

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report # 412 of the Academic Appeals Committee
January 8, 2021

To the Academic Board
University of Toronto.

Your Committee reports that it held an electronic hearing, conducted by Zoom on Friday, November 13, 2020, at which the following members were present:

Academic Appeal Committee Members:

Professor Hamish Stewart, Senior Chair
Professor Sonu Gaind, Faculty Governor
Mr. Amin Kamaledin, Student Governor

Hearing Secretary:

Mr. Christopher Lang, Director, Office of Appeals, Discipline and Faculty Grievances

For the Student Appellant:

I.A. (the “Student”)

For the School of Graduate Studies:

Mr. Robert A. Centa, Counsel Paliare Roland Rosenberg Rothstein LLP
Ms. Jodi Martin, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Overview

The Student was enrolled in the Ph.D. program in the Division of Social and Behavioural Sciences (Division) of the Dalla Lana School of Public Health (School). She successfully completed her course work. She was then required to pass a Qualifying Examination (QE) to achieve Ph.D. candidacy. On her initial attempt in January 2018, the Student failed the QE. She retook the QE in September 2018 and failed again. The Student appealed that failure to the Division’s Graduate Department Academic Appeals Committee (GDAAC). On the 2nd of February 2019, the GDAAC dismissed her appeal. She then appealed to the Graduate Academic Appeals Board (GAAB). On the 16th of December 2019, the GAAB dismissed her appeal.

The Student now appeals to your Committee. She argues that there were a number of procedural flaws in the administration of the second QE and she seeks various remedies. The School of Graduate Studies (SGS) argues that the appeal should be dismissed.

Your Committee finds that there is no merit in the Student’s grounds of appeal and therefore dismisses the appeal.

Chronology

The Student registered in the School's Ph.D. program in the Fall 2014 term and over the next few terms successfully completed her course work. In order to proceed in her program and achieve Ph.D. candidacy, she was required to pass a Qualifying Examination.

The Qualifying Examination

The SGS describes the QE, as it was constituted at the time, as follows (SGS Submissions, para. 21):

“The qualifying examination ... normally consists of an 8,000 word paper and an oral presentation of that paper. A student should demonstrate a capacity for independent scholarly work and creativity, the ability to theorize a topic using a variety of approaches, the ability to assess critically related empirical literature and from these propose a theoretically and methodologically sophisticated and consistent research question that would advance the topic area. Through the qualifying examination a student will demonstrate the capacity to understand, apply, and compare theoretical perspectives that are taught in the program's core theory courses.”

The guidelines for the QE that were applicable to the Student had most recently been revised in 2017 and we therefore refer to them as the 2017 Guidelines (SGS Book of Documents, pp. 012-013). The 2017 Guidelines provided, among other things, that:

- “The qualifying exam ... should demonstrate the student's capacity for independent scholarly work and creativity, ability to theorize a topic using a variety of approaches, ability to critically assess related empirical literature, and from these propose theoretically and methodologically consistent research questions that would advance the topic area and may be used for the dissertation. Through this process, the student will demonstrate capacity to identify, synthesize, and critique the literature within their chosen topic area.”
- “The student is expected to meet with their supervisor once every quarter before the start of the QE process and at least 2-3 times ... during the preparation of the outline of the QE to discuss the scope, direction and content. The thesis committee members should meet at least twice with the student during this period. ... Once the outline is approved, the student is expected to write the paper independent of the supervisor and thesis committee. ...”

Under these guidelines, not sooner than two weeks following the submission of the QE paper, the Student was orally examined on the paper. At the oral examination, the Student presented the paper and was then questioned by the examining committee. Following the oral examination, the examining committee deliberated and determined whether the Student passed by a majority vote. The examining committee had three elements:

- (1) the student's Ph.D. supervisory committee;
- (2) the Program Director or their designate; and
- (3) an Examiner.

Each element of the committee had one vote. The first element of the committee would typically consist of three persons (the student's supervisor and two other faculty members), like other Ph.D. supervisory committees in the University.

