

DECISION 19 - 246

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of the Examination Appeals Board of Leiden University
in the matter of
the appeal of [name], appellant
against
[names], in their capacity as Supervisors of the Master's Thesis, respondents

1. The course of the proceedings

In a decision of 21 June 2019, the respondents established the grade for the Master's Thesis of the appellant in the Master's Programme in [X] with a specialisation in [X] at 6 on a scale of 10.

The appellant sent a letter on 15 August 2019, which was received on 21 August 2019 to lodge an administrative appeal against this decision.

The respondents informed the Examination Appeals Board that they had a conversation with the appellant on 26 September 2019 to investigate whether an amicable settlement could be reached. No amicable settlement was concluded.

The respondents submitted a letter of defence on 26 September 2019.

The appeal was considered on 6 November 2019 during a public hearing of a chamber of the Examination Appeals Board. The appellant appeared in person at the hearing. [name] appeared on behalf of the respondents.

2. The contested decision

In their decision of 21 June 2019, the respondents established the grade for the Master's Thesis of the appellant in the Master's Programme in [X] with a specialisation in [X] as a 6 on a scale of 10.

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3. The grounds for the appeal

The appellant argued that the second Supervisor did not have the expertise to assess her thesis on proper grounds, since he was not part of the [X] within which her thesis was written. She had accidentally ticked the [X] specialisation when she applied for Supervisors for her thesis. Furthermore, the appellant argued that she doubted whether the second Supervisor had actually read her thesis, in view of the questions he asked during her defence which were rather basic in her view. Finally, the appellant adopted the position that her first Supervisor should have warned her that her thesis lacked structure. The appellant requests that a new assessment should be made of her thesis.

4. Relevant legislation

The General Administrative Law Act (*Algemene wet bestuursrecht*, “AWB”) stipulates, in as far as relevant:

Pursuant to Article 3:41, paragraph one, of the Awb, announcement of decisions addressed to one or more stakeholders must be effected by sending or handing these to them, including to the applicant.

Pursuant to Article 3:45, of the Awb, the decision will state if objection or appeal against it is allowed, within what term and with what body an objection or appeal may be filed.

Pursuant to Article 6:7 of the Awb the term for lodging a letter of objection or appeal is 6 weeks.

Pursuant to Article 6:8 of the General Administrative Law Act this term commences on the day after which the decision was announced in the prescribed manner.

Pursuant to Article 6:9, paragraph one, of the Awb, a letter of objection or appeal has been lodged in time provided it is received before the end of the term.

Pursuant to Article 6:11 of the Awb, a statement of non-admissibility will not be issued if a letter of objection or appeal is filed after the term has lapsed if it cannot reasonably be held that the objector or appellant was in default.

As far as relevant, the Course and Examination Regulations (*Onderwijs- en Examenregeling*, “OER”) of the Master's Programme in Public Administration state the following:

4.6.7 Together with the written or electronic notification of examination results, students are also informed of their right to inspect their marked examination papers, as referred to in Article 4.8, as well as of the appeals procedure.

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The Rules and Guidelines (*Regels en Richtlijnen*, “R&R”) of the Board of Examiners of the Public Administration Programme state the following as far as is relevant:

3.1 Prior to the start of each study year, and furthermore, as often as required, the Board of Examiners appoints Examiners in order to conduct examinations and decide on the results thereof and will announce this in writing to the Examiners.

3.2 An Examiner has expertise in the field and in testing in accordance with the requirements of Quality Assurance as referred to in Article 4.2.

Article 4.9 Alternative rules for assessment of final papers.

4.9.1 The Board of Examiners determines the criteria for assessment of final papers, the procedure for appointment of a first and second Supervisor, the assessment form, and the allocation of responsibilities between the first and second Supervisor. 4.11.1 The final paper will always be assessed by two Examiners (first and second Supervisors) and the grade will be established in consultation between the two Supervisors. If the Examiners fail to reach agreement, the Board of Examiners will appoint a third Examiner. The opinion of the third Examiner is decisive.

8.1.2 The term for filing an administrative appeal as referred to in 8.1.1 is six weeks after written announcement of the decision against which the administrative appeal is aimed.

5. Considerations with regard to the dispute

It is disputed whether the respondents arrived at the assessment of the Master’s Thesis on proper grounds.

Prior to answering the above question, the Examination Appeals Board will assess whether the appellant filed her letter of appeal within the specified term for appeal.

The thesis was defended on 21 June 2019. The appellant received an examination slip that stated the grade of her thesis. It also included a legal remedy clause: “Appeal can be filed against the result with the Examination Appeals Board of Leiden University pursuant to Art. 7.61 WHW”.

The appellant explained that she was under the impression that she could only file an appeal against the assessment once the grade had been published in uSis (on

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12 August 2019). The appellant filed an appeal with the Examination Appeals Board three days after the grade was published in uSis.

The Examination Appeals Board considered that the appellant filed her appeal after the time limit. The appellant was allowed to file an appeal up to 6 weeks after the examination slip was issued and not, as she thought, after the date when the grade was published in uSis. It was made plausible that exceeding the time limit was a consequence of the lack of adequate referral to legal remedies. Since the respondents acted in contravention of Article 3:45 of the Awb and the appellant filed an appeal shortly after the grade was published in uSis, the Examination Appeals Board sees reason to consider exceeding the time limit excusable and to refrain from dismissing the appeal.

The respondents explained in the letter of defence that the procedure, the criteria, and the assessment form are identical for each of the three specialisations of the Master's Programme. The fact that the appellant accidentally ticked a different specialisation box than the one she is following does not constitute a reason to replace the second Supervisor. The Examination Appeals Board endorses this position of the respondents.

Furthermore, the respondents explained that the questions put forward to the appellant during the defence were asked in accordance with the criteria in the assessment form. The explanation provided by the respondents as to why particular questions were asked is considered to demonstrate adequate care by the Examination Appeals Board. The respondents explained that the second Supervisor did have sufficient time to study the thesis. The Examination Appeals Board sees no reason to conclude that the Master's Thesis was assessed inaccurately based on the appellant's remarks in this respect.

With regard to the appellant's arguments about the structure of her Master's Thesis, the Examination Appeals Board considered the following. The first Supervisor sent an email to the appellant one week before the submission deadline of the thesis, on 3 June 2019, that the structure in particular still required a lot of attention. She wrote: "Especially the structure needs a lot of attention. You have lengthy pieces of texts, but they are disconnected and as a reader I lose track of what you want to explain me". In view of this, the Examination Appeals Board holds that the appellant was indeed alerted to the structure of her Master's Thesis. The fact that the appellant did not complete her bachelor's programme at a Dutch

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university and had completed these studies 25 years ago, does not entail that other standards would have to apply when assessing her Master's Thesis.

The Examination Appeals Board endorses the position of the respondents that there is no doubt that the appellant put a lot of effort into writing her Master's Thesis. It is indeed unpleasant for the appellant that this did not lead to the result that she had hoped for, but the Examination Appeals Board holds that this does not constitute grounds to grant the appellant's request for a new assessment of the thesis.

Since the Examination Appeals Board has not been informed of any other facts or circumstances that could lead to an alternative decision, the appeal must be held unfounded.

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6. The decision

The Examination Appeals Board of Leiden University

holds the appeal unfounded,

in view of article 7.61 of the Higher Education and Academic Research Act.

Established by a chamber of the Examination Appeals Board, comprised of K.H. Sanders, LL.M., MA (Chair), Dr A.M. Pacemaker, Dr J.J.G.B. de Frankrijker, M. Helen, LL.B., and Y.D.R. Mandel, LL.B. (Members), in the presence of the Secretary of the Examination Appeals Board, M.S.C.M. Stoop - van de Loo, LL.M.

K.H. Sanders, LL.M.,
Chair

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

Certified true copy,

Sent on: