



Universiteit Leiden

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APPEALS TO

THE EXAMINATION APPEALS BOARD

Table of Contents

I. Initiating the procedure

- How do you know if you can appeal to the Examination Appeals Board?
- How can you make an appeal?
- On what grounds can you appeal?
- What is the time limit for submitting a letter of objection?
- If you need more than six weeks
- Lawyer is not compulsory
- Letter of acknowledgement
- Parties in the procedure
- How long does the procedure take?

II. The procedure itself

- Is it mandatory to try to reach an amicable settlement?
- Without a formal hearing
- What does the procedure cost?

III. The hearing of the Examination Appeals Board

- Invitation to appear at the hearing
- The hearing

IV. The decision of the Examination Appeals Board

- The decision
- Is it possible to appeal against the decision of the Examination Appeals Board?

V. Applying for an interim provision

- A temporary ruling in urgent cases
- How do you apply for an interim provision?
- Hearing and decision

VI. Role of the Faculty Board, Board of Examiners and Board of Admissions

- Duties of the Faculty Board, Board of Examiners and Board of Admissions



Leiden University Examination Appeals Board

The Leiden University Examination Appeals Board is an independent appeals board for students. This brochure together with all formal details concerning submitting an appeal, the decisions against which you can appeal, the composition and members of the Examination Appeals Board, the planned hearings per calendar year and of course the decisions themselves can be found via the website: <https://www.organisatiegids.universiteitleiden.nl/en/university-committees/examination-appeals-board>

This brochure provides information about the stages in the appeals procedure with the Examination Appeals Board and is relevant if you do not agree with the decision of, for example, a Board of Examiners, an examiner, a Faculty Board or a Board of Admissions. You will also find an explanation of the duration of the stages in the procedure and the roles of the different parties.

I. Initiating the procedure

• How do you know if you can appeal to the Examination Appeals Board?

Anyone whose interests are directly affected by the decision of a Board of Examiners, an examiner or a Board of Admissions may submit an appeal. This means that you may only submit an appeal if you yourself have experienced or are likely to experience the immediate consequences of a decision or the failure to make a decision. This is the case if, for example, the decision pertains to you.

The decisions against which you can appeal are listed in Article 7.61, first paragraph of the Higher Education and Academic Research Act (WHW). The most important ones are:

- The decision to issue a negative binding study recommendation (BSA), which also prevents you from enrolling on the same programme during the validity period of the BSA (four years).
- Decisions of Boards of Admissions.
- Decisions of examiners about the assessment of examinations.
- Decisions of Boards of Examiners.

If it is possible to appeal against a decision to the Examination Appeals Board, this should be mentioned under the decision that you have received. If you are unsure whether you can appeal, please contact the secretariat of the Examinations Appeals Board within the time limit for the appeal.

• How do you lodge an appeal?

You lodge an appeal by sending a letter of objection to the Examinations Appeals Board. The deadline for your appeal and the address to which you must send it appear at the bottom of the decision against which you are appealing. The letter of objection must state why you do not agree with the decision.

In the letter of objection you should include:

- Your name and address.
- The date upon which you are writing the letter of objection.
- A description of the decision with which you do not agree. You must enclose a copy of this decision with the letter of objection.
- The reason (grounds) why you are lodging an appeal.
- Your signature; you are required to sign the letter of objection.



You should send the letter of objection to:

**Leiden University
Examination Appeals Board
PO Box 9500
2300 RA Leiden**

• On what grounds can you appeal?

- The decision taken was contrary to legally binding regulations (such as the Higher Education and Academic Research Act or the Course and Examination Regulations).
- The decision represents an abuse of power.
- The decision was not reached in a reasonable manner.
- The decision is in conflict with another principle of proper governance.

You must be able to justify each reason you provide.

• What is the time limit for submitting a letter of objection?

You must submit your letter of objection within six weeks of the date upon which the decision was issued. If you submit your letter of objection after this time limit, it will only be considered if you have good reason for its late submission. Good reason does not include holiday, the mistakes or oversights of an authorised representative, moving house and the like.

• If you need more than six weeks

If you need more time to express why you do not agree with the decision, you should not forfeit your right to appeal but should at least submit a letter of objection to the Examination Appeals Board, stating briefly that you are appealing and indicating the decision against which you are appealing.

Such a letter of objection is called a 'pro forma' letter of objection.

<http://www.leidenuniv.nl/media/bb/VE-1184-Pro-forma-beroepschrift-voorbeeld-bij-Brochure-2013-ENG.doc>

You must also state in this letter that you will justify your letter of objection in a subsequent letter. The Examination Appeals Board will then notify you of how much time you have for this; in general this will be a term of 2-3 weeks.

• Lawyer is not mandatory

You are not obliged to hire a lawyer or legal assistance during a procedure with the Examination Appeals Board, but you are permitted to do so if you wish. You can also authorise someone to write the letter of objection on your behalf or to speak for you during the hearing. This authorisation consists of a letter in which you state who will represent you during the procedure in question.

