

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 232 OF THE ACADEMIC APPEALS COMMITTEE

June 26, 1998

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Friday, June 26, 1998, at which the following were present:

Professor Alan Mewett (Acting Chairman)
Mrs. Ruth Alexander
Professor Frank DiCosmo
Professor Wendy Rolph
Ms. Sally Safa

Ms Rosanne Lopers-Sweetman, Secretary, Academic Appeals Committee

In Attendance:

Ms R.B., the appellant
Ms. Deirdre McKenna, counsel for the appellant
Ms. Barbara McCann, Registrar, Faculty of Applied Science and
Engineering
Professor Adrian Crawford, Faculty of Applied Science and Engineering

The student appeals a decision of the Faculty Ombuds Committee denying her appeal from the Faculty Committee on Examinations' decision not to grant her the special consideration she had requested of having her mark in ECE 341F adjusted to raise it from 45% to 58% on the basis of her inability to study at the crucial period due to family illness. Her petition also included a request to have the mark in another course, ECE 330F, adjusted at the same time. In the alternative she requested the right to rewrite the final examination in those courses. In the further alternative she requested to be allowed to repeat the courses. She had obtained a mark of 68% in ECE 330F. The Committee on Examinations allowed her petition, but the Faculty has no provision for supplemental examinations so that relief could not be granted. Nor does it have any provision for "adjusting" marks but it does have regulations permitting "assessed" marks where appropriate. The Committee on Examinations felt that this was a valid case for assessed marks in the two courses. The method of arriving at "assessed" marks is determined by a formula that takes into account the results of term work and the class average, and, using this formula, the mark in ECE 330F was revised downwards from 68% to

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56% and the mark in ECE 341F was revised upwards from 43% to 56%. While this meant that she no longer failed the course, it meant, nevertheless, that her average was still below the required 60%. This meant that she was required to withdraw from further studies for a period of three years. She appealed to the Ombuds Committee which denied her appeal, but recommended that she be allowed to repeat the second term of second year in January 1999.

Students in the Faculty are required to maintain a weighted average of 60% in order to proceed with a clear record. In first term of her Year I, the student's average was 54% and she was therefore placed on her first probation. In her second term of Year I, in which she repeated all technical courses where she had received marks less than 60%, Ms B. received an average of over 70%. In the summer term after Year I, Ms B. took three courses and achieved a weighted average of 62%. She proceeded to Year II and in the Fall Term received a weighted average of 62%. As a result, her probation was cleared and she proceeded to Spring Term but received a weighted average of only 58%. As a result, she was placed on second probation. In the Fall Term of her year III she received a weighted average of only 57%. The Faculty regulations make it quite clear that a student who fails to meet the required standards while on *second* probation must fail and, under the regulations as they then were, she was required to withdraw for a period of at least six winter terms, or the equivalent of three years.

It will be convenient, at this stage, to note that this Faculty regulation has now been changed and a student who fails to achieve the required average is now permitted to repeat the failed term under probation immediately, instead of having to withdraw for three years. In her appeal to this Committee, drafted before the Faculty regulations were altered, Ms B.'s fallback position was that she be permitted to register to repeat year III this Fall instead of having to wait out three years. In fact, whether her appeal is allowed or not, that would now be the position anyway, so that at the very least, Ms B. is permitted to register to repeat year III this Fall.

The grounds for her petition to the Committee on Examinations, the Ombuds Committee and this Committee are that a serious and tragic accident had happened to her mother's brother that had incapacitated him severely. This required her mother to spend considerable time with him which caused her to be depressed and under strain. This, in turn, placed considerable strain upon the student and as a result of this stress, she was unable to study, particularly at the times that were relevant for the examination in ECE 341F.

Both of the Committees below this took all these factors into account. The Faculty has no provision for supplemental examinations, so that part of the student's petition simply could not be entertained. In its decision, the Ombuds Committee stated:

The Committee decided that, although it had sympathy for your personal problems, it could not find sufficient strength in your academic record to consider a reversal of the original decision to refuse your request to proceed into the second term of third year. In a professional faculty it is essential that a student know the work of one term before proceeding to the next. It is in your best interest to repeat both terms 2S and 3F to enhance

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your chances of succeeding in the balance of your academic program.

