

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #345 of the Academic Appeals Committee
September 22, 2010

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Tuesday June 22, 2010 at which the following members were present:

Mr. Tad Brown, Chair
Professor Varouj Aivazian
Professor Christina Kramer
Professor Ito Peng
Ms Margaret Kim

Secretary: Christopher Lang, Director, Appeals, Discipline, and Faculty Grievances

Appearances:

For the Student Appellant:

Mr. R.K.A (the Student)
His counsel from Downtown Legal Services, Mr. Joshua Chan

For the Faculty of Applied Science and Engineering:

Professor Tom Coyle
Ms. Barbara McCann, Faculty Registrar
Mr. Adam Fox

I. The Appeal

The Student is appealing the decision of the Faculty of Applied Science and Engineering's Academic Appeals Board ("AAB") dated August 17, 2009. The Student is seeking a remedy that would allow him to be granted aegrotat standing in ECE422H1 (the "Course") on medical and procedural grounds.

II. Facts

The Student enrolled in the Edward S. Rogers Sr. Department of Electrical and Computer Engineering in the Faculty of Applied Science and Engineering in the fall of 2004. In the Winter 2009 session, the Student enrolled in ECE422H1. The Student missed the first quiz due to illness and the Faculty granted a petition to redistribute his course marks such that the midterm examination and second quiz were allocated 25% and 15%, respectively to his final grade. The Student did poorly on the midterm. The Student became extremely sick and was unable to write the final exam in the Course on April 22, 2009. The Student went to his family doctor on the day of the exam and was diagnosed with severe gastroenteritis and prescribed medicine. The prescribed medicine helped alleviate the Student's diarrhea and vomiting enough that he was able to write the final exam in another course the next day.

III. Previous Decision

On May 5, 2009 the Student submitted a Petition of Final Examination to the Faculty's Committee on Examinations requesting aegrotat standing in ECE422H1 or, alternatively, for standing to write a deferred final examination in the Course. On May 26, 2009 the Committee on Examinations delivered a written decision granting accommodation in the form of an assessed mark for the Course. No reasons were provided for the decision. On May 26, 2009 the Student met with the Faculty Undergraduate Academic Counselor and Program Manager to discuss the decision. The Student was informed that it was not the Faculty's standard practice to arrange for deferred examinations and that, if he was granted that option, he would not be able to sit the exam until the course was offered again the following year. The Faculty Undergraduate Academic Counselor suggested that if the Student was not satisfied with the assessed grade, he could appeal for aegrotat standing in the Course.

On May 29, 2009, the Student submitted a Petition for Special Consideration to the Faculty's Ombuds Committee requesting an appeal of the Committee on Examinations' decision and that he be granted aegrotat standing in the Course. On July 1, 2009 the Faculty's Ombuds Committee was replaced by the Faculty Academic Appeals Board. The Faculty Academic Appeals Board delivered a written decision on August 17, 2009 which upheld the decision of the Committee on Examinations without reasons:

"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 May 29, 2009, the Student also submitted his application to the ECE Graduate Studies Program at the University of Toronto for admission in Fall 2009. On June 12, 2009 the Student graduated from the University of Toronto with a Bachelor of Science degree. The Student's Cumulative Grade Point Average upon graduation was 2.62. The assessed mark of 59% in the Course resulted in his 2009 Annual GPA being 2.93 (B-). If the

Student's appeal had been successful, his 2009 Annual GPA would be 3.07 (B) if calculated by replacing the assessed mark of 59% in the Course with aegrotat status. On June 18, 2009 the Student was denied admittance to the ECE Graduate Studies Program. The Admission Requirement webpage on the University of Toronto's Grad School website states that an appropriate four-year bachelor's degree with a final year average of at least mid B is required for consideration for Graduate School.

IV. Decision

There is no dispute that the Student had a valid medical reason for not being able to write his final exam in the Course.

The issue for determination is what is the fair and reasonable remedy in this situation and did the Faculty apply their policy fairly and consistently. It is the unanimous view of the Committee that a supplemental examination would have been the most appropriate remedy if it had been granted at the time of the initial appeal. It would have provided the most accurate and fair assessment of the Student's ability in the Course. Your Committee also noted a previous report #308 of the Academic Appeals Committee of the Governing Council dated January 23, 2006 which commented on the Faculty's practice on missed examinations:

" The Committee wishes to state its discomfort with the mechanistic nature of assessing grades by formula when a student is unable to perform due to reasons beyond his control. The Committee is troubled that the Faculty of Engineering persists in using an approach that provides accommodation in the form of assessed or inferred examinations rather than supplemental examinations. However, whether or not we agree with the Faculty policy is immaterial to the fact that the Faculty applied its policy fairly and properly."

This case appears to be another example of a rigid application of the Faculty's practice of providing accommodation in the form of assessed grades. Your Committee is displeased with the Faculty's near total refusal to consider alternate remedies that are more appropriate to the particular circumstances. Indeed the Faculty indicated in this hearing that it is currently reviewing this practice. Your Committee strongly encourages the Faculty to do so.

However, given the time delay for writing a supplemental examination and that the Student has been graduated for over a year, the Student has dropped the request for the remedy of the opportunity to write a supplemental examination and now requests only that he be granted aegrotat status in the Course. Your Committee agrees that it would impose an undue burden on the Student at this stage to review the entire course in preparation for a supplemental examination.

The Committee agrees that the Faculty applied its practices consistently. However, as there were no reasons stated in the written decision of the AAB and the Faculty's presentation at this appeal was very limited, it is difficult to ascertain to what degree, if

any, the individual circumstances of the Student were considered in assessing the option of a remedy of aegrotat standing in the Course. The Faculty indicated that the aegrotat standing was usually limited to situations where a student has missed 3 or more exams and had previously demonstrated an understanding of the course material. The Faculty also stated that an aegrotat standing was permitted in certain circumstances where it is not proper to require the student to retake the course or the assessed material is inadequate.

The Student submitted that he usually did much better on his final examinations and that, given his poor performance on the midterm in the Course, he had spent 14 days of study in preparation for the final examination. It is impossible for the Committee to assess these claims. However it was noted that the Student had never before missed a final examination. It was also noted that the Student not only wrote his other exams in this session regardless of his recovering medical condition but also put significant and timely effort into requesting the opportunity to write a supplemental examination in the Course. Again the Committee believes that the most appropriate remedy would have been a supplemental examination. However given the circumstances of this case including the Student's graduation in June 2009 and the time delay since the taking of the Course, the Committee unanimously believes that the just remedy is an aegrotat standing.

The Faculty has already indicated its belief that the Student knew the material well enough to pass the Course through the application of an assessed mark. Without the opportunity to write a supplemental examination, it is not possible to determine whether the assessed grade is a true indication of the Student's ability to perform in the Course. By granting an aegrotat standing in the Course, the Student retains the pass which has already been granted by the Faculty but removes the mark such that the Course will have no effect on the Student's final annual GPA or Cumulative Grade Point Average.

The appeal is allowed and the Student is granted aegrotat status in the Course.