

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 239 OF THE ACADEMIC APPEALS COMMITTEE

July 13, 1999

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Tuesday, July 13, 1999, at which the following were present:

Ms Bonnie Croll, Acting Chairman
Professor Christopher Barnes
Professor John Mayhall
Professor Ronald Venter
Mr. Vilko Zbogar

Ms Susan Girard, Acting Secretary, Academic Appeals Committee

In Attendance:

For the Appellant:
Mr. T.F., the Appellant

For the Faculty:
Mr. Ian Blue, Cassels, Brock & Blackwell, Counsel
Ms Carrie Hardy, Summer Student, Cassels Brock & Blackwell
Professor Michael Berkowitz, Faculty of Arts and Science
Ms Susan Bartkiw, Faculty of Arts and Science

This Committee considered an appeal by Mr. T.F. (the "Appellant") of the decision of the Academic Appeals Board of the Faculty of Arts and Science at the University of Toronto dated March 15, 1999. The Academic Appeals Board upheld the decision of the Committee on Standing of the Faculty of Arts and Science dated February 12, 1999, which had refused the request of the Appellant to withdraw without academic penalty from the following courses in the 1997-98 winter session:

Computer Science	CSC 104S
Management	MGT 101Y
Philosophy	PHL 100Y

and which had refused the request of the Appellant to lift a one-year academic suspension earned during the 1998 Summer Session.

Report Number 239 of the Academic Appeals Committee

The Facts

The Appellant was admitted to the Transitional Year Program at the University of Toronto for the 1996-97 year. On March 27, 1997, the Appellant was arrested. The following day, March 28, 1997, the Appellant was charged with 23 criminal offenses in Toronto and remanded in custody. While in custody he was taken to Ottawa and charged with an additional 75 offenses. After 67 days incarceration, the Appellant was released from custody on June 3, 1997. Although there is some confusion as to dates, it appears that all charges against the Appellant were dropped on March 8, 1998 in Toronto and on June 5, 1998, in Ottawa.

As a result of being in jail, the Appellant did not complete his Transitional Year Program until August - September 1997. The Appellant did so by making some special arrangements with the Faculty of Arts and Science Transitional Year Tutor to make up missed work and write a deferred exam. On September 18, 1997, the Appellant was admitted to part-time studies at Woodsworth College at the University of Toronto. On September 19, 1997, the Appellant enrolled in the following courses:

CSC 104S
MGT 101Y
MUS 100Y
PHL 100Y

On September 25, 1997, the Appellant enrolled in ENG 100S. This totaled 4.0 courses, which was in excess of the number of courses the Appellant was permitted to take by virtue of the Appellant's part-time status. Accordingly, on January 6, 1998, the Appellant withdrew from MUS 100Y.

The Appellant failed the courses CSC 104S, MGT 101Y, PHL 100Y. As a result of these failures, the Appellant's status at the end of the 1997-98 winter session was "on academic probation."

The Appellant enrolled in the 1998 summer session in WDW 200Y, which is an Introductory Criminology course. The Appellant obtained a final grade of 57% in this course and was placed on academic suspension for one year at the end of the 1998 summer session.

As stated above, the Appellant petitioned the Faculty of Arts and Science to allow the Appellant to drop the courses the Appellant had failed in the 1997-98 winter session and to lift the one-year suspension. The Appellant's petition was denied by the Committee on Standing and by the Academic Appeals Board. It is the Appellant's position that the Appellant had been unable to complete the necessary term work in a satisfactory fashion and to drop the 3 courses in compliance with the Faculty's deadlines because of the problems caused by the criminal charges laid against the Appellant. More specifically, the Appellant claims that the Appellant was required to spend huge amounts of time preparing for the Appellant's defense and at court appearances, such that the Appellant was unable to attend classes or concentrate on the Appellant's studies. However, it is the submission of the Faculty of Arts and Science that from the period September 18, 1997, to April 20, 1998, the Appellant was required to make only 9 court appearances, and that the Appellant had classes scheduled on no more than three of those days. At the hearing before this Committee, the

Report Number 239 of the Academic Appeals Committee

Appellant agreed with counsel for the Faculty of Arts and Science that there were 9 required court appearances, as set out in the Faculty's submissions. This is so notwithstanding that in a letter dated April 13, 1999, from the Appellant to the Governing Council, the Appellant states on page 3 that the Appellant was required to make appearances at court "practically every alternate day." The Appellant did not provide this Committee, nor the Committee on Standing or the Academic Appeals Board at the Faculty of Arts and Science, with any substantive evidence as to the time required for the preparation for the criminal proceedings, nor was the Appellant able to refute the information collected by the Faculty as to court appearances.

It is also the Appellant's position that the Appellant did not drop the courses CSC 104S, MGT 101Y, or PHL 100Y because it was a condition of the Appellant's bail that the Appellant continue to be enrolled in these courses. The Appellant did not provide this Committee, nor the Committee on Standing or the Academic Appeals Board at the Faculty of Arts and Science, with any evidence to indicate that continuation of enrollment was a condition of bail. This Committee did review a copy of the Recognizance of Bail, and the requirement that the Appellant remain enrolled in courses at the University of Toronto was not listed as a condition. This Committee acknowledges that when bail was granted, the presiding judge may have admonished the Appellant to stay in school. However, this Committee does not accept that continued enrollment was a condition of bail, such that the Appellant could be returned to jail if this condition was not met. As well, as the Appellant was represented by counsel at the bail hearing, the Committee expects that the bail conditions would have been carefully explained to the Appellant so that the Appellant would have understood that continued enrollment was not a bail condition.

The Appellant claims that the Appellant was unable to study and learn successfully because of the distraction caused by the Appellant's legal problems. While this Committee certainly recognizes the impact the criminal charges would have had on the Appellant's studies, the Appellant has not provided this Committee with any evidence as to the extent of the distraction. This Committee does note, however, that during the period the Appellant claims to have been unable to absorb the course materials, the Appellant did successfully complete ENG 100S, achieving a grade of 75. As well, the Appellant was able to successfully complete the deferred work for courses taken while in the Transitional Year Program in August – September 1997, after having been in jail for 67 days.

The Appellant acknowledged to this Committee that the Appellant was aware of the requirements of the Faculty of Arts and Science for dropping courses before specified dates to avoid penalties. The Appellant acknowledged that he was familiar with the various regulations and provisions set out in the Calendar of the Faculty of Arts and Science. Indeed, the Appellant availed himself of these provisions when the Appellant dropped the course MUS 100Y in January 1998. The Appellant also demonstrated familiarity with provisions of the Faculty of Arts and Science regarding special circumstances when the Appellant made arrangements to complete work for the Transitional Year Program which the Appellant had been unable to complete while in jail.

Upon reviewing all the information before it, this Committee is of the view that the findings of the Committee on Standing dated February 12, 1999, and confirmed by the Academic Appeals Board dated March 15, 1999, should stand. A student should only be allowed to withdraw from courses after all the work has been completed in very exceptional circumstances. To permit otherwise would allow a student who is dissatisfied with his or her academic results to retroactively adjust his or her transcript. While the Appellant has been through some very trying times, there is no compelling evidence to

Report Number 239 of the Academic Appeals Committee

suggest to this Committee that the Appellant was unable to comply with the regulations for dropping courses. Rather it appears to this Committee that the Appellant is simply trying to remedy a weak transcript. Notwithstanding that the Appellant's legal matters may have contributed to his academic problems, the Appellant had sufficient notice of his academic problems to take steps to address them. The Appellant had received grades for term work in the courses CSC 104S, MGT 101Y, and PHL 100Y which indicated poor performance well in advance of the drop dates. In addition, at the conclusion of the 1997 winter session, the Appellant received a notice from the Faculty of Arts and Science warning the Appellant about the Appellant's probationary status and the consequences of a poor standing in the summer course WDW 200Y. Despite this, the Appellant chose to remain in the courses during the 1997-98 winter session and to enroll in the WDW 200Y summer criminology course.

This Committee does not dispute the Appellant's claim that the criminal charges had an impact on the Appellant's performance at University, and this Committee hopes that as the criminal charges have been dropped, the Appellant will return to the University of Toronto and be successful in studies here. If the Appellant does return, this Committee urges the Appellant to seek the appropriate counseling should the Appellant encounter difficulties in the future. The University has excellent student services, including counseling and learning skills, psychological counseling and financial counseling to help students cope with the many pressures they are under. This Committee believes that the Appellant would have been assisted in the 1997-1998 winter session and the 1998 summer session had the Appellant sought the assistance of some of these services. To this end, this Committee would also note the assistance given to the Appellant by the Faculty of Arts and Science, and in particular, Ms L. Jeffrey and Ms E. Ishibashi. Notwithstanding the Appellant's criticism of the University, the record indicates that at all times the divisional staff at the Faculty of Arts and Science attempted to assist the Appellant, in particular with the presentation of the Appellant's case, including summarizing the Appellant's lengthy materials and attempting to obtain court material when the Appellant was unable or unwilling to do so.

The appeal is dismissed.

Susan Girard
Acting Secretary

Bonnie Croll
Acting Chairman

July 13, 1999