

DECISION 17 - 034

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Of the Examination Appeals Board of Leiden University
in the matter of
the appeal by [name], appellant,
against
the Public Administration Board of Examiners, respondent.

1. Origin and course of the proceedings

The first opportunity to take the examination for the Public Policy course component was on 19 December 2016. The grade was announced on 2 January 2017 and students were given the feedback on 10 February 2017.

The grade for the re-sit, which took place on 16 January 2017, was announced on 18 January 2017. The feedback was given on 27 January 2017.

The appellant sent an e-mail on 27 January 2017 in which the appellant stated that she did not agree with the assessment for the Public Policy course component and requested an additional resit.

In a decision dated 7 February 2017, the respondent rejected the appellant's request for an additional re-sit of the Public Policy course component.

The appellant lodged an administrative appeal against this decision.

The respondent forwarded the appellant's appeal to the Examination Appeals Board in a letter dated 15 February 2017, received on 17 February 2017.

In short, the appellant argued that allowing her to participate in an additional resit is justified given that she was not able to demonstrate her acquired knowledge when answering the exam questions in the resit. In her view, the grade awarded does not reflect the amount of study effort she devoted to successfully completing the examination.

The respondent lodged a defence on 13 March 2017.

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The appeal was considered on 12 April 2017 during a public hearing of a chamber of the Examination Appeals Board. The appellant was present at the hearing. On behalf of the respondent, [names], were present.

2. Considerations with regard to admissibility

With her letter received on 17 February 2017, the appellant lodged a timely appeal with the Examination Appeals Board against the decision of 7 February 2017. The appeal also complies with the requirements laid down in the Higher Education and Academic Research Act (WHW), so that the administrative appeal is admissible.

3. Relevant legislation

The Rules and Guidelines of the Board of Examiners of the degree programme Public Administration ("R&R") state:

Article 4.2 Quality assurance of examinations

4.2.1 Each examination will comprise an investigation of the knowledge, understanding and skills of the student, and the evaluation of the outcome of this investigation.

4.2.2 The questions and assignments of an examination will be clear and unambiguous, and will contain sufficient instructions on the detail required in the answers.

4.2.3 The examination will be appropriate and will serve exclusively to investigate whether the student has developed the qualities that were determined in advance as the aim of the course component concerned, and were laid down in the e-prospectus.

4.2.4 The examination will be so specific that only the students who have a sufficient command of the material will be able to provide adequate answers to the questions and assignments. The examination will correspond to the level of the course component.

4.2.5 The questions and assignments of the examination will be distributed as evenly as possible over the prescribed examination material.

4.2.6 The questions and assignments of the examination will relate only to the examination material that has been announced in advance. It will be clear for students in advance how they will be assessed, and on what they will be assessed.

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4.2.7 The questions and assignments of components of the examination for which no compensation is allowed will be designed by an examiner and approved by at least one other lecturer ('four-eyes' or 'dual control' principle).

4.2.8 The duration of each constituent examination or practical will be such that the student may reasonably be expected to have sufficient time to answer the questions and/or complete the assignments.

4.2.9 Written examinations will be assessed on the basis of pre-determined, written criteria.

4.2.10 The procedure relating to the quality assurance of examinations will have been established by the Board of Examiners.

4.2.11 The Board of Examiners will evaluate the validity, reliability and usability of the examinations on a random basis. The outcome of this evaluation will be discussed with the examiner(s) concerned.

4.2.12 In addition, the Board of Examiners can investigate the validity, reliability and usability of the examinations, if evaluations or results give cause for this.

4.2.13 In making the evaluation referred to in 4.2.11 and 4.2.12, the Board of Examiners can request the assistance of experts.

Article 4.10.2 of the R&R states:

Students are not permitted in any way whatsoever to remove, copy, distribute or publish examination questions or assignments, or assessment keys.

4. Considerations with regard to the dispute

In accordance with article 7.61, paragraph two, of the WHW, the Examination Appeals Board must consider whether the contested decision contravenes the law.

In accordance with article 7.61, paragraph three, of the WHW, the Examination Appeals Board requested the respondent to consult with the appellant to determine whether an amicable settlement of the dispute is possible. It appears that the respondent took no action in response to this request.

According to article 7.61, paragraph three, of the WHW, consultation to determine whether an amicable settlement is possible is a prerequisite for the handling of the administrative appeal by the Examination Appeals Board. It is therefore not for the respondent to decide whether he deems it appropriate or not to conduct the consultation. The respondent should therefore have contacted the appellant, even if it only to explain the grounds for the contested decision to her

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and, if necessary, to answer any remaining questions. By failing to do so, the respondent has acted in breach of law.

Having said this, the parties did have the opportunity to exchange views at the hearing. The respondent explained in greater detail the reasons behind the contested decision and answered questions raised by the appellant and cleared up some remaining ambiguities. Returning the administrative appeal to the respondent merely to examine whether a reasonable settlement is possible would lead to a repetition of proceedings and delay the procedure, which would not be in the appellant's interest. Therefore, the Examination Appeals Board decided to move to a substantive assessment of the administrative appeal.

In the defence and during the hearing, the respondent explained in more detail that the quality of the exam questions meets the requirements set out in article 4.2 of the R&R. The exam questions were prepared by two examiners. The provisions of article 4.2.7 of the R&R ('dual control' principle) have also been met. In this context, [name] assessed the resit exam questions created by the examiners on 21 December 2016 and indicated on the relevant form that the exam questions were generally well formulated and that he had only a few minor changes. It was explained at the hearing that the examiners implemented the changes proposed by [name]. The Examination Appeals Board therefore does not agree with the appellant's view that the examination questions were not appropriate.

At the hearing, the appellant further argued that it was incorrect not to allow her to take the exam questions sheet with her. As explained by the respondent at the hearing, under article 4.10.2 of the R&R, this is not permitted.

After both the first exam and the re-sit, the examiners gave the students the opportunity to discuss the feedback. The appellant also made use of this possibility. At the feedback session, she stated that the examiners addressed the exam questions extremely rapidly. The respondent does not agree with this assessment. Only after the last student left the room did the feedback session end. The points put forward by the appellant do not give the Examination Appeals Board grounds to doubt this.

In light of the above, the respondent's rejection of the appellant's request for a further resit was justified. Since no other facts or circumstances have emerged which could lead to a different decision, the appeal must therefore be declared unfounded.

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5. The decision

In view of article 7.61 of the Higher Education and Academic Research Act,

the Examination Appeals Board of Leiden University,

holds the appeal **UNFOUNDED**.

Established by a chamber of the Examination Appeals Board, comprised of O. van Loon, LL.M., (Chair), Dr A.M. Rademaker, LL.N. Kluinhaar, S.A.K. d'Azevedo, LL.B., and Mr. G. Boogaard (members), representing the Secretary of the Examination Appeals Board, M.S.C.M. Stoop - van de Loo, LL.M.

Mr. O. van Loon,
Chair

Mr. M.S.C.M. Stoop – van de Loo,
Secretary

Certified true copy,

Sent on: