

VRIJE UNIVERSITEIT AMSTERDAM



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EXAMINATION
APPEALS BOARD

No 2017/14/745

EXAMINATION APPEALS BOARD

Giving judgment on the appeal of Ms [name], appellant, resident in [place], against the decision of the admissions committee, respondent, not to admit her to the Drug, Discovery and Safety Master's degree programme.

I. Course of proceedings

The appellant has appealed against the respondent's decision of 10 February 2017, which she received on 16 March 2017. The notice of appeal has been received in good time. The other conditions have also been met. The appeal is therefore admissible. On 20 March 2017 the respondent was notified on behalf of the Appeals Board that the prescribed procedure required that it should examine with the appellant whether the dispute could be settled amicably. The respondent did not issue the appellant with an invitation for this purpose. An amicable settlement has therefore not been reached.

The respondent lodged a statement of defence on 28 March 2017. The appeal was heard at the sitting of the Board on 7 April 2017.

The appellant did not appear at the hearing. The respondent was represented by Mr E. van Zwol, international student advisor. He explained the positions orally.

II. Facts and dispute

In view of the documents and the proceedings at the hearing, the Appeals Board proceeds on the basis of the following facts.

The appellant has requested admission to the Drug, Discovery and Safety Master's degree programme. She states that her course results are good: over 75%. She asserts that her relatively low score of C is attributable to the fact that her course results were assessed as though they were the results of a resit. As a consequence of being caught up in disturbances in Sri Lanka, the appellant had to miss an earlier opportunity to sit the exams.

The appellant has pointed out that the names of some subjects are no longer the same as in the older curriculum, but that the content has remained the same.

In support of her submissions, the appellant has referred to the case of another student from Sri Lanka who has been admitted to the Master's degree programme on the basis of the same Bachelor's degree as that of the appellant.

The respondent points out that the appellant has a Bachelor's degree that does not include any theoretical elements dealing with 'molecular aspects'. Furthermore, the appellant lacks any practical skills in relation to these 'molecular aspects'.

III. Submissions by respondent

The respondent explained that applications for admission are assessed by the International Office and the course coordinator. The Examination Board of the course had given a substantive response to the appellant's objections. However, the appellant had not awaited the response of the Examination Board and had lodged an appeal.

The respondent has explained that in terms of academic performance the appellant's degree programme is insufficiently aligned with the Master's degree course she wishes to take. Her specialized knowledge has been judged inadequate. Knowledge of molecular science is a fixed requirement of the programme. The appellant also has too little experience of laboratory work, for which molecular knowledge is required.

IV. Findings of the Appeals Board

The Examination Appeals Board finds that the procedure for assessing whether the appellant could be admitted to the Drug, Discovery and Safety Master's degree programme was not conducted in accordance with the applicable rules. The Board would observe at the outset that decisions of the admissions committee on whether or not to admit an applicant to the Master's degree programme must be expressly distinguished from decisions of the Executive Board on whether or not to enrol an applicant. A decision on whether or not to enrol an applicant in a Master's degree programme of the university is preceded by an assessment of his or her knowledge and ability. This assessment is performed by the admissions committee. The admissions committee is authorized to make this assessment under article 2.4 of the Academic and Examination Regulations (*Onderwijs- en Examenregeling*) (part B). Pursuant to section 7.61, subsection 1(g), of the Higher Education and Research Act (*Wet op het hoger onderwijs*), appeal lies against a decision of the admissions committee to the Examination Appeals Board. However, the appellant was not notified of this in this case as the decision in question did not contain a clause concerning the right of appeal.

The decision on whether or not to enrol an applicant is made by the Executive Board pursuant to section 7.32, subsection 1, of the Higher Education and Research Act and article 2, paragraph 1, of the Registration and Enrolment Regulations (*Regeling Aanmelding en Inschrijving*). Under section 7.63a, subsection 2, of the Higher Education and Research Act and article 1, paragraph 1, of the VU Amsterdam notice of objection procedure, objection can be lodged with the Executive Board. In this case, the appellant was sent the decision of the Executive Board not to enrol her as a student at VU Amsterdam on the ground of the admissions committee's recommendation. A clause concerning the right of objection was included at the bottom of this decision.

The Appeals Board considers that the procedure followed in deciding whether the appellant was suitable for the Master's degree programme was not carried out with due care since the appellant did not have the opportunity to challenge the decision of the admissions committee separately. For this reason the appeal will be held to be well-founded. Nor was there any attempt to reach an amicable settlement, although this is required by law (section 7.61, subsection 3, Higher Education and Research Act). That too is a reason to declare the appeal to be well-founded since the appellant had no opportunity – or in any event insufficient opportunity – to submit more specific information for the decision on whether or not to admit her to the programme.

It is also insufficiently clear whether potential applicants from abroad could find full information on the course website or in any other way about the admission requirements, for example the requirement that they have sufficient molecular knowledge and experience of molecular laboratory work.

V. Judgment

The Examination Appeals Board declares the appeal to be well-founded and quashes the disputed decision. The Appeals Board directs the respondent to take a fresh decision on the appellant's application to be admitted to the Drug, Discovery and Safety Master's degree programme, namely within two weeks of publication of this judgment, taking into account the findings of the Appeals Board.

Judgment delivered in Amsterdam on 29 May 2017 by Professor F.J. van Ommeren, president, and Professor L.H. Hoek, Dr J.R. Hulst, Ms I. Messoussi and Professor H.A. Verhoef, members, in the presence of J.G. Bekker, secretary.

Professor F. J. van Ommeren,
president

J.G. Bekker
secretary

A person who is the subject of a judgment of the Examination Appeals Board may appeal, giving sound reasons, to the Higher Education Appeals Tribunal, P.O. Box 16137, 2500 BC The Hague. The period for lodging a notice of appeal is six weeks. The court registry fee is €46.