



Rapenburg 70
Postbus 9500
2300 RA Leiden
T 071 527 81 18

DECISION 21 – 130

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

[name] from [place], appellant,

against

the Board of the Faculty [X], respondent.

The course of the proceedings

The appellant does not agree with the assessment of a number of course units of his Bachelor's Programme in [X].

On 12 February 2021, he requested a re-assessment of the re-sit of the [X] course units. Further, he does not agree that the assignments for the [X] (Literature Review) and [X] (Argumentative Essay) course units were not marked. He would like to still be allowed to submit the assignments for the [X] (Research Project) and [X] (Research Report) course units.

The respondent rejected this request on 11 March 2021.

The appellant sent a letter on 6 April 2021 to lodge an administrative appeal against this decision.

The respondent attempted to reach an amicable settlement with the appellant. A meeting took place on 15 April 2021. No amicable settlement was reached. The respondent submitted a letter of defence on 29 April 2021.



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The appeal was considered on 12 May 2021 during an online hearing of a chamber of the Examination Appeals Board. The appellant attended the hearing, together with his mother. On behalf of the respondent, the following persons appeared at the hearing: [names], member and Secretary of the Board of Examiners respectively, and [name], Examiner.

Considerations

1 – Facts and circumstances

The appellant attends the Bachelor's Programme in [X]. He is in the second year.

Since the 2020-2021 academic year, he has also been following the Bachelor's Programme in Law.

2 – The grounds for the appeal

The appellant does not agree with the unsatisfactory grades he was awarded for the re-sit of the [X] course units. He did not receive sufficient feedback on the examinations. In spite of the Corona crisis, which may have consequences for the Examiners too, he believes that he is entitled to proper feedback. The feedback he received from [name] is unacceptable: it consisted only of numbers.

The appellant also complained about the re-assessment procedure, since [name] is also a member of the Board of Examiners.

Neither does he accept that his assignments for the [X] (Literature Review) and [X] (Argumentative Essay) course units were not marked because he submitted these too late. He maintains that it is unjust that students must abide by strict deadlines, when Examiners themselves do not mark the assignments in time. Due to force majeure and personal circumstances, he was unable to submit the assignments in time.

He would also like permission to still submit the assignments for the [X] (Research Project) and [X] (Research Report) course units due to force majeure.



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He argues that it was insufficiently taken into account that he did not receive sufficient teaching due to the Corona crisis, but that he did have to pay the full institution tuition fee of € 12,000.00.

At the hearing, the appellant indicated that he will suffer a delay in his studies due to this decision. He holds that the assessment of the assignment does not reflect his study results. Normally, he is an active student, who likes to engage in conversations with lecturers. However, the Corona crisis hampered him seriously. He became depressed and lacks motivation. His relationship ended and he has few contacts with friends anymore and little distraction in general. He lives alone now in a country that is foreign to him. His mother still lives in the [X]. Therefore, he feels that he has not been treated equally, and holds this to be unjust.

In hindsight, he took a wrong decision to add a second programme to his studies this year. In the first year, his grade average was 7.9. His character traits have prevented him from asking for help in time and accepting that he made a wrong choice. He is stubborn and wanted to prove himself. He had to spend too much time on his Law programme, to the detriment of his programme in [X]. He is also arrogant and finds it difficult to ask for help. Meanwhile, he has contacted the Study Advisers of both programmes and has an appointment with them shortly. The [X] culture is also relevant, which is why he was ashamed to ask for help. This is why he tried to finish the assignments on his own and wanted to submit these instead of asking for an extension of the deadline in time, since he was unable to meet the deadline due to pressure of time.

3 – The position of the respondent

According to the respondent, the reproaches against the Examiners by the appellant lack grounds and are not acknowledged by the Board of Examiners and the programme. With regard to the examination in [X], a clear response model is available online prior to the resit and the students had the opportunity to have discussions with the lecturers. Normally, deadlines are not postponed, but the Board of Examiners is in general not unfavourably disposed towards requests for extensions due to the Corona crisis. However, a substantiated request must be



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made to this effect. The appellant failed to make such a request. Neither did the appellant contact the lecturers to indicate that he would be unable to submit the assignments in time. The deadlines for the “final essay” of the [X] and [X] course units were 7 and 14 December 2020, respectively. The appellant submitted the essays without any additional explanation on 18 February 2021 ([X]) and 24 February 2021 ([X]), which is two months after the deadline and long after the end of the first semester. The lecturer allowed the appellant an extension twice for the [X] course unit, but the assignment was never submitted.

The letter of defence stated that it is common within a large programme such as [X] not to provide direct feedback for regular examinations. The Examiners use matrixes and categories when marking. A response model was available for the [X] course unit and there was an option for an individual feedback session. This also applied to the [X] course unit. The relevant information was provided in the eStudy guide: a request for a feedback session must be submitted within 30 days after the examination. The appellant did not make use of this opportunity. The critical remarks by the appellant are unfounded and the respondent has no reason to doubt the decision taken by the Examiners.

The programme applies strict deadlines for submitting assignments. In case of impediments, students are expected to contact the Study Adviser. The Study Adviser can grant 3 days delay of the deadline. Longer delays must be requested from the Board of Examiners. The appellant failed to do make such a request. A request for a delay must be made before the deadline ends.

The deadlines for the course units were:

[X] - 7 December 2020

[X] - 14 December 2020

[X] –10 December 2020

[X] - 8 January 2021

The appellant submitted the assignments for the [X] and [X] course units on 18 and 24 February 2021 respectively without giving prior notice. The assignments for the [X] course units have not been submitted at all in spite of an extension of the deadline having been granted. He did not report any personal circumstances



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or provide a statement of functional impairment. The respondent holds that there is no reason to be lenient towards the appellant in this respect, as this would favour him compared to other students.

With regard to the procedure, it is correct that the request for re-assessment was also made to [X], who is indeed a member of the Board of Examiners. This was an omission. [X] informed the Secretary of the Board of Examiners about this immediately. She was the last to respond to the re-assessment and the Board of Examiners was unanimous in deciding that the assessment was correct.

At the hearing, the respondent argued that it is aware that the Corona crisis may affect study results. However, this does not qualify as a licence to submit assignments after the deadline. The programme endeavoured to provide teaching in the best possible manner during the Corona crisis. The limitations experienced by the appellant are no different from those experienced by other students.

4 – Relevant legislation

The Rules and Regulations of the Board of Examiners of the Master's Programme in [X] (*Regels en Richtlijnen*, hereinafter to be referred to as “R&R”) stipulate the following, in so far as relevant:

4.2.1 Every examination will consist of an investigation of the knowledge, understanding and skills of the student, as well as the assessment of the results of that investigation.

4.2.3 The examination is appropriate and serves only to investigate whether students have acquired the qualities that were established in advance as the objective of the relevant course unit and were included in the description of the topic in the OER (Study Guide).

4.2.4 The examination is so specific that only students who have an adequate command of the subject matter will be able to answer the questions correctly. The examination is adapted to the level of the course unit.



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4.2.6 The questions and assignments of the examination pertain only to the topics to be tested as announced in advance. Students know in advance how and on what they will be assessed.

4.2.8 Marking of written or online examinations will be executed in accordance with standards that have been laid down in advance in writing.

4.2.9 The Examiner(s) will at least present the draft examination to another Examiner to obtain advice on validity, reliability, transparency and suitability thereof (four-eyes principle).

4.2.10 The Board of Examiners will evaluate the validity, reliability, and suitability of the examinations by means of random checks. The results of the evaluation will be discussed with the relevant Examiner or Examiners.

4.2.11 The Board of Examiners may also investigate the validity, reliability, and suitability of the examination when evaluations or results give rise to this.

4.2.12 The Board of Examiners may engage experts for assistance with regard to the assessment as referred to in 4.2.10 to 4.2.11.

4.9.1 The manner of assessment must be clear.

4.9.2 Marking of written or online examinations will be executed in accordance with a marking scale that has been laid down in writing in advance and may be adjusted following the marking.

4.10.1 The number and type of interim examinations as well as the weight of each of the interim examinations in determining the final grade are laid down in the course unit description in the Study Guide. If students fail to sit various interim examinations, they will not be able to complete the course unit and will not receive a final grade for this course unit in the relevant study year.

5 – Considerations with regard to the dispute



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In accordance with article 7.61, paragraph two, of the Dutch Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*), the Examination Appeals Board must consider whether the contested decision contravenes the law.

The Examination Appeals Board endorses the opinion of the respondent that assessment of an examination or assignment is a power vested exclusively in the Examiners that have been appointed by the Board of Examiners in respect of the relevant course unit. The respondent maintains its position that the assessment was arrived at in a proper manner.

The Examination Appeals Board considers that the submitted documents do not demonstrate that the prescribed procedure was not adhered to correctly. The examinations were assessed by means of an answer key that was drawn up beforehand and an assessment matrix that was published. There was an opportunity to inspect the results and have a feedback discussion about the examination, which the appellant did not make use of. The respondent indicated that Examiner [name], who is also a member of the Board of Examiners, was the last to reply with regard to the re-assessment. This means that her reply did not have an impact on the responses by other members of the Board of Examiners. The Board of Examiners reached a unanimous conclusion that the assessment was correct. Consequently, the Examination Appeals Board sees no reason to doubt the correctness of this decision. The arguments put forward by the appellant against the decision do not warrant an alternative decision by the Examination Appeals Board. Furthermore, the Examination Appeals Board remarks that the allegations expressed by the appellant against the Examiners and the Board of Examiners are disproportionate, even more so in view of the reflection on himself expressed by the appellant at the hearing.

With regard to exceeding the deadline, the Examination Appeals Board considers that the Parties agree that the appellant did not submit these within the relevant deadline, nor did he ask for a delay before the deadline ended. He did not submit a statement of functional impairment. The fact that lecturers do not always reply within the indicated term does not release the appellant from his obligation to meet the deadline. At the hearing, he explained the circumstance that he did not meet the deadline and why he did not ask for an extension (study pressure,



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character traits). The Examination Appeals Board considers that these are not special circumstances that would provide grounds to still assess the assignments, since they were submitted over 2.5 months late, or, alternatively, to allow him to still submit the assignments. The fact that the appellant was hampered in his study results by the Corona crisis is not contested by the respondent, but this circumstance is the same for him as for other students. As the appellant argued at the hearing, too late submission was much more due to the fact that he decided to follow a double programme this year. No special circumstances were demonstrated that should have been reason for the respondent to make an exception for the appellant to the relevant rules for assessing assignments.

It follows from the above that the appeal is unfounded. The arguments put forward by the appellant against this decision do not warrant an alternative decision by the Examination Appeals Board. Consequently, the contested decision can 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:
H.J.G. Bruens (Chair), LL.M., Dr Rademaker, Dr J. Nijland, M.C. Klink and J.J.
Christiaans (members), in the presence of the Secretary of the Examination
Appeals Board, I.L. Schretlen, LL.M.

H.J.G. Bruens, LL.M.,
Chair

I.L. Schretlen, LL.M.,
Secretary

Certified true copy,

Sent on: