



**DECISION 20 – 369**

Rapenburg 70  
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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**

In the decision of 23 July 2020, the respondent admitted the appellant conditionally to the Master's Programme in [X], with a specialisation in [X] (hereinafter: the Programme). One of the conditions set for admission to the programme was to pass an IELTS English language test with an average score of 7.0 and at least 6.5 in all of the four components.

The appellant sent a letter on 24 August 2020 to lodge an administrative appeal against this decision.

On 31 August 2020, the respondent clarified its decision and allowed the appellant an extension of one month (up to 30 September 2020) to submit the test results.

The respondent informed the Examination Appeals Board that it investigated whether an amicable settlement could be reached between the parties. On 3 September 2020, an online conversation took place in which the parties failed to reach an amicable settlement.

The respondent submitted a letter of defence on 16 November 2020.



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The appeal was considered on 24 November 2020 during a public hearing of a chamber of the Examination Appeals Board. The appellant was present at the hearing. [names], Chairman and Secretary, respectively, of the Board of Admissions of the Faculty [X] (hereinafter to be referred to as “the Board of Admissions”), appeared on behalf of the respondent.

**Considerations**

1 – Facts and circumstances

The appellant requested to be admitted to the programme. She sat an English language test (IELTS) twice in [X]. She failed to achieve a minimum of 6.5 in all four components. The first time, she was 0.5 short on the “writing” component, the second time 0.5 point short on the “reading” component.

2 – The position of the respondent

The respondent adopted the view that the appellant does not qualify for the options to grant an exemption from sitting a language test on the basis of her prior education. The exemptions are:

- an International Baccalaureate diploma,
- prior education attended in America, England, Ireland, New Zealand, Australia or Canada (except for programmes taught in French),
- English at Dutch VWO level (pre-university secondary education),
- a degree in an English language programme from a Dutch research university.

The respondent is not aware whether it is possible to combine the test results and to compensate or, alternatively, whether combining the results of the two tests will suffice.

3 – The grounds for the appeal

The appellant disputes the condition that she has to sit a test in English language skills in order to be admitted to the programme. The appellant holds that her language skills in English are sufficient. She spent part of her secondary school period in the [X] and attended secondary school when she lived with an [X] family. All classes were taught in English. Many of the course units of her bachelor’s programme at [X] University were also in English. During her studies, she performed field work in [X] and attended two exchange semesters in [X], where many of the course units were also taught in English. At present, she is a temporary teacher of English in [X].



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Moreover, she enquired beforehand with the Admissions Office and was informed that she need not take a test. When this appeared to be different, she had very little time to prepare for the test. She sat the English test twice and was only 0.5 points short in both sessions, and also in two alternative components.

It is difficult to sit the English test in [X], since the test venues are located at a distance. Moreover, the test is quite expensive. In the short term, it is not possible to sit an English test in [X]. This causes her a lot of stress. In addition, she was informed recently that she suffers from ADHD.

The appellant requests whether she may be still admitted to the programme on the grounds of special circumstances. In this respect, she requests that the test results of both of the tests she sat should be combined. On balance, she did indeed achieve satisfactory results on all of the components of the test.

#### 4 – Relevant legislation

In so far as relevant, the Course and Examination Regulations of the Master's Programme in “[X]” 2020-2021 (*Onderwijs en examenregeling*, “OER”) stipulates:

##### Article 5.2.3.1

As further clarification of Article 2.8 concerning command of the language of instruction, a student who wishes to be admitted to an English-taught master's programme must have one of the following diplomas or must meet the criteria of:

- an International Baccalaureate diploma (with English A);
- a diploma of secondary or higher education completed in the United States, the United Kingdom, Ireland, New Zealand, Australia or Canada (with the exception of French-taught education in Canada);
- a diploma of an English-taught university degree programme completed at a Dutch research university;
- a pre-university education (VWO) diploma.

##### Article 5.2.3.2

If a student who wishes to be admitted does not meet the requirements in 5.2.3.1, at least one of the following language requirements can be set:

- IELTS 7.0 with a minimum band score 6.5 for reading, listening, speaking and minimum band score 7.0 for writing;
- TOEFL (internet-based) 100 the following minimum band scores: 22 (reading), 22 (listening), 22 (speaking) and 25 (writing);
- Cambridge C2 Proficiency (CPE) (scale 185 and above) or C1 Advanced (CAE) (scale 185 and above).



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5 - Considerations with regard to the dispute

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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.

Article 7.30b, second paragraph, of the WHW states that the Institution's Board may stipulate qualitative admission requirements. These requirements must be included in the OER. The institution's Board has exercised this authority for this programme by setting requirements for English language skills. In substance, the requirements mean that students who want to be admitted to the programme must have sufficient command of the English language, both actively and passively, that they are able to participate in the teaching components and complete the programme successfully within the established relevant period. The OER details further how students may meet these requirements.

Based on the documents and the explanation given at the hearing, the Examination Appeals Board endorses the respondent's position that given her prior education, the appellant does not fall within the categories of students that are deemed to meet the language requirement, as specified in Article 5.2.3.1. of the OER. Neither did the appellant make it plausible that she does meet the language skills level as specified in the OER on substance if the programmes she has attended were considered together. Consequently, the Examination Appeals Board does not need to consider the question of what the effect would be had this been the case.

This means that the appellant can only be admitted to the programme if she demonstrates that she does have the required language skills by taking one of the tests as referred to in Article 5.2.3.2 of the OER. The appellant therefore took IELTS tests on 22 August 2020 and 15 October 2020. She achieved the following results in these tests:

- 22 August 2020: IELTS 7.0, with 6.5 in reading, 6.5 in listening, 8.0 in speaking, 6.0 in writing
- 15 October 2020: IELTS 7.0, with 5.5 in reading, 7.5 in listening, 8.0 in speaking, 6.5 in writing

In order to meet the OER her score needed to be at least:

IELTS 7.0 with a minimum score of 6.5 in reading, listening, speaking and a minimum score of 7.0 in writing



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It is established case law of the Examination Appeals Board, in view of the limitations arising from corona measures, that when several language skills tests have been taken, the results of these tests must be considered in combination (see the decision of the Examination Appeals Board in the matter CBE/2020-411). This means that the appellant would have complied with the language skills requirements set in the OER, if she had achieved at least 6.5 in reading, listening, and speaking, and at least 7.0 in writing in one of the two tests.

It follows from the above-mentioned test results that the appellant met the requirement that the total score of the test must be 7.0 and that she has at least achieved a 6.5 in the listening and speaking components. In the test of 15 October 2020 she achieved a 5.5 in the reading component. However, she did not achieve at least a 7.0 in writing in the test of 22 August 2020 nor in the test of 15 October 2020. This means that the appellant does not meet the requirements for language skills as stipulated in the OER even if both tests are considered in combination. Consequently, the respondent decided rightfully that she cannot be admitted to the programme. Hence, the appeal is unfounded.



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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, M.C. Klink M.Jur. BA, Dr J.J. Hylkema, and Y.D.R. Mandel, 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: