

VRIJE UNIVERSITEIT AMSTERDAM



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EXAMINATION APPEALS BOARD

No. 2017/34/765

THE EXAMINATION APPEALS BOARD

Rendering a decision on the appeal by Ms [name], the Appellant, residing in Amsterdam, the Netherlands, against the decision by the Dean of Amsterdam University College (AUC), the Respondent, to give the Appellant a negative recommendation on the continuation of her studies.

I. Course of the proceedings

On 8 August 2017, the Appellant lodged an appeal against the Respondent's decision dated 1 August 2017. The notice of appeal was received on 17 August 2017 and was thus timely. The other conditions have likewise been satisfied. The appeal is therefore allowable.

On 24 August 2017, the Respondent was notified on the Board's behalf that the required procedure mandated that the Respondent consult with the Appellant to see whether the dispute could be settled amicably. The Respondent timely invited the Appellant to consult with it. An amicable settlement was not reached, though.

The Respondent then filed a written defence on 6 September 2017. The appeal was heard at the Board's session on 29 September 2017.

The Appellant appeared personally. The Respondent was represented by Prof. M. O. Pratt and Dr M. L. Schut (respectively, the Dean and a member of the Examination Board). The parties explained their positions orally.

II. Facts and dispute

Based on the documents and the hearing, the Board will assume the following facts.

The Appellant's academic results during the past academic year were insufficient for her to receive a positive recommendation on the continuation of her studies. The Appellant has said that this was because her personal circumstances kept her from studying in an optimal manner. In the year prior to the Appellant's commencement of her programme at AUC, her parents divorced. The Appellant subsequently left her parents' home and moved into a dorm room at AUC. She assumed that she would thereby be able to put the distressing situation at home behind her. Yet, during her first year of study, the Appellant was upset about the situation between her mother and her stepfather. She was anxious and perfectionistic, and thus unable to complete her assignments on time. The Appellant could not focus enough during examinations. The Appellant realized that she needed to seek help from a psychologist, but her cultural background prevented

her from actually looking for help. In addition, she did not have sufficient financial resources to consult a psychologist.

The Appellant has been given a scholarship by AUC. If she does not complete the programme, she will have to pay back the scholarship. This will only be possible if the Appellant works more hours. As the Appellant is in a full-time programme, this is virtually impossible.

If the Appellant is not permitted to continue her programme at AUC, she will have to give up her room there, too. Hence, she will be homeless for a while.

The Respondent determined that the Appellant did not satisfy the requirements to receive a positive recommendation on the continuation of her studies: she did not obtain 54 credits. The Appellant has not substantiated that there is a causal connection between the personal circumstances claimed by her and her academic results.

During the negotiations about a possible amicable settlement, the Appellant complained about the support from her tutor. Investigation by the Respondent showed that the support which the Appellant received was more than sufficient.

III. The parties' positions

The Appellant has asserted that she obtained all the credits in the first semester. She therefore did not receive any warning that her study progress was deficient. While she did discuss her problems with her advisors in a timely manner, she did not seek help because her cultural background kept her from doing this. The Appellant had difficulty building up confidence in her tutors, partly because they were changed during the course of the year. She did, however, find the mindfulness recommended by a tutor to be helpful.

The Appellant has emphasized that she is under a lot of pressure to finish the programme. She points to the scholarship which she received for this programme and the loss of a place to live if she must stop with the programme.

The Respondent notes that the Appellant's performance in the first semester was indeed good. Yet that was not the case in the second semester. The Appellant did not mention any personal circumstances which might explain her disappointing academic results. There is no evidence for the circumstances alleged. The change in tutors should not have affected the Appellant's requesting help. Nor was the Appellant's cultural background a factor in the decision to provide a negative recommendation on the continuation of her studies.

IV. Findings by the Board

Under Article 7.8b of the Dutch Higher Education and Research Act (WHW), the board of the institution may – no later than the end of the first year of enrolment or at the end of a subsequent academic year if personal circumstances are involved – issue a negative recommendation on the continuation of the programme. Such a negative recommendation may only be given if, in the board of the institution's judgment and taking into account the student's personal circumstances, the student must be deemed unsuitable for the programme, because the student's academic results do not satisfy the requirements which the board has stated.

Article 2.1 of the Regulations Implementing the WHW includes an exhaustive list of the circumstances which may provide cause not to issue a negative recommendation. For an exception to be made based on these circumstances to the scheme governing the recommendation on continuation of the studies, there must also be a causal connection between the circumstances and the delay in the studies. It is the student, too, who must sufficiently demonstrate the existence of the circumstances referred to in the Regulations Implementing the WHW and the aforementioned causal connection.

The Examination Appeals Board finds that the Appellant has not demonstrated that there is a causal connection between the personal circumstances which the Appellant has claimed and her academic results. In light of all of this, the Respondent's decision was reasonable.

V. Decision

The Board hereby declares that the appeal is unfounded.

Thus rendered in Amsterdam on 19 October 2017 by Prof. F.J. van Ommeren (Chair), and Prof. L. H. Hoek, Dr J. R. Hulst, Ms I. Messoussi and Mr F. M. Öksüz (Members), in the presence of J. G. Bekker (Secretary).

Prof. F. J. van Ommeren
Chair

J. G. Bekker
Secretary

An interested party may, providing a proper statement of reasons, lodge an appeal against a decision by the Examination Appeals Board with the Higher Education Appeals Board, P.O. Box 16137, 2500 BC The Hague, the Netherlands. The notice of appeal must be filed within six weeks. The filing fees are €46.