

**OFFICIAL REPORT 19 – 278**

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of the oral decision of the Examination Appeals Board of Leiden University issued on 6 November 2019 in the matter of the appeal of

[name], appellant

against

the Board of the Faculty of [X], respondent.

Present:

K.H. Sanders, LL.M., MA (Chair),

Dr A.M. Rademaker,

Dr J.J.G.B. de Frankrijker

M. Heezen, LL.B.,

Y.D.R. Mandel, LL.B. (Members),

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

[names], Chair and Member of the Board of Examiners of [X].

The appellant appeared in person at the hearing.

**The course of the proceedings**

In a decision of 13 August 2019, the Board of Examiners of [X] issued a negative advice to the appellant in respect of his continuing the International Bachelor's Programme in [X], to which a rejection is attached pursuant to article 7.8b, paragraph 3, of the Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, hereinafter "WHW").

The appellant sent a letter to the Examination Appeals Board on 14 September 2019, which was received on 16 September 2019, to lodge an administrative appeal against this decision.

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The respondent contacted the appellant on 1 October 2019 to investigate whether an amicable settlement could be reached. No amicable settlement was reached.

A letter of defence was received on 2 October 2019.

### Considerations

The appellant was awarded a total of 20 ECTS in the 2018-2019 academic year and consequently did not meet the BSA standard of 45 ECTS that applies at Leiden University (BSA - binding recommendation on continuing one's studies). However, the appellant did meet the additional requirement in Article 6.3.2. of the Course and Examination Regulations (*Onderwijs en Examenregeling*) of the Bachelor's Programme in [X], which is in this case successful completion of one of the three course units [X] and [X], or [X]. The appellant passed the last of these course unit.

The appellant has a statement of functional impairment dated 28 May 2019, which states that he was impaired in achieving study results from 1 September 2018 to 28 May 2019 due to medical circumstances. The impairment was expected to last until August 2019. On 12 June 2019, the appellant obtained a second statement of functional impairment which states that he is impaired in achieving study results throughout the year 2018/2019 due to personal circumstances. This statement of functional impairment was submitted to the respondent after the BSA had been issued, but was subsequently taken into consideration. However, this did not lead to a change of position by the respondent.

The appellant indicated at the hearing that he was impaired throughout the year by insomnia issues. He holds that he was impaired to an extent of over 25% in his studies and, consequently, he does not agree with the statement of functional impairment. The appellant is very keen to continue the International Bachelor's Programme in [X].

The respondent takes the position that the appellant did indeed demonstrate by means of the statement of functional impairment that personal circumstances had

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an impact, but that this statement cannot counter the deficiency in study credits. After obtaining the statement of functional impairment, the respondent contacted the student counsellor in order to verify that the impairment percentage had been established correctly. The student counsellor indicated that he saw no reason to alter the impairment percentage.

It is evident that the appellant's study results do not meet the requirements set by Leiden University, even when the statement of functional impairment is taken into consideration. At the hearing, the appellant stated that he finds it difficult to ask for assistance. He did not comply with the advice by the study counsellor in May 2019 to seek professional assistance. This constitutes further reason for the Examination Appeals Board to consider that the respondent has rightfully and on proper grounds taken the position that he lacks confidence that the appellant will be able to complete the International Bachelor's Programme in [X] within a reasonable period of time.

At the hearing, the appellant stated that his health has now improved. The appellant was informed that, pursuant to article 7.8b, paragraph 5, of the WHW, he may file a substantiated request for enrolment in the International Bachelor's Programme in [X] for a subsequent study year at Leiden University. In his request the appellant must make it plausible to the satisfaction of the respondent that he will now be able to complete the programme successfully within a reasonable period of time. This could mean that the appellant would not be excluded for a full period of four years from the International Bachelor's Programme in [X].

Since the Examination Appeals Board has not been informed of any other facts or circumstances to the effect that issuing a binding negative study advice would result in an exceptional case of extreme unfairness, the appeal must be held unfounded. This means that the contested decision is upheld and that the appellant cannot continue the International Bachelor's Programme in [X] at Leiden University.

**19-278      Decision**

Page 4/4      The Examination Appeals Board holds the appellant's appeal unfounded.

This official report of the proceedings has been drawn up and signed by the Chair and the Secretary.

K.H. Sanders, LL.M.,  
Chair

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

Certified true copy,

Sent on: