

**DECISION 17 - 304**

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 appeal of [name], appellant

against

the Board of the Faculty of Social and Behavioural Sciences, respondent

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

By means of an undated contested decision, the Psychology Board of Examiners, on behalf of the respondent, issued a binding recommendation to the appellant with respect to continuing the International Bachelor Psychology Programme (“IBP”), pursuant to Article 7.8b, (3) of the Higher Education and Academic Research Act (“WHW”, *Wet op het hoger onderwijs en wetenschappelijk onderzoek*).

The appellant sent a letter on 31 August 2017, which was received on 4 September 2017, to lodge an appeal against the decision of the respondent (the contested decision).

In short, the appellant argued that enrolment problems at the start of the 2016-2017 academic year had a negative effect on her study results. The appellant stated that she was motivated for the IBP Programme.

A letter of defence was submitted on 28 September 2017.

The respondent sent a transcript of the appellant’s study results to the Examination Appeals Board on 2 November 2017.

The appeal was considered on 15 November 2017 during a public hearing of a chamber of the Examination Appeals Board. The appellant did not appear at the hearing. [names], member and secretary of the Psychology Board of Examiners respectively, appeared on behalf of the respondent.

**Decision  
17-304**

Page 2/5

## **2. Considerations with regard to admissibility**

The appellant lodged an appeal against the contested decision by means of the letter dated 31 August 2017 that was received by the Examination Appeals Board on 4 September 2017. 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 onderwijs en wetenschappelijk onderzoek*). Consequently, the administrative appeal is admissible.

## **3. Relevant Legislation**

Pursuant to Article 7.8b (1), first sentence of the WHW Act, the institutional board of a funded university or university of applied sciences issues to the student, at the latest at the end of the first year of enrolment for the first year of a full-time or part-time bachelor's programme, advice concerning the continuation of his or her study programme within or outside the bachelor's programme.

Pursuant to Article 7.8b (3) of the WHW, the institutional board is entitled to attach an exclusion to the advice mentioned in the first or second paragraph, with respect to programmes appointed by the institutional board, within the time mentioned in the second paragraph, but not before the end of the first year of enrolment. This exclusion can only be applied if the student, according to the institutional board, and taking into account his/her personal circumstances, is deemed unsuitable for the study programme because his/her academic results do not meet the requirements set out by the board. The institutional board can attach an expiry date with respect to the exclusion.

Pursuant to Article 7.8b (4) of the WHW, before issuing an exclusion, the institutional board can give the relevant student a warning stipulating a reasonable term within which the study results must be improved to the satisfaction of the board. Before deciding on an exclusion, the institutional board will give the student the opportunity to give his or her account of the situation.

**Decision**

**17-304**

Page 3/5

Pursuant to Article 7.8b (6) of the WHW, the institutional board will determine further rules relating to the implementation of the previous paragraphs. These rules will in any event relate to the study results and the provisions indicated in the third paragraph, as well as the term referred to in the fourth paragraph. At Leiden University, these rules are set out in the Leiden University Regulation on the Binding Study Advice and the Procedure related to the personal conditions in the context of the Binding Study Advice (“the Regulation”).

Pursuant to Article 5.2.2 of the Regulation, the Binding Study Advice, referred to in Article 3.1.7, is negative and exclusive for full-time students if, at the point when the advice is issued, the student has obtained fewer than 45 credits in the first-year phase of the relevant bachelor’s programme.

Article 6.3 of the Course and Examination Regulations (“OER”, *Onderwijs en examenregeling*) of the IBP Programme, states the following:

6.3.1 In their first year of enrolment, all students are provided with advice on the continuation of their studies. The Board of Examiners is authorised by the Faculty Board to issue this study advice. For information on the requirements, the number of times the advice is issued, as well as the possible consequences of this advice, see the Leiden University Regulation on the Binding Study Advice that applies to the study year in question as well as 6.3.2.

6.3.2 The programme imposes additional requirements concerning components that students must have passed for the study advice referred to in 6.3.1: If a student fails to pass at least one of the following courses: Introduction to Research Methods and Statistics, Inferential Statistics, Experimental and Correlational Research, a negative binding study advice will be given.

6.3.3 A binding negative study advice with refusal only applies to the programme and associated specialisations in which the student is enrolled. The binding study advice also applies to any bachelor's programme which shares the propaedeuse with the bachelor's programme.

6.3.4 Students may request an oral explanation of the study advice as well as information on their progress within or outside the Faculty and on any other possible education options.

#### **4. Considerations relating to the dispute**

In accordance with Article 7.6.1, paragraph two, of the WHW, the Examination Appeals Board must consider whether the contested decision contravenes the law.

**Decision**  
**17-304**  
Page 4/5

In the contested decision, the appellant was issued with negative study advice regarding the continuation of the IBP Programme; pursuant to Article 7.8b (3) of the WHW, an exclusion was attached to this advice. The attachment of an exclusion to the negative study advice indicates that the enrolment of the appellant for the relevant study programme at Leiden University will be terminated; he or she will not be able to enrol for the relevant study programme at Leiden University within the next four years. In granting the contested decision regarding the Binding Study Advice, the aim of the rules for this study advice should be taken into consideration. This aim states that each student will be issued with advice regarding the continuation of his/her studies. In issuing the advice, account is taken of whether the student's performance make it plausible that he or she is capable of completing the bachelor's programme in a reasonable timeframe. The advice is negative and binding if the student's academic results do not meet the requirements stipulated by Leiden University.

The Examination Appeals Board states that the appellant obtained 5 ECs for the Introduction to Research Methods and Statistics course. Although she has met the additional requirement, pursuant to Article 6.3.2 of the OER, she has not met the requirement set out in Article 5.2.2 of the Regulation.

The Examination Appeals Board can imagine that the enrolment difficulties that the appellant experienced in the first weeks of the study programme may have led to her not being able to completely focus on her study programme. However, the difference between the number of credits (5 EC) obtained and the required number of credits (45 EC) is so great that the respondent was right in not finding good reason to refrain from issuing a negative Binding Study Advice.

The Examination Appeals Board has taken into consideration that it is inherent to a negative Binding Study Advice that the study programme is terminated, and that this may have far-reaching consequences. These consequences cannot in themselves be a reason to refrain from issuing a negative Binding Study Advice.

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. This means that the contested decision is upheld, and the appellant may not continue the IBP Programme at Leiden University.

**Decision  
17-304**

Page 5/5

**5. The decision**

In view of article 7.6.1 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 H.W. Sneller, LL.B., L.N. Kluinhaar and M. Heezen (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: