

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 290 OF THE ACADEMIC APPEALS COMMITTEE

February 2, 2004

To the Academic Board,
University of Toronto

Your Committee reports that it held a hearing on December 3, 2003 at which the following members were present:

Assistant Dean Jane Kidner, Chair
Professor Phil Byer
Professor John Furedy
Professor David Jenkins
Mr. Adam Watson

Secretary: Mr. Paul Holmes, Judicial Affairs Officer

Appearances:

For the Student

Ms. L. (the "Student")

For the School of Graduate Studies ("SGS")

Professor Joan Cherry, Associate Dean, Division II (Social Sciences), SGS
Ms. Jane Alderdice, Coordinator, Policy, Program and Liaison, SGS
Professor Anne Jordon, Associate Chair, Department of Curriculum, Teaching and Learning (the "Graduate Department"), OISE/UT

This is an appeal from the decision of the Graduate Academic Appeals Board ("GAAB") dated November 28, 2002. In her appeal to Your Committee, the Student asks that her comprehensive examination written in June 2001, part of the Ed.D. degree requirements, be remarked by an external examiner in accordance with the SGS *Procedural Guide for Externally Rereading an Examination* (the "*Procedural Guide*"). The appeal process began when Professor Dennis Thiessen, Coordinator of Graduate Studies in the Graduate Department, in a decision dated October 25, 2001, refused to interfere with the decision of the Graduate Department's Comprehensive Examination Committee failing Ms. L. The Student's appeal to the Graduate Department's Student Appeals Committee was denied in a decision dated February 6, 2002. From there the Student appealed to Professor Susan Howson (Professor Cherry's predecessor at

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SGS) and was again denied in a decision dated March 21, 2002. The next step was an appeal to GAAB, and when that was unsuccessful, an appeal to Your Committee.

Your Committee has had the advantage of having read the facts set out in the GAAB decision dated November 28, 2002, which is appended here as Appendix “A”. As no substantial new facts were presented at the hearing, Your Committee will only briefly recount the facts here and relies on the facts as set out in Appendix “A”.

The Student enrolled in the Ed.D. program at OISE/UT in the Fall Term of 1999. She had previously obtained a B.Sc. in 1967, an M.Sc. in 1971, and a B.Ed. in 1973. She has extensive teaching experience in mathematics and physics at collegiate and polytechnic levels. Thus far the Student has completed 10 courses and achieved an “A” standing in her Ed.D. program. The Student informed the committee that she had recently been diagnosed with cancer. The illness was not present during the period at issue.

The Graduate Department’s comprehensive examination consisted of three “take-home” questions. Each question could receive one of four possible marks, “Pass”, “Marginal Pass”, “Marginal Fail”, or “Fail”. Departmental policy requires that any mark other than a “Pass” be marked again by another faculty member. Faculty members marking in the second round are not informed of the original examiners’ grades, although they would necessarily know that the original grade was not a “Pass”. Students write the examinations under a pseudonym. Once the exam has been marked twice, if any of the marks remaining are not a “Pass”, all of the marks, together with the examiners’ commentaries are considered as a whole by the Graduate Department’s Comprehensive Examination Committee. This committee is composed of five faculty members who have not previously read the student’s responses. The Examination Committee makes the final determination as to whether a passing grade ought to be assigned to the comprehensive examination.

On the first marking of the Student’s comprehensive exam questions, the Student received a “Marginal Pass” on the first question; a “Marginal Fail” on the second question; and a “Marginal Fail” on the third question. On the required reread by three new examiners, the Student received the same grades on the first and third questions, but a lower mark of “Fail” on the second question. The Student’s three questions together with the six marks and six commentaries were then passed on to the Graduate Department’s Comprehensive Examination Committee who reviewed all of the questions, commentaries, and the assigned grades in their entirety. The Examination Committee determined that the Student had failed the comprehensive examination.

Ms. L.’s argument at the appeal is best summarized by the written reasons of GAAB:

Essentially [the Student] challenged the capacity of the examiners to properly evaluate her approach to the questions due to their lack of mathematical, physics or computer science backgrounds, asserted that her answers had not been read fully and carefully, claimed that the examiners displayed a very incomplete and distorted knowledge of the literature, and had distorted what she actually said in her answers. She also asserted that there was bias operating against her and that this must have

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contributed to the result on the comprehensive examinations. This bias is alleged to consist of a generalized bias against her “scientific” approach, and a personal bias against her on the part of one or more examiners.

On the issue of the substantive correctness of the assessments of the Student’s comprehensive exam, and the allegations of lack of necessary background of the examiners, a majority of Your Committee agreed with the written reasons below that it is not the job of Your Committee to assess the correctness of exam marks or the competence of the University’s examiners. The Student’s comprehensive exam questions were marked and remarked by a total of six faculty members, and then reviewed by five additional faculty members who were members of the Graduate Department’s Comprehensive Examination Committee. All of these faculty were chosen for their general expertise in the Math/Science/Technology field and were appointed by the University to carry out these tasks. The Student argues that her exam answers ought to have been marked by a pure Math expert, and that all of the markers instead had Science expertise. Your Committee heard testimony from Associate Dean Joan Cherry and Professor Anne Jordon that OISE/UT does not recognize pure Math as a separate area of expertise for marking purposes. Instead they offer “Math/Science/Technology” as one of the options for students to request in the marking of their comprehensive exams. The majority of Your Committee agreed with the written reasons below that “[u]nless there is something, such as a reasonable apprehension of bias, to cause a failure of confidence in what has been done, the assessment process must come to an end.”

On the issue of personal bias, Your Committee found no evidence to substantiate the Student’s allegations of bias based on her status as a [deleted to maintain confidentiality]. The Student’s comprehensive exam was written by pseudonym. None of the faculty who marked the Student’s exam was aware of her identity. The exam questions were read and evaluated by a total of eleven faculty members who were not aware of the grades previously assigned to the Student, and who were not aware of the Student’s identity. All markers agreed that the Student’s answers were at best a “Marginal Pass” and at worse a “Marginal Fail” or “Fail”. Further, even if the Student’s identity had been known to the exam markers (which the Student alleges by virtue of her subject area and theoretical position), the Student herself admitted that she had no prior personal dealings with any of these faculty except Professor Hodson who the Student noted was abrupt with her during their initial meeting. However, the Student also admitted that Professor Hodson had given her an “A” in a course she subsequently took with him, and that she had no other negative dealings with him. Your Committee found no evidence to suggest that the professors who marked her papers knew her identity and found no evidence to substantiate an allegation of personal bias.

On the issue of general bias against the approach taken by the Student, the majority of Your Committee agreed with the reasons of the GAAB decision below. Specifically, the majority of Your Committee found it improbable that the faculty of the Graduate Department possessed a collective mindset against the acceptance of the Student’s theoretical approach, and no evidence was presented to support the claim.

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A minority was concerned with what it felt was a “gross mismatch” between the Student’s prior marks on her coursework, and her failure on the comprehensive exam. The minority was also concerned with the potential lack of specific math expertise of the faculty who marked the Student’s exam. Finally, the minority noted the letter from the Coordinator of Graduate Studies dated December 11, 2001 to the Chair of the Graduate Department’s Student Appeals Committee, which in its final paragraph stated:

Finally I urge [the Student] to discontinue her appeal efforts. To persist in an appeal based solely on the accusations she makes about the professor, though perhaps not quite in the category of false charges (and thus could be considered as offences under the Code of Student Conduct), are certainly unsubstantiated charges. She would be better advised to rewrite the comprehensive examination.

The minority found that this paragraph amounted to an attempt to intimidate the Student. The majority of Your Committee instead agreed with GAAB that while the paragraph should not have appeared in a formal reply to an appeal, it did not deter the Student and did not have the effect of intimidating her. Further there is no reason to believe that it influenced in any way the decision of the Student Appeals Committee, nor GAAB, nor was the majority of Your Committee influenced in any way by the statement in the letter.

The procedure of externally rereading an examination is a discretionary remedy that may be invoked by the divisional Associate Dean, or GAAB. The majority of Your Committee did not find any evidence to warrant overriding the GAAB decision, refusing to order an external reread.

The Decision of Your Committee is by a majority decision and therefore the appeal is denied.

Respectfully submitted,

Paul J. Holmes
Secretary

Jane Kidner
Chair

APPENDIX "A"

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THE UNIVERSITY OF TORONTO

SCHOOL OF GRADUATE STUDIES

THE GRADUATE ACADEMIC APPEALS BOARD

Decision in the Appeal of Ms L.

November 28, 2002

The Graduate Academic Appeals Board:

Ms R. Carrara
Professor J. Galloway
Professor R. McClelland
Professor R. Reisz
Professor R. Scane (Chair)
Professor G. Silano

Appearances:

For the Appellant:

Ms L.
Mr. S. Laubman
Ms A. Stacey

For the Graduate Department of Curriculum, Teaching and Learning:

Professor V. Darroch-Lozowski
Professor D. Thiessen
Professor M. Wahlstrom

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This is an appeal from the decision of Associate Dean S. Howson, dated March 2, 2002, which dismissed an appeal from the Graduate Department's Student Appeals Committee, dated February 6, 2002. The latter Committee dismissed an appeal from the decision of Professor D. Thiessen, Associate Chair of the Department, dated October 25, 2001. Professor Thiessen had refused to interfere with the decision of the Graduate Department's Comprehensive Examination Committee that Ms L. had failed the comprehensive examination written in June, 2001 as part of her Ed.D degree requirements. In her appeal to this Board, Ms L. asks that the examination papers submitted for the comprehensive examination be remarked by an external examiner in accordance with the procedures established by SGS for such circumstances.

On a preliminary matter, a member of the Board raised the question whether the *SGS Procedural Guide for Externally Rereading an Examination Written by a Graduate Student* applied to comprehensive examinations, as well as to examinations held in courses. The member points out that the *Guide* refers to discussions with an "instructor", which would be inappropriate for comprehensive examinations, and also considers that a reread by a single examiner is inappropriate for an examination which in most divisions would be adjudged by a group of faculty. The member also thinks it invidious to adopt as a remedy in disputes regarding comprehensive examinations a procedure which would be inapplicable to oral comprehensive examinations. The remedy already available of requiring a new examination would avoid such discrimination between oral and written comprehensives and better satisfies the other goods with which the member is concerned. However, the majority of the Board considered that the entire context of the *Guide*, including its unrestricted title, required that the *Guide* apply to any written comprehensive examination.

On a second preliminary matter, the Board notes that in the written argument presented to the Board on behalf of Ms L., it seemed to be argued that, once an unresolved disagreement between a student and an examiner or examiners as to the grading of an examination paper was established, the Student was entitled as of right to have the remarking procedures contained in the *Guide* invoked. That position was abandoned at the hearing, and the Board holds that it is obvious from the wording of the *Guide* that its application is discretionary.

Ms. L. enrolled in the Ed.D programme of OISE/UT in the Fall Term of 1999. She had previously obtained a B.Sc in 1967, an M.Sc in physics in 1971, and a B.Ed. in 1973. She has extensive teaching experience in mathematics and physics at collegiate and polytechnic levels. In her Ed.D programme's

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course work, she has received three grades of A+, four of A and one of B+, as well as a credit in a pass/fail course. She is entitled to repeat the comprehensive examination once. At present, she is on leave from the programme.

The Graduate Department's comprehensive examination consisted of three "take-home" questions to be answered within a period of a week, and with a maximum word limit for each question. The first question offered no choice. The remaining two questions each offered a theme from which a choice of questions was available. Each question could receive one of four possible marks, "Pass", "Marginal Pass", "Marginal Fail", or "Fail". Different faculty from the Graduate Department marked each question. Departmental policy requires that any mark other than "Pass" be marked again by another faculty member. The faculty marking in the second round are not informed of the original examiners' grades, although they would necessarily know that the original grade was not "Pass". The examination questions are written under a pseudonym. All of the marks, together with examiners' commentaries, are then considered as a whole by the Graduate Department's Comprehensive Examination Committee, which makes the decision whether the examination as a whole has been passed.

On the first marking, examiners awarded a "Marginal Pass" on the first question, and "Marginal Fail" on each of the second and Third questions. On the required reread, the new examiners repeated the grades originally awarded on the first and third questions, but the examiner on the second question awarded a grade of "Fail". The Comprehensive Examination Committee subsequently determined that Ms L. had failed the examination.

Ms L. received access to the commentaries submitted by the various examiners, and submitted a lengthy refutation of aspects of these comments by various individual examiners to Professor Thiessen, in his capacity of Associate Chair, as the first stage of these appeal proceedings. This document, with subsequent supplementary comments which Ms L. submitted to Professor Thiessen and to the Departmental Appeals Committee, made up part of her case before this Board.

The Board will not attempt to replicate Ms L.'s indictment of the assessments of the two papers on which she received either "Marginal Fail" or "Fail" grades on the two readings. Essentially, she challenged the capacity of the examiners to properly evaluate her approach to the questions due to their lack of mathematical, physics or computer science backgrounds, asserted that her answers had not been read fully and carefully, claimed that the examiners displayed "a very incomplete and distorted knowledge of the literature", and had distorted what she actually said in her answers. She also asserted that there

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was bias operating against her and that this must have contributed to the result on the comprehensive examinations. This bias is alleged to consist of a generalized bias against her "scientific" approach, and a personal bias against her on the part of one or more examiners.

With respect to the allegations of some examiners' lack of necessary background (denied by the witnesses from the Graduate Department) or the correctness of the assessments made, the Board must again repeat that it cannot enter into the evaluation of disagreements between students and examiners over the correctness of assessments, nor over the competence of the University's examiners to make those assessments. In a decision of this Board dated February 15, 2000, the Board said:

[T]he Board does not mark papers and examinations. It is only by chance that any Board member may have any competence at all in the academic field in question. A student entering the University must take the faculty, individually and collectively, including their intellectual and knowledge base, as they exist from time to time.

The critiques of the examiners' commentaries provided to the Board are Ms L.'s selection of extracts from those commentaries, and the references back to her answers on the original questions are also her selection. If the Board could not read the entirety of the original answers and adjudicate whether, taken together, they demonstrated the level of competence required of an Ed.D candidate at the stage of comprehensive examinations, a *fortiori* it cannot do so on the basis of the more limited material before the Board. These questions have been marked, remarked, reviewed again in committee, and assessed by Professor Thiessen as part of the appeal process, all by persons whom the University has appointed to carry out these tasks in this area of intellectual pursuit. Unless there is something, such as reasonable apprehension of bias, to cause a failure of confidence in what has been done, the assessment process must come to an end.

As mentioned above, the bias alleged consists of a generalized bias against her scientific approach, and specific bias against her personally by certain examiners.

As to the former alleged source of bias, the Board believes that it can best be described in Ms L.'s own words, taken from her letter to Professor Thiessen dated September 28, 2001.

C.P.Sncw wrote of "two cultures", the scientific

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versus the liberal arts. I am now beginning my 3rd year in the doctoral program at OISE/UT and have seen how the liberal arts culture has become so dominant that the interest and concerns of someone like myself with a strong background in mathematics and science are ignored.

The evidence to substantiate the existence of this alleged bias in approach consists of Ms. L.'s own impressions, garnered from some conversations with faculty members and other students. To the extent that any faculty were critical of Ms L.'s "scientific" approach, the Board finds it improbable that the faculty of the Graduate Department possess a collective mindset against acceptance of the scientific method. The representatives of the Graduate Department have denied any such systemic bias in the Department, and given even the brief description presented to the Board of some of the areas of interest pursued in the Graduate Department, such a general attitude is inherently unlikely. The evidence did not establish that any of the individual examiners of her comprehensive examination possessed such an attitude.

In the course of pursuing this ground of bias, there was reference to the possibility that, because Ms L.'s scientific background would be well known to the examiners, the anonymity of the examination process would be defeated in her case. The Board mentions this because, in the course of the hearing, counsel for Ms L. was specifically asked by the Board if it was part of her case that the University had acted improperly in any way in the conduct of the examinations with respect to the preservation of Ms L.'s anonymity. The Board was told that there was no such allegation, any breach of anonymity being caused by self-revelation in the course of the answers. The Board understands that the issue was introduced in an attempt to explain how examiners might bring any existing bias possessed by them to bear against one of many candidates writing under pseudonyms. Given the fact that 30 candidates were writing the examination, and that six different faculty were involved in the marking and remarking, the Board finds that a general leakage to the examiners of Ms L.'s identity as the author of a particular answer is not only speculative but unlikely.

With respect to the allegations of personal bias against Ms L. as an individual, these are based upon the fact that, early in her Ed.D programme, Ms. L. was assigned to Professor Hodson as an advisor. In her letter to Professor Thiessen of September 28, 2001, she describes a first meeting as follows:

My first encounter with Dr. Hodson, my assigned advisor, was a disaster. He did not seem friendly

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and helpful; I still did not know why he took a dislike towards me. I confided with Harriet and requested to switch advisor (sic).

In her oral evidence she described the attitude of Professor Hodson in terms that may be summarized as brusque. Professor Hodson was the second examiner on the third question. He did not give evidence before the Board, but the Board finds that there is no case for him to answer. Assuming for the purpose of the argument the truth of Ms L.'s description of the meeting, the Board does not find that it is more likely than not that, on this evidence, a dispassionate and reasonable observer would suspect that this professor might, almost two years later, be negatively influenced in his appraisal on such an important matter. Ms. L. did take a course from Professor Hodson, two semesters prior to the comprehensive examinations, and received a high mark.

In summary, the Board finds that, on the evidence presented to it, there is no reasonable danger of bias on the part of the examiners at the comprehensive examination or any of them, or on the part of the Comprehensive Examination Committee.

A further ground of appeal was that there were procedural errors in the process which entitled Ms L. to relief. No such error in the examination or evaluation process was pointed out to the Board, and the Board finds that there was none. Ms L. pointed to a passage in a letter from Professor Thiessen, dated December 11, 2001, to the Chair of the Student Academic Appeals Committee of the Graduate Department. This letter was the formal response of the Graduate Department's administration to the Student's appeal. The final paragraph of that letter read:

Finally I urge [Ms L.] to discontinue her appeal efforts. To persist in an appeal based solely on the accusations she makes about the professors, though perhaps not quite in the category of false charges (and thus could be considered as offences under the Code of Student Conduct, are certainly unsubstantiated charges. She would be better advised to rewrite the comprehensive examination .

Ms L. argues that this was an attempt to intimidate her into abandoning her appeal. The paragraph should not have appeared in a formal reply to an appeal, and Professor Thiessen apologized for it at the hearing before this Board. However, Ms. L. was not deterred, there is no reason to believe that the decision of the Student Academic Appeals Committee was influenced by it, and that of this Board certainly was not.

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The appeal is dismissed.

R. SCANE

For the Graduate Academic Appeals Board