

**UNIVERSITY OF TORONTO**  
**THE GOVERNING COUNCIL**  
**REPORT NUMBER 223 OF THE ACADEMIC APPEALS COMMITTEE**

**November 6, 1997**

To the Academic Board,  
University of Toronto.

Your Committee reports that it held a hearing on Thursday, November 6, 1997, at which the following were present:

Ms Bonnie Croll, Acting Chairperson  
Mrs. Ruth Alexander  
Professor John Mayhall  
Ms Sally Safa  
Professor Stuart Smith

Ms Rosanne Lopers-Sweetman, Secretary, Academic Appeals Committee

In Attendance:

Mr. A.J., the Appellant  
Ms Theresa Miedema, counsel for the Appellant  
Professor Ian McDonald, Associate Dean, Scarborough College

This Committee considered an appeal by Mr. A.J. (the "Appellant") of the decision of the Sub-committee on Academic Appeals of the University of Toronto at Scarborough ("Scarborough") which held a hearing in this matter on June 23, 1997. The Sub-committee upheld the decision of the Sub-committee on Standing at Scarborough not to permit the Appellant to withdraw without academic penalty from the 1995 Winter Session and the 1996 Summer Session.

As a preliminary matter, this Committee considered the Appellant's request for a closed hearing. This Committee reviewed Section 9.1 of the *Statutory Powers Procedure Act*, and decided that although the matters which would be disclosed on the appeal were of a personal nature, the desirability of avoiding disclosure did not outweigh the desirability of adhering to the principle that hearings be open to the public. This Committee was guided by the fact that even in an open hearing, the name of the Appellant will not be disclosed in the public record of this Committee's decision.

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### The Facts

The Appellant registered in the first year of the Management and Economic program in the 1995 Winter Session, completing three courses with a sessional grade point average of 1.00. As a result of the Appellant's failure to achieve a GPA of 1.60 or higher the Appellant was placed on academic probation. In the 1996 Summer Session the Appellant's GPA was 0.70, and under the academic regulations of Scarborough College the Appellant was suspended from registration in the College for one year. On October 21, 1996, the Appellant submitted a petition to the Sub-committee on Standing requesting that he be allowed to withdraw without academic penalty from the three courses in the 1995 Winter Session and one course taken in the 1996 Summer Session. As grounds for the petition the Appellant cited first, the death of his great-grandmother on August 16, 1995. The Appellant's great-grandmother had raised him for some 10 years and they shared a very close relationship. The Appellant further described a renewal of family problems in September 1995 that resulted from initiation of an action under the Family Support Plan to obtain unpaid child support and led to a series of hostile confrontations with the Appellant's father. This situation made it difficult for the Appellant to attend classes or concentrate on studies "because of a depression and acute insomnia." In September 1996 the Appellant was referred by his family doctor, Dr. Y.P. Shields, to Dr. Joseph Wohlgeleirnter for counseling. In a medical certificate, dated October 7, 1996, which was submitted to the Sub-committee on Standing, Dr. Wohlgeleirnter assessed the impact of the Appellant's great-grandmother's death on the Appellant as follows:

I believe that as a result of these events, the Appellant became deeply depressed and was unable to function. The Appellant did not understand what had happened to him. He tried to do schoolwork but was unable to focus or concentrate. I believe the Appellant failed the year because of a deep depression.

On October 30, 1996, the Acting Chair of the Sub-committee on Standing wrote the Appellant to inform him that the Sub-committee had denied the petition. The Sub-committee expressed its sympathies for the Appellant's problems but found that "these problems were of an on-going nature" and that the Appellant "should have made the decision to withdraw by the deadlines to do so without academic penalty."

The Appellant appealed the decision of the Sub-committee on Standing to the Sub-committee on Academic Appeals at Scarborough.

In its deliberations on this appeal the Sub-committee on Academic Appeals had sympathy for the difficulties of the Appellant during the 1995 Winter Session and 1996 Summer Session. The Sub-committee also observed that the Appellant had responded admirably to his suspension from registration at Scarborough by seeking effective counseling, reassessing his academic goals, and continuing his studies with success at Centennial College.

At the same time the Sub-committee on Academic Appeals agreed with the Sub-committee on Standing that the remedy sought by the Appellant, that is, withdrawal of his record for two academic sessions, could only be justified by an extraordinary set of circumstances. The Sub-committee on Academic Appeals found that the difficulties experienced by the Appellant, regrettable as they certainly are, were not obviously greater than those faced by many other students during their academic careers and concluded that the Appellant's difficulties did not

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constitute circumstances sufficiently special or extenuating to provide grounds for allowing withdrawal from two academic sessions. The Sub-committee on Academic Appeals also concurred with the Sub-committee on Standing that the medical certificate of October 1996, written after the two academic sessions in question, was not sufficiently strong evidence to support the extent of special consideration being sought in this appeal.

At the beginning of the hearing before this Committee counsel for the Appellant asked that the petition be amended to request that the Appellant be allowed to withdraw without academic penalty from only 2 courses noted on his transcripts, that is MATA28Y and PSYA01Y, both being courses taken in the 1995 Winter Session. This Committee was of the view that the request substantially changed the nature of the appeal and that neither this Committee nor Scarborough had been given notice of this change. This Committee understands that it is not restricted in the relief which it determines is most appropriate and at times may hear a different case than the one appealed from. However, this Committee also notes that the Appellant had been represented by counsel before the Sub-committee on Academic Appeals, so this did not appear to be a case where the Appellant lacked assistance at an earlier stage and this Committee was now being asked to help rectify an earlier misjudgment or error. After consultation with counsel, the Appellant chose to proceed on the basis of the original appeal.

