



EXAMINATION APPEALS BOARD

Decision of the Examination Appeals Board of Tilburg University

in the case between

X, appellant

and

the Examination Committee of the Bachelor's program Liberal Arts & Sciences of the Tilburg School of Humanities and Digital Sciences, appellee

1. Course of the proceedings

On December 17, 2018, the appellant took the exam of the course History of Economic Thought. During the exam, the appellant proved not to have been on the attendance list. By accident, the record made during the exam was sent to the Examination Committee of the Tilburg School of Economics and Management (hereinafter: "TiSEM"). As a result of this, the TiSEM Examination Committee decided on January 4, 2019 not to present the exam to the examiner for grading.

The appellant appealed against this decision on January 10, 2019. On January 10, 2019, the TiSEM Examination Committee also withdrew its decision of January 4, 2019 – due to the fact that it is not authorized to make decisions with respect to students of the Tilburg School of Humanities and Digital Sciences – and sent the record to the competent body, namely the appellee.

The Board stayed the appellant's notice of appeal.

The appellee decided on January 28, 2019 not to present the exam taken by the appellant on December 17, 2018 to the examiner for grading because the appellant did not register digitally for this exam (hereinafter: "contested decision").

The appellant stated that he would maintain his appeal. The appellant was given the opportunity to supplement his notice of appeal, which he did on February 6, 2019.

The parties did not reach an amicable settlement.

The appellee submitted a written defense.

The Board handled the appeal at the hearing on March 14, 2019. The appellant was present at the hearing. Y and Z appeared on behalf of the appellee.

2. Facts and circumstances

On December 17, 2018, the appellant took the exam for the course History of Economic Thought. Due to the fact that the appellant was not on the attendance list, the proctor made a record. The appellee then decided that the exam would not be graded because the appellant did not register for the exam in conformity with the applicable rules.

3. Positions of the parties

3.1 The appellant argued the following in his notice of appeal, as summarized at the hearing. He asserted that he did indeed register digitally for the exam. According to him, this is evident from the fact that the exam was listed on his schedule in Blackboard. As he subsequently proved not to be on the attendance list, the appellant is of the opinion that there must have been a technical defect in the registration program OSIRIS at the time of registration for the exam. The appellant is unable to support this with any evidence.

When the appellant did not receive a chair number in the run-up to the exam, he stated that he had contacted the Student Desk three days before the exam. According to the appellant, a staff member of the Student Desk told him that he would have to fill out a record form during the exam, and that registration for the exam would then still be in order. The appellant is of the opinion that by filling out the record form prior to the exam, he acted in line with Article 6 paragraph 3 of the Rules and Guidelines for Bachelor's, Master's and Educational Programs of Tilburg School of Humanities and Digital Sciences 2018-2019 (hereinafter: "R&G").

Finally, the appellant argued that, despite the fact that he had previously received a warning for not registering digitally for an exam and was aware of the rules relating to digital registration for an exam, a system error in OSIRIS cannot be invoked against him. The appellant is willing to pay a sum of money to have the exam still presented to the examiner for grading. The appellant, in fact, wants to avoid ultimately failing his Bachelor's program by not passing the course History of Economic Thought, and therefore having to study one year longer at Tilburg University.

3.2 The appellee stated that Article 6 paragraph 1 R&G provides that students must always register for each written exam according to an adopted procedure described on the University website.

The appellee stated in line with this that Article 12 paragraph 4 R&G provides that an examinee who does not appear on the list provided by the Central Student Administration, on which the names are listed of those who have registered for the exam, and is also unable to show an exam card, will be excluded from that exam. The appellee added at the hearing that, on the basis of internal policy, students who have not registered digitally for an exam will initially receive a warning. Investigation has shown that the appellant had already received such a warning before, namely on July 19, 2017. The appellee emphasizes that examination committees of other faculties of Tilburg University immediately decide in such cases not to present the exam to the examiner for grading.

