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Decision in Dutch**

EXAMINATION APPEALS
BOARD

No. 2024/29/1171

THE EXAMINATION APPEALS BOARD

Ruling on the appeal by [appellant], [student number], against the assessment of the subject Intelligent Systems, given by the examiner Dr K.S. Schlobach, respondent, with the result Not Satisfied (NVD).

I. Course of the proceedings

The appellant appealed to the Examination Appeals Board on 4 April 2024 against the examiner's decision of 22 December 2023. On 9 April 2024, the receipt of the notice of appeal was acknowledged and the appellant was given an opportunity to cure an omission. On 10 April 2024, the appellant rectified the default. On 15 April 2024, the Board asked the Examination Board of the Faculty of Science to explore, in consultation with the appellant and the examiner, the possibility of an amicable settlement of the dispute. On 22 April 2024, a meeting took place between the appellant, the respondent and the Examination Board. No amicable settlement was reached. The Examination Board submitted a statement of defence on 2 May 2024. The appeal was heard at the hearing of the Board on 10 June 2024. The Appellant was present at the hearing. The respondent was not present at the hearing. Present on behalf of the Examination Board were S. Theys-Wolters (official secretary), S. van Dorrestein (official secretary, present online) and Dr M. Wortel (member, present online).

II. Facts

Based on the documents and the proceedings at the hearing, the Board assumes the following facts. The Appellant received the assessment of the subject Intelligent Systems on 22 December 2023. The examination of the subject was assessed with the result NVD. A bonus point of 0.5 can be obtained in the second sub-examination of the course if the conditions set out in the study guide are met. The requirement is that students have attended six of the seven working groups and have obtained at least a 5.0 for both parts of the examination. In addition, students must participate in a group assignment, which counts for 30%. The appellant met the attendance criterion and obtained a 5.1 for the first partial examination and a 5.4 for the second.

III. Views of the parties

Appellant disagrees with the assessment of the Intelligent Systems course. The appellant believes that he met the conditions for awarding the 0.5 bonus point as described in the study guide. He obtained a 5.0 or above for both components and attended the working groups. With the award of the 0.5 bonus point, the appellant would have obtained a satisfactory result for the subject.

At a later date, the defendant tightened the conditions for awarding the bonus point. On 27 December 2023, the defendant posted a notice on Canvas tightening the conditions for the award of the bonus point. The defendant wrote: "The results for the second partial exam have just been published. As you know, you need at least a 5 in the exam as well as an average of 5.5 for the two exams to pass the theoretical part (the bonus for group attendance is only added in case you pass the exam)". The appellant relied on the description in the study guide and considers it incorrect that the conditions were tightened at a later date.

Regarding the admissibility of his appeal, the appellant explained why he did not file a notice of appeal with the Board earlier. Following the result for the examination for the Intelligent Systems course, the appellant contacted the study advisor. The student advisor advised the appellant to wait before filing an appeal, as he could still participate in the resit of the course. The appellant accordingly did so. In addition, the e-mail announcing the result for the examination did not contain an appeal clause and the appellant submitted a notice of appeal to the Examination Board as early as 4 April 2024. The Examination Board referred the appellant to the Board, but did not forward the notice of appeal to the Board.

In the statement of defence, the defendant explained how the assessment of the course Intelligent Systems is structured. The course consists of two digital exams that count for 70% (35% + 35%) in the assessment and a group assignment that counts for 30%. A minimum score of 5.0 is required for all components to successfully complete the course. On Canvas, the assessment is worked out in more detail and it is explained that at least a 5.0 must be obtained for the two exams and that the average of the results for both exams must be at least a 5.5. For the resit, an examination is offered that counts for 70%, instead of the two (partial) examinations of 35% per examination.

On the first examination occasion, the appellant obtained a 5.1 for partial examination 1 (35%), a 5.4 for partial examination 2 (35%) and an 8.0 for the group assignment (30%). At the resit, the appellant obtained a 4.4 for the exam (70%) and an 8.0 for the group assignment (30%). Thus, on both occasions, the appellant did not meet the conditions for passing the course.

Information on the awarding of a bonus point was published on Canvas in the study guide at the start of the course. Students had to attend six of the seven working groups. The respondent takes the view that the appellant misinterprets the conditions for awarding the bonus point. The starting point is that all components must be passed with a satisfactory result and the assessment criteria must be met before the bonus point is awarded. While the Respondent understands that the information in the study guide on the awarding of the bonus point may not have been sufficiently clear, it points to the announcement about it on Canvas.

The Respondent sees no reason to revise the assessment. Indeed, the Appellant failed to meet the assessment criteria and thus failed to demonstrate the necessary knowledge, skills and understanding of the subject.

The Examination Board organised a settlement discussion following the appeal. The discussion did not lead to an amicable settlement. The Examination Board points out that the appellant submitted his notice of appeal on 4 April 2024 while it is directed against the assessment of 22 December 2023. According to the Examination Board, the appeal was not submitted within the six-week period available to it and should therefore be declared inadmissible. In addition, the appellant participated in the resit of the examination and, according to the OER, the last result obtained applies. The Examination Board confirmed that it received a notice of appeal from the appellant on 4 April 2024. However, that concerned the resit of the examination. The Examination Board referred the appellant to the Board. The information on lodging an appeal against an assessment is included in the OER and can also be found on the website. With this, the appellant could have been aware of the possibility of lodging an appeal. The Examination Board is aware that the appellant discussed the assessment with the student advisor, but has no insight into what was discussed.

IV. Considerations of the Board

Admissibility

The appellant's appeal against the examiner's assessment of the Intelligent Systems test dated 22 December 2023 was received by the Board on 4 April 2024. The six-week period for filing an appeal

against the assessment had then expired. However, it does not appear from the assessment form or any other document on file that the appellant was made aware of the possibility to appeal to the Examination Appeals Board within six weeks.

Moreover, by his own account, the appellant was advised by the study advisor to participate in the resit first before lodging an appeal. It was only when the appellant submitted his appeal to the Examination Board after the resit examination that he was referred to the Board. In this case, the appellant cannot be blamed for not submitting his appeal on time.

The Board considers the delay excusable. The appeal is admissible. The Board will dismiss the appellant's appeal against the assessment of the practical test of 22 December 2023 in substantive terms. hearing.

With regard to the Examination Board's position that a reassessment of the Intelligent Systems test is not possible because the appellant participated in the resit of the examination and that, pursuant to the OER, the last result obtained applies, the Board rules that the provision of the OER cannot be held against the appellant.

Assessment of examination(s)

The Board first points out that its jurisdiction is limited to assessing whether the examiners' decision is contrary to law (section 7.61, second paragraph, of the Higher Education and Scientific Research Act (WHW)). The Board therefore tests whether the assessment was properly arrived at and whether the assessment is not manifestly unreasonable in terms of content.

This appeal concerns the assessment of the examinations of the course Intelligent Systems and in particular the award of 0.5 bonus points for the second partial examination. The Board considers that it emerged from the file and the proceedings at the hearing that the condition that a satisfactory result must be obtained for both (partial) examinations in order to qualify for the 0.5 bonus point was only made known in the examiner's message on Canvas that was published after the second partial examination had already been taken. The manual and syllabus set out the structure of the final assessment and when the test was successfully completed, but did not specify that an average of a satisfactory result (a 5.5) must have been obtained for both (sub)exams to be eligible for the bonus point. Despite the fact that the appellant met the conditions for the award of the bonus point, namely meeting the attendance requirement and having obtained a 5.0 or more for each (sub)examination, the respondent did not award the bonus point in the assessment of the examination of 22 December 2023. The Board therefore considers that the defendant did not conduct the assessment in accordance with the rules set out in the study guide. The fact that the defendant tightened up the conditions for awarding the bonus point at a later date via Canvas does not alter this opinion as the information on Canvas is not part of the study manual.

The aforementioned considerations lead to the following ruling.

V. Ruling

The Board declares the appeal well-founded, sets aside the examiner's decision and orders the examiner, within two weeks of the publication of this ruling, to take a new decision taking into account what has been considered in this ruling.

Done in Amsterdam, on 15 July 2024, by Prof. Dr. P.J. Huisman, chairman, S.L.M. Bekkenutte and J.R. Hulst, in the presence of S.A. Snoeren, secretary.

Prof. Dr. P.J. Huisman
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.