At this appeal the Appellant presented to this Committee a letter from Dr. Wohlgelernter dated October 19, 1997 which had not been presented to either of the Scarborough Sub-committees. The representative of Scarborough had no objection to this letter being considered by this Committee in its deliberations. This Committee considers that this is a significant medical report. This letter further detailed the impact of the Appellant's illness. In particular, the letter states as follows:

In my opinion his depression was very severe but he was unable to recognize depression as such and he did not seek psychiatric treatment as a result until he had been ill for an entire year. It is common for people to be depressed without recognizing the mood disorder or realizing there is treatment for it. Thus they do not make rational decisions and they do not take corrective action. I believe this happened with the Appellant. Thus he did not do what he should have done to protect his position at university (e.g. dropping courses by the required deadline).

In summary, the Appellant was diagnosed as having a major depressive disorder in September 1996 and this illness had been present since the fall of 1995. His thinking was distorted as a result of the depression and he was unable to take rational action to improve his mood or to deal with his failing at his schoolwork. I do not feel he should be held responsible for his behaviour during this period of time because he was unable to appreciate what was happening to him or how to deal with it."

This Committee recognizes and concurs with the position of Scarborough that permitting a student to withdraw from sessions without academic penalty after the deadlines for withdrawal have passed, and as in this case, after the term work has been completed, is an extraordinary remedy. This Committee clearly appreciates that relief such as that requested by the Appellant in this case should only be granted with great caution.

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However, this Committee is of the view that based on the medical evidence, the relief should be granted. This Committee has been given no reasons to question the opinion of Dr. Wohlgelernter that the Appellant had been suffering from depression since the fall of 1995. This Committee has been given no reasons to question the opinion of Dr. Wohlgelernter, that, among other things, the Appellant's illness was such as to prevent the Appellant being able to focus on his studies and from making rational decisions and taking corrective actions. However, this Committee also acknowledges that there are some apparent inconsistencies in the behavior of the Appellant during the period of the 1995-96 Winter and Summer Sessions. In particular, the Appellant acknowledges that he was able to work during the 1996 Winter Session, and his cessation of employment was because of downsizing, not because of an inability to function. The Appellant was also able, during this period, to pay his fees, submit course work on time, write tests and examinations, and generally to function as a healthy student. Perhaps most striking is the fact that the Appellant was able to take the necessary steps to withdraw from ECOAO2Y in a timely fashion in January 1996 with no academic penalty. However, despite these apparent inconsistencies, this Committee again returns to the evidence of Dr. Wohlgelernter and to documentation submitted by the Appellant which describes in some detail the effects of depression. This Committee relies on this medical evidence in concluding that the illness of the Appellant was such that it could be seen as the reason for his poor performance and his irrational and inconsistent behavior, in that he was able to comply with some academic rules and requirements, but not with others. This Committee is persuaded by the medical evidence that the Appellant was unable to concentrate on his schoolwork and unable to appreciate the important steps he should have taken to deal with the situation, including seeking counseling at an earlier stage and following the procedures for dropping courses without penalty.

This Committee, with some reluctance, disagrees with the view expressed by the Sub-committee on Academic Appeals that the difficulties experienced by the Appellant were not obviously greater than those faced by many other students, and that the difficulties did not constitute sufficiently special circumstances to allow withdrawal from two academic sessions. Again, this Committee must return to the submissions from Dr. Wohlgelernter. This Committee is of the view that the medical reports, especially the letter of October 19, 1997, explain the extraordinary circumstances of the Appellant and provide justification for allowing the Appellant to withdraw without academic penalty. The Sub-committee on Academic Appeals also was of the view that the earlier medical letters (dated October 7, 1996 and February 17, 1997) written after the academic sessions, were not strong enough. While this Committee understands and appreciates the need to receive full medical information in a timely fashion, as is set out in the rules of Scarborough, this Committee accepts the professional opinion of Dr. Wohlgelernter that it is symptomatic of the Appellant's illness that he was unable to recognize the need to seek treatment until a year had passed. In the opinion of this Committee, in these circumstances it would be unfair to penalize the Appellant for not taking action which he was apparently unable to take and will allow the Appellant to withdraw without academic penalty from the 1995 Winter Session and the 1996 Summer Session.

Notwithstanding its determination to allow the appeal, this Committee wishes to note the following. This Committee takes notice of the outstanding student services available to students at Scarborough and regrets that the Appellant was not capable of recognizing his need for help at an earlier time such that he could have been assisted by these services. This Committee is pleased that in his letter of February 17, 1997, Dr. Wohlgelernter states that the Appellant is presently a well-functioning healthy person, able to deal with university studies. This

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Committee must stress to the Appellant that should he sense in the future any indication that his illness may be recurring, he must attempt to deal with it at the earliest possible time to avoid the devastating consequences of this bout of depression. While this Committee is sincere in the hope that the Appellant suffers no recurrence of depression, it also hopes that the early warning signals would be more apparent in the future. Finally, this Committee is compelled to add that the decision to allow this appeal was a very difficult one, based on the incapacitating effects of depression on the Appellant, and should not be seen by future appellants as one on which they can rely.

Rosanne Lopers-Sweetman  
Secretary

Bonnie Croll  
Acting Chairperson

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