

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report # 415 of the Academic Appeals Committee
July 20, 2021

To the Academic Board
University of Toronto

Your Committee reports that it held an electronic hearing, conducted by Zoom on Thursday, June 17, 2021, at which the following members were present:

Academic Appeals Committee Members:

Professor Hamish Stewart, Senior Chair
Professor Ernest Lam, Faculty Governor
Ms. Susan Froom, Student Governor

Hearing Secretary:

Ms. Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

For the Student Appellant:

Ms. E.L. (the “Student”)

For the Faculty of School of Graduate Studies:

Ms. Denise Cooney, Paliare Roland Rosenberg Rothstein LLP
Professor Martin Pickavé, School of Graduate Studies

The Student appeals from a decision of the Graduate Academic Appeal Board (GAAB), dismissing her appeal from a decision of Professor Martin Pickavé, Chair of the Department of Philosophy, declining to direct a reassessment of the Student’s major research paper in PHL2117 (Formal Epistemology). The appeal is dismissed.

Proceedings in the Department and the GAAB

In the Fall 2019 term, the Student was enrolled in PHL2117 (Formal Epistemology), a graduate course. The course instructor was Professor Jonathan Weisberg. The Student received a mark of B+ for the course, having received a B for her major research paper and an A for class participation. In January 2020, the Student asked Professor Weisberg to explain the mark of B. Professor Weisberg initially advised her as follows:

There’s a lot of interesting material here, but it’s not always presented as clearly or accurately as one might hope.

Just at a superficial level, there are frequent non sequiturs, personal remarks and asides, ungrammatical sentences. Notation and terminology are also often introduced without explanation. These features make the flow of ideas hard to follow.

More substantially, a lot of material goes by very quickly, without being explained in enough detail or depth for the reader to evaluate it. For example, the exchange between Temkin and Binmore & Voorhoeve would

need to be explained much more carefully and thoroughly for a reader to assess, or even understand, your take on it. The frequent switching between various subtopics and ideas causes similar problems.

Professor Weisberg also provided the Student with a marked-up copy of her paper, explaining his assessment in more detail.

The Student appealed her mark in PHL2117 to the Philosophy Department's Graduate Department Academic Appeals Committee (GDAAC). Her grounds of appeal can be conveniently (though not exhaustively) grouped into three categories.

First, the Student provided a point-by-point rebuttal of Professor Weisberg's comments on the paper (Student's Appeal Statement, pp. 97-103). The central theme of this rebuttal was that Professor Weisberg was unable to assess the paper properly because he lacked sufficient understanding of "standard economics".

Second, the Student alleged bias on Professor Weisberg's part (Student's Appeal Statement, pp. 89-92). She provided two pieces of evidence in support of this allegation. (i) The Student referred to a class discussion on September 18, 2019, which in her submission demonstrated his hostility towards her. The Student described this meeting as follows. She said that Professor Weisberg asked for an example to illustrate a concept in modal logic; she said "anti-immigration; Professor Weisberg described her example as "very political"; another student provided a different example, which Professor Weisberg also described as "very political"; finally, yet another student, whom your Committee will refer to as YZ, provided a further example, which (the Student said) Professor Weisberg "happily went with, as if a get out of jail free card." (ii) On the basis of certain tweets, she alleged that Professor Weisberg was "a Sinophobic bigot" (Student's Appeal Statement, p. 89; the Student is of Chinese ancestry; the tweets are reproduced at pp. 114-116).

Third, she submitted that her work was not assessed consistently with the work of YZ, whom (she asserted) received a grade of A for the course.

The Student asked for her mark to be raised to A, or in the alternative, for her paper to be reassessed by two specific members of the Department.

The five members of the GDAAC read the paper and in addition asked Professor Gurpreet Rattan, the Department's Director of Graduate Studies, to read the paper. On April 8, 2020, the GDAAC reported to Professor Pickavé. Substantively, the GDAAC's view was that mark Professor Weisberg assigned to the paper was not too low but, if anything, "rather generous [in that] others would have given the paper a failing grade." The GDAAC reported that Professor Rattan had concluded that the paper was below the level that he had seen in papers submitted by students applying for admission to the Department's graduate programs; accordingly, the GDAAC commented that "the paper would have resulted in the rejection of an application." As to the Student's submission that Professor Weisberg lacked sufficient understanding of economics, the GDAAC said:

Prof. Weisberg often indicates that he does not understand what the paper is saying. [The Student] suggests that Prof. Weisberg is not sufficiently knowledgeable about the material, and she may have interpreted this type of comment from Prof. Weisberg in light of that perspective. But really the point of such comments is that the paper fails to accomplish what is incumbent upon its author: that is, the paper fails to explain its author's views and argument with clarity and precision.

The GDAAC summarized its assessment of the paper as follows:

... the paper ... does not meet the basic standards for academic writing, ... not just for philosophy but for other disciplines as well. The paper is very poorly written and organized. In its introduction the paper fails to offer a clear thesis and outline of its content and throughout the structure of the paper is very unclear. The paper contains many abrupt transitions, and it systematically fails to indicate why it turns to a particular view or issue. As a result, the connections between the parts of the paper are very unclear and the paper is very hard to follow. The overall argument of the paper never becomes clear.

Procedurally, the GDAAC commended Professor Weisberg for his “very detailed feedback” on the paper.

Thus, the GDAAC found no basis for raising the Student’s mark. Nevertheless, the GDAAC recommended that Professor Pickavé consider ordering the reassessment that the Student had requested in the alternative. On April 16, 2020, Professor Pickavé wrote to the Student, stating that he had decided not to order a reassessment. He explained:

... your paper has already been read carefully by a total of eight faculty members of the Graduate Department of Philosophy (Professors Weisberg and Rattan, the five members of the [GDAAC], and me, all of which agree on the appropriateness of the mark it received. The problems of the major research paper are fairly basic and have nothing to do with differences in interpretation or methodology.

(Your Committee notes that Professor Pickavé’s explanation of his decision was generous, in that some members of the GDAAC would have been inclined to fail the paper and therefore did not necessarily think the mark of B was appropriate.)

The Student appealed to the GAAB, where she again asked for her mark to be raised to A, or in the alternative, for her paper to be reassessed by two specific members of the Department. Her grounds of appeal were generally similar to those relied on at the GDAAC, with the following additions. She sought to reinforce her allegation of bias by asserting that “It is extremely strange that in a department with 50-60 tenure track faculty members, zero being Chinese descent” (Student’s Appeal Statement, p. 144). She alleged a number of problems with the GDAAC process: she submitted that “It was never clear how many rounds of voting it took to reach ... consensus” on the quality of her paper, that someone might have put pressure on the members of the GDAAC, and that “Faculty members are very reluctant, or simply refuse to step on the toes of their academic colleagues in the same department.” (Student’s Appeal Statement, pp. 144 and 146). And she argued that the criteria for good writing had been deployed “wildly out of proportion” (Student’s Appeal Statement, p. 145 and see also p. 143).

In a report dated July 27, 2020, the GAAB dismissed the Student’s appeal. The GAAB noted that it was “extremely reluctant to second guess the academic judgment of specialists in the field” and therefore would not make its own assessment of the merits of the paper. The GAAB did, however, note that it “could not help but conclude that it was poorly written” and commented that “We do not see how the award of a grade of B in a graduate level course for a paper with these shortcomings could be seen as ‘wildly out of proportion.’” As to the Student’s “allegations that her Chinese heritage affected her grade”, the GAAB found that there was no evidence in support of an allegation of individual bias, and that if there was an alleged systemic bias, the GAAB was not the appropriate body to investigate it.

Decision

Grounds of appeal and remedies sought

Before your Committee, the Student's grounds of appeal were basically similar to those that she relied on before the GAAB. The principal remedy sought was, again, an order that her paper be reassessed by two specific members of the Department (she abandoned her request for an increase in her mark). The Student also asked your Committee for the following additional remedies (Student's Appeal Statement, pp. 8-10, renumbered for ease of reference):

- a. GDAAC is to disclose the number of rounds of voting that had occurred in order to have reached a unanimous decision in my Appeal.
- b. Chair Pickave is to name or identify tenure track member(s) in the Department of Philosophy that are of Chinese ancestry during or after 2019, if any.
- c. Under rigorous and formal rules, having [YZ] to disclose relevant documents for arriving at a fair outcome in this proceeding ...
 - i. The relevant document is the version of the major project [YZ] completed and received credit in PHL2117 during Fall 2019 that would contain the grade and assessment done by [Professor] Weisberg.
 - ii. This disclosure would allow for comparison in the quality of work between [YZ], I; and whether discrepancy exists in the grade received.
- d. ... summon of a witness ...
- e. My understanding is that the GAAB finds the systemic bias against those of Chinese ancestry in the Department ... to be irrelevant in the sense of outside of GAAB jurisdiction. I object vehemently against the assertion that [*Ontario Human Rights Code*] compliance at the systemic level is outside of university academic appeal bodies' jurisdiction.

The additional remedies

To the extent that the GAAB dealt with the additional remedies, your Chair agrees with the GAAB that academic appeal bodies within the University probably lack jurisdiction to grant these remedies and that, even if there were jurisdiction, it would not be appropriate to grant them here.

- a. Your Chair agrees entirely with the GAAB's conclusion that there is no evidence of any "rounds of voting and that in any event "the 'rounds of voting' question is irrelevant".
- b. Your Chair agrees with the GAAB's conclusion that it lacked jurisdiction to make this order and that, in any event, the information sought is irrelevant to the Student's appeal.
- c. Your Chair agrees with the GAAB that it lacked jurisdiction to order another student to produce documents. Your Committee also lacks this jurisdiction. Even if there was such jurisdiction, the

Student has provided no reasonable grounds to believe that reading YZ's paper would have assisted the GAAB or your Committee in deciding this appeal. Neither the GAAB nor your Committee is in a position to make a "comparison in the quality of work between [YZ] and [the Student]."

- d. The Student asked the GAAB and your Committee to summon a witness to testify about the class discussion on September 18, 2019, which she submitted demonstrated Professor Weisberg's hostility towards her. This is not an appropriate occasion to discuss the appropriateness of hearing witnesses in the GAAB or in your Committee, the procedures that might be suitable for examining them, or the question whether the GAAB or your Committee has the power to require witnesses to appear. For the purposes of this appeal, your Committee accepts the Student's description of the class discussion on September 18, 2019.
- e. The Student did not specifically request that your Committee conduct an investigation into systemic racism in the Department, but she submitted that the GAAB should have. Your Chair agrees entirely with the GAAB's remarks on this issue: "If there is an alleged systemic bias in any department of the University that is a matter for investigation, either by the University office responsible or by the Ontario Human Rights Commission. The GAAB does not, and can not, carry out investigations." Neither does your Committee.

The principal remedy

As noted above, the Student's request for a reassessment of her paper rests on three principal submissions:

(i) Professor Weisberg did not properly assess the paper, because of factors including his lack of expertise in economics and his disproportionate emphasis on the quality of the Student's writing; (ii) Professor Weisberg was biased against her because of her Chinese ancestry; and (iii) YZ received an A.

(i) Your Committee, like the GAAB, does not reassess academic work on its merits. Your Committee, like the GAAB, sees no reason to doubt the judgment of the eight members of the Department of Philosophy who read the paper and were all of the view that it deserved a mark of B at the most. Your Committee has no evidence about Professor Weisberg's knowledge of economics (more specifically, rational choice theory) relative to the Student's, but notes that whether or not her knowledge of rational choice theory was superior to his, her task in the paper would have been to provide clear explanations of the relevant concepts and relate them to the subject-matter of the course. It is apparent that the Student did not do that. Your Committee agrees with the GAAB that to award a B to a paper with the deficiencies identified by Professor Weisberg and by other members of the Department could not be described as "wildly out of proportion."

(ii) As noted, the Student's evidence of bias consists of (A) her description of the class meeting on September 18, 2019 and (B) the content of tweets variously dated January 10, March 27, and April 8, 2019, and attributed to Professor Weisberg.

(A) Your Committee does not draw any inference of bias of any kind from the Student's description of the class meeting. As indicated, for the purposes of this appeal, your Committee is prepared to accept this description at face value. Your Committee finds that it shows at most an awkward moment in class. It does not show any personal bias or any bias on the basis of the Student's Chinese ancestry. Your Committee notes that YZ, whom the Student credits with providing Professor Weisberg with a "get out of jail free" card and whom the Student says received a mark of A for the course, appears also to be of Chinese ancestry.

(B) The tweets that the Student attributed to Professor Weisberg were not authenticated; however, neither the Department nor SGS has at any stage raised any issue as to their authenticity. Your Committee therefore proceeds on the basis that Professor Weisberg wrote them. In these tweets, Professor Weisberg complains of having to teach a class of “80 bored undergraduates and 5 keen ones while the other 125 students enrolled in my course learn the same material from an illegal off-campus **shadow** course because my employer lacks integrity”. He also complains that international students, “many ... from China”, are enrolled in “**shadow** courses taught in the student’s home language”. Your Committee has no evidence or information as to whether this complaint about shadow courses is justified, either factually or in terms of the University’s academic rules. It does not, however, indicate any bias towards the Student. The Student submits that the tweets indicate that Professor Weisberg is “a Sinophobic bigot”. Your Committee rejects this submission. Professor Weisberg’s concerns are about international undergraduate students of all nationalities (not just those from China). The Student was a graduate student and appears from the materials filed to be a domestic student. Moreover, your Committee cannot see how Professor Weisberg’s concerns about a “shadow course” for a high-enrollment undergraduate course, even if justified, could possibly influence his assessment of a student in a small, research-oriented graduate seminar like PHL2117.

(iii) Your Committee has no evidentiary basis for comparing the Student’s work with YZ’s.

Conclusion

Eight members of the Philosophy Department concluded that the Student had submitted a poorly written paper in PHL2117. There is no merit in the Student’s submissions concerning the merits of Professor Pickavé’s decision not to order a reassessment or in her submissions concerning bias. The procedures followed by Professor Weisberg, Professor Pickavé, the GDAAC, and the GAAB were entirely appropriate.

The appeal is dismissed.