

DECISION 24 – 218

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

██████████, appellant,

against

The Board of the Faculty of Social and Behavioural Sciences, respondent.

The course of the proceedings

In its letter dated 29 April 2024, the appellant lodged an administrative appeal against the decision dated 25 April 2024 (the primary decision), in which the respondent found that the appellant had committed fraud in the assignment she handed in for module 1 of the '*Academic Skills Tutorial*'. As a result, the appellant has to submit a new written assignment because her originally submitted assignment was declared invalid. In addition, the sanction was imposed that the appellant can no longer graduate with distinction. Finally, the appellant must retake the scientific integrity test.

The respondent investigated whether an amicable settlement could be reached. A meeting was held between the parties on 8 May 2024. No amicable settlement was reached.

The respondent submitted a letter of defence on 22 May 2024.

The appeal was considered on 5 June 2024 during a public hearing of a chamber of the Examination Appeals Board. The appellant appeared in person at the hearing. ██████████, ██████████ of the Board of Examiners, attended the hearing online.

Considerations

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

General considerations

Imposing a measure within the meaning of Article 7.12b, paragraph two, of the WHW (Dutch Higher Education and Research Act) is a measure that is reviewed by the Examination Appeals Board without restraint - also in view of its far-reaching consequences. This concerns 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 scope whatsoever cannot be tolerated in an academic environment. Academic enterprises will flourish as long as 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 intentionally, or only to a limited extent, this must be taken into account in the nature and scope of the sanction to be imposed.

Establishment of plagiarism

The Examination Appeals Board considers, based on the documents and what was discussed at the hearing, that the respondent was correct in establishing plagiarism, or autoplagerism, in the assignment submitted by the appellant. In fact, 88% of the assignment submitted by the appellant corresponds to a paper she submitted for a previous course, which was assessed, without this being in any way apparent from the assignment. The definition of plagiarism, as used in the Leiden Code of Conduct on Plagiarism, includes using one's own work in certain circumstances. This is particularly the case if the person's own work is reused without the usual acknowledgement of sources. In addition to this, the Code of Conduct requires students to consult with the relevant lecturer before using their own work. The appellant failed to do this.

Furthermore, the Examination Appeals Board takes into account in its assessment that the appellant took a scientific integrity test prior to the course. She passed this test, as is necessary before being allowed to participate in the *Academic Skills Tutorial* course unit.

This test included a specific question about using one's own work. Consequently, the appellant should have been aware that reusing previously submitted and reviewed work without acknowledgement of the source was problematic.

Establishing fraud

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Furthermore, the Examination Appeals Board finds that the respondent was correct in establishing fraud. The respondent's Rules and Regulations (*Regels en Richtlijnen*) state:

"any act or omission that makes it wholly or partly impossible to form a correct opinion about someone's knowledge, insight, skills, general attitude, professional attitude or reflection, including in any case:

f. plagiarism (acting in violation of the Leiden University Plagiarism Code of Conduct);

i. other behaviour which the Board of Examiners established and communicated as fraud, pursuant to the rules established and communicated within the faculty or programme".

The Examination Appeals Board has already concluded above that plagiarism occurred. In addition, the Examination Appeals Board shares the respondent's view that the appellant's conduct entailed that her knowledge and skills could not be assessed. The submitted assignment shows that 88% of the text corresponds to the earlier assignment, without it being clear to the Examiner to what extent her then tutor/Examiner contributed to the creation of the text. A few words have been added and the 'Abstract' is an exception.

Proportionality of sanction

Imposing a measure within the meaning of Article 7.12b, paragraph two, of the WHW should, as stated above, be regarded as a measure that the Examination Appeals Board must review for proportionality without restraint. 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).

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 various sanctions. Firstly, to invalidate the written assignment and to instruct that the assignment be resubmitted on a different topic. Secondly, to resit the scientific integrity test.

At the hearing, the appellant said, when asked, that her appeal did not relate to those parts of the sanction. She has already submitted her new assignment. Nor

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does she object to retaking the integrity test. Therefore, these sections do not require an opinion by the Examination Appeals Board.

Ban on distinction

Thirdly, the respondent imposed the sanction that the appellant can no longer qualify for the cum laude distinction. The respondent explained at the hearing that this decision was based on balancing the public interest against the appellant's interest.

The Examination Appeals Board holds that this sanction is not permitted by law. In this context, the respondent is bound by Article 7.12b, paragraph 2, of the WHW, which contains an exhaustive list of sanctions that the respondent can impose in case of fraud. If a student commits plagiarism, the Board of Examiners may deprive the relevant person of the right to attend one or more interim examinations or examinations, during a period of a maximum of one year, the term to be decided at the discretion of the Board of Examiners. In case of serious fraud, the institution's board may terminate the registration of the relevant person for the programme permanently at the proposal of the Board of Examiners. The invalidation of the examination or assignment in which/when fraud is committed is not mentioned here. This is because this is not a sanction, but a measure the respondent can take in the context of ensuring the quality of the interim examinations and examinations (Article 7.12b, paragraph 1, of the WHW).

Being deprived of eligibility for the cum laude distinction as a sanction is not listed in Article 7.12b, paragraph 2, of the WHW. In imposing this on the appellant as a sanction, the respondent acted contrary to law. The respondent can consider whether or not to award the distinction at the end of the Bachelor's Programme.

Conclusion

Consequently, the administrative appeal is founded and the contested decision with regard to the sanction that the appellant cannot qualify for the cum laude distinction is quashed. This means that the decision will be upheld in all other respects.

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The decision

The Examination Appeals Board of Leiden University

- I. holds the administrative appeal founded;
- II. quashes the contested decision, regarding the sanction that the appellant cannot qualify for the cum laude distinction,

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), J.J. Christiaans BA, Dr A.M.C. van Dissel, J.J. But, LL.M., and D. Hooimeijer (members), in the presence of the Secretary of the Examination Appeals Board, R.R. van der Vegt, LL.M.

O. van Loon, LL.M.
Chair

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

Sent on:

Certified true copy,

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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. In case a student or external candidate plagiarizes the Board of Examiners may deprive the relevant person of the right to attend one or more interim examinations or examinations, during a period of at maximum one year, at the discretion of the Board of Examiners. In case of serious fraud, the institution's board may terminate the registration of the relevant person for the programme permanently on proposal of the Board of Examiners.

3. The Board of Examiners sets out rules concerning the execution of their tasks and responsibilities as referred to in paragraph one, items a, b, and d, and in paragraph two, and about the measures they can take in this respect. The Board of Examiners may determine, subject to conditions it may determine, that not every interim examination needs to have been passed in order to establish that the examination has been passed.

Rules and Regulations (*Regels en Richtlijnen*, "R&R") of the Board of Examiners of the Psychology Programme

6.1 Fraud and irregularities

6.1.1 Irregularities or fraud include :

"any act or omission that makes it wholly or partly impossible to form a correct opinion about someone's knowledge, insight, skills, general attitude, professional attitude or reflection, including in any case:

a. having unauthorised communication equipment, software such as AI software, or unauthorised documents on hand during a (digital) interim examination or practical exercise;

b. the presence during a (digital) interim examination or written exercise of unauthorised notes (cheat sheets) in the authorised material;

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- c. copying answers in full or in part from somebody else or from software such as AI software, during a (digital) interim examination or practical exercise;*
- c. sharing information with somebody else during a (digital) interim examination or practical exercise;*
- c. impersonating somebody else during a (digital) interim examination or practical exercise;*
- f. plagiarism (acting in violation of the Leiden University Plagiarism Code of Conduct), also available in Annex 7;*
- g. adjusting the submitted (digital) interim examination upon inspection;*
- h. fraud is also understood to mean gaining or attempting to gain access on improper grounds to the teaching or a partial examination, practical exercise or interim examination;*
- i. other behaviour which the Board of Examiners established and communicated as fraud, pursuant to the rules established and communicated within the faculty or programme".*

Article 6.4 Sanctions to be imposed by the Board of Examiners in case of irregularities and fraud:

6.4.1 *In case of observation, or of a serious suspicion of an irregularity or fraud in an interim examination the Board of Examiners may hear the Examiner, the students, invigilators, and others.*

6.4.2. *Based on the official report and the hearing the Board of Examiners will determine whether a measure is appropriate and, if so, what measure would be fitting. Assessment of the interim examination as referred to in 6.3.1. will only be effected after a decision of the Board of Examiners in which it releases this interim examination to be graded.*

6.4.3 *The sanctions that may be imposed by the Board of Examiners are:*

- a. to issue an official warning and include this in the student file;*
- b. to invalidate the result of an examination. This is a remedial sanction aimed at removing the consequences of the offence;*
- c. to exclude the student from sitting the interim examination, for which the irregularity or fraud was established for the duration of one year at maximum;*

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- d. to exclude the student from sitting one or more interim examinations for a maximum period of one year;*
- e. and/or to exclude the student from attending classes, sitting interim and final examinations in one or more of the programmes organised by the Faculty for a maximum period of one year.*
- f. course units that have been completed successfully at another faculty or another institution of higher education (which also includes projects, papers, and theses that have been completed successfully) in the period of exclusion cannot be incorporated in the curriculum of the programme in any manner whatsoever.*

6.4.4 The Board of Examiners may deviate from the sanctions listed in Article 6.4.3 parts a to e if they do not fit the seriousness of the fraudulent act and the weight of the study component for the final grade of the programme. In doing so, the Board of Examiners may choose to impose a combination of sanctions.

6.4.5 In determining a sanction, the circumstance of previous fraud committed by the student may also be taken into account.

6.4.6 The programme will keep a note of the disciplinary measure in the student's file until the student's enrolment in the programme ends.

6.4.7 In case of serious fraud, the Institution's Board may terminate the registration of the relevant person for the programme permanently on proposal of the Board of Examiners and in view of Article 7.42, paragraph three, of the Act.

6.4.8 The interim examination assignments are subject to copyright provisions. This means that taking, wholly or partly overwriting or otherwise reproducing and transferring interim examination questions without the express permission of the responsible tutors is prohibited. A violation in the aforementioned sense may be considered by the Board of Examiners in the same way as fraud.

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6.5 Plagiarism procedure and measures to be imposed following plagiarism

6.5.1 *If the Examiner detects plagiarism in an assignment, paper, thesis, or research paper, the Examiner shall notify the chairperson of the Board of Examiners as soon as possible by sending a completed plagiarism form.*

6.5.2 *The Examiner shall provide the relevant assignment, paper, thesis, or research paper to the Board of Examiners.*

6.5.3 *In case of suspicion of plagiarism or of facilitating plagiarism the Board of Examiners may hear the Examiner, the students, and others.*

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

- a. to issue an official warning and include this in the student file;*
- a. rendering the assignment, paper, thesis or research assignment invalid with an option for a resit during the ongoing programme.*
- c. exclusion from participating in the writing of an assignment, paper, thesis or research project in respect of which plagiarism has been established, for a maximum period of one year; during the period of exclusion, an assignment, paper, thesis or research project, as in respect of which plagiarism has been identified, which has been successfully completed at another faculty or other institution of higher education cannot be introduced into the curriculum in any way;*
- d. exclusion from sitting one or more interim examinations for a maximum period of one year, and/or exclusion of attending classes, sitting interim and final examinations in one or more of the programmes organised by the Faculty for a maximum period of one year. Course units that have been completed successfully at another faculty or another institution of higher education in the period of exclusion cannot be incorporated in the curriculum in any manner whatsoever;*
- e. In case of very serious fraud, the Institution's Board may terminate the registration of the relevant person for the programme permanently in view of Article 7.42, paragraph three, of the Act.*

6.5.5 *The Board of Examiners may deviate from the sanctions listed in Article 6.5.4 parts a to e if they do not fit the seriousness of the fraudulent act and the weight of the study component for the final grade of the programme. In doing so, the Board of Examiners may choose to impose a combination of sanctions.*

6.5.6 *In determining a sanction, the circumstance of previous committed plagiarism by the student may also be taken into account.*

6.5.7 *The Board of Examiners will inform the student, lecturer and/or coordinator in writing of the examination result and the measure imposed.*

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6.5.8 *The evidence of plagiarism, the examination result and the disciplinary measure will be filed at on behalf of the Board of Examiners. The disciplinary measure will be recorded in the student's file.*

LEIDEN UNIVERSITY PLAGIARISM CODE OF CONDUCT

These pages will explain what Leiden University understands plagiarism to mean, its views on it, and what the consequences may be if a student commits fraud.

In general, plagiarism is defined as presenting words, thoughts, analyses, reasoning, images, techniques, computer software, etc. that originate from someone else - including generated texts or programming codes by software such as AI software - as one's own work intentionally or unintentionally without indicating the source. This should not only include 'cutting and pasting' of digital sources such as encyclopaedias, or digital magazines without inverted commas and reference; most students will still understand that this is not allowed without mentioning from whom the material originates. It also applies to presenting AI software-generated text or programming code - as by ChatGPT - as your own text in an interim exam or thesis, without proper citation of the source. However, also paraphrasing somebody else's texts, i.e. by replacing some words by synonyms and moving some sentences around, is plagiarism. Even if you repeat a reasoning or analysis by someone else in your own words without adding anything new to it, this may qualify as plagiarism; this is because you pretend to have conceived the reasoning yourself, though this is not true. It still applies when you combine texts extracts from various authors without stating the origin. Plagiarism occurs when data or sections of text from others are copied in a thesis or other work without citing the source. The use of language models such as ChatGPT offers a range of new possibilities for text creation. Do realise, that if you do this and present it as your own work, it will be considered fraud. Therefore, use ChatGPT in your studies only when the lecturer approves doing so and when you state the use.

Do's and don't's

Below are some do's and don't's that can help you avoid committing plagiarism or related offences.

6. In certain cases, even quoting your own work may be considered plagiarism (sometimes called 'autoplagerism'). When you copy a large part of a paper you have written 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 relevant lecturer.