The Division's guidelines for the QE were revised in 2018 and currently provide, among other things (emphasis in the original):

- “The purpose of the qualifying exam (QE) is to assess the student’s capacity to understand, apply, and compare theoretical perspectives that are taught in the [Division’s core theory courses]. Specifically, the QE process will assess the student’s ability to theorize a topic using two different theoretical approaches and to propose theoretically sophisticated research questions that would advance the student’s topic area of interest and may be used for the dissertation. The process of writing the QE and producing a final product should ideally contribute to the theory section of the student’s thesis proposal.”
- “The paper will identify and describe two theoretical perspectives from which the topic can be considered. ...”
- “The QE paper will explain why these theories are relevant to the topic area, situate them in relation to other systems of thought or traditions, briefly describe the evolution or lineage of the theories, describe the key tenets/constructs of each theory, apply them to the chosen substantive or empirical area of interest, and discuss how the two theories compare to/contrast with/complement one another in relation to the substantive area.”
- “The paper will then propose theoretically-informed research questions ... which might be undertaken in future study, and that arise from the application of the selected theoretical approaches.”
- “The student’s supervisor and committee ... can provide advice and support to the student in identifying the substantive area of focus for the paper and in selecting appropriate theoretical perspectives. ... The supervisor, committee and other faculty members will not provide feedback to the student through the process of writing the QE paper ... and are not permitted to review drafts of the paper prior to its submission.”

The 2018 Guidelines do not contemplate an oral examination.

The Student’s Qualifying Examination

The Student first attempted the QE on the 15th of January 2018, and was unsuccessful. The examining committee provided her with extensive comments, with specific suggestions for improvement, on the QE paper (SGS Book of Documents, pp. 018-021). The Student did not appeal from the examining committee’s decision. In accordance with the QE guidelines then in force, the Student was given the opportunity to retake the QE.

The 2017 Guidelines contemplate that, when a student retakes the QE, “[t]he composition of the examining committee should remain the same if at all possible.” In the Student’s case, this was not possible. In the spring of 2018, her supervisor went on medical leave. Dr. Blake Poland agreed to serve as the Student’s supervisor during the process of repeating the QE. The Student requested that certain members of the examining committee be replaced by others, and the Division agreed to this request. Consequently, the examining committee that evaluated her second QE was quite different from the original committee.

Between mid-April and mid-May, the Student discussed the revisions to her QE paper with Dr. Poland. On the 25th of May, the Student met with her supervisory committee, which provided her with substantive feedback on the revisions to her QE paper. Following that meeting, in accordance with the guidelines, she worked independently and did not discuss the paper with her supervisory committee.

As an accommodation for the Student's mental health challenges, the Division proposed that as a substitute for the oral component of the QE, the examining committee would draft questions for the Student to answer in writing. At the hearing before your Committee, the Student appeared to suggest that she had not agreed to this accommodation (see also her Notice of Appeal, p. 17), but it is clear from the record that she did (SGS Book of Documents, pp. 022 and 027-036). For various reasons that do not need to be spelled out in detail, the timeline for the Student's retaking of the QE was extended by several weeks.

The Student submitted her revised QE paper on the 17th of August 2018. Her examining committee was constituted as follows:

- (1) the student's Ph.D. supervisory committee: Dr. Blake Poland, supervisor; Dr. Branka Agic; Dr. Lisa Andermann; Ms. Wendy Chow; and Dr. Samuel Law (the final three members were referred to at the hearing as "the Mount Sinai Team");
- (2) the Program Director: Dr. Carol Strike; and
- (3) the Examiner: Dr. Ross Upshur.

All members of the examining committee read the Student's QE paper. The examining committee met by teleconference on the 5th of September 2018, to discuss the paper and to draft four written questions that were to be posed to the Student. Dr. Agic was on vacation and did not participate in this meeting; however, Dr. Agic had provided a written assessment of the QE paper, and the other members of the committee considered that assessment. On the 6th of September, as a substitute for the oral component of the examination, the Student received the questions and provided her answers. That afternoon, the examining committee, except for Dr. Agic, met again by teleconference, discussed the Student's answers, and unanimously concluded that she had failed the QE. The examination committee's written assessment of the QE includes the following comments, among others:

- "The QE paper falls well short of expected skill level of a doctoral student to identify, synthesize, and apply literature to a substantive topic."
- "Little to no evidence of capacity to critically appraise the literature."
- "Key terms ... are not defined."
- "The account of the various philosophical and epistemological perspectives is very simplistic."
- "The literature review is descriptive and does not seem to lead to the research question."

The Student's answers to two of the written questions were deemed to be "minimally sufficient" and the answers to the other two "insufficient". The same day, at a prearranged time, the Student was informed of her failure.

The Student was suddenly hospitalized on the 7th of September. The precise reasons for this hospitalization and the length of the Student's stay in hospital are not clear from the material before your Committee, but for the purposes of this appeal further information about this unfortunate incident was not needed.

