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EXAMINATION APPEALS BOARD

No. 2017/33/764

THE EXAMINATION APPEALS BOARD

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

I. Course of the proceedings

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 22 August 2017, 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 then filed a written defence on 7 September 2017. The appeal was heard at the Board's session on 29 September 2017.

The Appellant appeared personally. 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 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's academic results during the past academic year were insufficient for her to receive a positive recommendation on the continuation of her studies. The Appellant has said that this was because her personal circumstances kept her from studying in an optimal manner. The Appellant admits that she did not focus enough on her studies during her initial academic year. She had to become used to living alone. The Appellant suffered panic attacks and lacked self-confidence. Further, the Appellant had made the wrong choice from the tracks to be followed. She had intended to select Psychology as her major. After the introductory subject, the Appellant decided that she should pick another major.

The situation improved at the end of the first semester. From that time, however, the Appellant was faced with various medical and psychological problems which dominated the second semester. The Appellant does not have documentary evidence showing that she had panic attacks and other psychological problems, but she does have statements by doctors about her medical condition.

The Respondent determined that the Appellant did not satisfy the requirements to receive a positive recommendation on the continuation of her studies. Evidence of mitigating circumstances relating directly to a long series of subpar academic results was not furnished. The statement by a psychologist which the Appellant submitted during the attempt at an amicable settlement does not sufficiently demonstrate that there was a causal connection between the Appellant's mental state and her disappointing performance.

III. The parties' positions

The Appellant has argued that she was very young when she began her initial academic year at AUC: 17 years old. The transition from secondary school to university was too great for her. During the first semester, she also had difficulty connecting with her fellow students. The Appellant was faced with medical problems in the second semester. She felt ashamed, so she did not timely inform her tutor of her problems. The Appellant did not seek help from a psychologist until she was halfway through her second semester.

The Respondent understands that the Appellant did not have it easy during the last year. Still, the Appellant did not provide timely notice that she was having problems. In particular, the academic results for the first semester were disappointing and were unrelated to the problems which the Appellant has mentioned.

Given the Appellant's disappointing performance, agreements were made with the Appellant (academic probation), but these were formulated in general terms. The agreements did not lead to an improvement in the Appellant's performance.

IV. Findings by the Board

Under Article 7.8b of the Dutch Higher Education and Research Act (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 negative advice 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 sufficiently demonstrated that there is a causal connection between the personal circumstances which the Appellant has claimed and her 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.