



EXAMINATION APPEALS BOARD

No. 2021/03/970

THE EXAMINATION APPEALS BOARD

Ruling on the appeal of [name], appellant, student number [student number], against the decision of the Examinations Board of the Faculty of Science, hereinafter the defendant, that the appellant committed plagiarism during the practical components for the subject Project Application Development and that he was awarded 0 points for the practical components. In that decision a penalty was imposed on the appellant, barring him from taking examinations during periods 1 and 2 of the 2020-2021 academic year.

I. Course of the proceedings

On 26 July 2020, the appellant lodged an appeal with the Examination Appeals Board, hereinafter the Board, against the defendant's decision of 22 July 2020. The appellant's appeal is appended to the documents of another appeal by the appellant, dated 17 July 2020 and submitted against a decision by the defendant of 17 June 2020. On 19 October 2020, the Board decided to handle the appeal of 26 July separately.

On 21 October 2020, the Board asked the defendant to consult with the appellant and see whether this dispute could be settled amicably. The defendant invited the appellant for a meeting on 2 November 2020. An amicable settlement did not prove possible. The defendant submitted its written defence on 11 November 2020. On 8 December 2020, the appellant sent a further written response by e-mail to the Board. The appeal was heard in a session (via video call) of the Board on 9 December 2020. The appellant was present at this hearing, represented by his mother. Present on behalf of the defendant were Dr M. Hoogendoorn (chairperson) and Dr P.W. Oosthoek (Secretary). The parties each gave an oral explanation of their position.

II. The facts

Based on the documents and the matters presented at the hearing, the Board has taken the following facts into consideration.

The appellant completed practical components for the subject Project Application and handed them in to the examiner. On 2 July 2020, the coordinator of the subject reported suspected misconduct to the defendant. The defendant asked the appellant via messages of 8 July 2020 and 20 July 2020 to respond to the report in writing or by email. The appellant failed to take advantage of this opportunity.

III. Positions of the parties

The appellant states that he has demonstrated sufficiently that he himself created the code he submitted for the practical components to be appraised. He did not collaborate with any other student nor used internet sources. There is a 50% overlap with the work of a fellow student, but he did not collaborate

with him. The great similarity is a coincidence. His fellow student also stated that they did not help each other. The student did ask the help of a group app. The participants in the group app are friends who are not enrolled at VU Amsterdam. He writes his own code but when he gets stuck, he asks for tips. The appellant feels badgered by the defendant and his studies are suffering because of it. Moreover, he was given a more severe penalty than his fellow student, which he feels is unjust.

The defendant persists in the decision that the appellant is guilty of academic misconduct. The defendant is no longer in dispute with the appellant regarding the fact that a penalty had previously been imposed on the appellant for misconduct. The penalty was based on the premise that the appellant had previously, on 17 June 2020, been given a penalty by the defendant for misconduct. That decision by the defendant of 17 June 2020 was overturned by the Board in an appeal by the appellant (ruling 2020.40.958). The defendant will therefore reconsider the penalty decision in the current case. The investigation following a report of suspected misconduct is as follows. First, the students' work is examined for similarities. Then the work is checked against online sources. For the practical components, the students are meant to work independently. During its investigation into the current report, the defendant found that firstly there was a striking overlap of 50% between the appellant's work and that of a fellow student. Secondly, there also proved to be an overlap between the appellant's work and sources on the internet. These similarities were so striking and extensive that it is up to the appellant to provide an explanation. The appellant was unable to provide the defendant with any valid argument for the 50% overlap of his work with that of a fellow student and the online source.

IV. Considerations of the Board

The appellant's appeal was lodged on time and also meets the statutory requirements. The appellant sent the Board a further document one day before the hearing of 9 December 2020. The Board will not include that document in its enquiry. Based on the Board's Procedural Regulations, it is not possible to include a document in the appeal enquiry so close to the hearing date. This is because the file must be complete three days before the hearing is held (article 13 Procedural Regulations of the Examination Appeals Board). Furthermore, the appellant had had adequate time to submit documents before that three-day term. It has not been made plausible that the appellant could only do this just before the hearing. Moreover, during the hearing of 9 December 2020, the appellant was given ample opportunity to verbally contribute everything he considered important to the Board's enquiry into his appeal.

Pursuant to Section 7.12b of the Higher Education and Research Act (*WHW; Wet op Hoger Onderwijs en Wetenschappelijk Onderzoek*) it is up to the defendant to conduct an investigation following a report by an examiner of suspected misconduct or plagiarism during an assessment. Pursuant to Section 7.12b(3) of the WHW, the defendant adopted regulations to this end, i.e. the Rules and Guidelines of the Examinations Board. In addition to those regulations, the degree programme adopted further rules for the practical components required of students. When doing the practical components, students may not collaborate with any other students. If that does happen, a report of suspected misconduct will be made.

The practical components in this case involved the appellant having to write code. These components have to be done individually. Half of the code submitted by the appellant for appraisal was identical to the work of a fellow student and partly to an unauthorized source on the internet. The defendant rightly chose the position in its inquiry that, given the extensive similarity of the appellant's work with that of others, it was up to the appellant to provide a plausible explanation for this. The statement that this was simply a coincidence is in no way an explanation by which the appellant can refute the suspicion of misconduct. The defendant therefore came to its conclusions rightly and on the correct grounds. The appellant's appeal is unfounded on this point.

As regards the penalty imposed on the appellant, the Board is able to follow the defendant in the severity of the originally imposed penalty. The originally imposed penalty is based on the principle that the appellant was previously penalized for academic misconduct. However, that previous adoption of misconduct was overturned by a ruling of the Board on 1 December 2020. The defendant may therefore no longer proceed on the assumption of a second established incidence of academic misconduct and

should reconsider an appropriate penalty. The appellant's appeal is founded on the aspect of the severity of the penalty.

The Board's above considerations lead to the following ruling.

V. Ruling

The Board:

- declares that the appellant's appeal is founded as regards the penalty imposed on the appellant and overturns the defendant's decision of 22 July 2020 to this extent;
- charges the defendant to take a new decision within 14 days on the imposed penalty, with due observance of the considerations of this ruling;
- declares the rest of the appellant's appeal unfounded.

Thus delivered in Amsterdam, on 25 January 2021 by Dr N. Rozemond (Chair), Dr A.J.M. Ligtenberg and Prof. M.W. Hofkes (members), in the presence of F. Donner (Secretary).

Dr N. Rozemond,
Chair

F. Donner,
Secretary

An appeal against a ruling by the Examination Appeals Board may, accompanied by the proper justification, be lodged by the relevant party with the Higher Education Appeals Tribunal, PO Box 16137, 2500 BC The Hague. The period for lodging a notice of appeal is six weeks. The filing fee is €49.