

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 268 OF THE ACADEMIC APPEALS COMMITTEE

August 1, 2002

To the Academic Board,
University of Toronto

Your Committee reports that it held a hearing on Thursday August 1, 2002, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair
Professor David Jenkins
Professor John Furedy
Mr Harmeet Gill
Professor Luigi Girolametto

Mr Paul Holmes, Judicial Affairs Officer

In Attendance:

Mr A.M., the Appellant
Mr Rashmi Desai, Associate Dean, Physical Sciences and Engineering for the School of Graduate Studies
Professor Shamim Sheikh, Graduate Studies Coordinator, Physical Sciences and Engineering, School of Graduates Studies

This is an appeal from the decision of the Graduate Academic Appeals Board (“GAAB”), dated December 10, 2001, dismissing an appeal from the decision of Associate Dean Rashmi Desai, dated June 25, 2001. The decision of Associate Dean Desai was a dismissal of an appeal from a decision of the Examination and Degree Committee of the Graduate Department of Civil Engineering, dated June 13, 2001. The latter Committee dismissed an appeal by the appellant who appealed failing grades in two graduate level Mechanical Engineering courses. Specifically the student failed CIV1281H and CIV514, taken in the spring term of 2001. Owing to a departmental rule that the failure of two courses results in a student being asked to withdraw from the program, the student was asked to withdraw. Upon failure to withdraw, he was terminated from the program. The appellant has appealed on compassionate grounds and requested that he be allowed to remain in the program and repeat the two courses; or alternately, that he be allowed to apply for re-admission to the program.

The appellant entered the M.Eng program in January 2001, having been permitted to defer his start date for financial reasons. He registered as a full-time student, and enrolled in three courses. He passed one course, and failed the other two.

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The appellant put forward several grounds of appeal at the previous levels of deliberation and before your Committee. First, the appellant argues that due to financial reasons, he made the decision to work during the school term, while carrying a full-time course load. He did not think he could reduce his course load in the event that this would disqualify him from OSAP. He argues that his academic performance suffered greatly as a result. Second, the appellant argues that his performance suffered due to his enrollment at the Yorkdale Adult Learning Centre for continuing education in the civil engineering field. This program involved full-time classes until February. Further, the appellant notes that by the drop date, he did not think he had an accurate picture of his performance, having only written one mid-term. He remained optimistic that he would be able to succeed academically.

The appellant also put forward additional grounds of appeal relating specifically to the two courses. With respect to CIV1281H, the appellant argues that he found difficulty acclimatizing himself to the culture in Canada and U of T. In particular, he had difficulty navigating the system of obtaining textbooks from the library for the course. Further, he states that he repeatedly approached his professor for assistance and direction regarding his independent study project, worth half the course marks. However, the professor informed the appellant that he would have to make the necessary decisions on his own.

With respect to the second failure, in CIV514, the student received a failing grade in his term project, after having obtained a high grade on the project's progress report. The professor in this course suggested to the student that some or part of the project appeared to be plagiarized. However, your Committee received evidence that the alleged plagiarism was only apparent to the professor after he marked the project, and that he did not detract any grades for the alleged plagiarism nor did he want to pursue the matter further. The student was also concerned that at an earlier point in the term, this professor suggested to the appellant that he had cheated during the mid-term examination.

While extremely sympathetic to the many obstacles encountered by this student who was committed to working in order to make financial ends meet, and to supplementing his learning at the Yorkdale Adult Learning Centre, a majority of your Committee believes that it cannot permit this to be an excuse for failing to meet the standards required by the University of Toronto in a graduate level engineering program. A majority of members support the department's defence that they award grades, and by extension degrees, based solely on achievement. In this case, the appellant did not meet the necessary standards, and the department contends that it could not recommend any action other than termination from the program. A majority of the Committee does not believe that the circumstances of the appellant's case are such as to allow it to override a departmental rule requiring a student to leave the program after two failures. The majority of the Committee does not consider it appropriate to request that the department make an exception in this case to a rule, which many departments adopt as general policy for graduate programs at this university, entry into which is very competitive."

