

**OFFICIAL REPORT EAB 22-436**

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Oral decision of 31 August 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,  
Dr A.M.C. van Dissel,  
J.J. Christiaans BA,  
G.S. Cornielje BA (Members),  
I.L. Schretlen, LL.M. (Secretary),

appellant,

[names, Chair and Administrative Secretary, respectively, of the Board of Examiners of [X].

**The course of the proceedings**

On 18 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

**Decision** pursuant to article 7.8b, third paragraph, of the Higher Education and Academic  
**EAB 22-436** Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek,  
**2** hereinafter "WHW").

On 24 August 2022, the respondent filed a letter of defence.

### **Considerations**

According to the respondent, the appellant did not meet 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).

The appellant has a statement of functional impairment which shows that she was impaired in her study performance during the first semester. The respondent holds that she should have been able to study at a level of 75% during that period. During the second semester, she was not impaired. However, she only achieved 15 ECTS in that period.

The appellant indicated that she had initially received notice that a statement would be issued under the Dutch Modern Migration Policy Act (*Wet modern migratiebeleid*; MoMi) that would lead to withdrawal of her residence permit because she had achieved less than 50 per cent of the number of credits to be obtained during the academic year. The respondent stated in the letter of defence that this message was not correct and that the notification has been withdrawn.

The appellant was awarded 35 ECTS in this academic year which means that she is only 5 ECTS short of the BSA. Meanwhile, she has been in contact with the Study Adviser and Student Counsellor. She was issued with a statement of functional impairment.

During the hearing, the appellant indicated that she found it difficult to get used to living on her own in a foreign country at the beginning of the academic year. She had to get used to the climate too and missed her family. She fell ill quite often. Out of embarrassment, she did not contact the Study Adviser initially. She became demotivated and submitted only a few of the assignments she had made.

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Now, she has different accommodation and thinks this will provide her with more social contacts which will help her study better in the next academic year. She has also joined a student orchestra, and she expects to make friends there. She is very keen to continue this Programme.

The respondent states that the BSA decision was taken after consulting the Study Adviser and took into account the statement of functional impairment. In the first semester, the appellant obtained 20 ECTS but in the second semester she only obtained 15 ECTS although she was not officially impaired at that time. She did not contact the Study Adviser in January 2022. It was not until July 2022 that she contacted the Study Adviser.

At the hearing, the respondent indicated that it follows from the appellant's explanation at the hearing that she was actually impaired in her study performance throughout the academic year.

First and foremost, the Examination Appeals Board notes that the appellant would have been wiser to contact the Study Adviser in time to get the help she needed, in view of her personal circumstances, as outlined in the letter of appeal and explained at the hearing in more detail. She could also have contacted the Student Psychologist.

In the light of the statement of functional impairment as issued, the appellant should have been considered capable of achieving around 35 ECTS. Since she has indeed obtained 35 ECTS this academic year and has also met the additional requirements of the Programme, the Examination Appeals Board holds that this means that the contested decision must be quashed and that she should be allowed to continue the study programme in full.

The Examination Appeals Board strongly advises the appellant to draw up a study plan in consultation with the Study Adviser with the aim of catching up on the arrears she has meanwhile accumulated in her studies.

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**Decision**

The Examination Appeals Board holds the appeal founded and quashes the contested decision.

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

O. van Loon, LL.M,  
Chair

I.L. Schretlen, LL.M,  
Secretary

Certified true copy,  
Sent on: