

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 196 OF THE ACADEMIC APPEALS COMMITTEE

August 17th, 1995

To the Academic Board,  
University of Toronto.

Your Committee reports that it held a hearing on Thursday, August 17th, 1995 at 9:30 a.m., in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent, at which the following were present:

Professor A. W. Mewett, Acting Chairman  
Professor B. F. Brown  
Dr. K. Shulman  
Mr. A. Tung  
Mr. A. R. Waugh

Ms L. Snowden, Secretary

In attendance:

Mr. O.H., the appellant  
Ms J. Dabrusin, Downtown Legal Services, counsel for the appellant  
Ms B. McCann, Faculty Council Secretary, Faculty of Applied Science  
and Engineering

The student was enrolled in the 1993-94 session for his Third Year in the Faculty of Applied Science and Engineering. During the Spring examination period back pains, which he had suffered from since the 1993 Spring examination period, became acute. He had, following his previous bouts with the condition, consulted a doctor who confirmed that long periods of sitting and tension aggravated those pains. In June 1994, he again sought medical attention.

The student wrote, among other examinations, CHE 312S on which he received a mark of 18% and CHE 322S on which he received a mark of 20%. His term work was sufficiently good in both courses to raise his final mark in the former to 46 and in the latter to 40, both being failing marks, his overall average being less than the requisite 55%. The decision of the Faculty was that Mr. O.H. fail the year and not be permitted to enroll in fourth year in the Fall 1994 session.

Mr. O.H. petitioned the Examination Committee for special consideration of his mark in CHE 312S and the petition was denied. He then further appealed to the Faculty's Ombudsman Committee which also denied the appeal. This petition was based on his

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medical condition, supported by medical certificates, at the time of the examinations in question. The Committee suggested that he repeat the third year which he did and in which he achieved satisfactory results.

The student now appeals to this Committee and petitions that the failures in the Spring 1994 be expunged from his transcript.

The timing of the original petition is crucial. The Faculty, in common with most Faculties, has a published requirement that petitions of this nature should be submitted within one week of the end of the April examination period. Mr. O.H. did file a request for a mark recheck on June 7 and it was confirmed that the original marks were mathematically correct. On September 9, Mr. O.H. filed his petition based upon medical grounds. In spite of the lateness, the Faculty considered the petition and rejected it. Mr. O.H. then, on September 29th, filed a second petition with more supporting documentation asking again for special consideration -- in effect, requesting a reconsideration of his first petition. The Faculty again received the petition, in spite of its lateness, considered it, but again rejected it. On November 1st, Mr. O.H. again petitioned, asking to be allowed to proceed to Fourth Year, and included this time a request for reconsideration of his mark in CHE 341S. This time, the Faculty referred the petition directly to the Ombudsman Committee which determined that the previous decisions were fair and appropriate. Mr. O.H.'s petition was therefore denied and it is from that decision that he appeals.

The Committee cannot ignore the fact that Mr. O.H. does not have a strong academic record. Nevertheless, if there are any grounds for finding that he has not been treated fairly and justly, his appeal must be allowed.

Mr. O.H. was aware of his back pain difficulties from at least June 1993. He made no effort to obtain special accommodation in the writing of his examinations which the Faculty, in common with all other Faculties, would readily have granted. He may not, at that time, have been aware of this possibility, though he was assured by the Registrar, in May 1995, that this was so. In any case, Mr. O.H. proceeded to follow the Faculty's advice and repeated his Third Year in the 1994-95 academic session, which he passed successfully. This petition is merely to have his failures in the 1993-94 session removed from his record on the ground that they do not fairly or properly reflect his capabilities since those examinations were written while he suffered from medical disabilities.

The Committee is aware that severe back pain can be very debilitating and that, if this were the only consideration, some relief should be granted. But in this, as in all cases asking for special consideration, some reasonable time limits must be imposed or else there would never be an end to petitions. Students who are aware of a medical problem at the time of writing an examination must be under an obligation to proceed expeditiously to alert the Faculty. This, in many cases, will be before the examination is written, but in other cases when this is not possible, it must be within some reasonable time thereafter. The Committee's view is, quite simply, that Mr. O.H. delayed too long and the Faculty might well have been justified in refusing the petition on that ground alone.

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Nevertheless, the Faculty did receive the petition and considered it on its merits and concluded that, taking into consideration the nature of the complaint, Mr. O.H.'s relatively weak performance overall, and his need to improve his marks, it was not in his best interests or those of the Faculty, to allow him relief. In fairness to other students and in the interests of maintaining the standards of the Faculty, even when combined with compassion and understanding of the difficulties faced by this student in particular, the Committee cannot find any reason for disagreeing with the disposition of the Faculty.

The appeal is therefore rejected and the decision of the Faculty upheld.

Ms L. Snowden  
Secretary

Professor A. W. Mewett  
Acting Chairman

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