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DECISION 22 - 469

of the Examination Appeals Board of Leiden University

in the matter of

the appeal of [name], appellant,

against

the Board of Examiners of the Master's Programme in [X], respondent.

The course of the proceedings

In its decision of 29 July 2022, the respondent imposed a sanction on the appellant in respect of established fraud (plagiarism) in the thesis he submitted for the bachelor's programme in [X] (hereinafter: the Programme).

The appellant lodged an administrative appeal against this decision with the Examination Appeals Board on 31 August 2022.

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

The respondent submitted a letter of defence on 22 September 2022.

The appeal was considered on 26 October 2022 during a hearing of a chamber of the Examination Appeals Board. The appellant attended the hearing, together with his father and an interpreter. [names], respectively, of the Board of Examiners, appeared on behalf of the respondent.



Decision
22-469
Page 2/15

Considerations

1 – The position of the appellant

The appellant does not agree with the decision of 29 July 2022, in which the sanction of exclusion from examinations was imposed on him due to plagiarism in his master's thesis (“[X]”). He finds this decision unreasonable and challenges the Examiner's opinion. He holds the Examiner to be biased, partly based on the previous allegation of fraud. He believes that the Examiner did not assess the thesis based on its content, but was already looking for plagiarism in advance following an earlier accusation of plagiarism.

According to him, the Examiner erred in finding plagiarism in naming some five sources where quotation marks were not used. The appellant indicated that he was not aware of these sources and that the similarity is based only on the use of general terms focused on the content of the thesis, or that indirect sources are involved. He says the similarity index is less than 1%. And quite to the contrary: he did use the article by [X] in the proper manner.

The appellant is aware that he should preferably have written the thesis in his own, original, words but disputes that plagiarism has occurred. His carelessness with quotations are related to his personal circumstances. According to him, plagiarism can only occur if it is deliberate. However, this is not the case. A number of times he did not quote correctly and these were minor misquotes. Moreover, this only relates to 1,000 words of the 18,000 words that make up the thesis. The appellant screened the thesis using *Compilatio* software and it revealed no plagiarism.

The appellant requested a different Supervisor, but did not receive sufficient assistance from the Coordinator of Studies. He believes Leiden University has been negligent in providing support to students with mental and psychological problems. He suffered from corona, and the corona pandemic affected his mental and physical health. He struggled with online remote learning combined with the lockdown. Over the past five years studying at Leiden University, he has never previously had any problems with his studies. He achieved high grades and engaged in various extra-curricular activities and also worked part-time.



Decision
22-469
Page 3/15

Personal circumstances also played a role, such as [X], which caused him delay in writing his thesis.

In the amicable discussion with the respondent, eight cases were discussed of which the Examiner suspected plagiarism. However, the second meeting the appellant had with the respondent was ineffective as a compromise appeared to be impossible even before the meeting started. He would like to resubmit the thesis by amending the problematic passages. Many of the problematic passages are in the middle of the thesis, where a lot of facts are presented and regulations are discussed.

3 – The position of the respondent

The respondent was informed by the Examiner that the thesis submitted by the appellant showed clear elements of plagiarism. According to the Examiner, the Turnitin report showed overlaps with other sources. He used this result to investigate the sources. A number of passages are poorly quoted, four passages lack source citations, and passages were quoted verbatim. The appellant consequently made it appear that this was his own work. The respondent applies strict measures against fraud. As such, it is irrelevant whether the plagiarism was committed deliberately. As the appellant had previously (on 11 May 2021) committed fraud (plagiarism), the respondent decided to impose a more severe sanction on him this time. The appellant should have learnt from this.

The respondent decided to declare the thesis invalid. The appellant may write a new thesis on a new topic next semester. He may also choose another Supervisor. The respondent spoke with the appellant on 25 July 2022.

The respondent found that serious allegations were made by the appellant towards the Examiner. No evidence for these allegations has been provided. On the contrary, the Examiner tried to contact the appellant every time to inquire about the progress of the thesis. Another new Coordinator of Studies has been appointed. According to the respondent, there are no indications that the procedure was not followed properly. The respondent understands the appellant's personal circumstances, but cannot take these into account further, as no



Decision
22-469
Page 4/15

statement of functional impairment was submitted; nor was an extension of the deadline for submission of the thesis requested.

With regard to the sanction imposed, the respondent took into account the fact that this is a master's thesis, which means that the appellant is deemed by this stage to have acquired the required knowledge, understanding and skills. The earlier establishment of plagiarism was also taken into account.

