

DECISION 20 - 076

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

The course of the proceedings

In the decision of 27 February 2020, the respondent decided to award an F (fail) to the essay submitted by the appellant in respect of the [X] (hereinafter: the course unit), on account of plagiarism.

The appellant sent a letter on 3 April 2020 to the Examination Appeals Board to lodge an administrative appeal against this decision.

On 28 April 2020, the parties investigated whether an amicable settlement could be reached. No amicable settlement was reached.

The respondent submitted a letter of defence on 7 May 2020.

On 8 June 2020, the Examination Appeals Board requested the full version of the relevant essay from the respondent. The respondent complied with this request.

The appeal was considered on 10 June 2020 during an online hearing of a chamber of the Examination Appeals Board. The appellant did not participate in the hearing, and did not give notice of absence. [names], Chair and Secretary respectively of the [X] of Examiners, participated on behalf of the respondent.

Considerations

1 – Facts and circumstances

The appellant is a student in the Bachelor's Programme in [X] at [X]. The course unit is offered in the first year of the programme. If the course unit is completed

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successfully, 5 ECTS will be awarded. This is the first time that the respondent has established plagiarism by the appellant.

2 – The position of the respondent

The respondent takes the position that the appellant's essay demonstrates plagiarism. The full section 4 in her essay on page 6 was copied word for word with no reference to the source. Turnitin found that this excerpt is a copy of three different papers by students, and, in addition, the respondent has discovered that the full excerpt is available - verbatim - on an internet site.

3 – The grounds for the appeal

The appellant takes the position that the Turnitin report paints an incorrect picture of plagiarism in her essay. For example, the title, which was mandatory, is designated as plagiarism. By repeating this in the essay, the percentage designated as plagiarism accrues. Turnitin also designated the references in her footnotes - wrongfully - as plagiarism.

4 – Relevant legislation

The Rules and Guidelines ("R&R", Regels en Richtlijnen) of the Board of Examiners of the programme in [X] state the following, in as far as relevant in this case:

1.2

Fraud: any action (including plagiarism) which entirely or partly prevents the correct assessment of a student's knowledge, understanding and skills is considered to be fraud in the sense of Article 7.12b WHW. This also includes the intention and/or incitement to take such an action or the omission of an action.

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

- a. giving an official warning and including this in the student file;
- b. declaring an assignment, including papers, thesis, or other research assignments, to be invalid, or awarding the student an "F grade" for an entire course in which plagiarism was committed;
- c. 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;

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- d. 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.
- e. 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.

5 – 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 is contrary to the law.

The basic principle of the University is that fraud in any shape or scope whatsoever, cannot be tolerated in an academic environment. Plagiarism is a type of fraud. The Examination Appeals Board endorses this basic principle.

The Examination Appeals Board seconds the view of the respondent that the appellant committed plagiarism in her essay. Section 4 of her essay is a verbatim copy of the internet site quoted by the respondent and the appellant did not put this excerpt between quotation marks, nor did she refer to the source document. The respondent clarified in the letter of defence that the other excerpts detected by Turnitin due to similarity to other sources - i.e. the title and footnotes - are not part of the contested decision.

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

The respondent explained at the hearing and in the documents that it was taken into account when imposing the measure that this was the first time plagiarism by the appellant was detected. Since this plagiarism is a substantial part of the essay, the respondent decided not merely to issue a warning, but chose this measure.

In view of the above, the Examination Appeals Board holds that the measures imposed are not disproportionate in respect of the plagiarism committed by the

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appellant. Consequently, there is no question of these measures being a contravention of the law.

The respondent explained at the hearing that the sanctions of the contested decision are listed in the Student Handbook and have been notified explicitly to students. The Examination Appeals Board wishes to advise the respondent by means of this decision to refer to Article 6.5.4 of the R&R in future.

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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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 H.M. Braam, LL.M., MA, (Chairman), Prof. G. Boogaard, LL.M., Dr A.M. Rademaker, M.G.A. Berk, LL.B., MSc, and M. Kluienaar, LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, M.S.C.M. Stoop - van de Loo, LL.M.

H.M. Braam, LL.M., MA,
Chair

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

Certified true copy,

Sent on: