

OFFICIAL REPORT 24 - 492

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Official report dated 28 August 2024 by the Examination Appeals Board of Leiden University regarding the administrative appeal by:

██████████, appellant,

against

the Board of the Faculty of Humanities, respondent.

Present:

O. van Loon, LL.M. (chair)

Dr A.M. Rademaker

P.C. Kemeling, LL.B.

T.E.V. Claessen, B.A.

J.J. But, LL.M. (member)

R.R. van der Vegt, LL.M. (secretary)

The appellant

On behalf of the respondent: ██████████, ██████████ of the Board of Examiners for International Studies; and ██████████, ██████████ ██████████ of the Board of Examiners for International Studies.

Course of the proceedings

The appellant lodged an administrative appeal against the decision to issue her with a negative recommendation regarding the bachelor's programme in International Studies (hereafter: the bachelor's programme), to which a rejection for continuation of the programme is attached (article 7.8b, paragraph 3, of the Higher Education and Research Act; hereafter: the WHW).

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The respondent submitted a statement of defence on 19 August 2024, and explained the decision at the hearing.

Considerations

The appellant has been following the bachelor's programme since the 2023-2024 academic year. In that year she obtained 50 ECTS. She has therefore met the BSA requirement of 45 ECTS, but she has not met the additional requirement for the bachelor's programme, namely passing the Academic Reading and Writing course.

The appellant has no personal circumstances that could justify the failure to meet the additional requirement. She referred to the fact that she obtained 50 ECTS and that she achieved a grade of 8.5 for Foreign Language 1. She is a motivated student and is confident that she can complete the programme.

The respondent stated that he is not confident that the appellant will be able to complete the bachelor's programme within a reasonable period. In the rest of the bachelor's programme there is an even greater emphasis on writing academic papers. It is for this reason that the course in Academic Reading and Writing is an additional requirement for obtaining a positive BSA. The appellant has had two opportunities to pass the course; the respondent therefore believes that she has had enough opportunity to learn from her mistakes. The fact that she has not yet succeeded in this therefore gives the defendant too little confidence that the appellant will be able to complete the programme within a reasonable period. The respondent commented that the appellant cannot derive any rights from the fact that the course will change in the coming year.

Furthermore, the respondent warned the appellant – with a conditional negative BSA in January and a further warning on 21 May 2024 – about the possible consequences of not passing the course.

Finally, the respondent commented that of the 439 students, 55 failed the course. After reviewing the course once the Board of Examiners was notified of the relatively high percentage of failed students following the interim examination, it

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became apparent that the students who had failed the interim examination had in many cases not carried out the preparatory assignments. This was also the case for the appellant.

First and foremost, meeting the additional requirement is an independent condition that the bachelor's programme can attach to issuing a positive recommendation. Having said this, whether or not a negative BSA is issued is not a binding obligation, but an authority that the respondent has some leeway in deciding whether or not to apply. This means that in taking such a decision the respondent must take into account the proportionality of the consequences of the decision in relation to the objectives to be achieved by the decision (compare: the decision by the Department of Administrative Law, 2 February 2022, ECLI:NL:RVS:2022:285). In this specific case, the Examination Appeals Board considers that the respondent has taken this sufficiently into consideration.

At the hearing, the respondent explained that the Academic Reading and Writing course is an important building block for the remainder of the bachelor's programme in which there is considerable emphasis on writing academic papers. The Board endorses the respondent's argument that the subject is an important building block for the remainder of the undergraduate course.

The Board therefore concludes that the appellant has not met the BSA norm and that the circumstances put forward by her do not exonerate this. The respondent has correctly and on proper grounds concluded that there is insufficient confidence that she will be able to complete the bachelor's programme in a reasonable period.

The Board has not been able to establish any facts or circumstances that could result in an alternative decision. This means that the disputed decision holds, and that the appellant may not continue the bachelor's programme.

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Decision

The Examination Appeals Board declares the appeal unfounded.

This official report has been drawn up and signed by the chair and secretary .

O. van Loon, LL.M.
Chair

R.R. van der Vegt, LL.M.
Secretary

Sent on:

Certified true copy,