

DECISION 23 – 359

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

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

[x], appellant

against

The Board of the Faculty of Science, respondent

The course of the proceedings

The appellant requested to be admitted to the Master's Programme *Statistics and Data Science* (hereinafter: the Master's Programme).

The respondent rejected the appellant's request in its decision of 28 June 2023.

The appellant sent an email message on 30 June 2023 to lodge an administrative appeal against this decision.

The respondent did not submit a letter of defence.

The appeal was considered on 29 August 2023 during a public hearing of a chamber of the Examination Appeals Board. The appellant and the respondent did not attend the hearing, without having given notice of absence.

Considerations

In accordance with Article 7.61 (2) of the Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, WHW), the

Decision
23-359
Blad2/4

Examination Appeals Board must consider whether the contested decision contravenes the law.

The Examination Appeals Board has established that the contested decision is completely unsubstantiated. In itself, this is not unusual in cases relating to admission, whatever the situation may otherwise be, but it is usually remedied by submitting the documents pertaining to the case, by filing a letter of defence, and/or by attending the hearing.

However, the respondent did not fulfil its legal obligation to submit all documents pertaining to the case. In cases relating to admission, such as this one, these comprise at least the full admission file, including any advice from the Admissions Office and any letter or email contacts between the respondent and the prospective student. By not submitting any documents, omitting to file a letter of defence, and failing to attend the hearing, the respondent did not remedy this deficiency and thus the decision remains unsubstantiated. As such, the decision was taken contrary to Articles 3:46 and 3:47 of the General Administrative Law Act (*Algemene wet bestuursrecht*).

For this reason alone, the administrative appeal is well-founded and the contested decision will be quashed.

The respondent must take a new decision within two weeks after this decision is sent. If that decision is again a rejection, the respondent will have to give substantiation in the decision, showing that the appellant does not meet the qualitative admission requirements and why this is the case, and will also have to address the arguments put forward by the appellant in the administrative appeal, with substantiation. By not attending the hearing, the appellant also did not give the Examination Appeals Board the opportunity to investigate whether she might be able to demonstrate her suitability for the Master's Programme by other means. This could perhaps have avoided this extra round. If the appellant does not agree with the new decision, she may again lodge an administrative appeal with the Examination Appeals Board.

Decision
23-359
Blad3/4

The decision

The Examination Appeals Board of Leiden University

- I. holds the administrative appeal well-founded;
- II. quashes the decision of 28 June 2023;
- III. orders the respondent to take a new decision within two weeks after this decision is sent, with due regard for the considerations of this decision,

in view of Article 7.61 of the Higher Education and Research Act.

Established by a chamber of the Examination Appeals Board, comprised of: O. van Loon, LL.M. (Chair), Dr A.M. Rademaker, Dr C.V. Weeda, J.J. Christiaans BA and S.H. Bartels BSc LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, E.M.A. van der Linden, LL.M.

Chair

Secretary

Sent on:

Certified true copy,

Decision
23-359
Blad4/4