

REPORT NUMBER 76 OF THE ACADEMIC APPEALS BOARDMarch 16th, 1983

To the Academic Affairs Committee,
University of Toronto.

Your Board reports that it held a meeting on Wednesday, March 16th, 1983, at 3:30 p.m. in the Croft Chapter House, University College at which the following were present:

Professor J.B. Dunlop (In the Chair)	Mrs. Joan R. Randall
Mr. David Bessen	Professor Victor G. Smith
Professor Ernest G. Clarke	
Professor Kenneth G. McNeill	Miss Marie Salter, Secretary

In Attendance

Ms. <i>M.</i> and counsel	Mr. David King, Registrar Innis College Faculty of Arts and Science
Mr. Ian Arellano	
Mr. <i>V.</i> and counsel	Miss Gudrun Curri, Registrar, Scarborough College
Miss Molly Naber Downtown Legal Services	

THE MEETING WAS HELD IN CLOSED SESSION

THE FOLLOWING ITEMS ARE REPORTED FOR INFORMATION

1. Ms. *M.*

At a meeting on March 16th, 1983 the Academic Appeals Board heard the appeal of *Ms. M.* against the decision of the Academic Appeals Board of the Faculty of Arts and Science dismissing her appeal against the refusal of her petition to alter her status from part-time to full-time student. The decision of the Board is that the appeal should be allowed.

The appellant was a part-time student during the academic year 1981-82 who would have been entitled to be granted full-time status if she had obtained a grade point average of 2.3 on the courses she was then taking. She did not achieve this standard but nevertheless sought full-time status on the basis that medical problems had prevented her from succeeding.

The obligation of an appellant in such a case is to persuade the Board (a) that he or she had medical problems which could have affected his or her performance, and (b) that but for these problems he or she should have achieved the necessary standard. This the appellant succeeded in doing.

The medical evidence presented to the Board was much more detailed and persuasive than that which had been presented to the Faculty's board. Mr. King, representing the Faculty, observed that the evidence was quite different without conceding that it was more persuasive. That the case can be so different is one of the facts of life of the University's academic appeals system. Although this Board is an appellate tribunal it is bound by the provisions of the Statutory Powers Procedure Act which, among other things, require it to hear evidence and thus it proceeds by way of trial de novo rather than on the basis of the record of proceedings before the Faculty's tribunal. The Board can, therefore, see a case in a different light from that in which it was seen by the previous tribunal. Often this transpires because the appellant has obtained counsel between the two proceedings, as was the case here. The difference in the evidence led by Mr. Arellano was enough to persuade the Board that the appellant's dental problems and the consequences thereof including drug reactions, substantial weight loss and general pain and suffering could well have interfered with her ability to achieve the necessary grade point average to permit her to become a full-time student.

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The question then remained, what evidence was there that the appellant might well have done better but for her illness? The Board's view was that the most relevant evidence at this stage concerning her ability to perform at the university level when unaffected by health problems was the evidence of her current work in university courses. On this basis the Board was persuaded that the appellant probably would have achieved the necessary grade point average if it were not for medical problems.

It was also alleged before the Board on the appellant's behalf that the initial decision to refuse her change of status was based on an improper ground: the fact that the University had already admitted more than its established quota of full-time students to the St. George campus. On behalf of the Faculty this allegation was denied and it was asserted that individual cases are decided on their merits. In any event, before the Faculty's Board and this Board the case was considered on its merits so that even if there had been a procedural shortcoming it would have been cured.

It was further argued that since the initial decision was made by the same committee that had established the admissions targets there was the appearance of a lack of objectivity. However, the Board does not see a fairness problem necessarily arising because the same body which establishes admissions criteria also determines whether people have met them.

Concern was expressed on behalf of the Faculty that this Board not grant the appeal on grounds other than those presented at the previous tribunals. While the evidence is rather different, the grounds for the Board allowing the appeal are not. The Board is setting no "very dangerous precedent" since it is merely applying the well established proposition that extenuating circumstances may excuse failure to comply with academic requirements. This Board, the Faculty's Board, and the Admissions Committee do not disagree on that proposition. This Board's view of the applicability of the proposition in the appellant's case was formed, however, on the basis of different evidence.

Appeal allowed.2. Mr. V.

At a meeting on March 16th, 1983 the Academic Appeals Board heard the appeal of *Mr. V.* against a decision of the Subcommittee on Academic Appeals of Scarborough College dismissing his appeal against the refusal of his petition to have a failure removed from his transcript. The decision of the Board is that the appeal should be allowed.

The appellant had registered in PSY B52S in September 1981. According to his evidence, he thought he had subsequently dropped the course, but in fact he had not taken the requisite step of informing the Registrar's office. Thus the appellant did not take the course although he was registered in it. A letter from the instructor of the course confirmed that the appellant did not participate in the course at all. When the end of the year came, the instructor turned in a grade of 0 because the appellant was listed on the course roster. The course was thus shown as a failure on the appellant's transcript. This consequence accorded with a statement in paragraph 9 of a document headed Course Programme Changes - 1981 Winter Session issued to all students by the Registrar in September 1981. One sentence in that paragraph states, "If you have dropped a course without informing this office, a failure will appear on your transcript." This document does not, however, appear to lay down a rule that failure is both an unavoidable and an irremedial penalty for not withdrawing by a particular deadline. Rather, it seems to represent a statement as to the natural consequence where a person appears on the record to be enrolled in a course but has not done the work required to satisfy the course.

The rule as to withdrawal as published in the Scarborough calendar for 1981-82 at page 12 was as follows:

Students must register for their courses in accordance with instructions issued each Session by the Registrar. Students who wish to change their registration:

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- a) may do so only until the deadline for adding and withdrawing from courses, stated in the "Academic Calendar" section of this Calendar;
- b) must notify the Registrar of any change by means of a "Registration Change Form", submitted by the appropriate deadline and completed in accordance with instructions issued by the Registrar.

In another document headed "Registration Information 1981-82", 26 February, 1982 was given as the deadline "for withdrawing without academic penalty from B & S courses". So the rule in the calendar specifies no consequence at all for its breach while the promulgated deadline specifies an academic penalty but does not say that it would be a failure.

Failure is a harsh penalty. On a transcript it implies that the individual took the course and performed inadequately. The Board does not think it is an appropriate penalty in a case such as the appellant's. It might be appropriate, for example, in the case of a student who took a course, did no work and tried to avoid failing by a sort of 'deathbed repentance'. But the appellant's case involves a mistake of fact - an oversight - albeit a negligent one. Thus in the Board's view the failure should be removed from the appellant's transcript.

Appeal allowed.

Secretary
May 3rd, 1983

Chairman

