

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL

REPORT NUMBER 136 OF THE ACADEMIC APPEALS COMMITTEE

September 26th, 1990

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Wednesday, September 26th, 1990 at 3:00 p.m. in the Council Chamber, Simcoe Hall at which the following were present:

Professor J. B. Dunlop (Chairman)
Ms C. Gidney
Dr. D. I. Murdy
Professor D. Perrier
Professor J. Wilkinson

Ms Irene Birrell, Secretary

In Attendance:

Mr. *P.*
Mrs. *P.*
Professor B. Sessle, Dean, Faculty of Dentistry
Ms D. Crossan, Assistant Dean, Faculty of Dentistry

At a meeting on September 26th, 1990, the Academic Appeals Committee heard an appeal of *MR. P.* a first-year dentistry student in 1989-90, from a decision of the Appeals Committee of the Faculty of Dentistry refusing to permit him to take a course in biochemistry at another university in lieu of Biochemistry 100F, which he had failed, and proceed to second year in the program in September of 1991. Under the Faculty's regulations the appellant, having failed Biochemistry 100F during the year (the course was given in the first term) and again on the supplemental in July, had failed first year, retained no credit and was required to repeat the year.

The decision of this Committee, which has already been conveyed to the parties, is that the appeal, framed as described in the preceding paragraph, should be dismissed but that the appellant should be permitted to write a second supplemental, consisting of the regular final examination being held during this academic year. If he should pass then he would be eligible to proceed to second year in September, 1991. If he should fail, then he would be permitted to repeat first year beginning in September 1991. The appellant should have until October 9th, 1990 to inform the Faculty whether or not he intends to exercise this option. If he declines, he must repeat the year either now or later.

The appeal was based on compassionate grounds. As the appellant was about to leave his home in Montreal to write the supplemental in Toronto it was learned that his father's regular medical examination indicated a need for further tests in connection with a possible kidney condition. Because of his father's work in a copper refinery, the appellant was apprehensive that cancer might be detected. It is evidently a particular risk in that population. His own evidence and that of his mother who came from Montreal to testify, was that it was a very stressful period of time for the family, especially with Toronto so far away, said his mother.

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The appellant's record as a student before and after his admission to dentistry lent plausibility of his evidence. Naturally, his pre-dental grades were very good, otherwise he would not have been admitted. But some of his grades in first year subjects were very good as well, and apart from Biochemistry, none was poor. In addition, he had letters of support from several of his instructors. His performance in Biochemistry 100F was, we concluded, anomalous. Thus, the explanation that he was seriously affected in his ability to concentrate on the examination was accepted by the Committee. It had not been accepted by the Faculty's Committee, partly because the evidence did not establish that the appellant's father was seriously ill. He had lost no time from work, they pointed out, and no results of the recommended tests had been received.

The Faculty's committee was drawing a circumstantial inference that the appellant could not have been as distressed as he claimed because it was impossible to conclude from the available evidence that there were grounds for concern of sufficient gravity to affect a normal individual so powerfully. While that may be a reasonable inference in the absence of contrary evidence, it is not an invariable or unassailable conclusion.

While it is true that the evidence of illness at the time consisted solely of the recommendation for further tests, this Committee was persuaded that the appellant and his mother both saw it as suggesting a life-threatening condition. To say they ought not to have reacted that strongly would be to substitute a value judgment for a conclusion of fact. This Committee was persuaded that in fact the appellant did so react.

It was pointed out by the Faculty secretary that the appellant had not raised the issue of illness at the time of the examination, even when asked if he had any problems. The appellant's explanation was that it was such an intensely personal matter, he was reluctant to raise it. No doubt he hoped, unrealistically as it turned out, for a passing grade, but when this hope was dashed he changed his mind about disclosure. Again, failure to raise such an important factor in a timely way would, in the absence of an explanation, raise a suspicion that the appellant was making more of the event than was warranted. But having heard both the appellant and his mother say that they had, indeed, been stunned and disconcerted, the Committee believed that the appellant should have the benefit of any doubt on the point.

But the Committee could not grant the appellant the remedy he sought without ignoring the Faculty's applicable regulation, part of a set of new regulations recently adopted by the Faculty. Dentistry is one of the faculties that is on the "year" system so one cannot retain credit for courses passed, even passed most conclusively, because the requirement and expectation is that one be able to pass all the courses of the year either on the finals or on a supplemental. There was nothing to support the appellant's argument that the regulation was aimed at students whose marks were borderline. If he could not retain credit for the courses he had passed then there was no point in him taking biochemistry elsewhere for credit at the University of Toronto, even assuming the courses to be equivalent, a question that was alluded to but not canvassed at our hearing.

The appellant was asked several times about the possibility of writing another supplemental but this suggestion did not evoke the least enthusiasm since it would probably be six weeks before it could be arranged and this would delay his resumption of studies, effectively blocking his chance to take a biochemistry course in the current year and enter second year in 1991.

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The only way the appellant could achieve the objective of entering second year in 1991 would be by repeating the first year this academic year, a course of action he wished to avoid because of the expense, or by writing another supplemental (and passing). A second supplemental is common enough where circumstances justify ignoring the result of the first supplemental. As it would take six weeks in any event before one could be held, there would be no possibility of the appellant beginning second year studies until 1991. Thus, the solution that would ensure the appellant time to prepare and cause little additional effort for the Faculty would be to constitute the regular exam as a supplemental for the appellant.

The appellant must decide quickly, however, whether he wishes to avail himself of this option. Monday, October 8th being a holiday, the deadline is Tuesday, October 9th. The consequences of choosing have been set out above, in the second paragraph of these reasons.

Secretary
October 9th, 1990

Chairman

