

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 272 OF THE ACADEMIC APPEALS COMMITTEE

Your Committee reports that it held a hearing on Tuesday, November 19, 2002, at which the following were present:

Professor Ed Morgan, Chair
Professor Sherwin Desser
Professor Cheryl Misak
Mr. Chris Ramsaroop
Professor John Wedge

Mr. Paul Holmes, Judicial Affairs Officer

In Attendance:

For the Student:

Ms. M.K. (the Student)
Ms. Soma Choudhury, Downtown Legal Services
Ms. Erica Toews (observing), Faculty of Law

For the University of Toronto at Scarborough:

Professor Ian McDonald, Associate Dean

This is an appeal to the Academic Appeals Committee of Governing Council (the "Committee") by Ms. M.K., a student enrolled in an Honours Bachelor of Arts program, from the decision of the Subcommittee on Academic Appeals of the University of Toronto at Scarborough (the "Subcommittee"). The Subcommittee denied Ms. M.K.'s appeal of a decision of the Scarborough Academic Committee on Standing denying her petition to write a deferred examination for the SOCB01Y course taught in the summer session of 2001. Ms. M.K. was unable to write the exam because she had left Canada for India to visit with her dying grandmother.

The Subcommittee's reasons for denying the appeal were that Ms. M.K. should have pursued one of two alternative courses of action: either petition for late withdrawal from the course or leave and return sooner in order to take the exam as scheduled. In view of her failure to pursue either of these two options, the Subcommittee felt that Ms. M.K.'s inability to write the exam did not raise grounds for special consideration under the governing university rules. It is the policy of the University of Toronto at Scarborough ("UTSC") to grant special consideration only to those students "whose academic work is seriously affected by some factor or factors beyond their control."

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The Committee received written submissions and heard from Ms. M.K. as well as from Professor Ian McDonald, Associate Dean of UTSC. Professor McDonald indicated in his oral presentation to the Committee that had Ms. M.K.'s grandmother died prior to the exam the conditions for special considerations would have been met and Ms. M.K.'s petition for a deferred exam would have been granted, but that the conditions for special consideration were not met for a visit to the grandmother in advance of her death. Ms. M.K. testified that she learned several weeks before the exam – but after the July 22 drop date for the course – that her grandmother's illness was diagnosed as being fatal, and that it was her grandmother's dying wish to see her grandchildren one last time. She traveled to India with the rest of her family on August 5, 2001, thus missing the exam on August 15, 2001. Ms. M.K.'s grandmother in fact passed away in October 2001.

It is the Committee's view that if a visit abroad in the event of a grandparent's death constitutes an appropriate "special circumstance" for a deferred exam, it is only reasonable to consider a visit to a *dying* grandparent to be an equally appropriate "special circumstance". The Committee notes that Ms. M.K. was not in a position to predict the precise course of her grandmother's fatal illness, and that her need to accompany the rest of her family to India just prior to the SOCB01Y exam was indeed a factor beyond her control. The Committee also notes that the Subcommittee did not have a complete medical diagnosis of Ms. M.K.'s grandmother before it when it heard Ms. M.K.'s appeal, and that had it fully understood the medical situation it may well have come to a different conclusion.

Furthermore, it is clear to the Committee that the Subcommittee was under the mistaken impression that Ms. M.K. was failing the SOCB01Y course at the time of her departure from Canada. Professor McDonald concedes on behalf of UTSC that the Subcommittee had been so misinformed by the course instructor. He submits, however, that this error had no substantial bearing on the decision taken by the Subcommittee in rejecting Ms. M.K.'s appeal.

It is the Committee's view that this error was sufficient to undermine the Subcommittee's fair process. Professor McDonald was not present at the Subcommittee hearing, but Ms. M.K. testified that her failing grade prior to the exam was the subject of much discussion at the Subcommittee hearing. The Committee is of the view that the Subcommittee members could not help but to have been influenced by the mistaken information they were given. A petition for special consideration calls for the exercise of some judgment about the petitioner's special situation, and it stands to reason that this exercise of judgment would be tainted by misinformation about whether the petitioner is passing or failing the very course for which special consideration is being requested. Ms. M.K. had a right to a hearing by the Subcommittee with her accurate academic record before it.

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For these reasons, the Committee is unanimous in its decision to grant the appeal. Ms. M.K. is entitled to a deferred examination in the SOCB01Y course for the 2001 summer session.

November 28, 2002

Paul J. Holmes
Judicial Affairs Officer

Professor Ed Morgan
Chair