

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL

REPORT NUMBER 162 OF THE ACADEMIC APPEALS COMMITTEE

January 12th, 1993

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Tuesday, January 12th, 1993 at 1:30 p.m. in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent at which the following were present:

Professor A. Weinrib (Vice-Chairman)
Professor S. L. Librach
Professor J. T. Mayhall
Mr. W. Robinson
Mr. A. Waugh

Ms S. Girard, Assistant Secretary of Governing Council

In attendance:

Ms T.E., the appellant
Mr. J. Kalina, counsel for the appellant
Professor D. G. B.Boocock, for the Faculty of Applied Science
and Engineering

On January 12th, 1993, the Academic Appeals Committee of the Governing Council heard the appeal of Ms T.E., a student in the Faculty of Applied Science and Engineering. Following the receipt of her results of her third year in Mechanical Engineering, the appellant asked the Faculty's Ombudsman Committee for the results of her spring term courses to be re-evaluated. That Committee declined to support her appeal to have those courses re-evaluated. Ms T.E. then appealed to this Committee. Here, she asks that all of her grades at the Faculty be re-examined. We decline to do so. It is long out of time for the appellant to appeal the grades of her earlier years. Her use of the Faculty's appeal procedure was restricted to her third year spring term grades. The appellant cannot widen the appeal at this level.

Council for the appellant asked for an independent evaluation of her marks on the general ground that the present evaluation and appeal procedures are biased. They are biased because of the way in which the Faculty adjusts examination marks is wrong, and the appeal procedures designed to ensure that the original mark is a reasonable one is also wrong.

The case has a certain resemblance to the [S.P.] appeal¹ (September 4th, 1992), which also involved this Faculty. S.P. also objected to the Faculty's adjustment scheme for course grades arguing that any positive adjustment should be made by way of adding the number of marks to

¹ **Editor's Note:** See Report Number 155 of the Academic Appeals Committee

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each student's result rather than multiplying the raw result by a common factor. Ms T.E. also argued that in relation to one of her courses the adjustment was made only to the examination mark and not to the whole mark in the course, that is, the examination mark and the mark for term work. This panel of the Academic Appeals Committee agrees with what was said in [Report Number 155] on the same point.

In order to meet the grade requirements of the Faculty, examiners adjust examination scores in order to obtain a final mark. This is a process which is found in other divisions of the University as well. The appellant objected to the scheme which is in use in the Department. Examiners in the Department multiply the raw marks of all students by a common factor. The appellant argued that it would be fairer and more beneficial to students with lower marks if examiners simply added onto each student's raw mark a number appropriate for the examiner to reach the mandated average in the course. In the view of the Committee, an adjustment system which raises (or lowers) all raw marks the same way is a fair and rational system. It may increase the difference between good examinations and bad examinations, but this only produces the results which should have been produced had the examiner applied exactly that standard necessary to produce the average mark.

We also think that it is open to instructors to adjust examination raw results without adjusting marks received for term tests or other term work. If term work results need not be adjusted to meet the Faculty standards, then there seems to be no reason to adjust them.

The appellant also argued that the Faculty's recheck and petition procedures are not adequate to give the student a real appeal of his or her grades. The evidence of the Faculty was that under the recheck procedure, examination papers are reviewed to ensure that they were marked according to the marking scheme which the instructor used for the examination. The rechecking is not merely mechanical in terms of ensuring that the marks are added up the correct way; it deals with the substance of what the student wrote. That was the evidence given by Dean Boocock on behalf of the Faculty and we accept that.

It is our conclusion that the appeal of the individual grades ought to be dismissed. However, this Committee has some observations and recommendations in relation to the Faculty's appeal procedures. In [Report Number 155] it was argued that some of the Faculty's instructors did not make the marking scheme sufficiently clear for the student to check his or her results. We said in that case that:

The Faculty has no requirement that marks be placed on students' answer papers when students wish to see their examination booklets for rechecking or other purposes. There is no question but that students are entitled to this information. Students should not have to take it on faith that the total examination mark is correct. Adjustment factors should also be routinely disclosed. Students are entitled to this information before an appeal reaches the level of this Committee.

We wish to emphasize what is contained in that paragraph. Further, it goes without saying in this University, or it ought to, that faculty members must be willing to discuss examination papers with students. We realize that this may be time consuming, but it is unquestionably one of the duties of faculty members. This Committee also feels that the Faculty should make greater efforts to return copies of examination papers more quickly. There are time limits to

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invoking any appeal process and students who question their marks should be allowed to do so in a timely manner.

The Committee recommends that examinations be available for one year before they are destroyed. This would bring the Faculty into conformity with what seems to be the general rule at the University. Destroying examinations papers immediately after the end of a possible appeal period may prejudice students who have a good reason to attempt an appeal. Of course, in such a case the student would have to convince the appropriate tribunal to entertain an appeal.

We also recommend that the appeal period for first term marks be lengthened to match the appeal period for second term marks. It is needlessly confusing to students to have two separate periods; the longer period strikes us as fairer to students.

Our final recommendation deals with the Faculty's appeal procedure as a whole. In the experience of the members of this Committee, the Faculty's appeal procedure is unique. Student petitions go to the Faculty Ombudsman Committee. That Committee may intercede with the appropriate authority in the Faculty on behalf of the student. The Committee itself does not have the authority to make a determination of the student's appeal. If the Committee agrees with the student, it may use informal means to have the decision appealed or altered. If the Committee is not successful in having the original decision altered, it may, upon its own motion, take the matter to the Faculty Council. There seems to be no provision for any further appeal within the Faculty available to the student. It is certainly unusual in the University for a faculty to have an appeal committee such as the Ombudsman Committee which does not have the power to make a decision on the matter before it. It is difficult for us to understand why the Faculty does not have the usual form of appeal structure found in virtually every other faculty - that is, a committee (perhaps of the size and composition of the present Ombudsman Committee) which will hear appeals brought by students, either personally or with assistance, and which will have the power to make binding decisions. This strikes us as being less complex and therefore fairer for the Faculty as a whole.

During the hearing of this matter there was a dispute as to the ability of counsel for the Faculty to introduce material for the first time at the hearing itself. The chair of the panel did not allow the material to be introduced even though the appellant's counsel was in possession of it the day before the hearing. Counsel for the Faculty indicated that it was difficult for him to communicate with some members of the Faculty whose grades were in question. It is incumbent on both parties to give the other party sufficient notice of documents to be introduced in evidence so that the other party has ample time for consideration. In appropriate cases, the Committee may adjourn the hearing in order for the other side to prepare an appropriate response. The Committee is reluctant to order adjournment on account of the delay and expense involved. Given that this Committee is set up to hear student appeals, is especially incumbent on those who represent the University or its faculties to ensure that they give students and their representatives timely notice of the documents on which they intend to rely.

The appeal is dismissed.

Ms S. Girard
Secretary

Professor A. Weinrib
Vice-Chairman

March 16th, 1993