

VRIJE UNIVERSITEIT AMSTERDAM



De Boelelaan 1105
Telephone: (+31) (0)20 598 5337

EXAMINATION APPEALS BOARD

No. 2018/32/823

THE EXAMINATION APPEALS BOARD

Rendering a decision on the appeal by Ms [name], the Appellant, residing in [residence], the Netherlands, directed against the decision by the Examination Board of VU Amsterdam's School of Business and Economics, the Respondent, not to offer an additional opportunity to take the Recruitment and selection examination.

I. Course of the proceedings

In an undated letter, the Appellant lodged an appeal against the Respondent's decision dated 4 May 2018. According to the postmark, the notice of appeal was sent on 16 June 2018. The Appellant was asked on 19 June 2018 to furnish the missing information by 27 June 2018. The Appellant did this on 20 June 2018. The other conditions have likewise been satisfied. The appeal is therefore allowable.

On 21 June 2018, 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 filed a written defence on 18 July 2018. The appeal was heard at the Board's session on 4 September 2018.

The Appellant appeared personally. The Respondent was represented by Prof. B. J. van den Hooff (Chair) and J. J. M. Welling (Secretary) 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 is a student in the Master in Business Administration programme, with a specialization in Human Resources Management. She only needs to pass the subject Recruitment and selection to complete the programme. To avoid having to enrol again for the next academic year and to pay tuition fees again, the Appellant asked the Respondent for an additional opportunity to take the examination for the remaining component in the current academic year. The Respondent denied this request.

III. The parties' positions

The Appellant lists a number of reasons why she was unable to pass the examination. She had been suffering from a toothache for several days when she took the examination. The Appellant had also been fighting a cold. More generally, the Appellant had been plagued by stress and anxiety since December 2017. The Appellant does not have a doctor's statement. Additionally, the Appellant alleges that, on the day that she took the Recruitment and selection examination, she had to take another examination as well. All of these reasons resulted in the Appellant's being unable to sleep well in the days before the examination.

The next opportunity to take the Recruitment and selection examination in the ordinary manner will be in the second period of the new academic year (November/December).

The Respondent explains that each examination can be taken twice every academic year. The Respondent can only give a student an extra opportunity to take an examination if the student has been unable to study for a long period due to special circumstances beyond the student's control, such as long-term illness or family situations. Such special circumstances, however, were not present for the Appellant. An extra opportunity will only be offered if that examination cannot be taken in the ordinary manner within six months.

The Respondent also remarks that there is no causal connection between the circumstances mentioned by the Appellant and her inability to pass the Recruitment and selection examination. After all, on the very same day, the Appellant passed a different examination.

That two examinations may be administered on the same day is unavoidable. The programme offers a great many optional subjects in various specializations. The examinations which the Appellant took were part of two different specializations. It is not always possible for the examinations for all these subjects to be organized such that a student does not have to take two examinations on a single day.

At the hearing, the Appellant indicated that she only needs to pass the Recruitment and selection examination to graduate. She has already successfully completed the team and other assignments included in the subject. For the Respondent, this fact was new. When the Appellant submitted her request for an additional examination, it was not her final subject yet. The Board gave the Respondent the opportunity to consider whether this new circumstance provided reason to grant the Appellant's request now. The Respondent was to report its findings to the Board within a week.

On 10 September 2018, the Respondent stated that the examination in question was not the Appellant's final obligation. Besides taking the remaining Recruitment and selection examination, she still had to write her thesis. Consequently, the Respondent stands by its decision.

IV. Findings by the Board

As Article 6.1 of the Academic and Examination Regulations ('AER') makes clear, a student in the School of Business and Economics may invoke the hardship clause to get an extra opportunity to take an examination. The student must be able to show that he/she was dealing with a special circumstance, that the AER does not provide for this situation and that, as a result, he/she will be harmed disproportionately or that the situation is extremely unfair.

The Board agrees with the Respondent's view that the circumstances asserted by the Appellant are not of such a nature that the hardship clause can be invoked successfully.

Further, the Board has reviewed the Appellant's request against the VU Amsterdam-wide regulation that an additional opportunity to take an examination may be granted if all of the other programme obligations have been satisfied. The conditions are that there is no remaining regular opportunity in the current academic year and that the requesting party could not previously participate in the examination concerned. Application of these criteria likewise does not lead to the result desired by the Appellant. In particular, besides not passing the examination, she has not yet completed her thesis.

V. Decision

The Board hereby declares that the appeal is unfounded.

Thus rendered in Amsterdam on 20 September 2018 by Prof. F. J. van Ommeren (Chair), and Mr N. Hoogedoorn and Dr W. Vlastuin (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 Tribunal, 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.