

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 274 OF THE ACADEMIC APPEALS COMMITTEE

September 11, 2002

To the Academic Board,
University of Toronto

Your Committee reports that it held a hearing on Wednesday, September 11, 2002, at which the following were present:

Professor Ed Morgan, Chair
Dr. Alice Dong
Professor Luigi Girolametto
Mr. David Melville
Professor Cheryl Misak

Mr Paul Holmes, Judicial Affairs Officer (Secretary)

In Attendance:

Mr. A.C., the student
Professor Susan Howson, Associate Dean, School of Graduate Studies

This is an appeal from an interim decision of the Graduate Academic Appeals Board (“GAAB”), dated June 21, 2001, and a final decision of GAAB dated November 30, 2001. The interim decision dismissed an appeal from the termination of the student from a Ph.D program in the Graduate Department of Sociology. After dismissing the appeal from the termination of the student, the GAAB interim decision expressed concern about the process followed to reinstate the student, who had been a lapsed student, to the Ph.D program. The interim decision invited the student and the School of Graduate Studies (“SGS”) to make further submissions on this point. A second hearing was subsequently held followed by the GAAB final decision in this matter. The final decision concluded that the reinstatement process had not been improper.

Background

The student first enrolled as a doctoral student in the Graduate Department of Sociology (the “department”) in 1981. He completed his course work and comprehensive examinations by May 1983. Thereafter the student appears to have disengaged from his studies at the University of Toronto such that he was considered a “lapsed” student.

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In 1994, the student says that he contacted Professor Zeitlin who expressed interest in supervising his thesis on the topic of religion in sport. The student apparently worked on his thesis and contacted the department in 1997 to enquire about readmission to the program. The department advised the student that the practice was to encourage students to remain lapsed until they have completed a defensible version of their thesis.

In late March 1999 the student gave a copy of his thesis to Professor Zeitlin. Thereafter a three-person committee consisting of Professors Zeitlin, O'Toole and Simpson was formed to read the thesis and determine if it should go forward to defence. The three-person committee determined that the thesis should go forward to defence and the student was readmitted on July 21, 1999. The SGS rules provided that the student had 12 months from the date of readmission to defend the thesis.

An Examination Committee consisting of Professors Zeitlin, O'Toole and Simpson, a member of another University department, and an external examiner, was established. An oral examination was scheduled for September 15, 1999. The external examiner submitted a highly critical appraisal prior to the oral defence. The student insisted on continuing with the oral defence, which was convened on September 15, 1999. The thesis and defence received more than one negative vote or abstention. Therefore the oral examination was adjourned under University regulations. The committee reconvened exactly one year later, on September 15, 2000. The thesis and defence did not pass at the reconvened oral examination. The student was terminated from the program.

The student appealed directly to GAAB, which heard the student's appeal despite the fact that the student had not first appealed to the Departmental Appeals Committee and then to the Associate Dean. The student appealed to GAAB on three grounds:

- (1) professor Zeitlin was in a "conflict of interest";
- (2) there was a troubled relationship between himself and professor Zeitlin characterized by "intellectual incompatibility, hostility, clashes and biases".
- (3) the merits of his work.

In an interim decision, GAAB reached the following conclusions:

- (1) the allegations of conflict of interest against professor Zeitlin were without foundation;
- (2) the evidence did not establish a prima facie case on which to base this allegation;
- (3) the Board cannot adjudge the thesis on the merits as its members neither claim nor possess competence in sociology.

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GAAB however, was troubled by the manner in which the student was reinstated. The interim decision expressed concern about the fact that the three-person committee recommended that the thesis go forward to defence, while an external reviewer, just a short time later, wrote a scathing critique of the thesis. Moreover, the evidence revealed that one of the departmental examiners who had recommended that the thesis go forward to defence was highly critical of the thesis at the first defence. GAAB concluded that the correct test for reinstatement should be that thesis has “a reasonable prospect of succeeding” at the defence. Given the evidence detailed above, the GAAB interim decision expressed concern about the test applied by the department to reinstate the student. The interim decision concluded that if the student was incorrectly reinstated, the proper remedy would be to put the student back in his original position; that is, returning the student to his lapsed student status with the possibility of submitting his thesis for reinstatement. GAAB adjourned the hearing.

Without recounting the evidence at the reconvened hearing, the GAAB final decision indicated that GAAB received further evidence with respect to the readmittance of the student. GAAB concluded that the test for readmittance had been properly met in the first instance. As the interim decision had denied all three grounds of appeal, the final decision was that the appeal was denied.

The student now appeals to the Academic Appeals Committee of the Governing Council (the “Committee”) on four grounds:

- (1) GAAB erred in finding in its final decision that the test for readmittance had been properly met;
- (2) GAAB erred in finding that professor Zeitlin held no “intellectual and philosophical” bias against the student;
- (3) GAAB erred in failing to seek and obtain an independent, unbiased evaluation of the student’s Ph.D thesis; and
- (4) GAAB erred in failing to “...investigate the reasons behind... the negative vote of the external examiner...”.

The Committee finds that the test for readmittance was properly set out by GAAB and was, in turn, met in this case. GAAB held that the test for readmittance was that the graduate unit must conclude that the thesis, as it stands at the time of application for reinstatement, has a “reasonable prospect of succeeding at its oral defence”. This does not mean that success is assured. GAAB was satisfied on the evidence presented orally by Professor Zeitlin and by the written submissions it received from Professors O’Toole and Simpson, who collectively comprised the committee that advised the graduate department on this matter, that the thesis should be allowed to proceed to defence. The Committee has heard nothing to indicate that this decision was incorrect. While an external reviewer was later critical of the thesis, he was not a part of the graduate department and was entitled to his opinion. This does not undermine the reasonableness of the graduate

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department's assessment (which, after all, is only an estimate) as to the prospects for the student's successful defence.

The Committee also agrees with GAAB that nothing in the evidence suggests that Professor Zeitlin was biased against the student. The student relates a number of conversations that he had with Professor Zeitlin which, he says, amounted to "intellectual incompatibility" and "hostility" between the two of them. In the Committee's view, these allegations are not well founded. The Committee did not hear from Professor Zeitlin, but even on the student's own version of these conversations no misconduct or bias has been made out. Professor Zeitlin may have thought that the student was not up to expected standards, and may have said so to the student, but that does not establish any misconduct or actionable bias.

Turning to the student's submission that GAAB erred in failing to seek an independent evaluation of the Ph.D. thesis; the Committee is of the view that GAAB was not required to do so under the circumstances. While GAAB may have the discretionary power to seek such an independent evaluation, it is not required to do so in the absence of evidence that the existing evaluations are biased, done in bad faith, or otherwise improper. The thesis was already subject to an external evaluation that was highly critical. While the student did not like this external evaluation, and sought to critique the critique, nothing was put before the Committee that undermined the forcefulness or appropriateness of the existing external evaluation. In coming before the Committee, the student must do more than to assert his substantive disagreement with the evaluator. We are satisfied that GAAB properly considered and rejected the student's appeal on the merits of his thesis evaluation.

The student's final ground of appeal is that GAAB failed to investigate the "reasons behind ... the negative vote of the external examiner". The Committee finds that GAAB was correct in not pursuing any such investigation. The student provided no evidence of any wrongdoing by the external examiner, and, indeed, provided no cogent reason for requesting such an investigation. The only point made by the student in this regard was to again emphasize what he perceived as the erroneously critical assessment of the external evaluator. This is not a reason to conduct an investigation of the evaluator, and the Committee is of the view that it would have been inappropriate for GAAB to have done so under these circumstances.

The Committee is therefore unanimous in dismissing the student's appeal.

February 28, 2003

Paul J. Holmes
Secretary

Ed Morgan
Chair