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DECISION 20 - 417

of the Examination Appeals Board of Leiden University
in the matter of the appeal of

[name] from [place], [country], appellant,

against

the Board of Examiners of the Master's Programme in [X] at the Faculty [X] and
[name] and [name], Examiners, respondents.

The course of the proceedings

In the decision of 14 July 2020, the master's thesis written by the appellant in the
[X] Programme, the [X], titled [X] was awarded a grade of 7.7 on a scale of 10. The
first supervisor awarded a grade 8.5 to the thesis. The second Supervisor awarded
a grade 6.9 to the thesis.

The appellant sent a letter on 21 September 2020 to lodge an administrative
appeal against this decision.

The respondent informed the Examination Appeals Board that it investigated
whether an amicable settlement could be reached. An online meeting was held on
19 October 2020. No amicable settlement was reached between the parties.

The respondents submitted a letter of defence on 2 November 2020.

The appeal was considered on 4 November 2020 during an online hearing of a
chamber of the Examination Appeals Board. The appellant attended the hearing.
The following persons attended the hearing on behalf of the respondent: [name]

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and [name], Chair and Secretary of the Board of Examiners respectively, and [name] and [name] (first and second thesis Supervisors respectively) attended on behalf of the respondents.

Considerations

1 – The position of the respondent

In the meeting to reach an amicable settlement on 19 October 2020, the respondent proposed to the appellant to appoint a third Supervisor to assess the thesis. Another option offered to the appellant was that the second Supervisor would complete the evaluation form in the proper manner and substantiate the awarded grade. The appellant refused this offer on 2 November 2020.

The Programme has a policy of using a standard grading form for assessing theses. The two Supervisors complete the form independently. Next, both forms are merged into one form. In the appellant's case, the assessment form was not completed in the correct manner by the second Supervisor. For one of the components, all the assessment criteria have been merged. The respondent will strive to have this improved within the Programme.

With regard to the assessment, the respondent holds that both Supervisors have substantiated their assessment in full. They have indicated their assessment for each assessment criterion. Though the second Supervisor did not complete the assessment form in the prescribed manner, the assessment itself was performed in the correct manner.

The assessment of a thesis is a power vested exclusively in the Examiners. If the first and second Supervisor cannot agree on the final grade (which applies when the gap in grades is over 2 on a scale of 10), the respondent may appoint a third Supervisor. Furthermore, the assessment procedure was executed in the proper manner according to the respondent, except for completing the assessment form.

The respondent holds that the appellant's thesis was assessed by both Examiners in an independent manner.

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2 – The grounds for the appeal

The appellant does not agree with the assessment of her thesis. She holds that the feedback provided by the second Supervisor, [name], is unprofessional. Not only did he fail to use the prescribed form to provide feedback, but he also entered all the feedback in one component. This is of no help at all for the appellant. She is unable to apply the feedback in the proper manner.

Furthermore, the feedback by the second Supervisor shows that he detests “post-positivist approaches”. The appellant believes that she was judged on this issue and not on the substance of her thesis. The feedback also demonstrated that the second Supervisor has differences of opinion with the Board of Directors of the Programme. He used the feedback form to present his own opinion rather than to provide feedback to the appellant in respect of her thesis. The appellant holds that the assessment of her thesis was impacted adversely by this.

She holds that her thesis deserves a higher grade. From the feedback by the first Supervisor, it appears that she was awarded higher scores for many components.

She will not benefit from the proposal by the respondent to appoint a third Supervisor to provide a binding decision. She wants to retain the grade of the first Supervisor (8.5) and wants the second Supervisor to be replaced by a third Supervisor, since he failed to provide an objective assessment. She is entitled to an assessment by two independent Supervisors.

3 – Relevant legislation

The Rules and Regulations of the Board of Examiners of the Master's Programme in [X] stipulate the following, in so far as relevant:

Article 4.11.1

The final paper will always be assessed by two Examiners (first and second Supervisor) and the grade will be established in consultation. In doing so, the Examiners will use an assessment form that has been adopted by the Board of

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Examiners and may use guidelines as adopted by the Board of Examiners; the student will receive a copy of the completed form. The Faculty Regulation on the final BA paper (*Regeling gang van zaken rond het BA-eindwerkstuk*), or, as the case may be, the 'Regulations concerning the procedure surrounding the Master's thesis' apply. If the Examiners fail to reach agreement, the Board of Examiners will appoint a third Examiner. The opinion of the third Examiner is decisive.

The 'Faculty regulation on the master's thesis of the Faculty of [X] ([X])', Appendix A to the Course and Examination Regulations (*Onderwijs- en examenregeling*) of the Master's Programme in [X] of the Faculty [X], stipulates the following:

Article 6.4

The thesis is assessed on at least the following aspects:

- a. the originality of the research question and the manner in which it has been carried out into practice;
- b. the critical analysis of secondary literature;
- c. the critical analysis of source materials;
- d. language use, structure and style,
- e. the degree of independence displayed during the research and supervision process.

