

EXAMINATION APPEALS BOARD

No. 2015/52/665

THE EXAMINATION APPEALS BOARD

Rendering a decision on the appeal of Ms [NAME], Appellant, residing in Amsterdam, the Netherlands, directed against the decision by the Board of Examiners of Amsterdam University College (AUC), Respondent, to not allow her to sit for a re-examination for Basic Research, Methods and Statistics 1 (BRMS1).

I. Course of the proceedings

In an undated letter, received on 21 July 2015, the Appellant lodged an appeal against the Respondent's decision dated 17 July 2015. The notice of appeal was received on time, but did not satisfy the statutory requirements. The Appellant was asked on 31 July 2015 to furnish the missing information by 13 August 2015. She did this on 4 August 2015. The other conditions have likewise been satisfied. The appeal is therefore allowable.

On 7 August 2015, 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, however.

The Respondent filed a statement of defence on 14 September 2015. The appeal was heard at the Board's session on 15 October 2015.

The Appellant appeared personally. The Respondent was represented by Dr C. Zonneveld (Board of Examiners Vice Chair), Ms A. van Wezel (Secretary of the Board of Examiners) and Dr B. Stratton (Managing Director). The parties explained their positions orally.

II. Facts and disputes

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

The Appellant cannot properly use her right hand because of a disability, namely, a chronic problem with her right shoulder and arm. The Appellant claims that a lot of practice is needed to prepare for the BRMS1 examination properly, for which she has to use her right hand. Because this was difficult for her, she was not able to prepare for the examination adequately. The examiner for the course gave the Appellant the opportunity to do the examination orally. As it was unclear to the Appellant what form the oral examination would take, she was more nervous than usual for an examination. The examination subsequently turned out to go differently than the Appellant had anticipated.

Consequently, the Appellant did not pass it. The Respondent denied the Appellant's request to allow her to sit for a re-examination. The denial was based on the lack of an active contribution by the Appellant to the group work. The Appellant disagrees with this view and points to the good results of her team work.

The Appellant has received negative study advice now. This advice was based on her not passing BRMS1 or the course French. The Appellant did not pass the latter course, because she was supposedly absent too much from the classes. She disputes this. The Appellant asks that she be allowed to take the BRMS1 examination again.

The Respondent has explained that an examination to be taken in writing can only be taken orally if the student's condition necessitates this. The Appellant rejected proposals made earlier to assist her. For instance, the Appellant was given permission to complete the programme in four years instead of three years on account of her health situation. During the second academic year, however, the Appellant opted to study full time again.

The Appellant did not take advantage of the help and assistance offered to her for the teaching in the

BRMS1 course. The relevant teachers indicated that the Appellant did not display much initiative or engagement during the teaching of this course. The Appellant did not contribute to the team work adequately, which may have been a result of her physical condition.

III. The parties' positions

The Appellant has explained that the oral BRMS1 examination entailed the examiner's sitting next to her to write up the answers for the written examination. The Appellant therefore could not concentrate as well. This caused problems, especially in performing calculations.

The Appellant does not understand how a mathematics course examination can be given in another manner orally. Upon request, she has, though, taken other examinations orally. The Appellant asks that she be given the chance to take the BRMS1 examination again, but in writing this time. The Appellant is currently able to sufficiently use her right hand to do this.

The Appellant states that she did indeed take advantage of the help which AUC offered her. The Appellant describes herself as ambitious. She seeks out challenges. Her initiative is shown by the fact that she took more courses than had been agreed.

Due to her disability, the Appellant was not always able to take notes during lectures. She was less active in work groups for the same reason. Incidentally, this did lead to friction with the work group members.

The Respondent points out that AUC follows a policy in which re-examinations cannot be taken. This is only different if there are exceptional circumstances for the student. The limited degree of initiative which the Appellant displayed was a minor factor in the disputed decision.

The Respondent explains the different assessments about the Appellant's performance by the teachers involved in the BRMS1 course by noting that one of the teachers was also the Appellant's tutor.

IV. Findings by the Board

Article 3.2.4 of AUC's Education and Examination Regulations provides that students with disabilities may ask the Respondent to take an examination in an alternative manner which is adjusted to this disability.

The Examination Appeals Board finds that the Respondent was aware of the Appellant's disability. The examiner offered her an alternative way to take the BRMS1 examination. As the Appellant complained about this alternative, the Appeals Board believes that the Respondent should have determined the extent to which the Appellant had been put at a disadvantage by the alternative way of taking the examination. Whether or not the Appellant actively participated in the work group for the BRMS1 course should not play any role in considering whether the alternative examination addressed the Appellant's disability on the one hand and satisfied the requirements for the examination on the other hand.

V. Decision

The Board hereby declares the appeal to be well-founded and reverses the disputed decision. The Board hereby orders the Respondent to take a decision again on the Appellant's request to resit the BRMS1 examination, if necessary, in an alternative manner, and specifically within two weeks after this decision is announced, with due observance of the Appeals Board's findings.

Rendered in Amsterdam on 16 November 2015 by N. Rozemond, Chair, and Prof. A. P. Hollander, Prof. G. van der Laan and Prof. H. A. Verhoef, Members, in the presence of J. G. Bekker, Secretary.

N. Rozemond
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, PO Box 16137, 2500 BC, The Hague, the Netherlands. The notice of appeal must be filed within six weeks. The filing fees are €45.