



EXAMINATION APPEALS BOARD

No. 2016/08/685

THE EXAMINATION APPEALS BOARD

Rendering a decision on the appeal by Ms [name], the Appellant, residing in Mexico City, against the decision by the BSA Committee of Amsterdam University College ('AUC'), the Respondent, to give the Appellant a negative recommendation on continuation of studies.

I. Course of the proceedings

In an undated letter, the Appellant lodged an appeal against the Respondent's decision dated 12 August 2015. The notice of appeal was delivered by post on 11 September 2015 and was thus timely sent. The notice of appeal was not received until 9 October 2015, however. The other conditions have been satisfied. The appeal is therefore allowable.

On 20 October 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. If consultation was not possible, because the Appellant was residing outside the Netherlands, the Respondent could suffice by filing a statement of defence.

The Respondent timely invited the Appellant to consult with it, however, through Skype. A second meeting proved necessary, because the Appellant cancelled the first one. An amicable settlement was not reached, though.

The Respondent subsequently filed a statement of defence on 16 November 2015. The appeal was heard at the Board's session on 14 December 2015.

The Appellant did not appear. The Respondent was represented by Prof. J. H. Ravesloot and Dr C. Zonneveld, the Chair and Vice-Chair, respectively, of the BSA Committee. 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 studied at AUC during the 2014-2015 academic year. Her study results during the past academic year were insufficient for her to receive a positive recommendation on continuation of studies. At least 54 of the 60 ECTS credits in the first year of the programme must be obtained for a student to be given a positive recommendation on continuation of studies. The Appellant obtained 48 ECTS credits. The Appellant attributes her failure to receive enough credits in the past academic year to her personal circumstances, which prevented her from studying optimally.

The Respondent believes that the circumstances claimed are not compelling enough to have the hardship clause apply. The Appellant did not obtain the required 54 credits. Hence, the Appellant did not satisfy the requirements.

III. The parties' positions

The Appellant states that she was sick for three weeks in March 2015. The Appellant blames the delay in her studies on this. The Respondent, she contends, did not take her personal circumstances into account.

In the discussions exploring whether an amicable settlement was possible, the Appellant also complained about a lack of supervision by her tutor.

The Appellant further explains that, during the summer, she had to deal with exceptional family circumstances and psychological problems. She therefore did not file the appeal against the negative recommendation on continuation of studies earlier. These circumstances were not the reason for the delay in the studies.

The Respondent asserts that the Appellant does not meet the requirements for positive recommendation on continuation of studies. She did not obtain enough credits, and the personal circumstances indicated by the Appellant were not timely reported to the tutor, as required. Moreover, the Appellant has not provided documentary evidence substantiating the aforementioned circumstances.

As regards the Appellant's complaint about supervision, the Respondent spoke to the senior tutor. It was apparent from this that the Appellant in fact received extensive supervision. This was supported by a long series of e-mails between the tutor and the Appellant, which were provided to the Respondent.

IV. Findings by the Board

Under Article 7.8b of the Dutch Higher Education and Research Act ('the Act'), the university board may – no later than the end of the first year of enrolment or as long as the first academic year has not been completed successfully – issue a negative recommendation on continuation of studies. Such negative recommendation may only be given, if, in the university board's judgment and taking into account the student's personal circumstances, the student must be deemed unsuitable for the study programme, because the study results do not satisfy the requirements which the board has stated. Article 2.1 of the Regulations Implementing the Act includes an exhaustive list of the circumstances which may provide cause not to issue a negative recommendation on continuation of studies. For an exception to be made to the recommendation on continuation of studies scheme based on these circumstances, 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 the Regulations Implementing the Act and the aforementioned causal connection.

The Appeals Board notes that the requirements stated for recommendation on continuation of studies are set forth in Article 3.6.8 of the Academic and Examination Regulations. One of the requirements is that at least 54 of the 60 first-year ECTS credits must be obtained. The Appellant had failed to do this at the end of the academic year. She has not sufficiently demonstrated that the personal circumstances alleged by her were decisive in her not satisfying the stated requirements. In light of all of this, the Respondent's decision was reasonable.

V. Decision

The Board hereby declares that the appeal is unfounded.

Pronounced in Amsterdam on 19 January 2016 by Dr N. Rozemond, Chair, Prof. A.P. Hollander, Prof. G. van der Laan, Ms T. Mekking and Prof. H.A. Verhoef, Members, in the presence of J.G. Bekker, Secretary.

Dr 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 €46.