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Decision in Dutch**

EXAMINATION APPEALS
BOARD

No. 2024/05/1147

THE EXAMINATION APPEALS BOARD

Ruling on the appeal by [appellant], [student number], against the decision of the BSA Committee of the School of Business and Economics, respondent, to issue a negative binding study advice to the appellant.

I. Course of the proceedings

On 19 August 2023, the appellant filed a notice of appeal with the Examination Appeals Board against the respondent's decision of 19 August 2023. On 19 August 2023, the Board acknowledged receipt of the notice of appeal and gave the appellant an opportunity to cure an omission. On 23 August 2023, the appellant cured the default by supplementing the appeal with the contested decision. On 23 August 2023, the College asked the respondent to explore the possibility of an amicable settlement of the dispute in consultation with the appellant. The respondent met with the appellant on 7 September 2023. No settlement was reached. The defendant filed a statement of defence on 7 November 2023. The appeal was heard at the hearing of the Board on 21 December 2023. The appellant was present at this by video call. Mr J.J.M. Welling and Mr C.J.M. Berends (official secretaries) were present on behalf of the BSA Committee.

II. Facts

Based on the documents and the proceedings at the hearing, the Board assumes the following facts. The appellant started the Bachelor's programme in International Business Administration on 1 September 2022. At the end of his first year of study, the appellant earned 24 credits (EC). To avoid a negative binding study advice, the appellant needed to have obtained 48 EC.

III. Views of the parties

The appellant applied to the respondent for a postponement of the binding study advice. He was not granted that postponement because, according to the respondent, the personal circumstances cited by the appellant were not such as to warrant a postponement. The appellant suspects that the respondent arrived at that assessment because he did not explain his personal circumstances sufficiently clearly and the respondent did not understand his situation. The appellant disputes that his circumstances are insufficient grounds for granting deferment because the past academic year has been very tough for the appellant. The appellant would like the opportunity to continue his studies.

The respondent maintains that it was right and proper to award the appellant a negative binding study advice. The appellant obtained 24 EC in the academic year 2022-2023 and thus failed to meet the BSA standard.

In response to the appellant's appeal and the grounds put forward by him, the respondent saw no reason to review its decision on the negative binding study advice. Appellant explained in his request for deferment that he had moved to Amsterdam from Spain with his girlfriend. Due to financial problems of the appellant's parents, he had to find a job to support himself. The appellant held a part-time job from the beginning of the 2022-2023 academic year, leaving insufficient time for a social life. In the first semester, the appellant obtained 12 EC.

The appellant also argues that his girlfriend broke off the relationship with him and moved back to Spain. This resulted in even greater financial difficulties as the appellant had to pay the rent of his accommodation on his own. At his parents' request, the appellant provided housing for his brother, who came over from Spain. This also prevented the appellant from properly focusing on his studies. In the second semester, the appellant again obtained 12 EC. The appellant's brother started studying in Groningen from the 2023-2024 academic year.

The appellant reported his personal circumstances to the study advisor. He did not consider deregistering from 1 February 2023 because he was hopeful that he would still be able to obtain sufficient credits. The defendant understands the situation the appellant found himself in, but points out that financial problems are not considered special circumstances as referred to in the HRA Implementation Decree. Similarly, the relationship break-up or the circumstance that the appellant had to provide housing for his brother are not grounds for the respondent to grant a postponement of the binding study advice. The respondent was unable to establish any personal circumstances as referred to in Article 2.1 paragraph 1 under i. of the WHW Implementation Decree and therefore sees no reason to grant a postponement of the binding study advice.

IV. Considerations of the Board

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

Pursuant to article 7.8b of the Higher Education and Scientific Research Act (WHW), the institutional board may attach a rejection to the recommendation on the continuation of the study no later than at the end of the first year of enrolment or at the end of a subsequent academic year in case of personal circumstances. This rejection can only be given if the student, in the opinion of the institutional board, taking into account his personal circumstances, should not be considered suitable for the study programme because his study results do not meet the requirements set by the board in this respect. In article 2.1 paragraph 1 of the WHW Implementation Decree, a list can be found of circumstances that may be cause to waive a negative binding study advice. Moreover, making an exception to the regulation of binding study advice on the basis of these circumstances requires a causal link between the existence of those circumstances and the study delay. Furthermore, it is up to the student to make the existence of circumstances, as referred to in the WHW Implementation Decree, and said causal link sufficiently plausible.

Article 5.3 section 1 of the Teaching and Examination Regulations Bachelor's programme International Business Administration 2022-2023 (the TER) stipulates that the study advice issued at the end of the academic year will be accompanied by a rejection with a binding character, if the student has not achieved the standard for a positive recommendation. A recommendation will not be issued if the student demonstrates that he was unable to meet the standard due to personal circumstances, as described in article 2.1 of the WHW Implementation Decree. The standard is described in part B.

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.