• Letter of acknowledgement

The Examination Appeals Board will send you a letter acknowledging the receipt of your letter of objection within one week. The letter will include a case number for the procedure. Please try to state this number each time you send material to the Examination Appeals Board.

• Parties in the procedure

The parties in the procedure are the party who has submitted the letter of objection (appellant) and the party who has taken the decision (respondent). The responding party could be a Board of Examiners, an examiner or a Board of Admissions.



• How long does the procedure take?

The Examination Appeals Board will reach a decision within 10 weeks of receiving your letter of objection. The Examination Appeals Board can extend this term by a period of four weeks. If you require a fast decision, you can then ask the chair of the Examination Appeals Board in your letter of objection or at a later date for an interim provision.

Please note:

The decision concerning a request for an interim decision is not the final decision in your appeal. If your request is granted, but the final decision is negative for you, the interim provision lapses.

II. What is the procedure?

• Is it mandatory to try to reach an amicable settlement?

Upon receipt of your letter of objection, the Examination Appeals Board first tries to settle the matter amicably. This is a compulsory part of the procedure and is known as the attempt to reach an amicable settlement. The Examination Appeals Board sends a copy of your letter of objection to the respondent. It also invites the respondent to convene with all parties to examine whether it is possible to settle the matter. Amicable settlement is taken to mean a reconsideration of the decision on the basis of further arguments advanced by the parties. This consequently does not give you the opportunity to negotiate. If, during the amicable settlement phase, the respondent makes a proposal that you do not wish to accept, you are not obliged to do so. If an amicable settlement is not reached, the Examination Appeals Board will take a decision.

If the appeal is against the decision of an examiner who is also a member of the Board of Examiners, this examiner may not participate in the reconsideration of the decision (Article 7.61, third paragraph of the WHW).

In attempting to reach an amicable settlement, the respondent must summon you for consultation within five days of receipt of the letter of objection. The respondent must notify the Examination Appeals Board within three weeks whether an amicable settlement has been reached.

The chair of the Examination Appeals Board can decide whether to forego the attempt to reach an amicable settlement. He or she can do this if he or she believes that such an attempt would be futile or that it would disproportionately disadvantage you.

If an amicable settlement has been reached, the procedure is terminated because you and the other party have reached a satisfactory solution.

If it has not been possible to reach an amicable settlement, the respondent submits a letter of defence to the Examination Appeals Board within the same period of three weeks. In this letter of defence the respondent gives his or her version of the matter. The respondent is also obliged to provide all relevant documents and regulations to the Examination Appeals Board within a term to be specified by the Examination Appeals Board. You will receive a copy of all documents.



The deadlines for submitting the letter of defence or other documents are strict and it is in principle only possible to deviate from them with the permission of both parties.

Once the written stage has been completed the Examination Appeals Board summons the parties to a hearing. This takes place during a public hearing of a chamber of the Examination Appeals Board. You can be assisted at this hearing by a lawyer, and can also introduce witnesses or experts. The Examination Appeals Board will take a decision on your appeal after the hearing.

• **Without a formal hearing**

Sometimes the appeal can be resolved without a formal hearing. This may be possible if:

- Your appeal is clearly inadmissible. This is the case if your letter of objection does not meet the required conditions for the appeal to be considered (see section: How do you appeal?).
- Your appeal is clearly unfounded: if it is clear that you have ‘no leg to stand on.’
- Parties indicate that they do not wish to be heard.
- Your appeal can be accepted in full and is not detrimental to the interests of other interested parties.

• **What is the cost of a procedure?**

The procedure is free of charge.

III. The hearing of the Examination Appeals Board

• **Invitation to the hearing**

The Examination Appeals Board invites the parties to a hearing. They will receive an invitation to attend the hearing. You can submit further documents until ten days before the hearing. This means that the Examination Appeals Board must have received the documents no later than the eleventh day before the hearing. The Examination Appeals Board is strict in applying this deadline. The chair decides on documents that are submitted after this deadline. New documents may only be introduced at the hearing itself if the other party has no objection and provided it does not harm any interest in the proceedings.

• **The hearing**

In most appeal procedures a hearing takes place. The parties are able to give an explanation of their position in person. The chamber of the Examination Appeals Board that hears the parties comprises a chair and four members, two of whom are members of the academic staff and one of whom a student member. The members of the Examination Appeals Board can also question parties on points that are unclear to them. After this question round the chair gives all parties the opportunity to make a final statement, after which the hearing is concluded.

A hearing is public and thus open to everyone. In special cases, however, it can take place behind closed doors. If you believe there are grounds for this, you can request this before or during the hearing.

You can be supported during the hearing by an authorised representative. This is not mandatory.



IV. The decision of the Examination Appeals Board

After the hearing, the Examination Appeals Board retires to the council room to consider its decision on the appeal. This part of the hearing is not public. The decision is based on the documents and what has been put forward during the hearing.

