-year courses. Moreover, this Committee has the advantage of additional evidence that was not before the Academic Appeals Board: the Student's updated transcript, which clearly demonstrates the impact of the Student's illness over the course of a full academic year, and also his subsequent success in managing his symptoms and returning to expected levels of academic performance.

The Student also raised the argument that he had been denied procedural fairness by the Academic Appeals Board by their failure to give reasons for their decision. While it was not necessary to decide this issue, this Committee was struck by the complete absence of reasons in the Academic Appeals Board's decision, also in the decision of the Examinations Committee. This Committee notes that students have a reasonable expectation that they will be provided with reasons for such decisions, and that the failure to provide reasons can taint decisions with the appearance of unfairness.

For all of these reasons, this Committee is of the view that it would have been appropriate to grant the Student's request for late withdrawal without academic penalty for ECE530 and aegrotat standing in ECE417, ECE422, ECE496 and SOC101.

The appeal is allowed.