

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL

CONFIDENTIAL

REPORT NUMBER 82 OF THE ACADEMIC APPEALS BOARD

ITEM 4

September 7th, 1984

To the Academic Affairs Committee,
University of Toronto.

Your Board reports that it held meetings on Tuesday, September 4th, 1984 at 1:00 p.m., Thursday, September 6th, 1984 at 1:00 p.m. in Room 23, Simcoe Hall, Friday, September 7th, 1984, at 9:30 a.m. in the Conference Room, Faculty of Pharmacy and Monday, September 10th, 1984 at 7:30 p.m. in the Faculty of Nursing, at which the following were present:

Professor J. B. Dunlop (In the Chair)	Mrs. J. Nagy
Dr. W. H. Francombe	Mrs. J. Uyede
Professor R. Manzer	
Professor J. T. Mayhall	Ms. I. Macpherson, Secretary
Council	

In Attendance

Ms. L
and counsel
Ms. C. Mauro
Professor Rebecca Hagey

Mr. W. E. Pepall,
Cassels, Brock & Blackwell
counsel for the Faculty
Mrs. Penny Katz
Professor Anna Jean Rouse

THE MEETING WAS HELD IN OPEN SESSION

THE FOLLOWING ITEM IS REPORTED FOR INFORMATION

At meetings on September 4th, 6th, 7th and 10th, 1984 the Academic Appeals Board heard the appeal of MS L from a decision of the Academic Appeals Committee of the Faculty of Nursing denying the appeal of her grade in NUR 302Y for which she failed to obtain credit in the academic year 1982-83. This is a course involving application of theory in which students spend 10 hours a week in a variety of clinical settings, instructed in groups of seven and evaluated on the basis of written assignments and job performance. The appellant had previously failed to obtain credit for NUR 200Y, a nursing theory course, in the academic year 1980-81. A student cannot carry any failure in nursing theory or practice into the next year and the Faculty Council may refuse re-admission or further registration to any student who on two occasions fails to secure the right to advance to a higher year. Pursuant to this regulation the appellant's registration in the Faculty was cancelled. She was informed that she was entitled to petition for re-admission and this she did. However, her petition was refused. She subsequently launched this appeal. The decision of the Board is that the appeal should be dismissed.

THE BACKGROUND

The appellant had entered the Faculty in 1979 with a record of 76% in her grade 13 work. She successfully completed the first year. Her grades in the core nursing subjects, in which she required a grade of D+ to obtain credit, consisted of a C- and three C+'s. Her other grades included two D+'s, two C-'s and a B. In her second year she received a grade of D in NUR 200Y. Her other nursing grades were a C- and a C. In non-nursing subjects, in which the requirement was D-, she had a D-, a C and two C+'s.

Because she could not proceed to the third year until she received credit for NUR 200Y the appellant took an irregular programme in 1981-82. She repeated NUR 200Y, took a history and a sociology course and audited NUR 202Y (Application of Theory) which she had passed in 1980-81 with a grade of C-. She achieved a grade of B+ in NUR 200Y and although no grade was actually assigned for NUR 202Y, the instructor informed the Board that her performance was at a B+ level in that course as well. Thus the appellant was able to embark on the third-year programme. However, she had difficulty again, achieving only a grade of D in NUR 302Y. Her other grades included a C- and a C in nursing courses; a C-, a C and a B in non-nursing courses.

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Following the termination of her registration the appellant took a year in the Faculty of Arts and Science while pursuing this appeal. In full-year and half-year courses in that Faculty she obtained one A, two A-'s, three B+'s, a B and a B-. Each of these grades was above the class average for the course to which it related. It is thus obvious that the appellant has ability. At the same time, the details of her nursing record suggest that she absorbs the knowledge and skills in that discipline rather less successfully. While she did very well repeating the two courses in 1981-82, her grade in NUR 302Y cannot really be called anomalous.

The appellant does not seem to have considered challenging her failure until persuaded to do so by Professor Rebecca Hagey, who had been her instructor when she audited NUR 202Y. Since it was Professor Hagey's opinion that the appellant was a B+ student, she could explain the appellant's performance only as a function of inadequate teaching or improper evaluation. Professor Hagey took the appellant to lunch, suggested she appeal, arranged for another nurse to assist her in the presentation of the appeal to the Faculty Committee and wrote letters on her behalf suggesting that she should be re-evaluated. Before the Board, Professor Hagey was a principal witness.

THE APPEAL

The appellant's case was that the written evaluations of the appellant's work by the instructor in NUR 302Y, Mrs. Penny Katz, were defective in form and substance; that they were based on inadequate observations; and that no sufficient second opinion of the appellant's work had been obtained.

The criticism of the written evaluations was that they were statements of general conclusions unsupported by specific examples. The general statements, it was argued, were merely a list of the published expectations for the course in a negative form. It was difficult for the appellant to respond to such generalities when invited, as she was, to comment on them, and they reflected less than adequate thought on the part of the instructor. This was the opinion of Professor Hagey but her view was contradicted by two witnesses on behalf of the Faculty, instructor Linda Young and the director of the undergraduate programme, Professor Anna Jean Rouse both of whom said that the appellant's evaluations were, as to form, in accordance with the Faculty norm. The Board looked at other written evaluations of the appellant's work and was unable to see that they differed to any great degree in this respect from the ones written by Mrs. Katz. That the Faculty could adopt more detailed and informative evaluations is obvious. Perhaps it is even desirable. But this does not entitle the Board to overturn existing evaluations with which the Faculty is perfectly satisfied.