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With respect to CIV1281H, the majority of your Committee believes that the appellant was not unduly disadvantaged relative to other students. He had an older version of the textbook with which to navigate the course, and ultimately obtained the book before the examination. Further, the professor's decision not to provide additional assistance to the appellant was consistent with the approach of the professor in the course requiring students to work autonomously. We heard throughout the hearing that the Graduate Civil Engineering department considers a student's ability to work independently one of the hallmarks of the program and a necessary component for any student to achieve academic success at the graduate level.

With respect to CIV514H, a majority of your Committee sees no compelling reason to interfere with the decision of the GAAB which found that there is no basis on which to review the marks assigned for the work in this course. As the GAAB decided, there is no evidence of procedural error, unfairness or bad faith in the assessment process, and absent any of these factors, the GAAB accepted the correctness of the grade, as does your Committee. A majority of the Committee is satisfied that the evidence disclosed that the appellant failed the course based on poor performance, and not as a result of the allegation of plagiarism.

Your Committee's decision is not unanimous. A minority of the Committee would grant relief to the appellant on compassionate grounds, in the belief that all the circumstances combined worked against the student's ability in an unfortunate, unforeseeable, and almost insurmountable way. The minority would allow him to repeat the courses, having satisfied itself that the student has learned from his errors, and would now be more likely to achieve greater academic success in his program of study. The minority believes this University should recognize hardship and difficult circumstances and would give the student the benefit of the doubt and a second chance.

Before closing, your Committee wishes to make a comment about the defence put forward by the department. Your Committee notes that the professor who made the allegation of plagiarism did not attend at the hearing, or at the hearing of the GAAB. Professor Sheikh testified on his behalf as to the allegation and a majority of your Committee satisfied itself as to the details of the situation. However, your Committee wishes to reiterate the message of Professor Ralph Scane, who chaired the GAAB hearing, who wrote in his decision of the difficulty in deciding matters affecting a student's academic career without benefit of hearing from the professor(s) directly involved in the matter. Further, your Committee wishes to note that it was concerned to hear that the professor who failed the student in one of the courses in question and who made the allegation of plagiarism against the appellant was the same professor who chaired and signed his name to the letter from the Examination and Degree Committee which dismissed the appellant's original appeal. We heard evidence to satisfy us that this professor was not involved in the decision-making. However, we are pleased to note that the Graduate Studies department realizes that this raises the specter of an apparent conflict of interest and has taken steps to ensure that this does not occur again.

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The decision of the Committee is by a majority decision, and therefore, the appeal should be dismissed.

Paul J. Holmes
Secretary

Bonnie Goldberg
Chair

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**ADDENDUM TO REPORT NUMBER 268
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Report Number 268 of the Academic Appeals Committee was released on August 22, 2002. The decision was not unanimous. The Chair has consented to the release of an additional minority opinion as an addendum to the previously released decision.

The release of the minority opinion does not change the result: the appeal is denied for the reasons specified in Report Number 268.

Respectfully Submitted,

Paul J. Holmes
Secretary

Bonnie Goldberg
Chair

Addendum to Report Number 268 of the Academic Appeals Committee

Minority Opinion

While we have no concerns over the majority decision, based on technical grounds, where the emphasis has been on grades as the single criterion on which to base academic judgements, we feel we must write a dissenting opinion based on compassionate grounds.

From this vantage point we see a young man, driven by financial concerns, who took on too many activities, a night watchman's job, additional courses at Yorkdale Adult Learning Centre and a full U of T course load to ensure future eligibility for OSAP funding. As a consequence he failed to meet the requirements in two of his U of T courses (borderline failures).

We are grateful for the frank comments made by Dr. Sheikh representing the Faculty of Engineering Graduate Department who came from the same background as the student and said that even a bright student who does not devote himself full time to this engineering graduate program would be expected to fail.

We acknowledge that our colleagues in the majority recognized the compassionate dimension to this case but were convinced that grades must be the overriding criterion on which all academic decisions should be made. They considered that failure in this regard would compromise academic excellence and rigor as The University's standard.

We in the minority, while acknowledging the importance of grades, considered that financial hardship may have had more to do with the present unfortunate outcome than a true test of the student's ability. Had universal assured graduate student funding been in place, which is the goal of the university, we believe this situation would have been avoided. Our hope is that some form of ad hoc arrangement can be made, possibly on a part time basis to allow the student to continue his studies at the University of Toronto.

We do not believe this sets a dangerous precedent but rather might be seen as a degree of flexibility towards individual needs in the conduct of university affairs.