The Division scheduled a meeting with the Student for the 6th of November. The meeting was attended by the Student, her mother, Dr. Strike, Dr. Nancy Baxter, who was then serving as the School's Associate Dean, Academic Affairs, and Ms. Candice Stoliker, Coordinator, Student Progress and Support. The Student was provided with the examining committee's feedback. Dr. Baxter provided the Student with three options: (1) a retroactive leave of absence predating her retaking of the QE; (2) an appeal of the failure; and (3) withdrawal or termination from her program. The Student had a number of concerns about the retroactive leave of absence and ultimately chose to appeal the failure.

The GDAAC Decision

The Student appealed to the GDAAC. The GDAAC considered a number of remedies sought by the Student but concluded that most of them were outside its jurisdiction. It therefore focussed on her request to have the QE grade changed from Fail to Pass. The GDAAC rejected the Student's claim that the examining committee was confused about which set of guidelines (2017 or 2018) to apply. The GDAAC found that the accommodations provided to the Student throughout the process were appropriate and designed to meet her "specific needs." The GDAAC noted that the Student had "listed a delay in receiving the written feedback" as a ground of appeal, but found that the delay had been caused by the Student's sudden hospitalization and that the arrangements for the November 6th meeting had been agreed to by all the parties to it. Finally, the GDAAC found no bias or unfairness in the assessment of the QE.

The GAAB Decision

The Student appealed to the GAAB. The GAAB commented that while it was difficult to identify the Student's grounds of appeal it could identify "three issues which might be causes for valid concern." First, Professor Agic did not participate in the teleconferences on the 5th and 6th September. The GAAB commented that Professor Agic "was one member of a large (seven person) committee and all seven were firmly of the view that the [QE paper] was a failure" and concluded that "[t]here is nothing in the record to indicate that Professor Agic's participation in the later stages would have made the slightest difference to the final result." Second, the Student had questioned "whether the assessment given to her was indeed the consensus view of the examining committee," and alleged that the Division had lied to her about the committee's unanimity. The basis for this allegation appeared to be that she had not received separate written assessments from each of the seven committee members. The GAAB noted that there was no requirement that individual members of the committee provide separate assessments, found that the examining committee had indeed been unanimous, and found "no evidence whatsoever" for the allegation that the Student had been lied to. Third, the Student had made a comparison between her QE paper and the model QE paper that she had used in her preparation, arguing that the model paper had misled her as to what was required. The GAAB found this comparison to be of little assistance and, with respect to the Student's claim about the guidelines, noted that "Guidelines are guidelines, not strict 'formulas' to be rigidly adhered to." Thus, the GAAB found no merit in the appeal and dismissed it.

Decision

The Grounds of Appeal

As was the case before the GAAB, before your Committee the Student “submitted voluminous material to support her appeal” and accordingly “it was not easy to distill what the specific grounds of appeal were.” At the hearing before your Committee, counsel for SGS and the Student herself were able to assist the panel in identifying grounds of appeal that were relevant to the matter before us, namely, whether the QE was administered fairly. Your Committee understood the Student to have raised essentially three grounds of appeal on this matter: first, that she was inadequately supervised in the period leading up to the retaken QE because she had only one meeting with her committee; second, that the examining committee had mistakenly applied the 2018 rather than the 2017 Guidelines to the Student’s QE, although the Division had rejected her request to be evaluated under the 2018 Guidelines; and third, that the result might have been different had Professor Agic fully participated in the meetings of the 5th and 6th of September. Your Committee finds no merit in any of these arguments.

The first ground of appeal: Alleged inadequate supervision

On the 15th of January 2018, the Student failed her QE. She received detailed feedback from the examining committee (SGS Book of Documents, pp. 017-021). At her request, the membership of her supervisory committee was changed significantly. In particular, Dr. Poland agreed to serve as her supervisor. The Student was permitted to discuss her revisions with Dr. Poland, until her topic was approved (SGS Book of Documents, pp. 040-041). On the 25th of May 2018, the Student met with her supervisory committee and her topic was approved (SGS Book of Documents, pp. 043-045). She did not meet with her committee again until the QE itself. However, in July she did get some feedback from members of her committee on an unrelated piece of work (Notice of Appeal, pp. 72-77).

The Student submitted that she was inadequately supervised between January and May 2018 because she met only once with her supervisory committee, rather than at least twice as recommended by the 2017 Guidelines. Your Committee rejects this submission. The usual practice in SGS is for a doctoral student to arrange meetings of their supervisory committee. There is nothing in the record to indicate that the Student attempted to arrange any meetings with her supervisory committee as a whole during this period; instead, she was content to discuss her work with Dr. Poland. There is nothing in the record to indicate that there was any inadequacy in Dr. Poland’s supervision.

