



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/K21 08 059
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Date	2 November 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 of the Undergraduate School of Science (UGS)], defendant.

I. Origin and course of the proceedings

The appellant lodged an appeal on 24 August 2021 against the defendant's decision of 15 July 2021 concerning plagiarism. The Board asked the appellant to send documents that were not readable and received them on 31 August 2021. The Board sent the appeal to the defendant on 1 September 2021 and asked to investigate whether an amicable settlement could be achieved. On 9 September 2021 the defendant notified the Board that a settlement was not achieved and sent the statement of defence.

The appeal was handled at the hearing of the Examination Appeals Board at Utrecht University 12 October 2021. The appellant appeared in person with [], defendant was represented by [].

II. Grounds

Defendant's disputed decision states that there is evidence of plagiarism in the essay written by appellant and three fellow students for the course "Conscious Brain and unconscious mind". The essay was therefore declared invalid. The decision furthermore entails the following



measures: the fellow student of the appellant who had actually committed plagiarism and has admitted it, had to rewrite her part of the essay, the other group members had to give feedback. All students concerned got a 6 (maximum) for the revised essay and a registration of plagiarism in Osiris. This registration however, was removed after parties had discussed the measures in their attempt to arrive at an amicable settlement.

The positions of both parties

The appellant stated the following in her appeal and during the hearing.

As part of the course she had to write a paper for a group project with three students from different studies that were assigned to her by the teacher. After the accusation of plagiarism, one of the group members confessed that she alone was the culprit. Though it was clear therefore that it was her part of the essay that had been plagiarized, every member received punishment. The appellant disagrees with the accusation and she believes the punishment is unfair and disproportional. The difference between the punishment of the one who plagiarized, and the rest of the group was very minor.

The defendant's argument that appellant should have checked the other students' work and should have prevented the plagiarism is not valid. The appellant had no reason to suspect anything based on the chapter submitted by her fellow student. She just assumed that the student was a good writer, she had never met her before. She is not a native English speaker, nor does she have the experience that teachers have in evaluating students work. She did not notice any inconsistencies. Furthermore, there has been no information from the university on how to detect plagiarism. The software Urkund, which is used by the University to detect plagiarism is not available for students. Google search has limitations and the outcome is not verified.

The defendant stated that the group did not cooperate sufficiently as a team and thus the student who plagiarized did not get enough support, but the appellant feels that their work method was similar to all her previous projects. The group did discuss, before starting writing, that content could not be copied. Therefore, the appellant assumed that the rules were known. It was also specifically discussed within the group that the collected text and sources were not supposed to be used directly into the paper. Furthermore the student who plagiarized did not ask for help, so she could not suspect she was having trouble with her part of the essay.

Conclusively appellant stated that a punishment has the function to prevent similar wrongdoings in the future, but there is no way she herself could have prevented the plagiarism committed by her fellow student.

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

On July 7th, 2021 the examiner of course FA-BA217 "Conscious brain and unconscious mind" reported suspicion of plagiarism in the group report: Urkund had found 20% in overlap. Group members were from different educational programmes. Students were first given the opportunity to respond via email, and subsequently there was a hearing with the executive boards and the three students on July 15th. After the hearing it was clear that one student was responsible for the section in the report where plagiarism had been found and she admitted to it. The appellant, as well as another student mentioned that they did not check for plagiarism. According to the Education and Examination Regulations Bachelor's Degree Programmes Faculty of Science 2020 – 2021 (EER) art. 5.14 section 1, all group members are responsible for the group product. The students claimed they were not aware of that. The decision of both executive boards, on July 15th, was to reject the group product, that the student who did the plagiarism had to rewrite her section, that the other two students had to provide feedback on the rewritten part, and that all three students got a registration of fraud



in their student record in Osiris. According to the course manual in case of a re-written report students get a grade not higher than 6. Students handed in their new version on August 24th and had their grade (6) registered in Osiris for the course.

During the attempt for an amicable settlement the executive board was willing to remove the registration of plagiarism from the student record in Osiris, because the tools to check for plagiarism on an intermediate product may not have been sufficiently available, or at least not sufficiently made available, to students. However, the responsibility of all group members for a group product is clearly stated in the EER as well as in the course manual. Defendant sustained that this is also part of the awareness taught to the students during the educational programme.

Revised work cannot be graded as original work and will be graded with a maximum of 6. Appellant knows this because it is stated in the course manual.

At the hearing the defendant stated that a group product entails group responsibility and according to the relevant case law of the Appeals Tribunal for Higher Education, CBHO 2020/046 and CBHO 2020/089, the measures taken are legitimate.

During the hearing in response to the chairperson's question how appellant could reasonably have detected the plagiarism in her fellow students' work, the defendant stated that she should have noticed a change of style in writing and/or language, and could have attempted checking for plagiarism by copying and pasting text via Google search.

Lastly defendant stated that in any case the work was declared invalid and subsequently revised, so according to the course manual, it is not possible to award a higher grade than a 6.

Based on the documents submitted in these proceedings and what was said during the hearing, the Board considers the following.

Regulations

The Education and Examination Regulations Bachelor's Degree Programmes Faculty of Science 2020 – 2021 (EER) states the following:

"40. art. 5.14 – fraud and plagiarism

1. Fraud and plagiarism are defined as an action or failure to act on the part of students, whereby a correct assessment of their knowledge, insight and skills is made impossible, in full or in part.

Fraud includes:

- cheating during tests. The person offering the opportunity to cheat is an accessory to fraud;*
- being in possession of (i.e. having/carrying) tools and resources during tests, such as pre-programmed calculators, mobile phones, smartwatch, smartglasses, books, course readers, notes, etc., consultation of which is not explicitly permitted;*
- having others carry out all or part of an assignment and passing this off as own work;*



- gaining access to questions or answers of a test prior to the date or time that the test takes place;
- making up survey or interview answers or research data.
- wrongly signing or having another sign the attendance lists (student A signs for student B who is not present; both students commit fraud)

Plagiarism is defined as including data or sections of text from others / own work in a thesis or other paper without quoting the source. Plagiarism includes the following:

- cutting and pasting text from digital sources such as encyclopaedias and digital publications without using quotation marks and referring to the source;
- cutting and pasting text from the internet without using quotation marks and referring to the source;
- using excerpts from printed material such as books, magazines, other publications and encyclopaedias without using quotation marks and referring to the source;
- using a translation of the abovementioned texts without using quotation marks and referring to the source;
- paraphrasing of the abovementioned texts without giving a (clear) reference: paraphrasing must be marked as such (by explicitly linking the text with the original author, either in text or a footnote), whereby the impression is not created that the ideas expressed are those of the student;
- using visual, audio or test material from others without referring to the source and presenting this as own work;
- resubmission of the student's own earlier work without source references, and allowing this to pass for work originally produced for the purpose of the course, unless this is expressly permitted in the course or by the lecturer;
- using the work of other students and passing this off as own work. If this happens with the permission of the other student, the latter is also guilty of plagiarism;
- **in the event that, in a joint paper, one of the authors commits plagiarism, the other authors are also guilty of plagiarism, if they could or should have known that the other was committing plagiarism; (highlighted in bold by the Board)**
- submitting papers obtained from a commercial institution (such as an internet site offering excerpts or papers) or having such written by someone else, whether or not in return for payment.

2. a. In all cases in which fraud or plagiarism is found or suspected, the examiner will inform the student and the Board of Examiners of this in writing.

i. The Board of Examiners will give the student the opportunity:

1. to respond to that in writing;
2. to be heard.
3. The Board of Examiners will determine whether fraud or plagiarism has occurred and will inform the student of its decision in writing and of the sanctions in accordance with the stipulations of the fourth paragraph, stating the possibility of appeal to the Examination Appeals Board.

4. Fraud and plagiarism will be punished by the Board of Examiners as follows:

a. in any event:

- o invalidation of the paper or test submitted
- o a reprimand, a note of which will be made in OSIRIS.

b. in addition to – depending on the nature and scale of the fraud or plagiarism, and on the student's phase of study – one or more of the following sanctions:

- o removal from the course



o no longer being eligible for a positive degree classification (cum laude) as referred to in art. 6.2

o exclusion from participation in tests belonging to the course concerned for the current study year, or for a period of 12 months

o complete exclusion from participation in all tests for a period of 12 months.

c. in the event that the student has already received a reprimand:

o complete exclusion from participation in all tests for a period of 12 months.

d. in the case of extremely serious and/or repeated fraud or plagiarism, the Board of Examiners may recommend that the Executive Board permanently terminate the concerned student's registration for the programme.

