



CBE, PO box 80125, 3508 TC Utrecht

**Examination Appeals Board**

ex article 7.60 of the Higher Education Act

**Visiting address**

Heidelberglaan 8, Utrecht

## DECISION

**Our reference** CBE/K 16 09 012  
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**Date** 18 October 2016  
**subject** appeal [appellant]

The Examination Appeals Board at Utrecht University (hereinafter referred to as: the Board) has made the following decision on the appeal by:

[appellant], [place of residence], appellant,

versus

[director of studies], defendant.

### I. Origin and course of the proceedings

The appellant lodged an appeal on 7 September 2016 against the defendant's decision of 16 August 2016, in which he received a negative binding study advice. The Board received a statement of defense from the defendant, dated 26 September 2016.

The appeal was handled at the public hearing of the Board on 4 October 2016. Without notice appellant was not present; defendant was represented by [.... and ....].

### II. Grounds

Appellant stated that he experienced serious family issues. His parents started 'fighting' in September 2015. He went home (Italy) 4-5 times to support his sister in this situation. Before Christmas there were also multiple break ins in his house and some belongings were stolen. These circumstances induced him into a state of reactive anxiety. He did not get enough rest, as was recommended by his physician, and this influenced his study performance. He is aware that he should have mentioned the anxiety sooner, but he had difficulties in expressing his condition and he was certain that he would succeed in earning his ECTS.

The defendant stated the following.

During the hearing on 17 August 2016 the appellant reported family circumstances and motivation problems that had hampered him during his first year of studies. He had not mentioned these circumstances with the study advisor previously.



Regardless the fact that he should have mentioned these issues sooner, the defendant concluded that these issues only had limited influence on his study. He was absent in the period between two terms and during a weekend, so he explained during the hearing. During the hearing appellant did not refer to a state of reactive anxiety and also did not show the Italian doctor's certificate, which has the same date as an exam he took in Utrecht. As appellant has reported this state only now and not as soon as possible, the conditions for taking this into account have not been met.

On the grounds of the documents submitted in these proceedings and that discussed at the hearing, the Board considers the following.

Article 7.4 of the Education and Examination Regulations of the 2015-2016 Economics and Business Economics Bachelor's Program states the following:

*art. 7.4 – (binding) recommendation on continuation of studies*

- 1. In the year of their first registration, students who registered for the study programme before 31 January will receive a written recommendation on the continuation of their studies. This recommendation, which is based on the study results of the first period recorded at that time, is not binding, but gives a warning in the event of insufficient progress of the studies, so that the student still has the possibility to improve his or her performance:
  - when the student has earned 0 credits after the first semester, the student will receive a negative recommendation.
  - if the student has earned 7.5 credits, the student will receive a doubtful recommendation.
  - if the student has earned 15 credits, the study progress will be assessed as positive.*
- 2. Students who receive a negative or doubtful recommendation as referred to in paragraph 1 will be invited to a meeting for the purpose of discussing the study method and reconsideration of the choice of studies and a possible referral.*
- 3. At the end of the academic year, but not later than on 31 August, the student will receive a second written recommendation on the continuation of his or her studies. Notwithstanding the provisions of paragraphs 9, 10 and 11, a binding refusal will be attached to this recommendation if the student has earned fewer than 45 credits. The rejection will apply for a period of 4 academic years.*
- 4. In determining the number of credits earned as referred to in paragraph 1 and paragraph 3, all credits earned in the first year of study will count, with the exception of exemptions obtained and the results of partial interim examinations passed; these will not count. In determining the number of credits earned as referred to in paragraph 1 and paragraph 3, the credits earned from exemptions obtained and the results of partial interim examinations passed will not count.*
- 5. No recommendation as referred to in paragraph 3 will be issued for the student who makes a request for deregistration before 1 February of the first year of registration. If the student registers again in a following academic year, the recommendation on continuation of studies as referred to in paragraph 3 will be issued in that following academic year. The student must score the number of credits as mentioned in this third paragraph during this next academic year; the credits already achieved in the first year will not count for this score.*
- 6. The recommendation on continuation of studies will be issued on behalf of the dean of USE by the education director of the study programme.*
- 7. Before a refusal recommendation is issued, the student will be given the possibility to be heard by or on behalf of the education director.*
- 8. In considering whether to issue a refusal recommendation, the education director must take account of the student's personal circumstances if the student requests this. Only personal circumstances which the student reports to the academic counsellor as soon after entry as can reasonably be expected will be taken into account by the education director in his or her considerations. Personal circumstances mean sickness, pregnancy, functional disorders, special/serious family circumstances, top-class sport and management activities for a student organisation with full legal authority or in the context of the organisation and management of Utrecht University, the REBO-Faculty or the Utrecht School of Economics of the Bachelor's programme Economics and Business Economics.*
- 9. In considering whether to issue a refusal recommendation, if a student so requests, the education director must also take account of other forms of force majeure than those mentioned in the preceding paragraph. Only force majeure situations which the student reports*



*to the academic counsellor as soon after entry as can reasonably be expected will be taken into account by the education director in his or her considerations. In addition, the education director may also take account of serious instances of unfairness in his or her assessment.*

*10. If no refusal is attached on the basis of circumstances as referred to in paragraph 8 and paragraph 9, a recommendation on continuation of studies as referred to in paragraph 3 will be issued to the student again at the end of the next academic year. If, pursuant to the circumstances as meant in paragraph 8 and paragraph 9, a negative advice is not given, the student will receive a further advice as meant in paragraph 3 at the end of the next academic year. The student must score the number of credits as mentioned in this third paragraph during this next academic year; the credits already achieved in the first year will not count for this score.*

*11. An appeal can be instituted against a refusal decision within 6 weeks at the Examinations Appeals Board.*

The Board has to determine if defendant could legitimately give appellant a refusal recommendation. Appellant obtained 37.5 ECTS in the academic year 2015-2016. The binding study advice norm is 45 ECTS. Appellant stated he was not able to earn 45 ECTS due to personal circumstances.

Article 7.4.8 of the Education and Examinations Regulations states that only personal circumstances which the student reports to the academic counsellor as soon after entry as can be reasonably expected will be taken into account by the education director. Appellant did not mention the 'state of reactive anxiety' and only provided a supporting statement by an Italian physician with his appeal. This statement bears the same date as the date of an exam he took in Utrecht (25 January 2016). The Board can relate with defendant that the situation appellant mentioned is not compelling enough and that these circumstances only had limited influence on his study. Despite these events appellant was able to attend tutorials and fulfill the effort requirements.

The Board decides as follows.

### III . Decision

The Board

- I. Finds the appellant's appeal unfounded;
- II. Requires that copies of this decision be sent to the parties, to the Board of Utrecht University, to the management of Faculty of Law, Economics and Governance and made available to interested parties.

Thus decided in Utrecht on 4 October 2016 by prof. mr. A.W. Jongbloed, chair, dr. P. Holthuizen and K.C. Stemerding, members, in presence of M.W. Batteljee LLB, and announced on 18 October 2016.

Was signed,

M.W. Batteljee LLB  
Secretary

prof. mr. A.W. Jongbloed,  
chair

*Any party whose interests are directly affected by this decision may submit an appeal to the Appeals Tribunal for Higher Education, P.O. Box 16137, 2500 BC Den Haag ([www.cbho.nl](http://www.cbho.nl)) for a period of six weeks after the day on which this decision was announced. The appeal should be written in Dutch, mentioning your address, telephone number and email address. There is a registry fee involved.*