

THE UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 276 OF THE ACADEMIC APPEALS COMMITTEE

Your Committee reports that it held a meeting on Wednesday, February 26, 2003, continued on Tuesday, March 4, 2003, at which the following members were present:

Professor Emeritus R. Scane (Chair)
Professor C. Beghtol
Mr. M. Braun
Professor L. Girolametto
Ms K. Lewis

Mr. P. Holmes, Judicial Affairs Officer

In Attendance:

For the Student:

Ms N.K. (the Student)
Ms S. Choudhury
Mr. G. Bazov

For the University of Toronto at Scarborough:

Associate Dean I. McDonald

This is an appeal from a decision of the Subcommittee on Academic Appeals of the University of Toronto at Scarborough (UTSC), dated August 14, 2000, which dismissed in part an appeal from the decision of the Subcommittee on Standing, dated May 25, 2000. The latter decision denied petitions by the Student to write deferred examinations in three courses, ASTA03Y, EESB09S, and GGRB06S, and to rewrite examinations in two other courses. In all cases the petition was based upon illness. The Student appealed only the decisions with respect to the three courses named above to the Sub-committee on Academic Appeals. The Subcommittee allowed the appeal with respect to EESB09S, but dismissed the appeals with respect to ASTA03Y and GGRB06S. It is those two latter courses which are the subject of the appeal to your Committee.

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Your Committee notes that, although the notice of appeal to your Committee was filed on November 15, 2000, the Student's documentation and written argument were not filed until June 4, 2002, and the response of UTSC was not filed until February 14, 2003.

The Student was scheduled to write final examinations in six courses during the period from April 13 to April 28, 2000, namely on April 13 (GGRB06S), 14, 17 (EESB09S), 24 (ASTA03Y), 25 and 28. The examinations on April 14, 25 and 28 were written, but those on April 13, 17 and 24 were not. The Student now seeks, with respect to GGRB06S, either retroactive permission to withdraw without academic penalty or the opportunity to rewrite the final examination for 100% of the course mark. For the course ASTA03Y, at the hearing before your Committee, the Student withdrew a request to withdraw without academic penalty, and sought only permission to rewrite the final examination.

The Appeal with Respect to GGRB06S

The Student suffered illness during March and April of the 2000 academic year. She describes her symptoms from the beginning of April of that year, and continuing through to the end of her scheduled examinations, as throat infection, high fever, chest pain and diarrhoea. She saw her family doctor, Dr. Lau, on April 4, 10 and 17, 2000, with respect to her condition. The doctor provided notes dated April 10 and 17, and May 16. On May 30, at the Student's request, the doctor completed an official University medical certificate. The April 10 note indicated that the Student "was able [presumably a slip for *unable*] to attend school from 3 - 7 00 for chest infection and also because of that she will be unable to write the exam on 13 April 00." The note of April 17 tersely stated that the Student "should be off 13, 17 April for medical reasons." The note of May 16, 2000 referred to attendances on the doctor by the Student on March 7, and April 4, 10 and 17. These attendances were described as being due to recurrent tonsillitis "with fever, tiredness [*sic*] and backache. Despite of antibiotic she still have infection". The note stated that this condition affected the Student's ability to study and write examinations. The certificate dated May 30, 2000, covering the Student's attendances on the doctor on April 4, 10 and 17, and on May 16, described the Student's problems as "acute and chronic". The diagnosis was "recurrent tonsillitis. She did not fully recover until first week of May". These certificates (except perhaps the May 16 note) not only formed part of the Student's evidence before the Subcommittee on Academic Appeals with respect to her appeal regarding GGRB06S, which was denied, but also with respect to that regarding EESB09S, which was granted.

The Subcommittee's reasons for denying the appeal in GGRB06S were that "[t]here is no medical certificate covering April 13 and no work was done in this course". With respect to its decision concerning EESB09S, the Subcommittee said merely, "[t]here is a medical certificate for April 17."

With respect to the "work done" in GGRB06S, the Student stated that, at her request, she was permitted by the instructor to transfer into this course four to five weeks after it commenced, and

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missed the first assignment, which had already been written. She testified that she missed the mid-term examination due to illness. She submitted a doctor's note dated February 21, 2000, the date of the mid-term examination, which is referred to in her original petition to the Subcommittee on Standing as being attached to it. That note is very deficient in information, but at least confirms that she saw a doctor on that day, and that the doctor thought her unable to attend classes or examinations that day. Your Committee does not consider the lack of term results as decisive for the purposes of this appeal. The course outline stated that the final course grade would be calculated from the higher of a student's score on 100% of the work completed, or the student's percentage on the 60 marks assigned to the final examination, so the Student is not reaping an unfair advantage over other students if she were to rewrite the final examination for her entire course grade. The evidence before your Committee does not establish that the Student did "no work", as distinct from no assignments in the course, and, unsatisfactory as the medical note of February 21, 2000 undoubtedly is, your Committee would not deny her relief on this ground.

With respect to the sufficiency of the medical grounds for relief, your Committee supposes that, by its statement that "[t]here is no medical certificate covering April 13", the Subcommittee on Academic Appeals meant that there was no certificate showing an attendance by the Student upon a doctor that day. Each of Dr. Lau's notes of April 10 and April 17 referred to that date, the first in anticipation and the second in retrospect. These notes are elaborated by the doctor's subsequent certificate of May 30, 2000, in which he described the Student's condition throughout the period from April 4 to the first week of May as recurrent tonsillitis, both acute and chronic. In another note dated May 16, 2000, Dr. Lau referred to the Student's attendances on April 4, 10, and 17, as well as an earlier attendance on March 7, for recurrent tonsillitis, and noted that despite antibiotics, she still had infection. The medical notes, together with the Student's evidence, adequately cover the period into which April 13, 2000 falls. The majority of your Committee does not believe that the fact that there was no visit by the Student to the doctor on April 13 is sufficient to deny relief. Dr. Lau, on April 10, seemingly anticipated that the Student's condition would be seriously debilitating over the next few days, and on April 17 confirmed the earlier prognosis. The majority of your Committee would therefore grant relief to the Student. The minority of your Committee considers that the medical and other evidence available does not justify interfering with the decision of the Subcommittee on Academic Appeals.

The appeal with respect to GGRB06S is allowed. The Student has asked for alternative remedies, either permitted late withdrawal or rewriting of the final examination for 100% of the final mark in the course. Either has advantages and disadvantages for the Student. Your Committee does not believe that either remedy is so clearly indicated or excluded that it should choose on behalf of the Student. Therefore, the Student may elect her remedy. Within ten working days of the date of release of this decision, the Student shall notify Associate Dean McDonald, or if he is not available, the UTSC officer empowered to act in his place, as to whether she wishes to withdraw from the course without academic penalty, or write a final examination for 100% of the mark in the course. In default of timely notification, the Student shall be deemed to have elected late withdrawal. If the examination is chosen, it should be written during the period for the writing of deferred

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examinations at UTSC, which your Committee understands is expected to be in the late summer of 2003. If reasonably feasible, the examination should be set and marked by the instructor who offered the course in 2000, based on the course content as it then existed. The decision of Associate Dean McDonald, or if he is unable to act, of the UTSC official carrying out his duties, as to the feasibility of carrying out these instructions in whole or in part shall be conclusive and not appealable. If the Associate Dean or his substitute decides that it is not feasible to carry out these instructions in full, the Student shall be notified as to what form of examination is feasible. The Student may within a further one week from such notification advise the Associate Dean or his substitute whether she wishes to proceed with such examination as can be arranged, or to withdraw from the course without academic penalty. In default of timely notification, the Student shall be deemed to have elected late withdrawal.

The Appeal in Respect of ASTA03Y

The final examination in this course, which the Student did not write, was held on April 24, 2000, from 7:00 to 10:00 p.m. In her petition to the Subcommittee on Standing requesting a deferred examination, the Student submitted the notes of Dr. Lau of April 10 and 17, 2000, referred to above, and a note from Dr. Chan, dated April 24, 2000. Dr. Chan was a staff member of a "walk-in" clinic near the Student's residence. The Student had attended there because her family doctor, Dr. Lau, was unavailable on that date.

Dr. Chan's note of that date stated:

[The Student] has seen me on Apr.24.2000 and may return to work/school on Apr.25.2000. This patient has been ill since Apr.14, 2000.
DIAGNOSIS: Gastroenteritis and Blepharitis.

The Oxford Dictionary defines blepharitis as "inflammation of eyelids".

With respect to the appeal in this course, the Subcommittee on Academic Appeals, in denying the appeal, stated as its grounds that "[t]he medical certificate for April 24th is inadequate and inconsistent. [The Student] has not completed term work in this course."

Your Committee notes that the diagnosis was different from that given by Dr. Lau as described above, but there was no evidence that it was "inconsistent", a term which has a pejorative connotation in its context. Your Committee accepts that, on the date of Dr. Chan's note, the Student was suffering from the conditions described. This, however, does not in itself establish the Student's case. The question is whether the Student was *sufficiently* affected to justify relief. At UTSC, this means that the student must establish that he or she was sufficiently affected by the condition complained of that the illness or other alleged extenuating circumstances kept the student from

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writing the examination. The *Academic Regulations* of UTSC, under the title *Special consideration, petitions and appeals*, and the sub-title *Final examinations*, state:

If you are affected by illness or other circumstances which do not actually prevent your writing an examination, *you are required to attempt it*. If, after receiving your final grade, you feel that your performance on the exam was adversely affected, you may petition to rewrite it.

The words "actually prevent" will require interpretation over time as appeal committees consider differing sets of facts. Your Committee will not presently attempt to formulate an exhaustive definition. At the very least, the term suggests that a student acting in good faith should reasonably feel that she or he is not up to getting to the examination site and completing the examination. In this case, the examination was scheduled in the evening of the day on which the Student attended upon the doctor who gave the note. The note made no reference to an examination that evening. It did state that the Student could return to school on the following day. This suggests that the doctor did not anticipate long-lasting debilitating effects on the basis of his or her examination. Your Committee is mindful that April 24 is within the period over which Dr. Lau described the problems with tonsillitis as continuing. However, at best, the evidence as to the degree of incapacitation of the Student at the time of the examination is equivocal. The onus of establishing that a student has reasonable grounds for failing to attend an examination rests on the student. In this case, your Committee unanimously finds that this onus has not been met. The appeal with respect to ASTA03Y is dismissed.

March 20, 2003

Paul J. Holmes
Secretary

Professor Emeritus Ralph Scane
Senior Chair

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