The evidence as to Mrs. Katz's opportunity to observe the appellant indicated that, what with Mrs. Katz being on holiday for a time, the appellant being away for a week at a nursing students' conference and the appellant being ill another week, there was less opportunity to evaluate the appellant than was the case with other students. The evidence did, however, persuade the Board that Mrs. Katz had an adequate opportunity to judge the appellant's performance and that she was not the only one to judge the appellant to be inadequate.

The third argument identifies a problem that exists in clinical courses in all of the health sciences. It is sometimes described as being a problem of "subjective" judgment or assessment. What this means is that the judgment is based on observation of performance on the job and that the personalities of the instructor and the student can affect the impressions that the instructor forms. Miss Mauro, on behalf of the appellant, quoted from a previous decision of the Board in which we said "It is difficult to see how clinical performance can be assessed in any other way. All that can be done to ensure fair assessment is to provide for a sufficient number of assessors so that the bias on an individual (personal or otherwise) is offset or thoroughly diluted." Miss Mauro argued that too much reliance was placed on the judgment of one individual, Mrs. Katz, with whom the appellant said she had a communication problem.

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It is fair to say that a good deal did turn on the judgment of Mrs. Katz, who set the final grade even though another instructor, Carmelle Simon, had been responsible for 12 of the 24 weeks of instruction in NUR 302Y. Nevertheless, Carmelle Simon did do a written evaluation of the appellant which indicated that the appellant was having difficulty. Furthermore, Professor Rouse was asked by Mrs. Katz to look at some of the appellant's written assignments because Mrs. Katz was concerned about her own judgment and wanted confirmation. Professor Rouse testified that she agreed with Mrs. Katz's judgment. Similarly, Mrs. Katz asked another clinical instructor, Linda Young, to look at some of the appellant's written work and to take the appellant for one of the weekly two-day clinical sessions in order to evaluate her performance. Linda Young testified that she agreed with Mrs. Katz's judgment. The only evaluation the Board saw that was markedly at odds with Mrs. Katz's was that of Professor Hagey and in the Board's view it did not cast doubt on the correctness of the NUR 302Y assessment. Professor Hagey taught the appellant a course she had already completed and taught her in a year when she was not taking a full course load. Her assessment in those circumstances could be very different without reflecting on the validity of Mrs. Katz's assessment of a more advanced course the appellant was taking, for the first time, in a year in which she was carrying a full load.

The appellant, in her own evidence, was frank to admit that she had a number of problems. Her evidence was directed primarily towards explaining them away. She was uncomfortable with Mrs. Katz's manner and didn't feel like challenging her. She could not make her listen as the other students were able to do. She did not consult Professor Rouse about any of her problems, although Professor Rouse was readily accessible, because that was not her way. She did not dispute her grade on occasions when invited or given the opportunity to do so because she saw no point. She had explanations for why some work was late and why important regulations had not been adhered to. None of this, however, persuaded the Board that the basic evaluation was erroneous and while it is true that a more thorough-going system of dual evaluations would be possible, the number of contributors to the assessment of the appellant's work and performance was sufficient to convince the Board that the appellant was not the victim of an unfair assessment.

Finally, it was argued that because the appellant did not know that anyone else had assessed her work until the commencement of the appeal to this Board and because Mrs. Katz was not present at the appeal in the Faculty of Nursing, there was unfairness which could not now be rectified. It was particularly unfair, Miss Mauro urged, in that the appellant could not readily challenge the critical evaluations made of her by Mrs. Katz (a) at the Faculty level because Mrs. Katz was not present and (b) before the Board because the anecdotal notes containing Mrs. Katz's specific comments on the appellant's performance had been destroyed and Mrs. Katz was unable to remember them in detail.

It should be noted that the appellant's appeal to the Faculty level was launched in late June of 1983 and disposed of in late August. Her appeal to the Board was not launched until January 1984. Mrs. Katz had kept her notes for six months following the termination of the course as regulations required her to do. But not having been advised of the appellant's challenge at the Faculty level, and not knowing that the appellant would launch an appeal to the Board she had disposed of the notes in December of 1983.

The Board feels bound to observe that there is some force in the suggestion that the instructor in a clinical course should be available at a Faculty appeal to explain the assessment of the student's performance when it is, as it was here, rather tersely and very generally set out in the written evaluation. There would also be merit in warning an instructor not to dispose of anecdotal notes while the possibility of an appeal still existed. It is also worth observing that the appellant herself destroyed relevant evidence even before she had launched her appeal to the Faculty Committee. This evidence was her assignment book in which critical comments had been written by the instructor. Obtaining a second evaluation of the written work and discussing the validity of Mrs. Katz's critical comments was rendered impossible from that point on by the appellant's own act.

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Nevertheless on the basis of the evidence before it, the Board concluded that there was no justification for overturning the grade assigned by the instructor, accepted by the examination committee and upheld by the Appeals Committee of the Faculty. It is unfortunate that it should come to this for a dedicated, likeable and warmhearted young woman but it is clear that she has other options she can pursue with every likelihood of success.

The appeal is dismissed.

October 31st, 1984

J. Bruce Dunlop
Chairman
Academic Appeals Board