

VRIJE UNIVERSITEIT AMSTERDAM



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EXAMINATION APPEALS BOARD

No. 2019/58/902

EXAMINATION APPEALS BOARD

Pronouncing judgement on the appeal of Mr [name], the appellant, resident in [residence], against the decision of the Examination Board of the Faculty of Sciences of Vrije Universiteit Amsterdam, the defendant, to not permit the appellant to graduate.

I. Course of the proceedings

On 24 June 2019 the appellant lodged an appeal against the decision of the defendant dated 28 May 2019. The notice of appeal was received in good time, but did not fulfil the statutory conditions. On 28 June 2019 the appellant was requested to supply the missing information before 12 July 2019. The appellant complied with this on 28 June 2019. The other conditions were also fulfilled. The appeal is therefore admissible.

On 5 June 2019 the defendant was informed on behalf of the Board that the prescribed procedure requires that the defendant, in consultation with the appellant, examines whether an amicable resolution of the dispute is possible. The defendant issued an invitation to the appellant to this end in a timely manner. An amicable resolution did not however come about.

On 17 July 2019 the defendant submitted a written defence. The appeal was heard at the session of the Board on 8 October 2019.

The appellant appeared in person. The defendant was represented by Dr M. Hoogendoorn and Mr B.P. Simonse MSc, respectively chairperson and administrative secretary of the Examination Board. The parties explained their standpoints orally.

II. Facts and dispute

On the basis of the documents and the proceedings of the hearing, the Board proceeds on the assumption of the following facts.

The appellant is taking the Computer Science Bachelor's programme. This also includes the taking of a minor. The appellant received the approval of the defendant to replace certain subjects of the minor with other subjects. On his own initiative the appellant also replaced some compulsory subjects with minor subjects. In retrospect, he understands that replacement of the compulsory subjects was not permitted. The appellant states that he has gained a total of 180 ECs (European Credits), the minimum number of ECs that is necessary in order to be able to graduate. He therefore requests that he be permitted to graduate, even though he has not successfully completed all compulsory subjects. The appellant submitted the request to this effect to the defendant on 27 February 2019. At the end of April the appellant learned that a fellow student had received a response from the defendant to his request to graduate. The appellant subsequently made contact with the defendant. The defendant requested him to explain why he had not completed the compulsory subjects and instead had taken non-compulsory subjects. The appellant replied

to this on 21 May. In 2017-2018 he had been working full-time, which is why he could not comply with certain obligations of his programme. He then decided to take a number of subjects from a minor instead of compulsory subjects.

The appellant received the decision of the defendant on 28 May 2019. The appellant complains that he could have taken the compulsory subjects if he had received a response to his request to graduate no later than the beginning of March. He requests the defendant, despite the error that he had made, to grant him permission to graduate, given that he has gained 180 ECs.

On 7 June 2019 the defendant spoke with the appellant in an informative interview, and at that time permitted him to nevertheless register for examinations for two compulsory subjects that were held before the end of the academic year. The appellant achieved a satisfactory result for one of the compulsory subjects.

The defendant explained that permission to graduate can only be granted if the candidate has fulfilled all of the obligations of the programme. This is not the case for the appellant. In February 2019, when the appellant submitted the request to graduate, one compulsory subject from the second year of the programme, namely Logic and Modelling, was lacking. Four compulsory subjects were missing from the third year of the programme: Automata and Complexity, Bachelor's Project, Machine Learning and Philosophy. The appellant had not requested permission to replace compulsory subjects with other ones. In the attempt to reach an amicable resolution, the appellant was again informed that he must comply with the obligations of the programme if he wished to graduate. The remaining compulsory subjects were offered in periods 4 and 5. The appellant, however, took subjects that are not compulsory, but were offered earlier in the academic year. On 26 April 2019 and again on 28 May 2019 the defendant informed the appellant that he would not be able to graduate if he did not complete the compulsory components. The appellant however persisted in his intention.

III. Standpoints of the parties

The appellant has achieved 180 ECs in Bachelor's subjects. At the time of the hearing, two compulsory examinations – Logic (year 2) and Automata (year 3) – and the Bachelor's project remained for him. The appellant understands that he was not permitted to replace compulsory subjects without the defendant's permission. Because the response of the defendant to his request to replace compulsory subjects took so long, the appellant requests that an exception be made for him and that he be granted permission to graduate on the basis of the subjects completed by him. The appellant states that he would have been able to complete the compulsory subjects in time if he had received the decision of the defendant earlier.

The defendant acknowledges that the response to the appellant's request to replace compulsory subjects took too long. The appellant could have taken compulsory subjects in the fourth period, during which he was waiting for a response. The reply did, however, come in time for the fifth period, so that the appellant was able to participate in the compulsory subjects from this period. The defendant refuses the appellant permission to graduate as long as he has not complied with the attainment levels of the programme.

IV. Considerations of the Board

In article 11.3 of the Academic and Examination Regulations of the Computer Science programme it is determined which compulsory subjects the programme includes. To acquire a degree after completion of the programme, the student must have successfully completed the compulsory subjects, so that he complies with the attainment levels of the programme. He must also have gained at least 180 ECs. It is not disputed that the appellant has gained 180 ECs. What is at issue is that the appellant wishes to graduate without having complied with compulsory components of the programme. Neither the Education and Examination Regulations nor the Higher Education Act (*Wet op het Hoger Onderwijs* - WHW) provide for the possibility of not complying with the attainment levels and nevertheless qualifying for a degree. The appellant is of the opinion that the defendant was negligent by not arriving at a decision on his request in a timely manner. He is of the opinion that this provides him with grounds to permit him to graduate. This argument is unsuccessful. It is not possible to graduate without fulfilling the requirements of the programme.

The appellant did not take action in good time when it became apparent to him that the defendant had not replied to his request to graduate with a replacement curriculum. The appellant would have been able to make timely enquiries to the defendant concerning the decision to be taken, so that in the event of a negative decision he could still take examinations in compulsory subjects. By neglecting to do this, the appellant accepted that he could not take examinations in the compulsory subjects earlier than in the following academic year. In compensation for its late response, the defendant granted the appellant the opportunity to take two compulsory examinations in the 2018-2019 academic year, although the appellant did not register for this in good time. Because of this, the disadvantage for the appellant of the late response of the defendant remained limited.

The Appeals Board therefore rejects the appellant's supposition that the lack of a timely response by the defendant gave him carte blanche to not comply with all the obligations of the programme.

V. Judgement

The Board dismisses the appeal.

Pronounced in Amsterdam on 4 November 2019 by N. Rozemond, chairperson, and Prof. J.J. Beishuizen, Dr A.J.M. Ligtenberg, Ms T. Mekking and Prof. H.A. Verhoef, members, in the presence of J.G. Bekker, secretary.

Dr N. Rozemond,
chairperson

J.G. Bekker,
secretary

The person concerned can submit an appeal against a judgement of the Examination Appeals Board, stating a sound justification, to the Higher Education Appeals Tribunal, Postbus 16137, 2500 BC The Hague. The term for the submission of a notice of appeal is six weeks. The registry fee is €47.00.