

**THE UNIVERSITY OF TORONTO  
THE GOVERNING COUNCIL**

Report #405 of the Academic Appeals Committee (Chair only)  
August 27, 2019

To the Academic Board  
University of Toronto

This appeal was conducted on the basis of written submissions. The parties did not attend.

**Senior Chair**

Professor Hamish Stewart, Senior Chair

**For the Student Appellant:**

Mr. R.M. (the “former Student”)

**For the Faculty of Faculty of Arts and Science:**

Mr. Thomas MacKay, Director, Faculty Governance and Curriculum Services (the “Faculty”)

The former Student seeks to appeal from a decision of the Committee on Standing of the Faculty of Arts and Science. The decision was made on April 24, 1991. Normally, the next level of appeal be the Faculty’s Appeal Board, but there is no record of such an appeal having been taken. The Office of Appeals, Discipline and Faculty Grievances (the “Office”) received the Student’s Notice of Appeal in June 2019, more than 28 years after the decision in question. In the circumstances, your Committee decided to deal with the matter as if there had been an unsuccessful appeal to the Appeal Board. Section 3.1.6 of your Committee’s *Terms of Reference* provides that “except in exceptional circumstances” an appeal should be filed within 90 days of the decision appealed from. Short extensions to this deadline may be granted by the Office; longer extensions may be granted by the Senior Chair (or a Chair); even where an extension is granted, a panel of your Committee may dismiss an appeal on the basis that it is untimely.

The Student and the Faculty agreed to have the issue of the timeliness of the appeal decided by the Senior Chair of your Committee on the basis of their written submissions, in order to decide the issue on an expedited basis.

In the Winter 1990 session, the Student was enrolled in CLA300. In his original petition to his college registrar, dated June 27, 1990, the Student stated that during the examination in this course, “a power blackout occurred over all of downtown Toronto in the middle the final exam, interrupting it and the handing in of our essays.” He also stated that the examination was rescheduled but that, through no fault of his own, he was unable to attend on the rescheduled date, and so was unable either to write the examination or to hand in the final essay. The sequence of events following the filing of the Student’s original petition is not entirely clear, but eventually his petition reached the Faculty’s Committee on Standing. On April 24, 1991, that Committee ruled

that the Student would not be granted any extensions to submit course work, but that he would be permitted to write a special examination on June 14, 1991. The Student states that he then destroyed his final paper for the course, but immediately regretted having done so. The Student wrote the special examination and received a final grade of D- in the course. In his Notice of Appeal, the Student seeks a number of remedies, in particular that he be awarded a grade of 100% for his (destroyed) final paper for CLA300.

The Faculty submits that your Committee should not hear the appeal on the ground that the appeal has been filed too late, and in particular that there is an insufficient record on which the appeal could be heard. Any written materials concerning the proceedings in the Committee on Standing, including its written reasons (if any) for its decision, are no longer available. As the Faculty explains in its submissions, “the Faculty followed a retention protocol whereby records of received petitions, including all material presented and notes regarding the decisions, were kept for five years after the date of the petition decision and then destroyed.”

In response, the Student submits that between 1990 and 1991 all of his appeals were submitted “promptly,” and he restates his arguments on the merits of the appeal. The Student also points out that his original petition to his college Registrar and the decision of the Committee on Standing are still available, and submits that these materials provide a sufficient basis for hearing the appeal. There are two reasons, each sufficient on its own, for refusing to hear this appeal from a decision made more than 28 years ago. First, the Senior Chair of your Committee agrees with the Faculty that, owing to the passage of time and the Faculty’s reasonable retention protocol, there is no sufficient record on which a panel of your Committee could properly decide the appeal. The available materials do not include any information about the position that the Faculty took in the appeal to the Committee on Standing or the reasoning supporting the decision of the Committee on Standing. In particular, there is no information about how the Student’s position compared to that of other students who were affected by the blackout, information which would be highly relevant to your Committee’s assessment of the reasonableness of that decision. Second, although the Student may well have pursued his appeal with reasonable diligence during the period from April 1990 to June 1991, he has given no explanation whatsoever as to why he waited 28 years to appeal from the decision of the Committee on Standing. In short, he has not shown any “exceptional circumstances” to justify a lengthy extension from the 90-day deadline.

The Student’s appeal is therefore dismissed.