[..]"

In the course manual is stated about the assessment:

The student can only re-take an assignment if the final grade is ≥ 4 and the student met the requirements for active participation. If an assignment does not meet the required minimal score, the student(s) is/are required to adjust the assignment upon given feedback to improve to a maximum score of 6.0.

The Board's considerations:

The fact that one of the group members was guilty of plagiarism is not in dispute, neither is the fact that the appellant did not commit plagiarism herself. Article 5.14, section 1, states in this regard that in this event, the other authors are also guilty of plagiarism, if they could or should have known that the other was committing plagiarism.

The Board will have to establish whether the appellant could or should have known that her fellow student had committed plagiarism. In other words: if individual responsibility of appellant can be established as required in aforementioned requirement.

The Board firstly considers that it would be very difficult for a student who works with another student from a different discipline for the first time, to detect a change of writing style or language by that student. The same applies for the ability to discern between well written and too good to be written by a student, especially if sources are mentioned, which is the case here. The Board has noticed that the plagiarism in this case was discovered by the lecturer only after applying Urkund software.

Secondly the Board considers that if students in group projects are required to investigate their fellow students to this extent, then it is important to be very clear about it and inform the students that this is expected of them. In the course manual however, this is not mentioned at all, except for a short reference to the EER. Furthermore, adequate tools should be available, or made available for students. For it is not reasonable to require students to judge each other's work without the tools that lecturers need to make valid accusations of plagiarism. The Board remarks that the occurrence of unfounded accusations between students could negatively affect group work.

The Board is therefore of the opinion that in the present circumstances the above-mentioned applicable requirement (5.14, section 1 of the EER) was not met.



With regard to defendant's argument that it is not possible to award the revised essay with a higher grade than a 6 according to the course manual, the Board firstly remarks that the provision in the manual is not applicable to this case. In the present case there was no retaking of an assignment because of a grade less than 4.

The essay was invalid (NVD) because of plagiarism by one student. The student who committed plagiarism however, got the possibility to revise her part, therefore it can be now assessed in its new version. Whereas an analogous application of the provision in the course manual seems more than just with regard to the plagiarist student, it is disproportionate with regard to appellant, now that it has been established that she is not responsible for the plagiarism and her own work did not require any revisions. Therefore, in her case the revised essay should be graded without the limitation of a 6 maximum.

The Board furthermore considers that the case-law brought forward by defendant is not relevant and/or applicable in the present case.

With regard to CBHO 2020/089, in which the CBHO decided that all students were responsible for the group product, the Board points out that not all EER's are the same and every case has to be judged according to the applicable rules (EER), as well as on the basis of the established facts and circumstances of the particular case. In the present case article 5.14, section 1, of the applicable EER, requires that to establish responsibility of the individual student for the plagiarism of the work as a group, the individual student should or could have known about it. This assessment should always be made on the particular merits of the case (rules and facts), as the Board has done in its considerations set out above.

With regard to CBHO 2020/046 the Board remarks that in that case the plagiarism was not disputed and the arguments and judgment put forward therein are therefore not relevant to the present case.

All things considered, the Board is of the opinion that the defendant could not reasonably have made the contested decision. The appeal must therefore be declared founded.

The Board decides as follows.

III . Decision

The Board

- I. Finds the appellant's appeal founded.
- II. Annuls the decision of the defendant of 15 July 2021.
- III. Instructs the defendant to take a new decision in accordance with the above considerations. Since the chapter is revised, the group work with the revision could be graded. Please take a new decision 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, and the management of the Faculty of Science and made available to interested parties (anonymous version).



Thus decided in Utrecht on 12 October 2021 and made know to the parties involved on 1 November 2021 by by P.M.E. Bernini LLM, chair, Prof J.J.S. Dubas, J. Rooijmans, members, in presence of X.L. Westenburg LLB, secretary.

X.L. Westenburg LLB, secretary

P.M.E. Bernini LLM, 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) for a period of six weeks after the day on which this decision was announced. The appeal should be written in Dutch. There is a registry fee involved.