Article 6.6

The second reviewer will give an assessment of the thesis, based on the assessment criteria established for the master's thesis. The final grade of the thesis is determined by the first reviewer in consultation with the second reviewer, and is substantiated on the basis of the assessment criteria indicated on the appropriate assessment form.

Article 6.7

If the first and second reviewer disagree on the final grade or if the assessment of the first and second reviewer is two points or more apart, the Board of Examiners will appoint a third examiner.

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4 – Considerations with regard to the dispute

In accordance with article 7.61, paragraph two, of the Higher Education and Academic Research Act (*Wet op het Hoger Onderwijs en Wetenschappelijk Onderzoek*; WHW), the Examination Appeals Board must consider whether the contested decision contravenes the law.

The Examination Appeals Board seconds the opinion of the respondent that the determining of a thesis grade is a power vested exclusively in the Examiners that have been appointed by the Board of Examiners in respect of the relevant course unit. However, this responsibility of the Examiners does not alter the fact that they are obliged to perform such assessment in accordance with the guidelines provided by the Board of Examiners. If the Board of Examiners prescribes the use of a standard form, Examiners are required not only to use the form but also to complete it in the proper manner. If an Examiner fails to use the form, or, alternatively, does not use the form correctly, this does not render the assessment invalid or voidable. The Board of Examiners is expected to address the relevant Examiner about this; if he or she refuses structurally to comply a logical conclusion is that appointment to the position of Examiner will be cancelled, which entails withdrawal of the capacity of Examiner.

The respondent clarified at the hearing that it persists in its decision that the grade was arrived at in the proper manner and that the assessment of the thesis with a grade 7.7 reflects the content of the thesis, even though the assessment form was completed incorrectly by the second Supervisor.

Both of the Examiners stated clearly at the hearing how they have arrived at their partial assessments, that they support their 'own' grade and that the final grade is - consequently - the average of both of their grades. The second Supervisor, [name], has stated that the grade he has awarded - a 6.9, rounded to a 7 - is a high grade for a master's thesis. An 8 (or A+) is very rarely awarded; this is a very high grade, which is awarded only to students ranking in the top 5%. The appellant's thesis does not meet three "knock-out criteria", as he has indicated on the feedback form. The appellant did not achieve an 8 in most components, which is why a grade 7 is adequate. He holds that the scope of the thesis is too wide and it needs more context to justify a higher grade.

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Based on the documents and the discussions at the hearing, it has become clear to the Examination Appeals Board that the first and second Supervisor have a distinctive valuation with regard to the quality of the thesis written by the appellant and the grade that it should receive. The fact that such situations may arise is inherent in a system with a first and second Supervisor who have to reach an assessment independently. This means that positive - or even highly positive - feedback from a first Supervisor may not be grounds for a student to have confidence that the second Supervisor will be equally positive about the thesis.

Contrary to what the appellant suggests, it has not been made clear that the second Supervisor was biased in assessing the thesis. Furthermore, the assessment of the second Supervisor was not limited to an 'assessment of key items'. This means that the second Supervisor must assess all assessment criteria of the thesis. Although it is regrettable that a student only finds out after feedback from the second Supervisor that the latter is not as positive about, for example, the research question, this does not mean that a second Supervisor cannot consider this when assessing the grade he or she wants to award to the thesis. Consequently, the Board of Examiners has rightfully not seen reason to have the second Supervisor replaced by another Examiner.

Furthermore, the Examination Appeals Board considers that the documents show that the feedback by the first and second Supervisor provided useful information to the appellant. Consequently, the Examination Appeals Board does not second the position of the appellant that she did not benefit from the feedback form as completed by the second Supervisor.

It cannot be ignored that the second Supervisor does not fully see eye to eye on the structure of the Programme with the Board of Directors of the Programme. The second Supervisor has not behaved professionally in using the assessment of a student's thesis (or rather: abusing it) to express his disagreement. It would have been better had the second Supervisor shared his personal opinion about the substance of the programme in another manner with the Board of Directors of the Programme. The Examination Appeals Board assumes that the second

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Supervisor will refrain in future from expressing personal opinions and disclosures about the educational programme or the programme structure in assessments of examinations, and that the Board of Examiners will monitor this. However regrettable it may be, this does not entail that the assessment of the second Supervisor and, consequently, also the final grade was reached in a manner contrary to the law.

This means that the appeal is unfounded and the contested decision is to be upheld.

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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: O. van Loon, LL.M, (Chair), Dr A.M. Rademaker, Dr J.J. Hylkema, M.C. Klink M.Jur. BA, and E.L. Mendez Correa, LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, I.L. Schretlen, LL.M.

O. van Loon, LL.M,
Chair

I.L. Schretlen, LL.M.
Secretary

Certified true copy,

Sent on: