

DECISION 23 – 404

Rapenburg 70
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of the Examination Appeals Board of Leiden University
in the matter of the administrative appeal of

[X], appellant

against

the Board of Examiners of International Studies, respondent

The course of the proceedings

The respondent imposed a sanction on the appellant for fraud (plagiarism) detected in the thesis of the Bachelor's Programme in International Studies (hereafter: the Bachelor's Programme).

The appellant lodged an administrative appeal against this decision in her letter dated 20 July 2023.

The respondent investigated whether an amicable settlement could be reached. No amicable settlement was reached.

On 9 August, the respondent filed a letter of defence.

The appeal was considered on 16 August 2023 during a public hearing of a chamber of the Examination Appeals Board. The appellant was present at the hearing along with her father, [X]. [X], [X] Board of Examiners, was present on behalf of the respondent.

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Considerations

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

The appellant does not consider it justified to accuse her of fraud, in particular plagiarism; she also disagrees with the sanction imposed. She argues that she did not present the work of others as if it were her own in her thesis. When quoting others' work she merely made mistakes, accidentally and without malicious intent. In doing so, she claims that she could not have known that she made these mistakes, because the thesis supervisor did not point them out to her in the counselling he provided for the thesis.

Consequently, the appellant argues that the sanction imposed is too severe in relation to the mistakes she made inadvertently: her thesis has been invalidated, which means she has to write a new one in the 2023-2024 academic year.

The respondent indicated that no intent is required to establish plagiarism. The respondent also points out that the Bachelor's Programme pays ample attention to academic skills during course units in the first and second years. This often addresses the issue of the appellant's error, namely the difference between quoting (using inverted commas and referring) and paraphrasing (summarising the source text in one's own words, without inverted commas but also referring). Therefore, the respondent holds that the appellant should have known how to proceed.

General considerations

Imposing a measure within the meaning of Article 7.12b, paragraph two, of the WHW, constitutes a measure which is assessed by the Examination Appeals Board unreservedly - also in view of its far-reaching consequences. This concerns

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both whether a student is guilty of fraud and whether the measure imposed is proportionate to the conduct committed.

The basic principle of the Examination Appeals Board, and of the University itself, is that fraud in any shape or on any scale whatsoever, cannot be tolerated in an academic environment. The academic establishment only exists by virtue of the fact that the integrity of scientists is undisputed. Imposing a sanction for fraud does not require a student to have committed the fraud intentionally (see CBE 21-072 ruling). If fraud was not committed with intent, or only to a limited extent, this must be taken into account in the nature and scale of the sanction to be imposed.

Establishment of plagiarism

Imposing a measure within the meaning of Article 7.12b, paragraph two, of the WHW should, as stated above, be regarded as a measure which the Examination Appeals Board has to review unreservedly in terms of proportionality. The measure must be explicitly based on facts, circumstances and explanations that qualify to substantiate the measure (see the decision of the CBHO of 7 January 2015 in case CBHO 2014/217, www.cbho.nl).

On the basis of the documents and what was discussed at the hearing, the Examination Appeals Board considers that the respondent was correct in establishing plagiarism in the thesis submitted by the appellant. The appellant frequently copied text verbatim, but without using inverted commas; in those cases she only provides a reference to the source. In doing so, she gave the impression that she was offering a paraphrase of the source in her own words, when in fact she was using someone else's phrasing. This is covered by the definition of plagiarism.

In view of what was discussed at the hearing, the Examination Appeals Board can imagine that the appellant did not commit the errors intentionally and did not commit fraud deliberately. However, determining whether plagiarism has occurred and imposing a sanction does not require a student to have acted intentionally (see CBE 21-072 ruling). Whether the plagiarism was intentional or

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not does play a role in whether a sanction is appropriate and necessary, and if so, what sanction will be applied.

Proportionality of sanction

First of all, the Examination Appeals Board points out that establishing plagiarism need not always result in a sanction. The Examiner or respondent may also choose to conduct a so-called - pedagogical - "*foeigesprek*" (corrective consultation) with students in less serious cases, for example.

In this case, the respondent chose to impose a sanction. In doing so, the respondent correctly took into account that the appellant was in the third year of her Bachelor's Programme and - therefore - had had plenty of opportunity to practise referencing and paraphrasing. The respondent was also right to take into account that this is not a case of incidental misquoting, but that misquoting is apparent throughout the thesis. In this light, the Examination Appeals Board does not consider it disproportionate that the sanction prevents the appellant from completing her Bachelor's Programme in the 2022-23 academic year. The thesis clearly shows that she does not yet meet the final achievement levels of the Bachelor's Programme, at least in terms of her academic skills.

In this light, the Examination Appeals Board shares the respondent's concern that at the hearing the appellant did not yet seem to fully understand why her manner of quoting and annotating is incorrect. Consequently, the Examination Appeals Board strongly advises the appellant to take up the offer made by the respondent at the hearing to retake the *Academic Reading and Writing* writing skills course unit (5 ECTS).

Consequently, the Examination Appeals Board finds that the administrative appeal is unfounded. The contested decision is upheld.

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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. Rademacher, Dr J.J. Hylkema, T.E.V. Claessen and J.G. Skidmore (members), in the presence of the secretary of the Board, E.M.A. van der Linden, LL.M.

.....,
Chair

.....,
Secretary

Sent on:

Certified true copy,