

DECISION 24 – 059

Rapenburg 70
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of the Examination Appeals Board of Leiden University
in the matter of the administrative appeal of

██████████ residing in ██████████, appellant,

against

the Board of the Faculty of Archaeology, respondent

The course of the proceedings

The appellant applied for admission to the Research Master's Programme in Archaeology (hereafter: the Programme).

The respondent rejected the appellant's request in its decision of 1 February 2024.

The appellant sent a letter on 15 February 2024 to lodge an administrative appeal against this decision.

The respondent investigated whether an amicable settlement could be reached. No amicable settlement was reached.

The respondent submitted a letter of defence on 11 March 2024.

The appeal was considered on 20 March 2024 during a public hearing of a chamber of the Examination Appeals Board. The appellant attended the hearing. ██████████, ██████████ Board of Admissions, and ██████████, ██████████ Archaeology Education Office, appeared on behalf of the respondent.

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Considerations

1 - Position of the appellant

The appellant does not agree with the decision not to admit him to the Programme. The letter of rejection states that he cannot be admitted because he has not met the required conditions. The appellant believes that he did meet the first condition.

The appellant's conditional admission letter dated 30 October 2023 listed two conditions for admission to the Programme. Firstly, to complete the first semester of the Master's in Global Archaeology with an average grade of 7.5. Secondly, to successfully complete an interview with the Board of Admissions. The appellant also contacted the Study Adviser prior to his application for admission to the Programme. The aforementioned conditions were also so communicated to him during a conversation with the Study Adviser.

The appellant argues that he did meet the first condition for admission to the Programme. He argues that he completed the first semester of the Master's in Global Archaeology with an average grade of 8.1. In that first semester, he successfully completed two course units, which resulted in 15 study credits.

The rejection letter states that the appellant did not obtain the required 30 EC study credits in the first semester. The appellant claims this criterion was not mentioned anywhere and that he was not made aware of it. Had he been aware of this condition, he would have taken additional courses in the first semester to obtain the required number of credits.

Furthermore, the appellant states that it was virtually impossible to obtain 30 study credits in the first semester. Most elective course units that align with his field of interest take place in the second semester. The appellant claims that he completed the mandatory course units in the first semester (15 study credits).

Finally, the appellant indicates that the Study Adviser was also unaware of this criterion.

2 - The position of the respondent

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First and foremost, the respondent argues that it is bound by the conditions mentioned in the Programme's Course and Examination Regulations (*Onderwijs- en Examenreglement*, OER). The respondent argues that the appellant did not meet the condition to complete the first semester with an average grade of 7.5. This is because he obtained only 15 out of the available 30 study credits in the first semester. The respondent interprets completing the first semester as obtaining 30 study credits since the entire academic year consists of 60 EC. The respondent notes that in practice this limit is not applied very strictly: if at least 20-25 EC have been obtained in the first semester, it can be decided that this first condition has also been met. However, the 15 EC obtained by the appellant are insufficient. Furthermore, the respondent points out that admission based on first-semester results combined with a successful interview is a 'back door' in admission to the Research Master's Programme. The appellant was not eligible to enter through the regular route based on his results from the Bachelor's Programme. That said, the respondent argues that it is bound by the strict terms of the OER.

The respondent received and assessed the appellant's application on 20 October 2023. At that time, the appellant did not meet the conditions for admission to the Research Master's Programme. However, he stood a realistic chance of meeting the conditions in the time up to the start of the Programme. Consequently, the respondent decided to admit the appellant conditionally to the Programme. The conditional admission letter stated the conditions - as set down in the OER.

Subsequently, on 1 February 2024, the appellant's application was assessed anew by the respondent. At that time, it was found that the appellant had obtained only 15 study credits. In view of the fact that the regular master's consists of 60 study credits, the first semester comprises 30 study credits. The respondent holds that obtaining 15 credits is not the same as completing the first semester. Consequently, the respondent argues that the appellant did not meet the condition to complete the first semester with an average grade of 7.5.

3 – 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 contravenes the law.

Article 5.2.4.1 of the OER stipulates that admission to the Programme requires completion of the first semester with an average grade of at least 7.5. The second

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condition refers to successful completion of an interview with the Board of Admissions.

This dispute focusses on the first condition: completing the first semester with an average grade of 7.5.

From the explanation at the hearing, the Examination Appeals Board found that the appellant relied on what he was told during the interview with the Study Adviser with regard to meeting the first condition. During that interview, it was only indicated that the first semester of the regular Master's Programme should have been taken with an average grade of at least 7.5. Next, an interview with the Board of Admissions had to be completed successfully. This corresponds with the conditions as stated in the conditional admission letter. As for the first condition, no specific number of study credits is mentioned anywhere. Furthermore, it does not ensue from anything that a number of credits of 30 EC is meant.

The Examination Appeals Board attaches great importance to the fact that the Study Adviser - who should be expected to keep students adequately informed - did not point out to the appellant whether or not he had to obtain 30 study credits. Indeed, a Study Adviser must can be expected to be aware of the applicable conditions. The fact that the Study Adviser was not aware of the requirement to obtain 30 study credits cannot be held against the appellant. Accordingly, the appellant made sufficient efforts to explore the conditions to transfer to the Programme. He cannot be blamed for not being correctly informed.

This means that the respondent decided unjustly not to admit the appellant to the Programme. Consequently, the administrative appeal is founded and the contested decision will be quashed. This means that the respondent must conduct the selection interview provided for in the OER with the appellant within a reasonable time and, if the result is positive, the appellant must be admitted to the Programme from 1 February 2024.

Finally, the Examination Appeals Board remarks the following about the OER and the conditions set for entering by means of the first semester of the regular Master's Programme. The current OER states the following:

"The first semester of the MA of archaeology with at least a 7.5 average."

In order to avoid future misunderstandings, it is suggested that the respondent should define the condition with regard to completing the first semester more specifically in a next version of the OER.

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The decision

The Examination Appeals Board of Leiden University,

- I. holds the administrative appeal founded;
- II. quashes the decision of 1 February 2024;
- III. instructs the respondent to conduct a selection interview with the appellant within a reasonable time and to make a new admission decision on that basis;

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 M.G.A. Berk (Chair), LL.M., Dr A.M. Rademaker, Dr A.M.C. van Dissel, T.E.V. Claessen and S.H Bartels, B.Sc., LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, R.R. van der Vegt, LL.M.

.....
Chair

.....
Secretary

Sent on:

Certified true copy,