The appellee conducted a careful examination into the appellant's assertion that, because of a technical defect, he was unable to register for the exam via OSIRIS. According to the appellee, however, there is no evidence of a technical defect. Moreover, in the same period, the appellant was indeed able to register for other exams via OSIRIS. The appellee added that the mere fact that an exam is listed in the schedule on Blackboard does not mean that the appellant had registered digitally for the exam in question. For that matter, the screenshots the appellant made of the schedule in Blackboard date from one month after he took the exam.

- 3.3 Based on the foregoing, the appellee came to the conclusion that, partly in view of a previous warning, this time the appellant's exam would not be presented to the examiner for grading. The appellee expects that this will not cause the appellant to incur a delay in studies, as he will be able to participate in the second exam opportunity of the course on June 18, 2019.

4. Findings of the Board

- 4.1 The Board finds first of all that, with respect to the registration for exams, the appellee adopted the R&G in conformity with Section 7.12b(1)(e) of the Higher Education and Research Act. Furthermore, the Central Student Desk adopted more detailed guidelines regarding registration for written exams, hereinafter "the Guidelines".

The Board notes that the R&G are published on the university website (<https://www.tilburguniversity.edu/nl/studenten/studie/regelingen/oer/humanities/>). The Board notes as well that the Guidelines relating to digital registration for an exam which the Central Student Desk has adopted are also published on the university website (<https://www.tilburguniversity.edu/students/studying/lectures/exams/written-exams/registration/>) and apply university-wide.

Article 6 paragraph 1 R&G stipulates the following: "*Registration for written exams must be done via internet. Such registration must be in accordance with the guidelines as adopted by the Central Student Desk.*" In addition Article 12 paragraph 4 R&G stipulates the following: "*When taking a written exam, the examinee must sign the attendance list. The examinee must sit on the numbered place assigned to him/her by the Central Student Administration by way of an exam card. An examinee who does not appear on the list provided by the Central Student Administration on which the names are listed of those who have registered for the exam, and who is also unable to show an exam card, will be excluded from participation in the relevant exam.*" Lastly, regarding registration for written exams, the Central Student Desk stipulates the following: "*In the examination register, each interim exam, re-exam and midterm is opened 30 days (1 month) before the test date. Digital registration for an exam or re-exam is possible until 8 days at most before the test date. So register on time. As of 7 days before the exam takes place, registration, and therefore also participation in this exam, will no longer be possible, not even with permission from the instructor.*"

The Board notes that the appellant knew or should have known that he had to register for an exam digitally and in a timely fashion. Furthermore, the Board takes into consideration that the appellant had already received a warning before, because he was not registered digitally for an

exam. The Board notes as well that the appellant did not register digitally for the exam within the applicable period prior to the test date, or at least he cannot prove that he did.

In conclusion, the Board notes that the appellant's reference to Article 6 paragraph 3 R&G - "*In order to be admitted to a final exam, the examinee must submit the form intended for that purpose, as well as the other required documents, at the Central Student Desk at least three weeks before the desired graduation date*" - does not apply in this case, as the aforementioned paragraph refers to registration for a final exam of a Bachelor's or Master's program and not to registration for a final exam of a course.

- 4.2 Based on the foregoing, namely the fact that the appellant i) knew or should have known that he had to register for an exam digitally and in a timely fashion, ii) had already received a warning before, because he was not registered digitally for an exam, iii) does not need to incur a delay in studies because he still has the opportunity to participate in the second exam opportunity of the course in the current academic year, iv) and owing to the fact that careful and effective examination records must be guaranteed, the Board is of the opinion that not grading the exam has not resulted in such unreasonable consequences that the decision cannot reasonably be maintained.

5. Decision

The Examination Appeals Board declares the appeal unfounded.

Decided on March 14, 2019 by the Examination Appeals Board.

You can file an appeal against this decision within six weeks after publication of this decision at the Appeals Tribunal for Higher Education (CBHO), P.O. Box 16137, 2500 BC The Hague. For more information, see www.cbho.nl.