

CONFIDENTIAL

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 28 OF THE SUBCOMMITTEE ON ACADEMIC APPEALS

To the Academic Affairs Committee,
University of Toronto

Your Subcommittee reports that it held a meeting on Wednesday, January 12th, 1977, at 4:15 p.m. in the Council Chamber, Faculty of Pharmacy, at which the following were present:

Professor J.B. Dunlop (In the Chair)	Miss Valarie Pugh
Mrs. Frances Barten	Professor Peter H. Salus
Professor J. Michael Bliss	Mr. David Vaskevitch
Professor A.M. Hunt	Miss M. Salter, Secretary
Professor J.W. Meakin	

In Attendance:

Mr. T. and Counsel, Mr. Richard Horak, Students' Legal Aid Society	Dean R.A. Greene Faculty of Arts and Science
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Professor R.H. Farquharson Associate Dean Faculty of Arts and Science	Professor John H. Simpson Department of Sociology Erindale College
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Mr. W.D. Foulds
Assistant Dean and Faculty Secretary
Faculty of Arts and Science

THE FOLLOWING ITEM IS REPORTED FOR INFORMATION

THE MEETING WAS HELD IN CLOSED SESSION

1. Mr. T.

At its meeting on January 12th, 1977, the Subcommittee on Academic Appeals heard the appeal of Mr. T. against a decision of the Sub-Committee on Appeals of the Faculty of Arts and Science. Mr. T. has sought to have his mark in Sociology 201E, which had originally been reported as 60% and had subsequently been corrected to 64%, raised to 72%. The decision of the Subcommittee on Academic Appeals is that the appeal be allowed.

The essential facts of this appeal were not disputed at the hearing. At the beginning of the academic year 1975-76 the instructor in Sociology 201E announced to his class that the final grade for the course would be determined on the basis of 25% for term assignments, 50% for term tests and 25% for the final examination. After completing the required assignments and tests Mr. T. had achieved 62% out of the possible total of 75% assigned for term work. Mr. T. then wrote the final examination, found it extremely hard and knew that he had not done well. Nevertheless, it came as a surprise to him to discover that his final grade was reported as 60%. An enquiry established that Mr. T. had indeed done badly on the final examination, but that the instructor had made an arithmetic error and that the mark ought to have been reported as 64%. Apart from the arithmetic error, however, the grade would have been even higher but for two factors: a decision by the instructor, not announced to the class, to change the weighting of the term tests and the final examination to make the tests worth 45% and the examination worth 30% and a decision by the instructor after overall grades had been calculated to reduce them by 5 percentage points. It was not disputed that, but for these decisions, Mr. T. would have obtained a final grade of 72%.

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A decision to re-weight the various components within a method of evaluation after the method has been announced is not now permissible under paragraph 7 of the Recommendations on Grading Practices Policy established by the Academic Affairs Committee and approved by the Governing Council, except with the "unanimous consent of all the students taking the course who are present and voting at a regularly scheduled meeting of the class at which the issue is raised." Although these recommendations were only adopted by the Governing Council in June of 1976 and hence had no formal application to the appellant's case, the policy underlying many of them, including paragraph 7, was as appropriate prior to their adoption as it is now. It is a policy which is undermined not only by the decision to re-weight, but by the decision, in the circumstances of this case to reduce the overall grade by 5 percentage points.

Among the reasons for adopting the practice of assessing students on the basis of a number of pieces and kinds of work (a practice which pre-dated, but which was endorsed by the Recommendations on Grading Practices Policy) were, (1) a belief in the value to students of knowing from time to time how they are progressing in their course work and (2) a desire to remove some of the anxiety and uncertainty that may exist where a final examination is the sole means of assessment. If the component parts of an assessment scheme can be re-weighted after the term work has been completed then the students cannot be sure where they stand until the final grade is announced and uncertainty and anxiety may be re-introduced. If an instructor can make a "global assessment" that reduces the total grade, and hence reduces the component grades even though some of these grades have already been disclosed to the students, then again, the students cannot know where they stand and uncertainty is re-introduced.

Students ought to be able to assume that the rules by which they are to be judged will not be changed after they have done their work and submitted it for assessment. Students who have been told that they have achieved a certain level of performance on their term work should be entitled to feel secure about these results. It should not be open to an instructor, certainly not unless the rules make it clear that it is permissible, to change his or her mind and assess students, on a "global" basis, as having been less successful than they were previously led to believe.

In its reasons for decision, the Sub-Committee on Appeals of the Faculty expressed the view that "a professor cannot be allowed to make with his students binding contracts on grading policy that would override his responsibility to assign a grade consonant with his final considered judgment of the students' performance." The Subcommittee on Academic Appeals agrees with this proposition up to a point. It must, however, be qualified. Although the University should not, and probably would not be bound by commitments that were obvious departures from known University requirements, the professor is nevertheless in a position in which he or she has the legal power to bind the University even though the University in some circumstances might prefer not to be bound. The Subcommittee on Academic Appeals does not agree that there is justification for changing retrospectively a method of evaluation that when it was announced appears to accord with normal University and Faculty requirements. The Sub-Committee on Appeals felt that in proceeding as he did to alter the final grades, the instructor had exercised his "best judgment" concerning the performance of the appellant and others. The evidence before the Subcommittee on Academic Appeals, however, was that although the instructor marked a substantial number of assignments and tests during the course of the year he did not reach the conclusion that the students were achieving grades out of keeping with their level of performance until after the final examination had been graded and total marks had been determined. Whether or not the exercise of such hindsight really represents an instructor's best judgment on work submitted and graded at a much earlier time, it is the view of the Subcommittee on Academic Appeals, as already indicated, that the judgment comes too late. It should, in the circumstances of the case, have been exercised in the establishment and grading of the term tests and assignments.

It is the view of the Subcommittee on Academic Appeals, therefore, that Mr. T is entitled to the relief requested in this appeal.

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Although the terms of reference of the Subcommittee provide for an automatic right of appeal "against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations and requirements", it was submitted by Dean Greene and Dean Farquharson on behalf of the Faculty of Arts and Science that this was too broad a jurisdiction. It was suggested that in the absence of new evidence or a procedural defect in the conduct of the appeal by the Faculty, the Subcommittee on Academic Appeals ought not to exercise jurisdiction. It seems to the Subcommittee that this would make its jurisdiction too narrow. The essence of Mr. T's appeal was not, of course, a challenge to the fairness of the hearing conducted by the Sub-Committee on Appeals which gave full consideration to the matter and conveyed its reasons in clear terms. The appellant challenged its decision as being wrong in law in that it accepted procedures in the grading of student performance which were improper. This challenge, in the view of the Subcommittee on Academic Appeals, was a type which the Academic Affairs Committee and the Governing Council very properly had in mind when they established the Subcommittee and its terms of reference.

The Subcommittee on Academic Appeals does not share the view that, because it may on occasion disagree with the decision of a faculty, college or school committee and allow an appeal therefrom, the significance or importance of the divisional committee is undermined. It is the experience of the Subcommittee that, where proper procedures for dealing with appeals exist in faculties, colleges and schools, the vast majority of appellants do not appeal beyond the divisional committee and this is as it should be.

YOUR SUBMITTEE AGREED

THAT the appeal of Mr. T. against
a decision of the Sub-Committee on Appeals
of the Faculty of Arts and Science be allowed.

Secretary
March 1st, 1977

Chairman



101-1110