



**Please be advised this text is a Google Translate of the
Decision in Dutch**

EXAMINATION APPEALS
BOARD

No. 2024/09/1151

THE EXAMINATION APPEALS BOARD

Ruling on the appeal by [appellant], [student number], against the decision, taken by the examiner C.M. van den Akker, respondent, that the appellant be excluded from participating in the examination of the subject Theory of History.

I. Course of the proceedings

On 9 October 2023, the appellant lodged an appeal with the Examination Appeals Board against the respondent's decision of 6 October 2023. On 16 October 2023, the Board asked the Examination Board of the Faculty of Humanities to explore, in consultation with the appellant and the respondent, the possibility of an amicable settlement of the dispute. The Examination Board invited the appellant for an interview on 1 November 2023. No amicable settlement was reached. The Examination Board submitted a statement of defence on 9 November 2023. The appeal was heard at the hearing of the Board on 21 December 2023. The appellant was present at this. The respondent was not present at the hearing. On behalf of the Examination Board, Dr B. Boter (deputy chairperson) and J.J. Noordzij MA (official secretary) were present. The parties explained their positions orally.

II. Facts

On the basis of the documents and the proceedings at the hearing, the Board assumes the following facts. On 6 October 2023, the Appellant received the Respondent's decision to exclude her from participating in the examination of the Theory of History course because she did not comply with the condition that students must participate in the compulsory seminars. The study guide states that students may be absent from one of five of the compulsory seminars. Appellant failed to attend three compulsory seminars and, as a result, was excluded from participating in the examination.

III. Views of the parties

The appellant disagrees with the respondent's decision to exclude her from participating in the examination of the Theory of History course. She argues that she missed one seminar, as this is allowed according to the manual. The appellant did not report the first absence to the respondent because she still fulfilled the conditions in the study guide. She then missed two of the mandatory seminars due to illness. The appellant timely reported the second absence to the respondent and also received a positive response back. In support of this, she attached evidence.

The appellant claims that everywhere she turns for help, she is rejected and expelled from the course on regulatory grounds. Both the respondent, the student advisor and the Examination Board have given her

the same answer. Appellant stopped seeking help with her problem because she gets the same answer everywhere.

Appellant is unlikely to be able to graduate in the 2023-2024 academic year as she has yet to complete the subject in question. She points out that the study delay causes mental, physical and financial problems. Appellant has five children to care for and also has to work to pay for her studies. She therefore cannot afford to retake the education programme.

Appellant stresses that the Free University must look at the circumstances of individual student. Students cannot be pigeonholed and there are students with personal circumstances. These have to be taken into account on an individual level. Appellant stopped her studies in the past, but then the programme contacted her to persuade her to resume her studies. The appellant was happy with that and she then decided to continue her studies. Appellant's individual situation should also be looked at in this case.

The respondent sees no reason to review the decision to exclude the appellant from participating in the examination of the subject.

The Examination Board agrees that illness can be a valid reason for missing a compulsory seminar, but points out that the decision to exclude the appellant from participating in the examination is not based on the validity of the absence from the compulsory seminars. Students simply cannot continue the course if three or more seminars have been missed, regardless of the reason for the absence.

Article 11.6.2 of the Teaching and Examination Regulations Bachelor of History 2023-2024 (the TER 2023-2024) stipulates that students must attend at least 80% of the meetings. That provision is further elaborated in the study guide of the Theory of History course which states that the seminars are compulsory and that one seminar may be missed. In exceptional circumstances or covid-related causes, a solution may be sought. Whether this is the case is at the discretion of the examiner.

The defendant acted in accordance with what is stipulated in the TER and the study guide. Six students had to do an additional assignment because they missed two seminars and seven students, including the appellant, were excluded from participating in the examination because they missed three seminars or more.

IV. Considerations of the Board

The appellant's appeal was timely filed and otherwise complies with the legal requirements.

On 6 October 2023, the Respondent decided that the appellant would be excluded from participating in the examination of the Theory of History course because the appellant had not fulfilled the obligation of attendance as referred to in article 11.6.2 of the TER and elaborated in the study guide of the course.

In assessing the appeal, the Board assumes that the appellant missed three seminars. That she missed three seminars is not disputed by the appellant. On that basis, the Board finds that the respondent could reasonably have come to the decision that the appellant would be excluded from taking the examination for the Theory of History course. After all, the appellant missed more than one seminar and is not eligible for a substitute assignment because she missed more than two seminars.

The fact that the respondent does not assess in each individual case whether the student has a valid reason for not attending the seminars does not make the application of the provision in the study guide unreasonable. The provision on compulsory attendance at seminars is clearly worded and has been applied consistently by the defendant.

No exceptional circumstances have emerged that would have required the respondent to deviate from the provisions of the TER and the study guide. The Board ruled that, based on the facts and circumstances in the appellant's case, the respondent could reasonably have reached its decision.

The above considerations lead to the following ruling.

V. Ruling

The Board declares the appeal unfounded.

Done in Amsterdam, on 22 January 2023, by H. Bolt, Prof. M.W. Hofkes and W. van Vlastuin, in the presence of S.A. Snoeren, secretary.

H. Bolt,
Chairman

S.A. Snoeren,
Secretary

An appeal against a decision of the Examinations Appeals Board may be lodged by the person concerned with the Administrative Jurisdiction Division of the Council of State, PO Box 20019, 2500 EA The Hague, the Netherlands. The period for submitting a notice of appeal is six weeks. A Safe Mail web form can be used. A court fee is payable. See www.raadvanstate.nl/studentzaken.