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DECISION 23-634

of the Examination Appeals Board of Leiden University

on the administrative appeal of [REDACTED], appellant,

against

The Board of the Faculty of Science, respondent.

The course of the proceedings

The appellant lodged an administrative appeal against the decision, which imposed on him a negative advice regarding his continuing the Bachelor's Programme in Data Science and Artificial (hereinafter: the Bachelor's Programme), and to which a rejection was attached (Art. 7.8b, paragraph 3, of the Dutch Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*), hereinafter: WHW).

The respondent submitted a letter of defence on 18 December 2023.

The administrative appeal was considered on 24 January 2024 during a hearing. The appellant did not attend that hearing and did not give notice of absence. [REDACTED], MA, [REDACTED] of the Board of Examiners, was present at the hearing on behalf of the respondent.



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Considerations

In accordance with Article 7.61, paragraph two of the WHW, the Examination Appeals Board must consider whether the contested decision contravenes the law.

The appellant has followed the Bachelor's Programme since the 2022-23 academic year. In that academic year, he achieved 18 ECTS. This means he does not meet the BSA standard of 45 ECTS applicable for that year.

The appellant cites personal circumstances as an explanation for the lack of credits earned in the second semester. Until his departure to the Netherlands, he took care of [REDACTED]. When she [REDACTED], he felt compelled to return his country of origin. One day before the first opportunity to sit the Calculus II examination, the [REDACTED]. This had a great impact on the appellant, as evidenced by the result of the examination.

The appellant did not raise these circumstances until he lodged the appeal. Consequently, the respondent cannot be blamed for not taking these circumstances into account when making the decision.

In these circumstances, the BSA committee saw no grounds to issue a statement of functional impairment, but strongly urged the respondent to apply the hardship clause.

The Examinations Appeals Board does not rule out that the circumstances raised by the appellant are special circumstances within the meaning of Article 7.8b, paragraph 3, of the WHW. In any event, it considers it plausible that these circumstances prevented the respondent from assessing whether or not the student is capable of completing the Programme. For this reason, the Examination Appeals Board holds that the appellant deserves a second chance.



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Consequently, the administrative appeal is founded and the contested decision will be quashed. The Examination Appeals Board will convert the negative binding study advice into a deferred study advice (Article 5.7.2 of the Regulations on Binding Study Advice - *Regeling bindend studieadvies*). This means that the appellant will receive a positive recommendation if he meets the requirements set by Leiden University by 15 August 2024.



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The decision

In view of Article 7.61 of the Higher Education and Academic Research Act. the Examination Appeals Board of Leiden University

- I. holds the administrative appeal founded;
- II. quashes the contested decision;
- III. stipulates that the appellant must meet the requirements set by Leiden University by 15 August 2024.

Established by a chamber of the Examination Appeals Board, comprised of: O. van Loon, LL.M., (Chair), Dr A.M. Rademaker, J.H.M Huijts, LL.M., J.J. Christiaans, B.A., R.A. Brouwer, LL.B., (members) in the presence of the secretary of the Board, E.M.A. van der Linden, LL.M.

O. van Loon, LL.M.
Chair

E.M.A. van der Linden, LL.M.
Secretary

Sent on:

Certified true copy,