Following the approval of an outline, students are meant to work independently on the QE paper, and to that end the 2017 Guidelines provided that supervisory committees were not to provide students with feedback or review drafts during this period. Thus, once the committee had approved her new outline on the 25th of May, it would have been inappropriate for the Student to continue to meet with Dr. Poland or with her supervisory committee to discuss her QE paper.

The second ground of appeal: Alleged confusion as to the applicable guidelines

There is no direct evidence in the record that the examining committee confusedly applied the 2018 Guidelines rather than the 2017 Guidelines. The Student asks your Committee to infer this confusion from the examining committee’s use of language in its evaluation. The examining committee stated that the Student did not show the ability “to identify, synthesize and apply literature to a substantive topic”—

language which, the Student says, reflects the 2018 Guidelines' phrase "to understand, apply and compare theoretical perspectives" rather than the 2017 Guidelines' phrase "to identify, synthesize, and critique the literature." The Student argues that the 2018 Guidelines are concerned with "application" while the 2017 Guidelines are concerned with "criticism"; that she had written the QE paper with attention to "criticism" rather than "application"; that the examining committee must have had "application" rather than "criticism" in mind while assessing her; and that its evaluation of the QE was therefore unfair.

The fundamental task of a student under both sets of guidelines is to engage critically with the relevant literature in order to identify a specific research question. Therefore, your Committee declines to draw the inference that the examining committee was confused about which set of guidelines to apply. Moreover, your Committee is not persuaded even if the examining committee had mistakenly applied the 2018 rather than 2017 Guidelines, the outcome would have been any different. Your Committee agrees with Ms. Martin's submission that there is no material difference between the type and quality of analysis that is expected of students under the 2017 and 2018 guidelines. There are of course differences between the two sets of guidelines; in particular, the 2018 Guidelines provide more specific direction as to the format of the QE paper and they change the manner in which the QE is administered (an 8,000-word paper followed by an oral examination in the 2017 Guidelines; a 6,000-word paper without an oral examination in the 2018 Guidelines). But it appears to your Committee that these differences do not change the academic abilities that the QE is supposed to test. The examining committee concluded that the Student had demonstrated "[l]ittle to no capacity to critically appraise the literature", had "fail[ed] to note how ... critiques [of the literature] relate to the proposed topic area", had provided a "simplistic" account of "the various philosophical and epistemological perspectives", and had provided a literature review that was "descriptive and [did] not seem to lead to the research question" (SGS Book of Documents, p. 115). These would be serious flaws in the QE paper under either set of guidelines.

In support of the second ground of appeal, the Student also argued that she was misled by the Division in that in preparing her QE paper, she had followed the example of a model paper which, she says, was not consistent with the 2017 Guidelines. Your Committee was not persuaded by this submission. The Student was unable to identify any significant inconsistencies between the model paper and the Guidelines. Moreover, as the GAAB put it, "[t]he actual exam questions and answers for particular students will always depend on the focus of their own qualifying exam."

The third ground of appeal: Professor Agic's non-participation in the meetings of the 5th and 6th of September 2018

As noted above, Professor Agic was a member of the Student's supervisory committee. In late August 2018, she read the Student's QE paper and provided a written assessment to the rest of the examining committee. However, she did not participate in the meeting of the 5th of September or in the assessment of the Student's written responses to the examining committee's written questions on 6 September. Professor Agic was on vacation at the relevant time. The Student submits that Professor Agic's full participation in the meetings of the 5th and 6th September might have changed the outcome of the examination, in that of all the members of the examining committee, Professor Agic's research interests were closest to the topic of the QE paper.

The 6th of September meeting was a substitute for the oral examination. In the normal course, the entire supervisory committee would participate in an oral examination (2017 Guidelines, p. 4), which suggests that the QE should have been scheduled at a time when Professor Agic could participate fully. On the other hand, your Committee heard from Professor Gesink, who now serves as the School's Associate Dean, Academic Affairs, that quorum for a supervisory committee is two persons; assuming this quorum rule

applies to the supervisory committee's participation in examining committee meetings, it was met, so that Professor Agic was not required to participate.

