

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report # 336 of the Academic Appeals Committee
July 23, 2009

Your Committee reports that it held a hearing on Thursday May 28, 2009 at which the following members were present:

Mr. Tad Brown, Chair
Mr. Ken Davy
Professor Ronald Kluger
Professor Chris Koenig-Woodyard
Professor Elizabeth M. Smyth

Secretary: Ms Nancy Smart

Appearances:

The Student Appellant and his counsel Mr. William Reid

For the University of Toronto School of Graduate Studies (SGS):

Mr. Robert Centa (Counsel)
Professor Leonard Brooks
Professor Martha Dunlop
Mr. Hans Harding
Professor Berry Smith

The Appeal

The Student is appealing the decision of the Graduate Academic Appeals Board (GAAB) of the University's School of Graduate Studies dated November 18, 2008. The decision of the GAAB dismissed an appeal by the student of the decision of SGS to terminate the student from the Master of Management and Professional Accounting Program ("Program"). This termination was based on the requirement of the Program that any student who fails more than two courses will automatically be asked to withdraw from the Program. In particular, the issue is the treatment of the third course in which the student did not received a passing grade; MGT2205 (Advanced Financial Accounting) (the "Course"). The Student is appealing the GAAB decision "on the ground of procedural error of the GAAB both in making false and unreasonable findings of fact, and in making decisions that are unreasonable and/or are based on false and unreasonable findings of fact."

Facts

The Student entered the Program in June 2006. In the fall term of that year, he failed two courses. There is a requirement in the Program that any student who fails more than two courses in his candidacy will be asked to withdraw from the Program. The Student acknowledges that he was aware of this requirement.

In fall term of 2007, the Student was enrolled in 6 courses. On December 10th, the Student was scheduled to write his final exam in the Course. On December 8th, the Student was involved in an accident and injured his back. He visited a doctor on December 9th and received a medical note indicating that he should take three days rest. However the Student decided to write the final exam in the Course regardless. He experienced severe back pain during the exam. The Student was scheduled to write a final exam for another course MGT2207 (Taxation 2) on December 12, 2007. After receiving a further medical note, the Student was granted a deferral of the examination in MGT 2207.

Initially a deferred examination was requested by the Program for the wrong course. However this error was noted by the Student and a new examination was requested from the instructor of MGT 2207 about December 14, 2007. The instructor advised that the new examination would not be available until January 2008. The Student entered the co-op portion of the Program in January 2008. The co-op portion was scheduled to continue until April 18, 2008. The Student was informed that the deferred examination for MGT 2207 was ready in February 2008. The Program suggested that it be written during the week of February 19. However the Student requested that the writing of the deferred examination be deferred until after the co-op period had been completed because of the work load in the co-op placement. The Program granted this request on the condition that the examination be completed before the Summer term commenced on May 7, 2008. When the Student later became aware that he would also be required to rewrite the examination for the Course during the same period, he requested and, on April 29, 2008, was granted an extension to May 15, 2008 to write the deferred examination for MGT 2207. The Student did write the deferred examination for MGT 2207 on that date and passed the course.

In January 2008, the Student learned that he has failed the Course. The Student had performed poorly on the term work in the Course consisting of two mid term examinations and the average of the best of two assignments. The Student received a grade of 73% on the final examination but required a grade of approximately 88% on the final examination in order to pass the Course. The Student appealed on the basis of his medical condition at the time of writing the final examination. On April 14, the Program advised the Student that his appeal had been granted and that he was permitted to rewrite the final examination in the Course. He was also advised at that time that the rewritten examination must also be completed before May 7,

2008. The Student rewrote the examination on May 5, 2008. The Student failed the supplementary examination with a mark of 48% and therefore his failure in the Course stood. With three failed courses on the Student's record, the Program recommended termination and SGS accepted the recommendation.

Previous Decision

The Student appealed this decision to the GAAB on the basis that:

- (a) he was not given enough time to sufficiently prepare for a supplemental final examination in the Course;
- (b) he did not receive timely notice of the format of that same examination;
- (c) he was unfairly disadvantaged because the structure of the rewritten examination diverged markedly from that of the original examination; and
- (d) the course instructor in the Course failed to provide him with suitable guidance and support while he was preparing to rewrite the final examination.

In its decision dated November 18, 2008, the GAAB dismissed the Student's appeal stating that "neither individually nor cumulatively do any of the Student's complaints justify inference with the decision of SGS to terminate the Student from the Program."

Decision

It should be noted that the Student does not dispute the reasonableness of the GAAB's decision as it relates to the fourth listed basis of appeal being the amount of guidance and support provided by the course instructor.

Your Committee finds that the decision of the GAAB was reasonable based on the evidence presented. Both the Student and SGS presented your Committee with a comprehensive record of the relevant documents including the extensive communications between the parties and the academic records of the Student. Your Committee thoroughly considered all of the evidence presented by the parties. It was acknowledged that there was no additional evidence presented to your Committee that was not presented to the GAAB. Your Committee finds that the actions and decisions of SGS in administering the supplemental examination in the Course were fully compliant with University policies and guidelines and were fairly applied in accordance with the Program guidelines.

In particular, your Committee finds that the amount of notice time given the Student for the supplemental final examination in the Course was fair and reasonable.

Your Committee finds that there is no University guideline which requires it to provide a detailed analysis of an examination model. There was no suggestion that the supplemental examination was not based on the course outline or the material discussed in class.

Your Committee finds that the supplemental examination itself was fair and within the guidelines that it cover the course material. There is no obligation that the supplemental examination mirrors the original examination. Your Committee also finds that shift in balance in the examination between qualitative and quantitative questions was neither unfair nor material.

Your Committee also finds that the rescheduling of the deferred examination in MGT 2207 was done in accordance with University guidelines and that it does not provide grounds which justify interference with the outcome of the Student's failure of the Course.

While your Committee sympathizes with the situation of the Student, it finds that the decision to terminate the Student from the Program was reasonable and fair in the circumstances.

The appeal is dismissed.