

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report #310 of the Academic Appeals Committee

September 29, 2006

Your Committee reports that it held a hearing on Friday, September 1, 2006, at which the following were present:

Assistant Dean Kate Hilton, Chair
Professor Brian Corman
Professor Glen Jones
Professor Ellen Hodnett
Ms. Johanna Weststar

Mr. Anthony Gray, Judicial Affairs Officer

In Attendance:

The "Student"
Mr. Roland Luo (Counsel for the Student)
Associate Dean Nick Cheng, University of Toronto at Scarborough

The Appeal

The Student is appealing the decision of the University of Toronto at Scarborough Subcommittee on Academic Appeals, dated March 8, 2006, which denied the Student's petition to rewrite her final exam in the 2005 Fall course BGYC19H3.

Facts

The Student enrolled in UTSC in 2002. In the 2005 Fall term, she commenced her fourth year as an Honours Bachelor of Science student, with a major in Integrative Biology and Neuroscience. The Student had a very strong record, with a cumulative GPA of 3.73 at the time she enrolled in BGYC19H3.

The Student encountered difficulties in BGYC19H3. The course was taught by a graduate student, Ms. MacKenzie, and the Student had numerous complaints about the quality of the instruction she received, both in the classroom and in office meetings with the instructor. She received a grade of 71% (B-) on the mid-term examination, which was worth 50% of the final grade. She received a grade of 62% (C-) on the final examination, resulting in a final grade in the course of 67% (C+). The Student was very distressed by these results, which she believed were caused by two factors: first, the instructor's inability to communicate the course materials in an effective way to her students; and second, the Student's physical illness in the days leading up to the final examination, which compromised her ability to concentrate.

Previous Decisions

On January 30, 2006, the Student submitted a petition for late withdrawal from the course on the basis of inadequate instruction. Her petition stated: “The poor instruction, lack of professionalism and respect from the professor’s side and unfair grading should not impact my GPA.” In the alternative, the Student requested that the final examination be re-graded “by an objective, third party.”

The petition was denied in a letter dated February 17, 2006, from Associate Dean Nick Cheng. The decision stated that “the evidence provided is not substantial enough to warrant a change in your academic record.”

On February 27, 2006, the Student appealed the denial of her petition to the UTSC Subcommittee on Academic Appeals. Again, the student requested late withdrawal, or in the alternative, a deferred final examination prepared and graded by a different instructor. The sole ground for the appeal was the quality of the instruction in the course. The Student stated: “[Ms. MacKenzie] is a graduate student with no experience teaching at the university level. I am being punished with a bad mark for her lack of experience.”

Her appeal was denied on March 8, 2006. The Subcommittee stated:

As you were informed in the hearing, the powers of the Subcommittee do not extend to making academic judgments about the qualifications of instructors. This power rests with the Chair of the department in question. Thus, an appeal based on these grounds cannot be granted.

The Subcommittee found that the Student’s situation did not meet the criteria for granting a petition for late withdrawal. Having received a poor mark on the mid-term examination (worth 50% of the final grade), the Student was experienced enough to know that she might not receive a high mark in the course. The Subcommittee also noted that the mid-term exam was returned to the student well in advance of the drop date. In addition, the Subcommittee noted that the “serious failure of empathy between [the Student] and the professor” should have prompted the Student to drop the class. Consequently, the Subcommittee was of the view that the Student’s failure to drop the course before the drop date was a poor decision and did not constitute grounds for special consideration.

With respect to the petition for a deferred examination, the Subcommittee expressed concern that this relief would confer a benefit on the Student that was not available to other members of the class. The Subcommittee wrote:

If, in fact, a course was improperly taught or evaluated, then this fact should logically have impacted on the entire class. The marks distribution for BGYC19H3...showed that 37% of the class received marks of B or A. Since a substantial portion of the class was able to perform well in this

class, there was no reason to suppose that the course was improperly taught or evaluated in the general sense.

On March 13, 2006, the Student submitted a petition to rewrite her final examination in BGYC19H3. The petition was denied in a letter dated March 20, 2006 from Associate Dean Cheng, which stated that, since the UTSC Subcommittee on Academic Appeals had already considered and denied this request, there was no basis to grant a rewrite of the examination.

On March 20, 2006, the Student filed a Notice of Appeal with the Academic Appeals Committee of the Governing Council. She requested a rewrite of her final examination in BGYC19H3 on two grounds: first, that she had received poor instruction; and second, that at the time of her final examination in the course, she was suffering from nausea and dizziness that affected her ability to concentrate, and therefore her performance. It should be noted that the issue of the Student's physical illness was raised for the first time in the Notice of Appeal; it had not formed the basis for any of the earlier petitions.

On August 16, 2006, with your Committee's permission, the Student filed additional materials in support of her appeal, including an affidavit.

Preliminary Motion

At the beginning of the hearing, counsel for the Student brought a motion to exclude UTSC's response to the Student's additional materials. The basis for the motion was that UTSC had failed to deliver the response within the agreed-upon timelines. Counsel for the Student argued that he received the UTSC response on August 25th, having expected to receive it on August 24th. In addition, counsel for the Student argued that he had only received a PDF version of the UTSC response on August 25th, rather than a signed version.

Associate Dean Cheng was of the view that UTSC had complied with the timelines, which required it to deliver its response to the Governing Council Office (not directly to counsel for the Student) by August 24th. Mr. Gray, the Judicial Affairs Officer, confirmed that the UTSC response had been received in the Governing Council Office on August 24th, and then distributed to the parties on August 25th in electronic form. Associate Dean Cheng noted that no changes had been made to the document after it was released in PDF form.

The motion was denied on the grounds that UTSC had complied with all applicable timelines and that there was absolutely no prejudice to the Student.

Decision

There are two issues before this Committee: first, whether the appeal should be allowed on the basis of new medical evidence which was not before the UTSC Subcommittee; and second, if the answer to the first question is no, whether the UTSC Subcommittee erred in its decision to deny the appeal.

With respect to the first issue, your Committee reviewed a medical certificate, dated December 15, 2005, which diagnoses the Student with “acute gastroenteritis” and describes symptoms of “vomiting, diarrhea and abdominal pain.” The certificate records the date of the onset of the illness as December 14, 2005, and it recommends “three days’ rest from 14/12/05”. The medical certificate was obtained for the purpose of securing the deferral of another examination (in PSYB32H3, scheduled for December 15th), and it states that the Student is “unable to concentrate in studies [and] unable to sit down and write the examination because of vomiting and diarrhea.”

Your Committee heard evidence from the Student with respect to her physical and mental state on December 17th, the date of the final examination in BGYC19H3. The Student stated that she had been unwell in the three days leading up to the examination and that she continued to feel unwell on December 17th. She had not eaten that day and was taking Gravol. However, she made a conscious decision to write the examination in BGYC19H3 for two reasons. First, she did not wish to defer a second examination, having missed her December 15th examination due to illness. Second, she felt that she had studied enough and was prepared for her examination in BGYC19H3. During the examination, the Student felt ill and visited the washroom twice. She stayed until the end of the examination, but did not have time to finish all of the questions.

At UTSC, petitions to rewrite a final exam based on medical grounds are normally granted only if the medical documentation is sufficiently strong, and if there is a significant drop in grades from term work to final exam. Associate Dean Cheng explained that he interprets “a significant drop” to mean “at least a full letter grade” or roughly 10%. In terms of the second part of the test, your Committee was of the view that the change in the Student’s grade from 71% (B-) on the mid-term to 62% (C-) on the final examination could be viewed as a significant drop, but that this was clearly a borderline case.

With respect to the strength of the medical evidence, the Committee was of the view that it did not meet the standard required to merit relief. The medical certificate provided recommended rest for a period of three days ending on December 16th, the day before the examination in question. There is no question that the Student understood the UTSC requirements with respect to medical certificates; she had obtained one on December 15th, when she believed that she was too ill to write her examination in PSYB32H3. Moreover, her evidence clearly stated that, although she was feeling unwell on December 17th, she wanted to write her examination and believed that she was adequately prepared. Finally, while the examination was still in progress, the Student had the option of advising the invigilator that she was too ill to continue writing, but she did not do so. In fact, the Student did not advise anyone at UTSC that her medical condition had compromised her performance on the final examination in BGYC19H3, either after the examination itself, or at any point in the divisional appeals process.

For all of these reasons, your Committee found that the appeal should not be allowed on the basis of the new medical evidence presented.

With respect to the question of whether the UTSC Subcommittee erred in its decision to deny the appeal, some preliminary remarks are in order. First, it should be noted that neither the Subcommittee nor the Academic Appeals Committee has the jurisdiction to assess the quality of a particular instructor. As the Subcommittee rightly observed, this responsibility rests with the department Chair. Second, your Committee is of the view that allegations concerning the classroom performance of a particular instructor (even if substantiated) will constitute grounds for an academic appeal only in rare situations where a student can demonstrate that he or she was differentially disadvantaged, relative to the other students in the class, by the instructor's practices.

Accordingly, your Committee was prepared to hear evidence about the quality of the instruction in BGYC19H3 for the sole purpose of establishing that the Student's experience in the course was sufficiently unique to justify an extraordinary remedy. However, the Student was not able to provide any explanation as to why the quality of the instruction had caused her to perform poorly on the final examination, when many other students in the course had performed well. Consequently, even if there had been conclusive evidence before your Committee that the instruction was inadequate (which there was not), there was no reason to conclude that the instruction had had a differential impact on the Student relative to her fellow classmates.

The Committee is of the view that this is an unfortunate case of an experienced student with a strong record making a series of poor decisions. In the face of a disappointing grade on the mid-term examination, and in the knowledge that the instructor's teaching style and the Student's learning style were incompatible, the Student nevertheless decided to remain in the course after the drop date. The Student's weak performance on the mid-term examination meant that she had to perform very well on the final examination, worth 50% of her final grade. Although she felt unwell before the final examination, she decided not to obtain a medical certificate because she did not want to defer a second examination. And finally, when she felt unwell during the examination, she took no steps to advise the invigilator. Your Committee finds that the Student must bear the responsibility for her decision-making, and upholds the decision of the UTSC Subcommittee on Academic Appeals.

The appeal is denied.