

VRIJE UNIVERSITEIT AMSTERDAM



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EXAMINATION APPEALS BOARD

No. 2017/35/766

THE EXAMINATION APPEALS BOARD

Rendering a decision on the appeal by Mr [name], the Appellant, residing in [name], 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 his studies.

I. Course of the proceedings

In an undated letter, received on 9 August 2017, the Appellant lodged an appeal against the Respondent's decision dated 1 August 2017. The notice of appeal was timely received. The other conditions have likewise been satisfied. The appeal is therefore allowable.

On 18 August 2017, the Respondent was notified on the Board's behalf that the prescribed 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 7 September 2017. The appeal was heard at the Board's session on 29 September 2017.

The Appellant did not appear. 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 Respondent explained its position 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 him to receive a positive recommendation on the continuation of his studies. The Appellant has said that this was because his personal circumstances kept him from studying in an optimal manner. At the start of the academic year, the Appellant had pneumonia, as a result of which he suffered from dizziness and could not sufficiently concentrate. Doing assignments was therefore difficult for the Appellant. The Appellant subsequently experienced drowsiness, one of the aftereffects of pneumonia. Moreover, the Appellant needed to work in addition to studying, in order to pay his rent.

The Appellant did not pass two examinations. The first one was an examination resit for the subject 'Logic'. The Appellant arrived late for the resit, because his mother had reserved the wrong flight for him. Next, the

Appellant missed the examination for the subject 'Spanish', as it was unclear to him where this examination was to be given. Consequently, the Appellant had not passed two examinations at the end of the second semester. The Appellant thus expected that he would fall under the academic probation provisions. The Appellant's study progress would be periodically checked by his tutor and the senior tutor. The tutor told the Appellant that this would be unnecessary if an examination had not been taken for medical reasons and the other examinations were at a sufficient level. He would not be removed from the programme without being placed under academic probation first. The Appellant had, however, failed the examination for the subject 'Periods and Genres: Modern', so he should have indeed been subject to academic probation.

It is also relevant that the Appellant's passport was stolen from the hostel where the Appellant resided at the start of the academic year. The Appellant was therefore unable to work for several months. The Appellant subsequently worked extra hours to pay his stepfather the tuition fees back. In addition, the Appellant's employer wanted him to work additional hours, because fewer workers were present during the holiday period. There was not enough time left to study.

The Respondent determined that the Appellant did not satisfy the requirements to receive a positive recommendation on the continuation of his studies: he did not obtain 54 credits. The Appellant has alleged that he had pneumonia and that he is dyslexic. Nonetheless, the programme already accommodated the Appellant by allowing him a course reduction in the first semester due to his illness. He was also granted more time to take examinations because of his dyslexia. The Appellant did not request these arrangements again for the second semester. The fact that the Appellant was not able to allot his time well is not a personal circumstance which can result in application of the hardship clause. This circumstance is not mentioned in the Regulations Implementing the Dutch Higher Education and Research Act (WHW).

During the attempt to achieve an amicable settlement, the Appellant complained about the support from his tutor. Investigation by the Respondent showed that the support which the Appellant received was more than sufficient.

Finally, the Respondent notes that the Appellant did not really understand the procedure to be placed under academic probation. Academic probation is instituted in the semester following the semester in which the student did not pass his examinations. The examinations which the Appellant missed were conducted in the second semester (June), so the Appellant could no longer be placed under academic probation this academic year.

III. Further explanation by the Respondent

The Respondent has explained that the Appellant obtained 42 credits in the past academic year. For a positive recommendation on the continuation of his studies, the Appellant needed to have obtained at least 54 credits. Apparently, the Appellant's main problem is that he has trouble organizing his life. The Appellant has not taken responsibility for this.

AUC assists students by providing them with tutors. Students may contact a Life Officer as well. The Appellant did not take advantage of the latter option at all or not sufficiently.

IV. Findings by the Board

Under Article 7.8b of the WHW, the board of the institution may – no later than at 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 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 furnished any evidence for the circumstances which he mentions. He has not demonstrated that there is a causal connection between the circumstances referred to in Article 2.1 of the Regulations Implementing the WHW and the 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.