

DECISION 17 – 201

Rapenburg 70
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of the Examination Appeals Board of Leiden University
in the matter of
the appeal by [name], appellant
against
the Board of Examiners of Archaeology, respondent.

1. Origin and course of the proceedings

In a decision of 28 May 2014, the appellant was awarded a degree certificate for the Research Master's in Archaeology.

In a decision of 22 December 2016, the respondent rejected the petition by the appellant to be awarded a "*cum laude*" distinction.

The appellant sent a letter to the Examination Appeals Board on 4 July 2017, which was received on 12 July 2017, lodging an administrative appeal against this decision .

In short, the appellant argued that she is entitled to be awarded a *cum laude* distinction.

The appellant sent a letter with additional documents on 23 July 2017, which was received on 28 July 2017.

The respondent attempted to reach an amicable settlement. No amicable settlement was concluded.

The respondent submitted a letter of defence on 11 August 2017.

The appeal was considered on 20 September 2017 during a public hearing of a chamber of the Examination Appeals Board. The appellant did not appear at the hearing, although she had been properly summoned. [name], appeared at the hearing on behalf of the respondent.

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On 27 September 2017, the registered letter to the appellant that invited her to attend the hearing was returned as the addressee was unknown.

2. Considerations with regard to admissibility

The appellant lodged an overdue appeal against the decision of 22 December 2016 by means of the letter that was received on 12 July 2017 by the Examination Appeals Board. At the hearing, the respondent explained that the contested decision did indeed inform the appellant that an appeal could be submitted to the Examination Appeals Board, but the term within which this should be done had not been stated. The appellant can therefore be excused for exceeding the deadline.

Furthermore, the letter of appeal meets the requirements as stipulated in the General Administrative Law Act ("Awb", *Algemene wet bestuursrecht*) and the Higher Education and Academic Research Act ("WHW", *Wet op het hoger onderwijs en wetenschappelijk onderzoek*). Consequently, the administrative appeal is admissible.

3. Relevant legislation

Article 4.11 of the Course and Examination Regulations (*Onderwijs- en Examenregeling*) of the Research Master's in Archaeology ("OER"), for the 2013-2014 academic year, stipulates:

4.11.1 A degree of Master of Arts is awarded to those who have passed the final examination of the programme.

4.11.2 The degree certificate states the degree awarded.

Article 5.4.2 of the Rules and Guidelines (*Regels en Richtlijnen*) of the Board of Examiners of the programme in Archaeology ("R&R") for the 2013-2014 academic year, stipulates:

If the result is 8.5 or higher, the Board of Examiners may award the designation "*cum laude*". The designation "*summa cum laude*" may be awarded in very exceptional cases.

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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.

The Appeals Tribunal for Higher Education (*College van Beroep voor het Hoger Onderwijs*) considered in its decision of 6 June 2016, case number 2015/247.5 that a student does not enrol for the entire programme at the start of his or her studies, but that enrolment is limited to an academic year. The OER that is valid in the relevant academic year and any additional applicable transitional regulations apply to the annual enrolment.

The degree certificate and the supplement are dated 28 May 2014, so that the OER and the R&R that were valid during the 2013-2014 academic year apply to the appellant.

The R&R that was valid in the 2013-2014 academic year was the R&R that had been adopted on 16 August 2012 and came into effect on 1 September 2012. Article 5.4.2 of the R&R stipulates that the Board of Examiners may award the designation "*cum laude*" provided the result is 8.5 or higher.

Since the appellant did not meet the conditions as referred to in Article 5.4.2 of the R&R, the respondent has rightfully rejected her petition to be awarded a "*cum laude*" distinction. As of September 2014, the conditions to be awarded a "*cum laude*" distinction had been altered and incorporated in the OER. However, even if these rules had applied, the appellant would not have qualified to be awarded a "*cum laude*" distinction since she did not complete her master's programme within three years, as the 2014-2015 OER explicitly requires. The appellant did not make a plausible case that the extension of the duration of the master's programme is attributable to the respondent.

The Examination Appeals Board has not been informed of any other facts or circumstances that could lead to an alternative decision, consequently the appeal must be held 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, LLM, Chair, Dr J.J.G.B. de Frankrijker, Dr A.M. Rademaker, Y.D.R. Mandel and M. Heezen (members), in the presence of the Secretary of the Examination Appeals Board, M.S.C.M. Stoop - van de Loo, LLM.

O. van Loon, LLM
Chair

M.S.C.M. Stoop - van de Loo, LLM
Secretary

Certified true copy,

Sent on: