

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 126 OF THE ACADEMIC APPEALS COMMITTEE

September 13th, 1989

To the Academic Board,  
University of Toronto

Your Committee reports that it held a hearing on Wednesday, September 13th, 1989 at 9:00 a.m. in the Falconer Room, Simcoe Hall, at which the following were present:

Professor J. B. Dunlop (In the Chair)  
Professor K. G. McNeill  
Professor D. Perrier  
Ms J. Strickler  
Mr. A. Waugh

Ms Susan Girard, Governing Council Secretariat

**In Attendance:**

Mr. *M.* the appellant  
Mr. Max H. Epstein, counsel for the appellant  
Dr. W. H. Francombe, for the Faculty

At a meeting on September 13th, 1989 the Academic Appeals Committee heard the appeal of *MR. M.* against a decision of the appeal committee of the Faculty of Medicine refusing to alter the decision of the Board of Examiners as confirmed by Faculty Council requiring him to withdraw from the Faculty. The Committee met again on September 18th in executive session. The appellant, who had been repeating his second year in 1987-88, failed in one subject, Immunology, which he had passed the previous year. The regulations of the Faculty do not "except in unusual circumstances" allow supplementals in a repeat year. A student who has failed his or her year on two occasions will be readmitted only in "very unusual circumstances". Hence the decision of the Board of Examiners. Our decision is that very unusual circumstances exist in the appellant's case and that the appeal should be allowed.

The appellant based his appeal on two related points. One of the grounds was that he suffered from a severe learning disability which made it extremely difficult for him to cope with multiple-choice examinations. The second was that the Immunology final examination, which was multiple choice, had been poorly designed, thus increasing the pressure on him considerably.

The evidence concerning the design of the exam came from the appellant himself and from two documents. The Course Representative, after consultation with the class President and members of the class, had written a report saying, among other things, that 27 questions on the exam were, in their view, "ambiguous or wrong in their wording or accepted answers". After some efforts to have the matter dealt with, this report said, "in the end, I believe three questions were deleted, three were giveaways, and a few others had multiple accepted answers." The Course Representative stated further that he was "less than thrilled, as the specific points we found confusing as a class were never dealt with."

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The course was investigated as well by a special committee which among many critical observations concerning the course, noted that the final exam "appeared to generate appreciable student hostility, due at least in part to a number of poorly formulated questions being withdrawn after the exam".

The evidence of the appellant's learning disability came to us in the form of two reports, one by an associate professor of language and learning disabilities in the Graduate Department of Speech Therapy of the Faculty of Medicine which identified a severe learning disability that affected the appellant particularly in "multiple-choice exams". This report recommended remedial treatment which the appellant testified he had been pursuing. The other report, an extensive "Psychoeducational Report" signed by the head of the O.I.S.E. Psycho-educational Clinic and a graduate research assistant, included the opinion that the appellant had a perceptual problem which would result in slower performance in several areas and "would be particularly notable in multiple choice examination, where he would require more time than average to demonstrate his competence." Although Dr. Francombe, representing the Faculty, said that the Faculty had been aware of the appellant's disability at the time of the decision in his case, it was also true that considerable evidence on the matter had been generated after the Faculty of Medicine's appeal decision. Hence the Committee had additional and possibly more complete evidence on the matter than did the Faculty's committee. This happens on occasion, as we have noted in other cases, and is an inevitable consequence of our system of appeals. It can put a case in a different light for this Committee.

Because of these two factors working against the appellant on the Immunology examination, it was the Committee's view that extenuating circumstances existed and that he should be permitted to proceed to third year. He had been successful in all his other second-year courses and having passed Immunology the first time he was in second year there seemed no reason to require him to do so again.

The appellant will have his work cut out for him as he has now been away from medical studies for a year. The Committee's view is that he deserves another chance nevertheless.

Secretary  
October 17th, 1989

Chairman