

**UNIVERSITY OF TORONTO**  
**THE GOVERNING COUNCIL**

**REPORT NUMBER 146 OF THE ACADEMIC APPEALS COMMITTEE**

**November 20th, 1991**

To the Academic Board,  
University of Toronto.

Your Committee reports that it held a hearing on Thursday, October 31st at 2:00 p.m. and Wednesday, November 20th, 1991 at 3:00 p.m. in the Flavelle Room, Faculty of Law at which the following were present:

Professor J. B. Dunlop, Chairman  
Professor C. C. Brodeur  
Professor W. R. Cummins  
Mrs. D. Hellebust  
Mr. C. S. Walker

Ms. Girard, Secretary

In Attendance:

Mr. ✓, the appellant  
Professor S. Tobe, Associate Dean, for the Faculty

At meetings on October 31st and November 20th, 1991, the Academic Appeals Committee of the Governing Council heard the appeal of Mr. ✓ against a decision of the Dean of the Faculty of Arts and Science that his examination in MAT133Y, which he had failed in April 1990, had been fairly marked and that he was not entitled to a higher grade. The meeting of October 31st was adjourned because the Faculty's brief, including points to be argued and supporting documents, had been submitted only the day of the hearing and neither the appellant nor the Committee had been able to read all the material. The appellant requested that the late submission be considered a reason for allowing his appeal without a hearing and granting him a passing grade in the course. This suggested a view of the adversary process as more of a "game" or "gamble" than it is. The procedural rules are designed to ensure neither party is at an unfair disadvantage: that each has full opportunity to know the case against it. The potential prejudice or disadvantage to the party presented with last minute material can be nullified simply by giving that party more time for preparation. ✓

The appellant complained about the way he had been treated at every stage: by the Dean's office and by various individuals in the department and the Faculty who dealt with the case. He wanted us to censure this behaviour which he perceived as high-handed, insensitive, inconsiderate and brusque. In particular, the appellant complained that his request for an interview with the Dean had been ignored. He went as far as identifying a lie based on inconsistency between the statement of a professor and that of a secretary as to whether the professor had been in the office on a particular day. However, the appellant expressly discounted the possibility that there had been any personal bias affecting his grade.

The appeal procedure chosen was a re-reading of the final examination. This involves an interview, although not with the Dean, where certain factors may make it necessary. But in a Faculty where hundreds of petitions are presented annually, it would be unreasonable to expect an interview with the Dean whenever an appellant wished.

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The appellant believed that any issue he wished included in the appeal would be decided by the Committee. But for us an inquiry into the appellant's allegations would be entirely collateral to the investigation of the appellant's grade because, on the facts, it had no bearing on the fairness of the MAT133Y grade. Although the appellant felt aggrieved by what he regarded as inconsiderate behaviour, and although the Committee does not condone the sort of behaviour perceived by the appellant, it had no desire, nor any jurisdiction to embark on what could amount to a lengthy, contentious proceeding over a matter of civility and good manners. The Faculty and Department denied the allegations. The Committee can grant no remedy in respect thereof. The Committee's jurisdiction is to hear appeals as to the student's success or failure in meeting an academic requirement or as to the applicability to a student's case of a particular rule or regulation.

The Committee's decision is that the appeal should be dismissed. The appellant presented his examination as an exhibit and directed our attention to two answers he considered satisfactory but which had been given less than half the marks. A witness, a friend of the appellant and fellow student, confirmed this view. But the Associate Chair of the Department gave a contrary view. The complete answer required additional information. We accepted the evidence of the experienced teacher and examiner over that of the students'. The members of the Committee do not possess the expert knowledge that would be required to directly evaluate work in most disciplines and do not attempt to do so. It must rely on the evidence of others, including experts. The contention that a piece of work is worth more than it has been given in grading or marking is a common one that the Committee cannot accept unless persuaded by convincing evidence that the contention is sound.

The appellant put in evidence a memo which showed that a re-marking by one instructor would have given him 53% on the examination, but he would still have failed the course because of his term work. The appellant then produced a final examination paper written by another student which was given a mark of 70%. An extra 3 marks had been given to a question the appellant thought he should have received as well.

The Department's position was that the re-marking had been done without benefit of a grading chart and had not been accepted as the official re-marking. The three marks on the other student's paper had been an error. Both propositions were accepted by the Committee. The appellant's view that a grading chart was unnecessary and his suspicion that the three extra marks were a bonus scarcely constituted proof that the appellant should have passed.

A second re-reading by one of the course instructors was in response to the formal petition. It gave the appellant 50% on the examination: not enough to pass the course. The Associate Chair had subsequently confirmed, after a request from the Dean, that the paper had been fairly marked.

The appellant noted that many of the documents dealing with this examination referred to the fact that he had taken the final examinations in MAT133Y three times and had not achieved a pass on any occasion. He saw no reason for these references as they had no bearing on the one examination he was appealing. On the other hand, while the examination under appeal should be considered on its own merits, the fact that the appellant had taken the examination several times before (and could offer reasons for failing on each occasion) tended to make one less confident that the various specific claims he made concerning the appropriateness of his answers to some questions, and the relative merits of different re-readings were backed by solid knowledge and understanding of the subject.

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The appellant, for whom MAT133Y is a required course, seems bent on achieving credit by debate rather than performance although he is currently taking classes in the course. His father's statement to the Committee that he could not believe that this University would make so much of such a little matter as giving his son the benefit of the doubt on a single course, something that would almost certainly have been done in his days as a student, rather surprised this Committee which had spent two hours in a hearing as well as a number in preparation and could see that the Faculty and Department had done likewise. Ensuring that the student is fairly treated but at the same time maintaining the integrity of the University's academic program does not strike us as misplaced zeal.

The appeal is dismissed.

Secretary  
December 3rd, 1991

Chairman