After the hearing, the Examination Appeals Board usually issues a written decision within four weeks, which it sends to the parties. The decision is also published in an anonymised form on the website of the Examination Appeals Board (see:

<http://www.organisatie.leidenuniv.nl/bestuursbureau/abjz/college-van-beroep-voor-de-examens.html>).

• The decision

The decision can be as follows:

- The appeal is considered inadmissible, which means that the appeal cannot be assessed due to procedural errors. The Board has not been able to evaluate the substance of the appeal.
- The appeal is considered unfounded, which means the disputed decision remains in effect.
- The appeal is considered well founded, which means the challenged decision is annulled in whole or in part. The respondent will need to reach a new decision taking into consideration the decision of the Board. A deadline is sometimes set for this in the decision of the Examination Appeals Board. Sometimes no new decision needs to be taken after the decision has been annulled. This is true in the case, for example, of BSA decisions and decisions that the respondent has taken of his or her own accord, for example, measures in the case of fraud.

The Examination Appeals Board is not competent to take an alternative decision to the one that has been annulled in whole or in part (Art. 7.61, sixth paragraph of the WHW).

• Is it possible to appeal against the decision of the Examination Appeals Board?

If you are the interested party, you can appeal against the decision of the Examination Appeals Board to the Appeals Tribunal for Higher Education (CBHO), PO Box 16137, 2500 BC The Hague. Mention here in your address, phone number and email address. The interested party is understood to mean: a student, a future student, a former student or an external student (future or former). The respondent may not therefore appeal.

Appeal is excluded, however, if the decision of the Examination Appeals Board relates to a decision that concerns:

- The assessment in an examination or any other test of the knowledge and skills of a student (Art. 8:4, sub e, of the Awb).
- The determination of assignments, grading standards or further rules for this examination (Art. 8:4, sub e, of the Awb).

The term of appeal is six weeks after the date upon which the Examination Appeals Board issued its decision. A set fee is charged for this procedure (court fee).



V. Request for interim provision

• A temporary ruling in urgent cases

In urgent cases you can request an interim provision from the chair of the Examination Appeals Board whilst awaiting the decision in the principle action. You can do this when you submit your letter of objection, but you it can also be at a later stage of the procedure. The Examination Appeals Board can then issue a temporary ruling for the period in which your letter of objection is under consideration. Such a request will be granted on the grounds of 'utmost urgency', which means that the circumstances do not allow you to wait for the final decision pertaining to the letter of objection.

This could be the case if, for example, the appeal were to concern a decision that prevented you from sitting the last possible examination during the academic year, which would consequently lead to a significant study delay.

Please note:

For a decision relating to a negative binding study recommendation you do not need to request an interim provision. The Executive Board has decided that if you have appealed against this decision you may continue to participate in the programme activities during the appeal procedure. You may sit examinations during this period but these will not be marked as you are no longer enrolled. If the decision of the Examination Appeals Board is such that you are allowed to remain on the programme and may enrol again, this examination will then be marked.

• How do you request an interim provision?

You submit a request for an interim provision in the same way as you submit a letter of objection, but this time it is called a letter of petition. This is a letter in which you ask the chair to examine whether a special, temporary ruling can be made for the period in which your letter of objection is under consideration. You must also state why you think that your request meets the condition of 'utmost urgency'. You can therefore submit an appeal and a request for an interim provision together in one letter.

• Hearing and decision

Shorter time limits apply here for submitting the documents and the letter of defence than in the standard procedure. The Examination Appeals Board must have received the documents no later than two days before the hearing.

The Examination Appeals Board schedules a date for a hearing in which it will consider your request. The hearing itself is more or less as described above under the section 'The hearing'. One difference, however, is that the request is considered by the chair alone, in the presence of the secretary.

You can generally expect a decision within a week of this hearing; alternatively, an oral decision is issued immediately after the hearing.

VI. Role of Faculty Board, Board of Examiners and Eoard of Admissions

The examiner or Board of Examiners are authorised to take certain decisions on such matters as the proceedings during and assessment of examinations, exemptions and measures to take in the case of fraud. The Faculty Board is authorised to decide on matters such as admission to master's programmes, admission via an entrance examination or the binding study recommendation. In general, the Board of Admissions or the Board of Examiners take these decisions on behalf of the Faculty Board.



These decisions can have significant consequences for you as a student or future student and therefore directly affect your interests. You can appeal against a decision, and during the procedure the body that has taken the decision must justify it.

• **Duty of Faculty Board, Board of Examiners and Board of Admissions**

The Faculty Board, the Board of Examiners and the Board of Admissions are obliged to provide all the necessary information of their own initiative. This means at least the complete file on the basis of which the decision was taken as well as all documents that the Examination Appeals Board considers necessary.

They must also make a serious effort to reach an amicable settlement, and if a settlement is not possible, they are required to submit a letter of defence. They must refer to the rules from the Course and Examination Regulations, the Rules and Regulations or the Regulations for Admission to Master's Programmes.

They must be present or represented at the hearing to explain the decision and answer any questions from the Examination Appeals Board.