

**DECISION 17 - 127**

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of the Examination Appeals Board of Leiden University  
in the matter of  
the appeal by [name], appellant  
against  
the LUC Board of Examiners, respondent

**1. Origin and course of the proceedings**

In a decision of 12 April 2017 the respondent concluded that the appellant committed plagiarism in the essay for the course unit Applied Developmental Psychopathology, and, consequently, graded the essay with an F.

The appellant sent a letter on 17 May 2017, which was received on 22 May 2017, to lodge an administrative appeal against this decision. In short, the appellant argued that she was wrongfully accused of plagiarism.

On 14 June 2017, the respondent investigated whether an amicable settlement could be reached. No amicable settlement was concluded.

The respondent submitted a letter of defence on 21 June 2017.

The appeal was considered on 19 July 2017 during a public hearing of a chamber of the Examination Appeals Board. The appellant did not appear at the hearing, having given prior notice. [names] appeared on behalf of the respondent.

**2. Considerations with regard to admissibility**

The appellant lodged a timely appeal against the decision of 12 April 2017 by means of the letter that was received on 22 May 2017 by the Examination Appeals Board. Furthermore, the letter of appeal also 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*

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*onderwijs en wetenschappelijk onderzoek*). Consequently, the administrative appeal is admissible.

### **3. Relevant legislation**

The Rules and Guidelines (“R&R”, *Regels en Richtlijnen*) of the Board of Examiners of the Liberal Arts & Sciences: Global Challenges programme stipulate the following, in so far as relevant:

6.6.5 The disciplinary measures that may be imposed by the Board of Examiners are:

- a. declaring an assignment, paper, thesis or research assignment to be invalid;
- b. for a maximum period of one year, refusing to accept from the student concerned any assignment, paper, thesis or research project of the kind regarding which plagiarism was detected, including assignments etc. from another faculty or higher education institution that are completed with a pass result, and excluding the student concerned from participation in preparing or conducting such assignments, papers, theses or research projects;
- c. and/or excluding the student from participation in one or more examinations for a maximum period of one year, and/or excluding the student from participation in examinations and the final examination of one or more degree programmes provided by the Faculty for a maximum period of one year. Examinations of another faculty or higher education institution that are passed during the exclusion period cannot be included in the final examination of the degree programme in any way whatsoever.
- d. In the case of serious fraud, the Executive Board may, at the proposal of the Board of Examiners, definitively terminate the student’s enrolment in the degree programme.

### **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 basic principle of the Examination Appeals Board, and of the University itself, is that fraud in any shape or to any extent whatever, cannot be tolerated in an academic environment. Plagiarism is a type of fraud. Each student is responsible for his or her own work and in this context students are expected check for themselves that they have not committed plagiarism and whether all sources have been listed in the proper manner.

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At the hearing, the respondent explained which parts of the appellant's essay were classed as plagiarism. The appellant omitted to place quotation marks around the citation on page 4 of her essay in the sentence: *"In other words, maturity of judgement interacts with the contexts in which particular decisions are made"*. Nor did she refer to the source of this quotation. At the hearing, the respondent also referred to the following sentence on page 5 of her essay: *"Moreover, in contrast to neuroscientific and psychological research on offending behaviour, "maturity" has not featured as an explicit concept in criminological research"*. The appellant omitted to use quotation marks in this part of her essay, she failed to list the source and also omitted to indicate the page number where the quote can be found. The respondent explained at the hearing that students are required to indicate the page number of the source. If the student fails to list only the page number, this will not be classed as fraud. In that case, the grade for the essay will be reduced.

At the hearing, the respondent explained that the examiner has discretionary power to decide whether a specific case indeed constitutes plagiarism or mere carelessness, for which the grade can be adjusted in the context of a normal learning curve. In this instance, the examiner considered it to be plagiarism. As a consequence, the examiner informed the student that the respondent would be notified accordingly. The respondent subsequently took the decision that is now being contested.

Imposing a measure within the context of Article 7.12b, paragraph two, of the WHW should be considered as a punitive measure that has to be assessed in respect of proportionality. A measure must be explicitly based on facts, circumstances and explanations that support the relevant measure.

The Examination Appeals Board endorsed the position of the respondent, which was explained comprehensively at the hearing, namely that this case constitutes plagiarism. Not only did the appellant omit to place text that she copied from other authors within quotation marks and, as such, gave the impression that it was her text, but she also copied excerpts from other authors in the essay without stating any source whatsoever, although it was 'unique text'.

In so far as the appellant stated in her letter of appeal that, if this were held to be plagiarism, she cannot be blamed as she did not commit plagiarism intentionally, the Examination Appeals Board points out that the intentions of the student concerned are not relevant to assess whether a violation constitutes plagiarism, according to established case law by the Appeals Tribunal for Higher Education (*College van Beroep voor het Hoger Onderwijs*, CBHO decision dated

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7 January 2015, case number 2014/217). Nor is evidence of intent required (CBHO decision of 14 September 2016, case number 2016/099/CBE). Furthermore, the Examination Appeals Board must consider whether the imposed measure is proportional to the established fraud.

The respondent explained at the hearing that students have contact with all boards at the start of their first study year, including the Board of Examiners. On that occasion, they received a copy of the OER (*Onderwijs en Examenregeling*, Course and Examination Regulations) and the R&R, and received training on how to avoid plagiarism. Many course units warn explicitly about the consequences of plagiarism and advise students on how to avoid plagiarism. The Examination Appeals Board endorses the position of the respondent that the appellant, who is a second-year student, should have known and applied the rules with regard to plagiarism. Furthermore, the Examination Appeals Board finds that the respondent did take into account the circumstance that this was the first time that the appellant committed plagiarism. The respondent imposed the least severe measure of those referred to in the R&R, whereby the measure imposed did not in itself entail the immediate consequence that the appellant would no longer be able to complete the Applied Developmental Psychopathology course unit successfully.

In view of the above, the Examination Appeals Board holds that the imposed measures are not disproportionate in respect of the plagiarism committed by the appellant. Consequently, there is no question of the law having been contravened. 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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**5. The decision**

Taking into consideration 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 J.J.G.B. de Frankrijker, Dr Bos, M. Heezen and G. Boogaard, LL.M, (members), in the presence of the Secretary of the Examination Appeals Board, M.S.C.M. Stoop - van de Loo, LL.M.

O. van Loon, LL.M  
Chair

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

Certified true copy,

Sent on: