

REPORT NUMBER 254 OF THE ACADEMIC APPEALS COMMITTEE

February 8, 2001

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Thursday, February 8, 2001, with the following members present:

Professor Ralph Scane (Acting Chair)
Professor Raymond Cummins
Mr. Ljupco Gjorgjinski
Professor Olga Pugliese
Ms Susan Scace

Secretary: Ms Susan Girard

In Attendance:

Mr. M [REDACTED] M [REDACTED] (the Student)

For Scarborough College:
Associate Dean Ian McDonald

Your Committee considered an appeal from the Sub-committee on Academic Appeals of Scarborough College, dated September 21, 2000, which dismissed an appeal from the refusal of the College's Sub-committee on Standing to grant a deferral of a final examination in the course MGTB02Y, sought on medical grounds. The same decision of the Sub-committee on Academic Appeals also dismissed an appeal from a decision of the Sub-committee on Standing refusing to grant a further deferral of final examinations in the courses MGTB03S, MGTB23S and ECMB09Y. These deferrals were sought on religious grounds.

The Examination in MGTB02Y

The Student did not write the final examination in MGTB02Y which was scheduled on April 12, 2000. He testified that he was suffering from severe flu symptoms, which commenced on April 11 and was unable to leave his house to see a doctor. He did visit his family doctor on April 18, 2000. The Sub-committee on Standing denied the petition because of the weakness of the medical evidence, and indeed, the doctor's note submitted with the petition was so terse as to be worthless. However, on the appeal to the Sub-committee on Academic Appeals, a supplementary certificate from the doctor was filed, and considered by the Sub-committee. Although it was on the official University Student Medical Certificate form, and was completed in some detail, the Sub-committee considered it as inadequate to justify allowing the appeal. It appears from the decision of the Sub-committee that the fact that the visit to the doctor did not occur until six days after the examination in question was the principal factor in deciding that the certificate lacked sufficient weight to justify relief. Associate Dean McDonald testified that Scarborough College has consistently applied a requirement that medical advice must be sought on the day an examination is missed because of illness, unless it is clear that this is not reasonably possible. He also pointed out that the final examination regulations of the College, as published in the *Calendar* (1999/2000, p. 224) provide:

S.B.2. If you are affected by illness or other extenuating circumstances which do not actually prevent your writing an examination, *you are required to attempt it*. If, after receiving your final grade, you feel that your performance on the exam was adversely affected, you may petition to rewrite it.

On this part of the appeal, your Committee was divided. The minority considered that the Student had not satisfied the onus upon him to show that he was so ill that he could not write the exam, and that he was entitled to a deferral.

The majority felt that the second medical certificate, coupled with the Student's evidence, did establish a sufficiently serious illness to justify relief. Although the Student did not visit his doctor for almost a week after the examination, the certificate did state that the symptoms described therein would worsen for about a week after onset (April 11), and then start to decline. The doctor would still be seeing the Student while the symptoms were still in a relatively severe state. The obvious difficulty with enforcing the regulation quoted above is the necessarily subjective nature of whether attendance at an examination is "actually prevented". Influenza, like many other medical conditions, can vary greatly in intensity and debilitating effect, and, to assess this, there may in the end be little to go upon but the petitioner's credibility and such corroborating evidence as is available. In this case, the majority accepted the Student's evidence as to the effect of his illness at the relevant time, and considered that the medical certificate offered adequate corroboration. The majority also note that the College's requirements for medical certificates do not prescribe the "on the day" medical examination that your Committee was told the College interpreted them as requiring. The relevant provision (1999/2000 *Calendar*, p. 226) reads:

S.D.3 (a) Medical certificates must show
 . that you were examined at the time of illness

.....

This could legitimately be interpreted by students as meaning, "during the period of illness". It does not say, "on the date of the examination for which relief is sought." This traditional interpretation by Scarborough College is, in the view of the majority, too rigid, and not justified by the regulation itself. Delay in seeking medical attention clearly *may* affect the weight and credibility of evidence tendered, but this is only one factor to be considered.

The appeal with respect to the deferral of the final examination in the course MGTB02Y is allowed. The failure presently recorded against that course in the Winter Session of 2000 is vacated. The Student may write a deferred examination therein in the period for deferred examinations set by the College at the close of the Spring Term, 2001.

The Examinations in MGTB03S, MGBT23S and ECMB09Y

The Student is of the Russian Orthodox faith. He is a son of the Archpriest and Rector of Holy Trinity Russian Orthodox Church in Scarborough. As a devout member of a devout family, he wishes, and feels obliged to observe fully the religious obligations of his faith, including, in this case, the Orthodox Easter devotions.

In 2000, the final examination in MGTB03S was scheduled for Friday, April 28, and the final examinations in the remaining two of the above courses were scheduled for Monday, May 1. According to the Orthodox Calendar, these dates were Good Friday and Easter Monday respectively. The latter date is apparently of more pressing significance in the Russian Orthodox faith than it has become in western versions of Christianity.

Sometime in March, 2000, (but before the final date for petitions) the Student realised that the scheduled dates for examinations in the above courses would conflict with his religious obligations. He testified that he called the Associate Dean (Professor Powers, who was filling in for Professor McDonald, then on leave), and advised him of the problem. According to the Student, he was told that the Associate Dean would check into the procedures, and get back to him. The Student then testified that, having heard nothing further from Scarborough College by April 7, he communicated with Professor Powers on that date. He states that he was told that it was unlikely that, at that late date, he could be accommodated in the deferred examination period which would immediately follow the scheduled examinations in April, and that most likely, he would have to write at the August sittings for deferred examinations. The Student also confirms that he told Professor Powers that he wished to write the deferred examinations "as soon as possible". On the same date, April 7, he dated and filed a petition to defer these examinations scheduled for April 28 and May 1 to "a later date (i.e.) earlier deferred period if possible".

On April 10, the student dated and filed a confirmation that he would attend the deferred examinations (although he states that he did not then know the actual dates on which they would be written), and paid the required fees. It is probable that he received this form with or near the time that he received a letter from Professor Powers, also dated April 10, advising that the petition to write deferred exams in the three subjects had been granted. The letter stated, "You will write the exam [*sic*] in the April/May examination period (April 28 - May 3)." The letter also referred to "attached information" which included a sheet headed "Instructions for Special Examinations", and, as mentioned, probably the "confirmation" form referred to above. The letter concluded (in bold print) "You will be given one opportunity only to sit this examination. If you miss it, another petition will be considered only in truly exceptional circumstances."

The "Instructions" also contained the wording, "The examination will be held in the April/May deferred examination period (April 28 - May 3, 2000)." However, the force of this statement was weakened by the fact that the documents given to the Student by the College stated, in large bold print, that the confirmation form must be filed by February 25, 2000. Obviously, the form was prepared for an earlier set of deferrals, and when printed out again for later use, only the dates of the current deferred exam period were changed. This reduces the credibility of any dates referred to in the document, and presumably the College will tighten up its procedures in this regard.

The actual dates for the examinations were established to the Student by a letter dated April 11, 2000. One examination was to be written on May 2, and the other two on May 3. Again, it is not clear whether the Student received this letter on this date, or shortly afterwards. When the Student realised that he would have to write three examinations in the two days immediately following Easter Monday, he called the member of the College administration referred to in the April 11 letter, and said that the dates were unsatisfactory. He was told that, to change them, he would have to petition again. In fact, he did not immediately petition for further relief, because, he testified, he was busy with his other examination (a final examination in a full year course in economics), and involvement in forthcoming religious preparations. He also suggested that Professor Powers' comment, on April 7, that it was unlikely that he could be accommodated in the April/May period

for deferred examinations lulled him into believing that he would not have to write the deferred examinations until August. In fact, he did not write the deferred examinations on the set dates of May 2 and May 3. He filed a petition, dated May 8, 2000, but not received by the College until May 16, for a further deferral. In that petition, he cited inability to concentrate on the exams "due to the busy time preceding these exams" and some personal concerns, as his grounds for relief.

Your Committee is unanimous in dismissing the appeal with regard to the three subjects in question. If there was any lulling effect due to Professor Powers' comment that it might not be possible to arrange for deferred examinations until the August sittings, it should have been overcome within a week, when the dates, first of the deferred examination period, and then of the exact dates, were communicated to the Student. The Student still had two weeks before the most intense period of religious activity of the Easter season would start for him, and even during that period, there would surely be some interstitial time for preparation. The Student at least must have known from early in the academic year that his heavy Easter season duties would be occurring sometime around the University's usual final examination period, even if he did not know actual dates of conflict until the timetables became available to him. While the University has a duty to accommodate religious requirements by not forcing conflicts between tests, examinations and other compulsory requirements and the holy days of the various religions, students must on their part generally plan their lives with the University's calendar in mind. This Student's religion imposed substantial additional time burdens on him during the final examination period. However, many students have distracting obligations, not necessarily of religious origin, which hamper them during examinations. Sometimes, these are of such an overwhelming nature that relief is given by the University. In this case, the University fulfilled its duty by providing an opportunity to avoid actual conflict between the Student's holy days and its examinations. The Student chose not to take what was offered, essentially because he considered that he needed more study time than he had already provided for himself. In all the circumstances, this does not justify further relief.

The appeal with respect to the courses MGTB03S, MGTB23S and ECMB09Y is dismissed.

March 2, 2001