It would have been better if Professor Agic had participated in the meetings of the 5th and 6th of September. Some members of your Committee are inclined to characterize Professor Agic's non-participation as a procedural flaw in the administration of the Student's QE; other members of your Committee are not certain whether that is the appropriate characterization. But, if it was a procedural flaw, your Committee considers it a minor one in the context of a large supervisory committee (five members rather than the usual three) and a large examining committee meeting (seven members rather than the usual five), which would have created significant challenges in scheduling the examining committee's deliberations and the substitute for the oral examination in accordance with the 2017 Guidelines. More fundamentally, your Committee is not persuaded that Professor Agic's absence from these meetings made any difference. Professor Agic's participation in the meeting of the 6th of September would have changed the result only if she had been so impressed by the Student's written answers that she would not only have revised her initial assessment of the QE paper but also persuaded a majority of the supervisory committee and at least one other member of the examination committee to change their assessments as well. As the GAAB put it, Professor Agic "was one member of a large (seven person) [examining] committee, and all seven were firmly of the view that the principal examination [the QE paper] was a failure. There is nothing in the record to indicate that Professor Agic's participation in the later stages would have made the slightest difference to the final result."

Other Issues

The Student raised many issues in addition to those discussed above. Although it is not necessary to resolve those issues in order to decide the appeal, your Committee would like to comment briefly on some of them.

Remedies

Since the appeal is dismissed, it is not necessary to decide on the remedy. At various stages of this appeal, the Student has asked the GDAAC, the GAAB, and the AAC for a great variety of remedies, including ordering someone to conduct an investigation of the Division, changing the QE mark from fail to pass, exempting the Student from the QE requirement, requiring an external assessment of the QE paper, and providing the Student another opportunity to take the QE.

Neither your Committee, the GAAB, nor the GDAAC has jurisdiction to order an investigation.

It is doubtful whether your Committee has jurisdiction to exempt a student from an academic requirement; if it does, such a remedy would only be appropriate in a truly exceptional case. Your Committee does not assess the academic merit of students' work and therefore would not normally change a mark from fail to pass. It might be possible for your Committee to order an external assessment, but there was nothing in the record here to justify such an order. If the Student had succeeded in demonstrating any unfairness in the way the QE was administered, the only remedy your Committee would seriously have considered would have been an opportunity to retake the QE.

The First QE

In her appeal materials, the Student complains about some aspects of her first attempt to take the QE in January 2018 (Notice of Appeal, pp. 24-28). As GDAAC and GAAB pointed out, the Student did not appeal

her failure on that occasion, and so those issues were not properly before them. They were not properly before your Committee either.

The Meeting of the 6th of November 2018 and Related Issues

In her written submissions, and to a lesser extent in her oral submissions, the Student complained about the timing and the manner in which the feedback on the QE was communicated to her on the 6th of November 2018. As the GAAB pointed out, these complaints “are irrelevant to the question at issue.” Moreover, your Committee had some difficulty understanding the basis for these complaints. The meeting was delayed because of the Student’s health issues and because the Division received a request from the Student’s mother not to communicate with the Student until her health had improved (SGS Book of Documents, pp. 117-121). Your Committee agrees with the SGS’s submission that “[t]he meeting was carefully scripted to ensure that it was sensitive to the Student’s health issues, clear, and provided detailed, but respectful feedback on her performance on the second qualifying examination” (SGS Submissions, p. 021). It is unfortunate that the Student’s experience of this meeting did not reflect the Division’s intention, but it is not clear to your Committee how the Division could have done better.

As noted above, at this meeting, the Division offered the Student three options: (1) a retroactive leave of absence, to begin at some time before she retook the QE; (2) an appeal of the failure; and (3) withdrawal or termination from her program. The Student had a number of questions about the first possibility, not all of which the Division was able to answer immediately, and she ultimately chose the second. In her written materials and at the hearing, the Student stated that if she had chosen the retroactive leave of absence, she would have been required to give up her right of appeal. It is true that, had the Student taken a retroactive leave of absence, her retaking of the QE would have been deemed never to have occurred, and there would be nothing to appeal. In your Committee’s view, the Division’s suggestion of a retroactive leave of absence was generous in the circumstances.

Other allegations

Throughout these proceedings, at all levels of appeal, the Student has made allegations to the effect that various University decision-makers were biased against her, had lied to her, had improperly concealed information from her, and had misused her confidential medical information. In particular, the Student made serious allegations about the GAAB Chair’s conduct of her appeal hearing. Some of these allegations are connected with points mentioned above. For example, the Student appears to interpret the GAAB’s failure to order an investigation as some evidence that the GAAB Chair was biased against her (Notice of Appeal, p. 37); but, as noted above, the GAAB simply lacked jurisdiction to make such an order and so its failure to do so is not evidence of any bias. These allegations were not supported by anything beyond the Student’s statements in her Notice of Appeal and did not play a major role in the Student’s oral submissions before your Committee. Your Committee wholly rejects them.