



Universiteit Utrecht

CBE, PO box 80125, 3508 TC Utrecht

Examination Appeals Board
ex article 7.60 of the Higher Education Act

DECISION

Visiting address
Heidelberglaan 8, Utrecht

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Website www.uu.nl
Date 26 May 2021
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], appellant,

versus

[the Board of Examiners] UCR, defendant,

I. Origin and course of the proceedings

The appellant lodged an appeal on 17 March 2021 against the defendant's decision of 16 March 2021 to deny the request to go on exchange in the final semester. By virtue of the applicable stipulations of the Higher Education and Research Act and Art. 7 of the Rules of Procedure, the appeal was sent to the chair of the defendant on 18 March 2021. The Board received a statement of defence from the defendant and all relevant documents on 7 April 2021.

On 29 April 2021 a hearing was held. Due to covid-19 measures, this hearing was held online via MS-Teams. The appellant attended. The defendant was represented by [].



II. Grounds

The appeal is directed against the defendant's decision of 16 March 2021 to deny the request to go on exchange in the final semester (7th) at UCR.

In her notice of appeal and at the hearing, the appellant stated the following:

The appellant believes the decision is unfair. She argued that because her situation is unique, because of her academic standing when it comes to her grades (4.0 GPA) and credit surplus (22.5 ECTS), the planning for completing her senior project in her fifth and sixth semester, as well as the seventh semester granted to her by UCR for her work in the Elliott Board, it should be possible to grant her an exemption from rule 9.1.1. of the Student Handbook. The situation caused by COVID-19 is merely the underlying cause of the problem and not the reason to grant her an exception. The exchange she was planning to go on was going to take place in the academic year 2021-2022 (fall 2021), and she is asking to postpone it to the academic year 2022-2023 (fall 2022), which means that she will not add to the pressure of the competition during that year but rather relieve it.

Finally, she believes that this decision is not in line with UCR's and UU's positioning of themselves, especially in this current pandemic. UCR markets itself by offering "an education built around you", suggesting that every case is in fact special, contradictory to what the defendant has expressed towards the appellant. Furthermore, UU pretends to be a caring university, trying to accommodate students in this difficult time. This could be easily achieved by granting her an exemption as requested.

At the hearing the appellant stated that she was willing to make sure that she would have all credits before the exchange, also she is prepared to take the risk of graduating later. She feels that the Student Handbook puts a lot of emphasis on credits and GPA and she has surplus credits and a high GPA, which may be different than other students. The appellant also argued that the increase of competition is no valid argument and student numbers are constantly changing. The alternative exchange in the Netherlands is not the same because it is also about change of culture. The exchange during her study at UCR makes it affordable to study there.

The defendant stated the following in the statement of defence and at the hearing.

According to rule 5.5.1 in the Academic Rules and Procedures students are allowed to go on exchange in their fourth or fifth semester of studies at UCR. The defendant approved the initial exchange request to go on exchange in the Fall 2021.

Students have to submit their exchange request almost a full year in advance. This implies that the exchange request is based on the assumption that the planning of the student for the period between the submission of the exchange request and the actual exchange semester materializes. These assumptions imply a risk that a student is not able to meet all graduation requirements in case the final semester is the exchange semester, which may result in a study delay. When a student is in residence in the final semester, then there are, quite likely, sufficient opportunities to meet all graduation requirements as a graduating student has high priority for taking courses, whereas an exchange student has low priority for taking courses during exchange. Given that the appellant has a credit surplus of 15 ECTS credits, the risk is relatively small, but it still depends on the planning.

All exchanges were canceled either by the Executive Board of Utrecht University or by the host universities. This affects hundreds of UU students who were planning to go on exchange during this pandemic. The defendant argues that allowing the appellant to apply again for an exchange semester in the Fall 2022 semester is not fair in relation to the students who have the opportunity to go on exchange in the Fall 2022 semester, i.e. their fourth or fifth



semester. The situation of the appellant is not so unique as she claims it is. If the defendant allows her to re-apply for exchange, then this implies that other students whose exchange also got canceled due to COVID-19, can also re-apply for exchange and this adds to the competition for exchange opportunities for the next cohort of UU students applying for exchange. The defendant believes that this is unfair towards these students.

The decision to deny the request is in line with earlier decisions of the defendant.

The defendant is very flexible and supportive regarding students who need provisions, extensions, withdrawals or even leaves of absence during the COVID-19 pandemic. As explained before, the defendant believes that approval of this request may negatively impact the possibilities of other students. The appellant is basically asking the defendant to grant her exceptions to the rules in order to let her realize her plans without making any compromise from her side. She is not willing to accept or to investigate other options.

The defendant does not take into account that the appellant is a straight A student. A student with a lower GPA without a credit surplus will be treated the same in the same situation. The Board of Examiners took the appellant's situation into account, but the defendant is of the opinion that her situation is not unique.

The defendant explained at the hearing that if the appellant would make sure that she meets all requirements before going on exchange, then she would graduate and not be allowed to go on exchange because it would no longer be part of her bachelor program. The defendant explained that after an approval of the defendant, a procedure at UU would follow where the applicant competes with all students of UU, not only UCR.

Considerations of the Board

Regulations

The UCR Academic Rules and Procedures 2020-2021 in the student handbook state the following in article 5.5 and 10.1.

5.5 Exchange semester

5.5.1 Students may apply to spend one semester on exchange away from University College Roosevelt during their fourth or fifth semester.

[..]

10.1 Requests for exemptions

10.1.1 Requests by individual students for exemptions to these rules can be made in writing to the Board of Examiners. Students need to fully document their request and include all relevant information supporting their claim (use 'Request to the Board of Examiners' form via OSIRIS). The Board of Examiners will consider the circumstances, may consult the student's tutor and instructor(s) and/or obtain extra information if necessary, and decide whether an exemption can be made. Exemptions are not applicable in the case of 11.2.

10.1.2 In those cases not provided for by these academic rules and procedures, or not provided for sufficiently clearly, or when application of the academic rules and procedures clearly leads to an unreasonable outcome, a decision will be taken by the Director of Education, after the Board of Examiners has expressed its view. Students need to fully document their request and include all relevant information supporting their claim (use 'Request to the Board of Studies' via OSIRIS).



On the grounds of the documents submitted in these proceedings, the Board considers the following.

The main reason for the rule as stated in the article 5.5.1, that students are only allowed to go on exchange in semester 4 or 5, is because it will be easier to meet all graduation requirements in time in the last semester. As the defendant already stated, in this case the risk of the appellant not meeting the requirements in time is relatively small, given that she has a credit surplus of 15 ECTS Credits. The defendant argued that this still also depends on the planning of the appellant and is therefore a risk. The Board is of the opinion that this is an exceptional case because the appellant has an extra semester, has no study delay and is willing to take the risk and is willing to bear the consequences herself if she would not meet the graduation requirements and graduate with some delay.

The main argument of the defendant to deny the request, is that it would be unfair towards the next cohort of students to grant the appellant's request, because these students of the next cohort would have to compete with all other students whose exchange also got canceled due to Covid-19. The Board considers the decision in this regard not sufficiently substantiated. It was not made clear how much competition there would be exactly, since it was not clear if the other cases in which the exchange got canceled, all have requested an exemption as well and if they are equal to this case with regard to the exceptional circumstances mentioned above. It was also not made clear why the interests of the appellant (and equal cases), would weigh less than the interests of the next cohort of students. Besides that, the UCR Exam Board only grants students permission to participate in the competition for exchange places. The International Office of Utrecht University decides which students are selected for the available exchange places.

The Board decides as follows.

III . Decision

The Board

- I. Finds the appellant's appeal founded.
- II. Annuls the decision of the defendant of 16 March 2021.
- III. Instructs the defendant to take a new decision, in accordance with the above considerations, within two weeks after sending this decision;
- II. Requires that copies of this decision be sent to the parties, to the Board of Utrecht University, to the management of UCR and made available to interested parties.



Universiteit Utrecht

Thus decided on 29 April 2021 by Dr. E.F.D. Engelhard LL.M., chair, Dr. C. Pafort-Overduin, Dr. P.J.C.M. Franssen, Dr. P. van der Sluijs, J. Rooijmans, members, assisted by X.L. Westenburg LL.B., secretary, and announced on 26 May 2021.

Signed,

X.L. Westenburg LL.B.,
secretary

Dr. E.F.D. Engelhard LL.M.,
chair

If you disagree with this decision you may submit an appeal to the College van Beroep voor het Hoger Onderwijs (CBHO), P.O. Box 16137, 2500 BC Den Haag, (www.cbho.nl) within six weeks of the date of its dispatch. The appeal should be written in Dutch. There is a registry fee involved.