

OFFICIAL REPORT EAB 22-432

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

Oral decision of 7 September 2022 of the Examination Appeals Board of Leiden University in the matter between:

[name], appellant,

and

the Board of the Faculty [X], respondent.

Present:

O. van Loon, LL.M. (Chair)

Dr A.M. Rademaker

J.J. Christiaans BA

I.L. Schretlen, LL.M. (Secretary)

[name], Administrative Secretary of the Board of Examiners of [X].

The appellant did not appear at the hearing, and failed to give notice of absence.

The course of the proceedings

On 17 August 2022, the appellant lodged an administrative appeal against the decision comprising a negative advice to the appellant in respect of the continuation of the Bachelor's Programme in [X], to which a rejection is attached pursuant to article 7.8b, third paragraph, of the Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, hereinafter "WHW").

On 29 August 2022, the respondent filed a letter of defence.

Decision **Considerations**
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The appellant met the BSA standard of 40 ECTS that applied at Leiden University for the 2021-2022 academic year (BSA - binding recommendation on continuing one's studies). He obtained a total of 50 ECTS. However, he did not fulfil one of the additional requirements of the Programme, namely he did not pass the [X] course unit.

The appellant does not have an statement of functional impairment with regard to an impairment in achieving study results.

The appellant invoked the hardship clause because he did not meet the additional [X] requirement; he did not pass [X] course unit. The appellant struggled with the transition from HBO (Dutch University of Applied Sciences) to university and had difficulty in particular learning a new [X]. Meanwhile, he has obtained assistance from someone who can help him with [X] next year. He was also troubled by family health problems in the 2021-2022 academic year, which affected his performance. As a result, his study schedule was disorganised and he found it difficult to concentrate.

The respondent indicated that there is no statement of functional impairment, so any personal circumstances could not be taken into account in the BSA discussions.

According to the respondent, passing the [X] course unit is a good indicator of whether a student can complete the programme successfully and within a reasonable term. [X] course units total 30 ECTS and constitute a substantial part of the curriculum. Passing the [X] course unit is a requirement to start the [X] course unit. Since the course unit is only offered once a year, it means that the appellant will suffer a year's study delay due to not passing this course unit. It is the respondent's experience that students who struggle to pass [X] will also experience difficulty in the course units that build on it. Examinations of the course unit do not boil down to a single occasion, as the course unit is tested at different times throughout the semester. The appellant missed about eight lectures. Both his mid-term and final exam marks are clearly below the required level. The respondent stated that there was no reason to apply the hardship clause.

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The Examination Appeals Board established that the appellant would only need to pass the [X] course unit of 10 ECTS in order to meet the requirements for the binding study advice. However, the Examination Appeals Board does consider the respondent's position that passing a [X] course unit is an important indicator for successful continuation of the programme. The respondent has genuine concerns - in view of the results achieved by the appellant - about whether the appellant has sufficient talent for the [X]. Nor can the Examination Appeals Board assess whether the respondent should have taken into account the appellant's personal circumstances in the contested decision since there is no statement of functional impairment. The Examination Appeals Board does understand the respondent's view that such circumstances could not be taken into account.

According to the Examination Appeals Board, it would be advisable for the appellant to improve his [X] skills first in order to demonstrate to the respondent that he can be considered capable of completing the course successfully within a reasonable term. In this regard, the respondent indicated its willingness to readmit the appellant to the programme early in that case. In doing so, the appellant would be wise to contact the respondent to discuss how he could demonstrate his improved [X] skills plausibly.

The Examination Appeals Board considers that, since the appellant's study results do not meet the requirements set by Leiden University, the respondent has rightfully, and on proper grounds, taken the position that it lacks confidence that the appellant will be able to complete the programme within a reasonable term.

The Examination Appeals Board has not been informed of any other facts or circumstances that could lead to an alternative decision. The appeal must therefore be held unfounded. This means that the contested decision is upheld and that the appellant cannot continue the Bachelor's Programme at Leiden University.

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Decision

The Examination Appeals Board holds the appeal unfounded.

Of which this official report was drawn up and signed by the Chair and the Secretary.

O. van Loon, LL.M,
Schretlen, LL.M,
Chair

I.L.

Secretary

Certified true copy,

Sent on: