

**UNIVERSITY OF TORONTO**

**GOVERNING COUNCIL**

Report # 343 of the Academic Appeals Committee

**August 11, 2010**

To the Academic Board  
University of Toronto

Your Committee reports that it held a hearing on Thursday, June 24, 2010, at which the following members were present:

Professor Andrew Green (Chair)  
Dr. Joel Kirsh  
Dr. Cindy Woodland  
Mr. Ken Davy  
Mr. Ryan Campbell

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

**Appearances:**

**For the Student Appellant:**

Mr. S.S.A. (the Student)  
Ms. Camille Labchuk, Downtown Legal Services (counsel for the Student)  
Ms. Kristin Marshall, Downtown Legal Services

**For the University of Toronto Scarborough:**

Professor John Scherk

**I. The Appeal**

This is an appeal from a decision of the Academic Appeals Board ("AAB") of the University of Toronto Scarborough ("UTSC") dated June 26, 2009 which refused to allow the Student to extend time to write deferred examinations in ISD B04 and MAT A32.

**II. The Facts**

The Student began his studies at the University of Toronto in the Fall of 2005. However, he was subsequently placed on academic probation and then a four month academic suspension. Following the suspension the Student enrolled in three courses in the Fall of 2008 including ISD B04 and MAT A32. He wrote the examination for one course in December 2008 but he obtained a deferral of the examinations in ISD B04 and MAT A32 due to the death of his grandmother.

These examinations were deferred until April 13, 2009 for ISD B04 and April 21, 2009 for MAT A32.

### **III. Previous Decisions**

In April 2009 the Student petitioned to defer writing the examinations as a result of an injury sustained skateboarding on April 9, 2009. The Student obtained a UTSC Student Medical Certificate from a chiropractor, Dr. Cirone, dated April 13, 2009. The Medical Certificate stated that the Student had severe pain in the lower back and right wrist and recommended rest and therapy from April 9, 2009 through April 17, 2009. Further it stated that "any movement and any prolonged sitting aggravates the lower back and right wrist associated with muscle spasms, swelling and restricted movements." The Student subsequently obtained a UTSC Medical Certificate from Dr. Cirone dated April 21, 2009 stating that the Student had ongoing severe right wrist and lower back pain and advised continued rest and therapy from April 21, 2009 to April 24, 2009. It also contained a similar statement about the effects of movement and prolonged sitting.

The petition for deferral was denied by UTSC and this denial was subsequently upheld by the AAB. In its reasons dated June 26, 2009, the AAB provided the following reasons:

1. College policy states that extensions of time to write deferred exams are granted only in well-documented cases which exhibit strong and compelling evidence of serious illnesses or other exceptional circumstances which could not have been anticipated or prevented.
2. You explained to the committee that on April 12, 2009, you fell while skateboarding and injured your back and your right wrist. You provided two documents from Dr. Cirone, a chiropractor, recommending bed rest and massage for the periods April 9-17 and April 21-24, respectively.
3. You corrected the error of the Committee on Standing which had read Dr. Cirone's original note as covering the period April 9-12.
4. Whenever it occurred, the committee felt that your accident could certainly have been anticipated and prevented. When one engages in a risky sport, including skateboarding, one accepts the possibility of accident. The university cannot change its rule to accommodate unwise decisions. For this reason, your appeal was denied.

### **IV. Decision**

In its written submissions before this Committee, UTSC provides brief background to the appeal, including that the original petitions were denied and that the Student was advised that the medical documentation did not adequately support his request. However, its submissions on the merits of the appeal were limited to the statement that the AAB's letter of June 26, 2009 "explains very carefully the decision of the Subcommittee on Academic Appeals to deny" the Student's request.

Unfortunately, at the hearing UTSC did not rely upon its written submissions or on the discussion of the nature of the activity giving rise to the injury in the AAB's reasons. Instead, it

argued that UTSC reviewed the Medical Certificates provided by the Student and judged them to be insufficiently strong evidence to ground a petition for a second deferral of an examination. UTSC expressed concerns about the number of Medical Certificates signed by this practitioner, the fact that he was a chiropractor and the vague language in which the practitioner described the injury and the proposed treatment. The Student, on the other hand, argued that he provided all the evidence that was required of him and that it was unfair to visit the concerns about the practitioner on him.

The UTSC policy on Special Consideration, Petitions and Appeals (the "Policy") contains UTSC's requirements relating to examination deferrals. Unfortunately, in his Statement of Appeal, the Student relied on incorrect policies (policies for Arts and Science) which UTSC failed to note in its Statement of Reply but did note in oral argument. However, at the hearing both parties agreed to proceed on the basis of the Policy. In regards to final examinations, Paragraph B.1 of the Policy states that "Petitions based on medical grounds must be supported by an original medical certificate stating both that the student was examined and diagnosed at the time of illness and was examined on the day of the exam or immediately after (i.e. the next day)." Further, Paragraph D.3 states:

- Medical certificates must show
- that you were examined at the time of illness
  - the degree of disability involved
  - the duration of the disability
  - the practitioner's professional opinion as to whether you should receive special consideration on medical grounds
- You are urged to use the University of Toronto Scarborough Student Medical Certificate for this purpose. A copy of the Student Medical Certificate may be downloaded from [www.utsc.utoronto.ca/registrar](http://www.utsc.utoronto.ca/registrar) - select the eService tab. Medical documentation for examinations missed because of illness must be obtained on the day of the examination whenever possible.

This Committee agrees that the Student provided all of the evidence that was required of him. For each examination, he obtained a UTSC Student Medical Certificate form and provided it to the practitioner. The practitioner completely filled out and signed the Medical Certificate on the day each examination was to be written and the Student provided this documentation to UTSC. It is not clear what else the Student could have known to do.

If UTSC is concerned about the generality of the information provided on the Medical Certificate, it should revise the Certificate. If UTSC is concerned about a particular practitioner, the solution is to report the practitioner to the appropriate regulatory body for that profession. To the extent UTSC is concerned that it is getting insufficient information from its Medical Certificates or that particular types of practitioners are signing the Certificates, the solution is not to address these issues at the expense of the Student but to revise the Medical Certificate processes and procedures.

This Committee is therefore of the view that the appeal should be allowed and that the Student should be permitted to write deferred examinations in ISD B04 and MAT A32.

The appeal is allowed.