

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL

REPORT NUMBER 207 OF THE ACADEMIC APPEALS COMMITTEE

February 28, 1996

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Wednesday, February 28, 1996, at 10:00 a.m. in the Board Room, Simcoe Hall, 27 King's College Circle, at which the following were present:

Before: Professor Alan Mewett (Acting Chairman)
 Professor Barry Brown
 Mrs. Margo Coleman
 Mr. Earl Dumitru
 Professor James Smith

Ms Rosanne Lopers-Sweetman, Secretary

In attendance: Ms L.M., the appellant
 Professor Heather Jackson, School of Graduate Studies
 Professor Joseph W. Shaw, School of Graduate Studies
 Professor Robert P. Welsh, School of Graduate Studies

This appeal basically involves the issue of the resolution of a dispute between a student and a professor over the intrinsic merits of a paper written in a reading course in the Graduate Department of History of Art. The appeal is from a decision of the Applications and Memorials Committee, August 1, 1995, dismissing an appeal from the decision of Associate Dean J.D. Baird, dated August 11, 1994, dismissing an appeal from a decision of the Appeals Committee of the Graduate Department of History of Art, dated June 1, 1994, which, in turn had dismissed an appeal from a grade of B+ assigned to a paper written by the student in satisfaction of the course requirements for FAH3000S, 1989, given by Professor Robert P. Welsh.

At the commencement of the proceedings, the Acting Chairman ruled that many of the grounds for the appeal were not within the jurisdiction of this Committee, being solely concerned with the intrinsic merits of the paper. This Committee's jurisdiction is limited to questions involving the application of academic regulations and requirements and whether the procedures, as opposed to any substantive issues, raise questions of fairness and compliance with the University's Grading Practices Policy. The Committee has no jurisdiction to consider the reasonableness or correctness of the grade itself. However, the Acting Chairman ruled that

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one ground of the appeal was within the jurisdiction of the Committee, namely whether there was, or should be, in place a process permitting a student in this Graduate Department to seek some form of review for a grade in a paper course that the student could argue, on articulable grounds, was unreasonable. It should be noted that the Yellow Book of the School of Graduate Studies provides, [item 14-2-1] that "When a dispute over a grade cannot be resolved through the recommended channel of discussion with the instructor and Department Chairman, the Associate Dean and/or the Applications and Memorials Committee may then invoke [the] procedures [for an external reader]." The School has taken the view that this regulation applies only to examination courses and not to paper courses.

It is unnecessary to review the facts of this case in detail, since at issue is the procedural fairness of the entire episode. The student wrote a paper for Professor Welsh for which she received the grade of B+. In her opinion, it deserved a higher grade and she immediately took steps in the attempt to vindicate her opinion, in accordance with the Department's Rules, starting with the request to have the instructor explain why he had given the grade of B+, to receive from him a detailed criticism of the paper, and to have him reconsider in the light of her responses. When this failed, she appealed to the Appeals Committee which determined that since there was no claim of procedural irregularity, the issue was the criteria that Professor Welsh had applied. In its view, the appellant "should have taken more opportunities to inform [herself] of Professor Welsh's criteria". It therefore denied the appeal and this decision was upheld by the Associate Dean, Humanities, School of Graduate Studies. The Applications and Memorials Committee, while stating that certain aspects of the situation were "grossly unsatisfactory", nevertheless agreed with the Associate Dean's view that no procedural irregularity was involved.

Some of the background facts are important. The student was enrolled in this reading course in January, 1989, but did not submit the paper to Professor Welsh until September or October, 1992, over three years after it was due. During the whole of that time, she had not been in contact with Professor Welsh. There is medical evidence that for some part of that period, the student was incapacitated and the student states, and there is no reason to disbelieve her, that she was unaware that she was expected to be in contact with Professor Welsh during the writing of the paper for the purpose of consultation and constructive criticism. Indeed, it was, and is, her view that she preferred to work on her own and to complete the paper unaided. The Applications and Memorials Committee states that a graduate student should know that continuing consultation with the instructor in a course of this nature is expected and essential. Nevertheless, this expectation was not communicated to the student and the Department's "Request for Individual Reading and Research Course" was, she states, shown to her for the first time in completed form at the hearing before the Applications and Memorials Committee. Although this makes it clear that the student and instructor should have bi-weekly meetings, there is nothing in the record that would refute the student's claim that this requirement was not on the form at the time she filled it in.

In any event, the Department acquiesced in the student's course of conduct. It did not insist on bi-weekly meetings, nor did it take any steps to secure a more prompt completion of the course requirements. The illness of the student did not play any part in the assessment process.

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Before she received her grade in the course, the student sent her paper to other persons who, in her opinion, were qualified to give an assessment of its merits. A number of opinions were received in reply. We have not seen those opinions, nor should we, but they were of such a nature as to reinforce the student's view that the relatively low mark she had received was not justified.

The importance of the issue to the student is, of course, that in the context of the School of Graduate Studies, a mark of B+ is less than the mark of A- that might be considered, if not essential, then at least desirable for admission to any Ph.D. programme.

This Committee does not, for one moment, doubt the bona fides of all the persons involved, nor does it dispute the genuineness of the opinions held. There are clearly procedures in place -- and adequate procedures at that -- enabling a student to appeal if the allegation is made of improper procedures or a failure to abide by the established regulations. There is also machinery for review where the allegation is made of bias or negligence or prejudice on the part of the examining instructor. Here, however, we have a case of a genuine dispute over the intrinsic merits of a piece of work where the student feels that she has had no opportunity to have her work independently assessed.

The Committee cannot contemplate permitting any student who has a dispute over the intrinsic merits of a piece of work a right to have that work independently assessed. It would be quite unworkable and throw the whole marking scheme of the University into chaos. Any student must basically accept the competence and expertise of his/her instructor and, providing proper procedures have been followed, accept the instructor's assessment. There may, however, be cases, rare though they may be, when the student has made out some sort of prima facie case when a reassessment is valid, and this may be particularly true when we are dealing with graduate students. When this right is given, in the School of Graduate Studies, to students taking examination courses, it is fair and proper that a similar right be given to students taking paper courses who have met some sort of threshold test of demonstrating that an articulable case has been made out for a reassessment. This would require more than the student merely stating that the student disagrees with the grade, but require the student to produce evidence, in the form perhaps of a reasoned response to the instructor's critique or even of opinions from other persons, why the request for a reassessment is justified.

In the Committee's opinion, this is just such a case, but any remedy must be crafted so as to take into consideration all the factors that this appeal has involved. It must be fair to the student, but equally importantly, it must not undermine the standards of the Department.

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DECISION

The decision of the Committee is:

- that the appeal should be allowed;
- that Ms L.M.'s paper "Matisse and the Spiritualist Tradition: 1905-1918," written in fulfillment of the course requirement for FAH3000S, 1989, be referred to one external reader for reassessment;
- that the reader be informed that this is the independent work of a student, undertaken without supervision, written in fulfillment of a course requirement;
- that the reader be informed of the standards applicable at the University of Toronto and be advised that a grade less than "excellent" will militate against admission to graduate school;
- that if the grade assigned by the external reader differs from that assigned by Professor Welsh, the higher of the two grades will be recorded;
- that the external reader be selected by the Associate Dean of the School of Graduate Studies from a list of names submitted to the Associate Dean by each party, provided that the name of the external reader who is chosen appears on both lists.

Ms Rosanne Lopers-Sweetman
Secretary
February 28, 1996

Professor Alan Mewett
Acting Chairman.