

DECISION 18 - 172

Rapenburg 70
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of the Examination Appeals Board of Leiden University

in the matter of

the appeal by [name] from Leiden, appellant

against

the Board of Examiners of Asian Studies, respondent

1. Origin and course of the proceedings

In its decision of 6 July 2018, the respondent declared the essays that the appellant wrote for the course units of the Master's Programme in Asian Studies, "Thesis and Methods Classes" and "From Buddhānumṛti to Nembutsu" invalid due to plagiarism, and stipulated that she cannot re-submit the essays. Furthermore, the appellant will be immediately suspended from the Master's Programme in Asian Studies until 1 February 2019. In addition, the decision stipulated that the fraud detected will be recorded in the appellant's student file. As such, the appellant can no longer qualify for the 'cum laude' distinction.

The appellant sent a letter on 5 August 2018, which was received by the Examination Appeals Board on 7 August 2018, to lodge an administrative appeal against this decision.

In short, the appellant argued that the sanctions imposed are disproportionate to the offence detected.

The respondent attempted to reach an amicable settlement with the appellant on 20 August 2018. No amicable settlement was concluded.

The respondent submitted a letter of defence on 24 August 2018.

On 20 September 2018, the appellant submitted additional documents.

The appeal was considered on 17 October 2018 during a public hearing of a chamber of the Examination Appeals Board. The appellant did not appear at the hearing, having given notice of absence.

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[names], Chair and Administrative Secretary of the Board of Examiners of Asian Studies, respectively, appeared at the hearing on behalf of the respondent.

2. Considerations with regard to admissibility

The appellant lodged a timely appeal against the decision of 6 July 2018 by means of the letter that was received by the Examination Appeals Board on 7 August 2018. 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

The Rules and Regulations of the Board of Examiners of the Master's Programmes of the Faculty of Humanities stipulate the following, in so far as relevant:

Article 1.2 Definitions

fraud: any action (including plagiarism) that renders it fully or partially impossible to make a proper assessment of a student's knowledge, understanding and skills is considered to be 'fraud' (cheating) under Article 7.12b of the Act. This definition also includes the intention to commit such an action, inciting others to do so, or omitting an appropriate action. For plagiarism, see also the Leiden University Code of Conduct on Plagiarism (PDF).

6.5.6 The disciplinary measures that may be imposed by the Board of Examiners are:

- a. declaring an assignment, paper, thesis or research assignment to be invalid;
- b. excluding the student from participation in writing an essay, paper, thesis or research assignment with respect to which the plagiarism was detected for a maximum period of one year; in addition, any essay, paper, thesis or research assignment of the kind for which plagiarism was detected, which has been successfully completed by the student in another faculty or higher education institution during this period of exclusion, cannot be included in the curriculum in any way;
- c. and/or excluding the student from participation in one or more examinations for a maximum period of one year, and/or excluding the student from participation in examinations and the final examination of one or more degree

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programmes provided by the Faculty for a maximum period of one year. Courses that have been successfully completed by the student in another faculty or institution during this period of exclusion, cannot be included in the curriculum in any way;

d. In the case of serious fraud, the Executive Board may, at the proposal of the Board of Examiners, definitively terminate the student's enrolment in the degree programme.

6.6.1 The Faculty has a register in which all measures imposed in consequence of irregularities, plagiarism and other forms of fraud are recorded. This register contains the following information: (i) name and student number of the student concerned, (ii) the student's degree programme, (iii) the component of the final examination to which the imposed measures pertain, (iv) the reference number of the file pertaining to the imposed measures and (v) a concise description of the imposed measures. The file pertaining to the imposed measures is held by the Board of Examiners concerned.

4. Considerations with regard to the dispute

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 started the Master's Programme in Asian Studies with the specialisation in South East Asia in February 2018. The appellant does not contest that she committed plagiarism; the administrative appeal merely concerns the sanctions that have been imposed in that respect by the respondent.

Imposing a measure within the meaning of Article 7.12b, paragraph two, of the WHW must be regarded as a punitive measure that must be assessed in respect of proportionality.

The basic principle of the Examination Appeals Board, and of the University itself, is that fraud in any shape or scope whatsoever, cannot be tolerated in an academic environment. Plagiarism is a type of fraud.

As the Examination Appeals Board has considered before, a student is responsible for his or her own work and in that context it may be expected that the student himself or herself will always check whether plagiarism has been committed and whether all sources have been listed in the usual manner. The circumstance that the syllabus of the "From Buddhānumsmṛti to Nembutsu" course unit was not uploaded on Blackboard, as stated by the appellant, does not excuse the

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committing of plagiarism. The same applies to receiving negative feedback on the topic of the essay by [name].

At the hearing, the respondent explained that the relevant sanctions had been chosen, since the appellant committed plagiarism on a large scale. Entire passages have been copied literally from an internet source, without proper citation and without stating the source. The Turnitin report showed that 71% of the appellant's essay is similar to other sources, including the internet. Furthermore, the appellant is a master's student and it may be assumed that she has experience in writing academic papers with due observance of the guidelines with regard to avoiding plagiarism. The respondent established that the appellant committed plagiarism several times in the first semester of her master's programme. After plagiarism had been established in the essays of the "Thesis and Methods Classes" and "From Buddhānumsmṛti to Nembutsu" course units, [name] also found plagiarism in the essay submitted by the appellant before the mid-term. However, the sanctions imposed are based on plagiarism in the essays for the above-mentioned course units. The result for the other course unit that was announced to the appellant on 28 June 2018 for another course unit with a credit load of 10 ECTS will remain valid, as this was announced before the date of the contested decision. Furthermore, the respondent has stated that suspension up to the date of 1 February 2019 has been chosen intentionally, since a longer suspension would mean exclusion for 18 months.

The Examination Appeals Board finds that it has been established that the appellant committed plagiarism on two occasions. The scope of plagiarism is substantial in both cases. With reference to the principle stated above - that fraud cannot be tolerated in an academic environment - and in view of the above, the Examination Appeals Board holds that the measures imposed are proportionate to the nature and severity of the plagiarism committed by the appellant. Consequently, there is no question of this decision constituting a contravention of the law. The fact that the appellant will incur a delay in studies as a consequence of the sanction is intrinsic to the sanction that was imposed.

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.

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5. The decision

The Examination Appeals Board of Leiden University,

holds the appeal **UNFOUNDED**,

in view of article 7.61 of the Higher Education and Academic Research Act.

Established by a chamber of the Examination Appeals Board, comprised of K.H. Sanders, LL.M., MA (Chair), Dr A.M. Rademaker, Dr K. Beerden, M. Heezen, and L.N. Kluinhaar LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, M.S.C.M. Stoop - van de Loo, LL.M.

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

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

Certified true copy,

Sent on: