

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL
REPORT NUMBER 159 OF THE ACADEMIC APPEALS COMMITTEE

November 12th, 20th and December 4th, 1992

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Thursday, November 12th, Friday, November 20th and Friday, December 4th, 1992 at 9:30 a.m. in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent, at 9:30 p.m. in Room 106, Simcoe Hall at which the following were present:

Professor J. B. Dunlop, Chairman
Professor B. Brown
Mrs. D. Hellebust
Mr. H. Heller
Professor L. Northrup

Ms L. Snowden, Secretary

In attendance:

Ms R.J., the appellant
Mr. M. Swadron, Swadron Associates, Counsel for the appellant
Professor G. Sheridan, Faculty of Education
Mr. T. Pinos, Cassels, Brock & Blackwell, counsel for the Faculty

On November 12th, 1992, November 20th, 1992, and December 4th, 1992, the Academic Appeals Committee heard the appeal of Ms. R.J. from a decision of the Appeals Committee of the Faculty of Education dismissing her appeal against her failure in the Technical Proficiency Examination in Vocational Arts during the academic year 1990-91. In her appeal to this Committee she sought:

- (a) an order exempting her from the Technical Proficiency Examination in Vocational Arts;
- (b) an order restoring her grade in the subject ETS1010Y (Principles and Methods of Teaching Technological Studies) to an "A"; and
- (c) an order recommending she receive a Bachelor of Education degree and an Ontario Teacher's Certificate based on her completion of the requirements of the Technological Studies Programme.

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The Committee's opinion is that the procedures of the Faculty for deciding whether students should be exempt from the Technical Proficiency Examinations and informing the students of the decision were, as we will explain, seriously deficient. For this reason the facts of the case, instead of being clear and unequivocal, constituted a troublesome issue: possibly the only issue, because it is difficult to imagine that there would even have been an appeal if the administrative procedures had met what we would regard as minimal criteria of fairness and accuracy.

Being unable to make findings of fact with the degree of confidence we feel is necessary, we determined to give the appellant the benefit of the doubt on disputed facts. This leads us to grant the appeal, although we cannot grant two of the requested remedies. We can, and do, order that her grade in ETS 1010Y (Principles and Methods of Teaching Technological Studies) be restored to an "A". This change will reflect Ms R.J.'s actual performance in ETS 1010Y independent of her success or failure in the TPE. The Committee also believes that the Faculty should devise an alternative method for recording students' performance in the TPE which is not linked to the grade for ETS 1010Y. The Faculty should remove the failure in the Technical Proficiency Examination from the appellant's record and give her the status of a student who has never written this examination. This means that she should be entitled to apply again for an exemption. She will also have permission to write the examination at a convenient time for herself and the Faculty as if it were the first occasion.

Adjudicating the appellant's entitlement to an exemption from the requirement of the Technical Proficiency Examination calls for technical knowledge not possessed by the Committee nor available in evidence. Because we cannot settle the question of the Technical Proficiency Examination, we cannot make recommendations regarding whether the appellant should receive a Bachelor of Education degree and the Ontario Teacher's Certificate.

ADMINISTRATIVE DEFICIENCIES

The subject of the Technical Proficiency Examination is one that arises every year. It is a significant issue for a significant number of persons but while the examination is mentioned in the calendar, the possibility of an exemption is not. The procedure by which preliminary information as to potential exemption is communicated, the decisions made and the outcome transmitted to concerned students has had an informal, *ad hoc*, almost slap dash aspect that does not match the importance of the subject.

One thing the witnesses agree upon was that all information about the TPE was communicated orally. The first communication was at a meeting near the beginning of the term. The second communication was also oral and again came at a meeting on October 18th, a week or so before the first period of practice teaching. There was conflicting oral evidence as to what was said at the meetings and on other occasions. The appellant's evidence, challenged in part by Professor Sheridan, was supported by letters from other students but in oral testimony some of these students denied the accuracy of their letters. She was assured, the appellant said, that she would be exempt. She found out differently only *during* her practice teaching session.

Professor Sheridan agreed that the final word was given to the appellant by telephone during her practice teaching with the examination imminent and little time to prepare. But he said she had been refused exemption by letter dated October 1st and this was a request for reconsideration, a sort of appeal, that she was hearing about by phone. The letter was the only document

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concerning the appellant that the Committee ever saw and while it was dated, the name of the appellant was handwritten and there was no address. The letter was produced by Professor Sheridan. The Registrar's office had a record of a letter but on a different date.

The Committee also learned that committees with formal sounding titles, referred to by Professor Sheridan in discussing the process of determining exempt status and appeals, were assembled on the day of the decision from among qualified individuals who happened to be present. The Committee does not question their competence, but the fact that, had we not asked, we would never have known they were other than standing committees makes it appear that the Faculty, too, sees the value of formality and documentation in such circumstances, and of regular procedures being followed.

CONCLUSION

Deciding issues of credibility that are unnecessary consequences of administrative informality is not something the Committee should have to do. It may well be that each witness believed that he or she was giving an accurate account and that the others were not. There is, without records, a good chance of disagreement as to who said what and when. It is not only what one says that is important but what another hears or thinks he or she hears. We were not prepared to make detailed findings.

Leaving our difficulty aside the Faculty owes it to its students to make deadline dates clear, to communicate in writing, to have standing committees that keep records and to inform students in ample time that they are required to write examinations instead of prejudicing their chances by short notice at inopportune times. Information about these matters should be in some form of publication - the calendar for example - that all students obtain. These are standards common throughout the University. They are essential elements of a fair system. They avert the need for appeals in many cases because they lessen the likelihood of misunderstanding.

The appeal is allowed with remedies already indicated.

Ms L. Snowden
Secretary

Professor J. B. Dunlop
Chairman

January 28th, 1993