The Committee will, however, recommend that you be allowed to return in January 1999 to repeat the second term of second year in the Electrical Engineering program.

As has been noted previously, the Faculty regulations have now been changed and a student in Ms B.'s position is now permitted to register immediately under what is now called Repeating Probation. Since that is the case, this Committee would, if these were all the facts, have had no difficulty in concluding that the decision of the Ombuds Committee (as amended by the changes in the Faculty regulations) was the correct one. This is a weak student and it is no service to her to advance her to the next year, nor to the Faculty nor the profession, when the chances of a successful completion of her studies are so poor, in spite of the stress under which she was undoubtedly labouring at the time.

However, these are not all the facts and it is these additional facts that have caused this Committee considerable concern.

After the student had declared her intention to appeal to the Academic Appeals Committee, she approached the Faculty with the request that she be allowed to attend courses that she would otherwise have taken as part of her continuing program. The purpose of this seems clear. If this Committee were to allow her appeal in full, then, retroactively, she would be permitted to proceed and, therefore, she wished to be credited with the courses that she would have taken had she been permitted to do so. As the position then was, however, the decision of the Ombuds Committee stood, and she was not permitted to register for those courses. She was, accordingly, permitted to attend those courses, with the consent of the Faculty and the professors involved. Exactly what was said at that time is not clear, and there is no written record, but it appears that, contrary to University regulations for auditing courses, she was also permitted to write and be marked on the term work in those courses. She was told that she could write the final examinations in them, but that those final examinations would not be marked nor, of course, any mark released to her, until after the decision of this Appeals Committee was known.

Accordingly, she attended those courses, did the term work and wrote the examinations. In fact, for some reason, the professors involved did mark the final examinations and assigned a grade and by persistently importuning those professors, Ms B. obtained the marks she had received in 4 of the 5 courses, which she submitted to this Committee in support of her appeal. Faced with a *fait accompli*, this Committee therefore decided that it should officially receive all the marks received for those courses. These marks indicated that Ms B. would have passed all the courses with an average of 60.2% had she been registered as a student. These marks were, of course, not available to the Ombuds Committee and their relevance to the deliberations of this Committee is doubtful, but the student argued that they showed that she was competent to proceed with her studies. It can equally be argued, though, that her results show only a minimal competence which inspire no confidence that the student will successfully complete all her studies. In the result, this Committee was of the opinion that these marks do not affect its decision to uphold the [revised] decision of the Ombuds Committee.

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There seems little doubt that the Faculty was concerned to be as fair as possible to the student in allowing her to attend these courses and, for this reason, it took the unusual (and, we are bound to add, unauthorized) step of permitting her to write the examinations in them. For her part, the student, although informed that she could not receive any marks for the courses until after the decision of this Committee, nevertheless sought out the professors involved and obtained her marks.

The difficulty with all appeals is that there is bound to be a time lag, sometimes considerable, between the original decision and the appeal. If the appeal is allowed, it may, in some cases, be impossible to put the student in the position in which he or she would have been had the original decision been as the appeal committee ultimately decides. The University has no provision for "conditional registration", that is, for enabling a student to register and continue with his or her studies pending the outcome of an appeal, which is, apparently, what was attempted in this case. Whether there should or should not be such a provision is something that is not within our mandate and may be something that the Academic Board may wish to consider. However, unless and until the regulations are changed, what was done in this case is not desirable. There is no objection to a student in Ms B.'s position auditing further courses in accordance with University regulations but that does not include writing the examinations and, even less so, does it include receiving marks in those courses.

The decision of this Committee is that the appeal be denied, but that the student be permitted to register in the Fall Term of 1998 in accordance with the revised regulations of the Faculty.

Rosanne Lopers-Sweetman
Secretary

Alan Mewett
Acting Chairman

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