3 – Relevant legislation

The relevant legislation is included in the annex to this decision.

4 – Considerations with regard to the dispute

In accordance with article 7.61, paragraph two of the Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, hereinafter referred to as “WHW”), the Examination Appeals Board must consider whether the contested decision contravenes the law.

The issue is whether the respondent was right and proper in imposing a sanction on the appellant for plagiarism discovered, and, if so, whether the sanction imposed on him was proportionate.

General considerations

Imposing a measure within the meaning of Article 7.12b, paragraph two, of the WHW must be qualified as a punitive measure that must be assessed in respect of proportionality by the Examination Appeals Board without reservation, both with regard to the question whether a student committed fraud, as well as to the question of whether the measure imposed is proportionate to the conduct. 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 that is deemed very serious by the University. Academic enterprises can only flourish as long as the integrity of scientists is undisputed.



Decision
22-469
Page 5/15

As the Examination Appeals Board had previously considered (see the decision in case CBE 20-396), a student is responsible for his or her own work and in that context it may be expected that the student will always verify whether plagiarism has been committed and whether all sources within the academic world in general or in the student's own field of expertise in particular have been indicated in the usual manner. Consequently, a student is not required to have committed fraud/plagiarism intentionally in order to impose a sanction for fraud, including plagiarism (see the decision in the case CBE 21-072). The 'accidental' or 'inadvertent' failure to quote or include a source citation or reference correctly also falls under plagiarism and therefore counts as fraud.

If fraud was not committed intentionally or only to a limited extent, this must be taken into account in the nature and scope of the sanction to be imposed. In exceptional cases, as for instance in a case where a student commits a minor type of fraud for the first time, an Examiner always has the discretion - irrespective of what the Course and Examination Regulations (*Onderwijs- en Examenregeling*, OER) or Rules & Regulations (*Regels & Richtlijnen*, R&R) state - not to report it to the Board of Examiners in order to have a sanction imposed, but to assess an interim examination/assignment/ paper as unsatisfactory as a consequence of fraud and to have a "corrective discussion" with the student. The intention of this corrective meeting is to make sure the student understands that he or she has acted improperly, what the - serious - consequences of such conduct may be and to help the student to prevent such errors in future.

Accusation of Examiner/Supervisor bias

The Examination Appeals Board notes that the appellant made very serious allegations against the Examiner both in the letter of appeal and at the hearing. The Examination Appeals Board holds that the appellant should also be expected to be able to substantiate such accusations. Although he was given the opportunity to do so, he was also unable to do this during the hearing. It seems perfectly logical to the Examination Appeals Board that the Examiner, in investigating possible fraud, relied on a previous case of fraud.



Decision
22-469
Page 6/15

As there was no evidence of any bias on the part of the Examiner, the Examination Appeals Board holds the unjustified allegation strongly against the appellant.

Assessment of plagiarism

The Examination Appeals Board established that it is apparent from the documents and the explanation given at the hearing that the respondent followed the procedure prescribed in the R&R when determining the plagiarism alleged against the appellant. The same applies to the procedure followed by the Examiners who assessed the thesis submitted by the appellant. Based on the Turnitin report, the Supervisor found that there was a large overlap of the appellant's work with other work without a source reference. This raised the suspicion of plagiarism and the Examiner reported it to the respondent.

The Examination Appeals Board notes that the appellant acknowledged at the hearing that he had been careless in quoting and using source citations and could have done better. The Examination Appeals Board holds that the fact that the appellant considers these to be only minor errors pertaining to a limited word count is irrelevant to the assessment of plagiarism.

The Examination Appeals Board considers that the documents, as further explained at the hearing, show, moreover, that there was substantial careless citing of sources without attribution. A master's student is expected to be familiar with how sources should be cited. This is all the more the case as the appellant also obtained his bachelor's degree at Leiden University. Although the appellant has previously been accused of plagiarism, he has shown no improvement. The fact that the appellant does not consider the careless reference to sources, even if it was unconscious, as fraud is down to him. Leiden University's rules on fraud/plagiarism are clear in this respect.

The Examination Appeals Board therefore holds that plagiarism occurred.

The Examination Appeals Board next assessed whether the sanction imposed by the respondent is proportionate.



Decision
22-469
Page 7/15

Proportionality of sanction

As noted above, imposing a measure within the meaning of Article 7.12b, paragraph two of the WHW, must be regarded as a punitive measure, and must be assessed for proportionality. The measure must be explicitly based on facts, circumstances and explanations that can support the measure (see the decision of the CBHO of 7 January 2015 in case CBHO 2014/217, www.cbho.nl).

The Board considers that the respondent's decision to declare the appellant's thesis invalid and instruct him to write a new thesis on a new topic is a relatively lenient sanction.

The respondent's assessment took into account recidivism. On 11 May 2021, the appellant was accused of plagiarism in the course unit [X]. This decision has become final, as the appellant did not lodge an appeal or administrative appeal against it. Like the respondent, the Examination Appeals Board holds that the appellant is deemed to have sufficient academic skills when writing the master's thesis and that he is capable of properly citing sources either by quoting them using inverted commas or paraphrasing them and reproducing the text in his own words, accompanied by a source citation. The appellant failed to do this.

No evidence was presented that the appellant submitted a statement of functional impairment relating to being impeded in writing the thesis due to personal circumstances or that he requested an extension of the deadline, or asked for help in any other manner.

The respondent indicated at the hearing that the sanction was imposed taking into account the previous establishment of plagiarism and the fact that an even more serious sanction could possibly be imposed in a subsequent case. It was stated at the hearing on behalf of the respondent that the comment in the contested decision that the respondent will propose the appellant for exclusion from the programme in a subsequent case of plagiarism was based on a mistake. The respondent only meant to say that this could be the case.

Under these circumstances, the Examination Appeals Board holds the sanction of declaring the thesis invalid that was imposed and the instruction to write a new thesis on a new topic the following semester to be proportionate and not



**Decision
22-469**

Page 8/15

unreasonable. The Examination Appeals Board has not seen any evidence of an unreasonable study delay or any other circumstances that would justify an amended decision. This means that, in the opinion of the Examination Appeals Board, the respondent has reached this decision on proper grounds. The administrative appeal is unfounded, and the contested decision of 29 July 2022 can be upheld.



Decision
22-469
Page 9/15

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: O. van Loon, LL.M., (Chair), Dr A.M. Rademaker, J.J. Christiaans B.A. (members), in the presence of the Secretary of the Board, Mr I.L. Schretlen, LL.M.

O. van Loon, LL.M.,
Chair

I.L. Schretlen, LL.M.
Secretary

Certified true copy,

Sent on:



**Decision
22-469**

Page 10/15

Annex - Relevant legislation

The Dutch Higher Education and Academic Research Act (*Wet op het Hoger onderwijs en Wetenschappelijk onderzoek*) stipulates the following, as far as relevant here:

Article 7.12b Duties and powers of the Board of Examiners

(...)

2. If a student or external candidate commits fraud, the Board of Examiners may deprive the relevant person of the right to attend one or more tests or exams, during a period of a maximum of one year, at the discretion of the Board of Examiners(...).

3. The Board of Examiners sets out rules regarding (...) paragraph two, and the measures they can take in this respect (...).

(...)

The Course and Examination Regulations of the Master's programmes of the Faculty [X] (*Onderwijs- en Examenregeling*, hereinafter: the OER) provide the following as far as relevant here:

Article 4.5 Board of Examiners rules and guidelines

4.5.1 In accordance with Article 7.12b(3) of the Act, the Board of Examiners adopts rules on the performance of its duties and powers and on the measures it can take in case of fraud.

4.5.2 The Board of Examiners ensures that the rights of students to appeal against decisions of the Board of Examiners, or individual Examiners is guaranteed.

The Rules and Guidelines for the Board of Examiners for the [X] Master's programme of the Faculty [X] (*Regels en Richtlijnen, "R&R"*) stipulates - as far as relevant here - the following:

Article 6.2 Procedure in case of fraud and irregularities

6.2.1 The Examiner is responsible for ensuring that order is maintained during an examination. If an invigilator observes any irregularity, fraud or disturbance



**Decision
22-469**
Page 11/15

during the (constituent) examination, he/she must report this to the Examiner. If an examination is supervised only by one or more invigilators, they will have the authority as defined for the Examiner in this article.

6.2.2 In cases where a student causes a serious disruption during an examination, the Examiner will give him/her a warning. If the student continues to cause a disruption, the Examiner or invigilator can ask the student to leave the room or online examination environment. The Examiner will make a report (appendix 1) and will inform the Board of Examiners and student of this directly after the examination. The Examiner will inform the student involved that there will be no assessment of the examination pending the decision by the Board of Examiners.

6.2.3 If a student does not comply with one or more of the instructions as referred to in articles 4.6 and 6.2, or if the Examiner and/or invigilator observe other forms of irregularities or suspect fraud, the Examiner will communicate this to the student immediately. The student can finish the examination; however the assessment will only take place following a decision by the Board of Examiners, in which the examination is released for assessment. The Board of Examiners will be informed of the report immediately. The student will receive a copy.

6.2.4 The Examiner can confiscate any items in the student's possession that could be relevant for the evaluation of the irregularity or fraud. At the Examiner's request, every student is obliged to surrender any items in his or her possession that could be relevant for the evaluation of an irregularity, plagiarism or another form of fraud to the Examiner for the purpose of this evaluation. The confiscated items will be returned to the student within a reasonable period of time. The Examiner will place the items that have been confiscated pursuant to this article at the disposal of the Board of Examiners. In the case of notes in a statute/law book or another textbook, the availability of aids that the Examiner did not permit (such as a book), and suchlike, he or she can provide the Board of Examiners with photocopies instead of the confiscated items. In all cases, the Examiner can provide the Board of Examiners with a report of the observed irregularity or fraud signed by two Examiners/invigilators instead of the confiscated items or aforementioned photocopies.

6.2.5 In the case of an irregularity or fraud observed, or a strong suspicion thereof, the Board of Examination can hear the Examiner, the student, invigilators and others. Based on the report and hearings, the Board of Examiners



Decision
22-469
Page 12/15

decides whether a measure will be taken and if so what measure is appropriate. The assessment of the (constituent) examination will be made following the decision of the Board of Examiners after which the examination is released for assessment.

Article 6.3 Procedure in case of plagiarism

6.3.1 The Examiner checks all written assignments that serve as a constituent examination, examination or thesis for plagiarism. For this purpose, he/she uses a detection programme that has been made available to the university. Students are obliged to submit their written work digitally for it to be checked for plagiarism, and to submit it via this programme if so requested.

6.3.2 If the Examiner detects or suspects plagiarism, he or she will inform the Board of Examiners as soon as possible.

6.3.3 The Examiner will provide the Board of Examiners with the relevant work and, if available, the report generated by the plagiarism detection programme, accompanied by his/her own findings.

6.3.4 In the event of suspected plagiarism, the Board of Examiners can hear the Examiner, the student and others. Based on these hearings and the findings of the Examiner, the Board of Examiners decides whether a measure will be taken and if so what measure is appropriate. The assessment of the examination will take place following the decision of the Board of Examiners after which the examination is released for assessment.

Article 6.5 Measures and sanctions to be taken by the Board of Examiners

6.5.1 The measures and sanctions that the Board of Examiners can impose are:

- a. giving an official warning and including this in the student file;
- b. declaring the (constituent) examination, essay, paper, thesis or research assignment to be invalid or to grade the (constituent) examination with a 1.0;
- c. and/or excluding the student from participation in making or writing a (constituent) examination, for which the irregularity, the fraud and/or the plagiarism has been detected, for a maximum period of one year;



Decision
22-469
Page 13/15

d. and/or excluding the student from participating in one or more other (constituent) examinations for a maximum period of one year;

e. and/or excluding the participation of classes and (final) examinations that are part of one or more of the faculty's study programmes for a maximum period of one year.

Courses that have been followed and successfully completed at another faculty or another higher education institution during the period of exclusion (including essays, papers and theses that have been successfully completed) cannot be included in the curriculum in any way.

6.5.2 In the case of serious fraud, the Executive Board can terminate the student's enrolment in the programme definitively at the proposal of the Board of Examiners and considering article 7.42 (3) of the Act.

Article 6.6 Register of plagiarism and fraud

6.6.1 The Faculty has a register in which all measures imposed for 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 study programme, (iii) the component of the 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 relevant Board of Examiners.

6.6.2 The register is maintained by the official secretariat of the Boards of Examiners. The Boards of Examiners report all measures that they have imposed themselves or that have been reported to them by Examiners, as soon as these have become definitive. If the imposed measure is declared unfounded in appeal proceedings, the measure will be removed from the register.

6.6.3 The register is confidential. If Boards of Examiners are required to deal with a suspicion of irregularity, plagiarism or other form of fraud, they can enquire whether previous measures have been imposed on the student for irregularities, plagiarism or other forms of fraud. A student has the right to inspect the register with respect to the recording of their personal information. The register remains closed to all other parties.



**Decision
22-469**

Page 14/15

Leiden University's Plagiarism Regulations stipulate the following:

On these pages, Leiden University will explain its views on plagiarism, how it is defined, and what consequences may be faced by students who commit this offence. Generally, plagiarism is understood as presenting, intentionally or otherwise, someone else's words, thoughts, analyses, argumentations, pictures, techniques, computer programmes, etc., as your own work.

Most students will understand that cutting and pasting is not allowed without mentioning the source of the material, but plagiarism has a wider meaning. Paraphrasing someone else's texts, e.g. by replacing a few words by synonyms or interchanging some sentences is also plagiarism. Even reproducing in your own words a reasoning or analysis made by someone else may constitute plagiarism if you do not add any content of your own; in so doing, you create the impression that you have invented the argumentation yourself while this is not the case. The same still applies if you bring together bits of work by various authors without mentioning the sources.

Quoting sources

Plagiarism is always a violation of someone else's intellectual property rights. Obviously, each discipline advances by building on the knowledge and understanding gained and published earlier. There is no objection at all if you refer to previous work and quote it while mentioning the source. It must, however, remain clear where existing knowledge ends and where you start presenting the results of your own thinking or research. As long as you are not capable of contributing to the discipline by adding something essential to what others have already found, it is misleading and therefore wrong to pretend you have reached that level. It is very important for both the teacher and the student to have a correct impression of the knowledge, understanding and skills of the latter.

Internet texts

The rules concerning plagiarism apply to all data sources, not just books; extracts from internet pages may not be used without mentioning the source either. Contrary to what some people may think, internet texts are not public property; it



Decision
22-469
Page 15/15

is equally important here that you never present someone else's work as your own.

Dos and Don'ts

To help you to avoid committing plagiarism or related offences, we indicate below some dos and don'ts.

1. When copying someone else's texts, pictures, graphs, etc., obey the rules set out by your Department, for example, in thesis regulations. Sometimes you have to put them between quotes, or use a clearly different layout. Always mention their author and origin, using one of the common or prescribed ways to indicate references.
2. If you want to reproduce someone else's thoughts, considerations, ideas, etc., in your own words without using literal quotes, make unambiguously clear who is the source of these ideas and avoid giving the impression they may be attributed to you.
3. Be even more cautious when copying texts from the internet. Take Wikipedia as an example: the author is usually unknown, but the article may well be plagiarised, in part or in full. Avoid copying texts from unknown authors, even if you mention the source you used.
4. When you partially copy texts, be careful not to change their meaning by leaving out sentences or parts of sentences, or by turning them around, etc. If you do not have the original version of a text and therefore must rely on a reproduction by someone else, make this clear as well; if it turns out the original author has been quoted incorrectly, it will then be clear who made the mistake.
5. If others have contributed to your work, for instance by carrying out experiments, preparing illustrations, etc., you should mention this too. This does not apply to advice and comments from your supervisor, nor if someone proofreads your text for style, grammar and spelling errors. At some cases, relevant rules are set out in departmental regulations.
6. In some cases, even citing your own work may be considered plagiarism (sometimes called 'autoplagerism'). When you largely copy a paper you have produced for a prior assignment and then submit it again for another assignment, you deliver only one performance instead of the required two. This will not always be considered problematic, but you should discuss it with the lecturer involved.



Decision
22-469
Page 16/15

7. Strictly speaking, composing a thesis, for example, largely from acknowledged quotations does not result in plagiarism. Yet, few teachers will accept your paper if your contribution is limited to cutting and pasting texts. Moreover, very long quotations may violate copyrights. If work by others in its entirety is essential for your paper, then refer to it, possibly with a short summary of its contents, without quoting from it.
8. If a paper or thesis was written in co-operation between several students, make clear, as far as possible, who authored the various parts.
9. In principle, the same set of rules applies to copying computer programmes. Using standardised procedures that are common to many applications, there is no question of plagiarism; in such cases, the original author is often unknown. It is a different matter if you copy the underlying idea or the approach of a whole programme, even if it is developed somewhat differently. When comparing it to ordinary language, the use of words and common sentences is not plagiarism, but copying whole paragraphs or the underlying ideas and thoughts is.

Combatting Plagiarism

Plagiarism is a form of fraud and is therefore an offence. For some time now, the University has been taking active steps to combat plagiarism. Computer software is often used to analyse papers and theses. If plagiarism is proven, the relevant Board of Examiners will, as a rule, impose penalties. Their severity will depend on the seriousness of the offence, and may be influenced by previous offences. The most serious penalty that may be imposed is exclusion from all examinations for one full year. This might mean that you would have to wait for a year for your thesis to be marked; as a consequence, you cannot graduate during that year. The penalty may also relate to just one or a few examinations, or may apply for a shorter period.

We hope this clarifies what is considered plagiarism, and also to have made clear that the University considers this a serious offence which may incur severe penalties.