



Regulations of the Examination Appeals Board

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Article 1: Definitions

In these Regulations, the terms "Act" and "Board" are understood to mean:

- a. "the Act": the Higher Education and Scientific Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, hereinafter referred to as *WHW*) as published in the Bulletin of Acts and Decrees (*Staatsblad, Stb.* 1992, 593),
- b. "the Board": the Examination Appeals Board as specified in Articles 7.60 through 7.63 of the Act.

- WHW** **Constitution of the Board, appointment and term of office**
- 7.60**
- 7.60.1** **Each institution of higher education has an Examination Appeals Board.**
- 7.60.2** **The Appeals Board consists of three or five members. The number of deputy members does not exceed that of members. The Board sits in plenary session.**
- 7.60.3** **The Board may decide to set up chambers. A Board deciding to do so consists of at least six members, with a maximum of fifteen members. The number of deputy members can not exceed that of members. Each chamber consists of three or five members. The chambers sit in plenary session.**
- 7.60.4** **The chairperson, the deputy chairperson or persons, the other members and the deputy members, if any, are appointed by the institution's Executive Board for a term of at least three years, with**



- a maximum of five years. Student members serve a term of at least one year, with a maximum of two years. They are eligible for reappointment. Members and deputy members can not be members of the institution's Board or the inspectorate. Not counting the chairperson, at least half of the Board members should be lecturers or members of the academic staff respectively.
- 7.60.5 The chairperson and the deputy chairperson or persons should meet the requirements imposed on the eligibility for appointment as a district court judge stipulated in Article 48, paragraph 1, of the Judicial Organisation Act.
- 7.60.6 Membership termination is granted to members and deputy members of the Appeals Board at their own request. Members reaching the age of 70 have their membership terminated as of the month following their birthday. They have their membership terminated if they become unable to perform their duties due to illness or disability and if they are irrevocably convicted, by a court of law, of a criminal offence. Prior to the actual termination on the grounds stated in the third sentence of this paragraph, the member in question is notified of the intended membership termination and given the opportunity to be heard in the matter.

Article 2: Constitution of the Board, appointment and term of office

The Board comprises fifteen members, including the chairperson and two deputy chairpersons, as well as fifteen deputy members if necessary.

1. Six members and six deputy members are appointed from among the student body.
2. The members and deputy members are appointed for a term of four years. Student members are appointed for a term of two years.
3. (Student) members and deputy (student) members are eligible for reappointment.

Article 3: Deputy chairperson

In the event of absence of the chairperson, he or she is replaced by one of the deputy chairpersons designated by him or herself.

Article 4: Division into chambers

1. In order to process the appeals, the Board is divided into chambers consisting of five members each.
2. The chairperson decides on the composition of each chamber per appeal, on the understanding that:
 - a. the chamber is presided over by him or herself or by one of the deputy chairpersons designated by him,
 - b. in majority, the chamber consists of Board members or deputy members originating from the academic staff,
 - c. the chamber comprises at least one student member.
3. Appointment as a member of a chamber is not possible for those who are either a member of the Board of Examiners involved in the dispute or a student who may have his or her performance evaluated by the Board of Examiners in question.
4. If an appointed member of a chamber is unable to attend a session, the chairperson designates another member or deputy member to take the place of the absentee.



Article 4a: Chamber for appeals relating to the Honours Academy

1. Without prejudice to the stipulations of Article 4, a chamber will be established to deal with appeals from students of the Honours Academy. This chamber will comprise five members.
2. The Executive Board is the first and only body authorised to decide on appeals by student of the Honours Academy.
3. Members, lecturers and students of the Honours Academy are bound to observe the terms of this regulation.

Article 5: Chamber for special circumstances

1. to attend to appeals in special circumstances, the Board can set up, in derogation of article 4, paragraph 1, a chamber consisting of three members.
2. The chairperson will determine after consulting with the secretary when special circumstances occur.

Article 6: Secretary of the Board

1. The Board is assisted by a secretary to be designated by the Executive Board.
2. The Executive Board may assign one or more staff members to assist the secretary.
3. The designation of a secretary of the Board and of possible staff members referred to in paragraph 2 occurs in consultation with the chairperson of the Board.
4. The secretary and possible staff members added on the grounds of paragraph 2 exercise their duties in compliance with the instructions of the chairperson of the Board.

WHW Competence of the Examination Appeals Board

7.61

7.61.1 Appeals can be lodged with the Examination Appeals Board against:

- a. decisions as referred to in the articles 7.8b, paragraph 3 and 5, 7.9, paragraph 1, and 16.6a, paragraph 3,
- b. decisions on the obtaining of study credits as referred to in the articles 7.9a, 7.9b, 7.9ba or 7.9bb, as well as decisions on the passing of the final examination as referred to in article 7.9d,
- c. decisions on the extent of an exemption granted, as referred to in 7.31a, paragraph 3,
- d. decisions that are not resolutions of general application, taken pursuant to the provisions in or by virtue of title 2 of this chapter, in view of admission to examinations,
- e. decisions made on the basis of a further enquiry as referred to in the articles 7.25, paragraph 4, and 7.28, paragraph 4,
- f. decisions made by Boards of Examiners and by examiners,
- g. decisions made by committees as referred to in article 7.29, paragraph 1, and
- h. decisions made on the basis of article 7.31, with a view to admission to the study programmes referred to in the said article.



7.61.2 The appeal may, as far as public institutions are concerned in derogation of chapter 7 of the General Administrative Law Act, be lodged on the grounds that the decision is inconsistent with the law.

Article 7: Lodging an appeal

1. The appeal is addressed to the Board and lodged with the secretary of the Board within six weeks of the day on which the decision is conveyed in the prescribed manner.
2. An appeal lodged after expiry of the deadline referred to in paragraph 1 is not considered inadmissible if the appellant can demonstrate the appeal was lodged as soon as could reasonably be expected.
3. An appeal lodged within the deadline, but – contrary to the stipulations contained in paragraph 1 of this article – with an examiner or a university body other than the Board, is nevertheless held to meet the criteria given in the said paragraph.

Article 8: Contents and receipt of the appeal; omissions

1. The appeal is signed and includes:
 - a. the name and address of the person lodging it,
 - b. the name of the examiner or administrative authority who has made the disputed decision,
 - c. a clear description of the decision appealed against, if possible accompanied by a copy of it. If the appeal is against the refusal to make a decision, then a clear description is required of the decision that should have been made in the opinion of the person lodging the appeal,
 - d. the grounds of the appeal.
2. The secretary of the Board indicates on the appeal the date of receipt, and issues an acknowledgement of receipt. The secretary notifies the chairperson of the Board without delay of the receipt of an appeal.
3. The secretary of the Board notifies the appellant of any omissions he or she finds and requests that these be remedied within a deadline to be set by the chairperson. If the appellant does not remedy his or her omissions within the deadline set, the appeal may be held to be inadmissible.

WHW (Amicable settlement)

7.61

7.61.3 Prior to starting the processing of the appeal, the Board forwards the appeal to the administrative authority which made the disputed decision, inviting it to verify in consultation with the parties involved whether the dispute can be settled amicably, which in as far as public institutions are concerned, is in derogation of section 7.3 of the General Administrative Law Act. If the appeal has been lodged against a decision taken by an examiner, then the documents referred to above are forwarded to the Board of Examiners concerned. This Board then informs the Examination Appeals Board within three weeks of the conclusion reached in its consultations. Along with this information, the Board is sent all



records relevant to the case. If an amicable settlement proves to be impossible, the Board starts processing the appeal.

Article 9: Amicable settlement

1. The secretary of the Board forwards the appeal without delay to the chairperson of the administrative authority concerned in the appeal, inviting him to verify, in consultation with the parties involved, whether the dispute can be settled amicably. A copy of this invitation is sent to the appellant.
2. If the disputed decision was taken by an examiner, the documents referred to in paragraph 1 are forwarded to the chairperson of the Board of Examiners concerned. He or she is invited to verify in consultation with the appellant and the examiner in question whether the dispute can be settled amicably.
3. Within five days of receiving the appeal and the invitation referred to in paragraphs 1 or 2, the chairperson of the administrative authority concerned asks the appellant to verify in consultation whether the dispute can be settled amicably.
4. Within three weeks of receiving the appeal and the invitation referred to in paragraphs 1 or 2, the chairperson of the administrative authority concerned notifies the Board of the conclusion of the consultations.
5. The secretary of the Board notifies the chairperson as soon as he or she receives notice of the conclusion. If the dispute has been settled amicably, the secretary of the Board notifies all parties concerned that the appeal will not be considered.

Article 10: Refraining from amicable settlement

1. The chairperson may decide to refrain from efforts to settle the dispute amicably, if, in his or her opinion, such efforts are evidently pointless or would prejudice the appellant in a disproportionate manner. The chairperson then sets the deadline for the submission of the records relevant to the dispute and the written defence.
2. The secretary of the Board immediately forwards a copy of the appeal to the chairperson of the administrative authority concerned in the appeal, requesting him to submit to the Board within the deadline referred to in paragraph 1 all records relevant to the dispute in question as well as a written defence. A copy of this request is sent to the appellant.
3. If the disputed decision was made by an examiner, the documents referred to in paragraph 2 are forwarded to the chairperson of the Board of Examiners concerned.

Article 11: Written preparations

1. If an amicable settlement proved to be impossible or if it was decided to refrain from efforts to arrive at such a settlement, the chairperson of the administrative authority in question submits the records relevant to the dispute within the deadline referred to in article 8, paragraph 4, or in article 9, paragraph 1, respectively. Along with the records, he or she submits a written defence from the administrative authority or examiner in question.
2. On request, the chairperson may grant a later submission of the written defence, within a deadline he or she considers reasonable.
3. The appellant is immediately sent a copy of the records and the written defence referred to in paragraph 1. If still possible within the timeframe set in paragraph 5, the appellant is given the opportunity to respond to these documents in writing, within a deadline to be specified.
4. A copy of the appellant's response referred to in paragraph 3 is immediately sent to the chairperson of the administrative authority concerned.
5. The parties concerned are entitled to submit further documents to the Board up to ten days before the session.



6. The Board may, of its own accord, make any enquiries it deems necessary and seek to obtain documents relevant to the dispute. The chairperson of the Board forwards without delay to the Board members all rules and regulations applicable, at the time the examination was taken, to the examination or examination component which led to the appeal, as well as all documents the Board deems necessary for its hearing of the appeal.

Article 12: Processing the appeal without session

1. If the Board is of the opinion that an appeal is manifestly inadmissible or manifestly unfounded, it may announce the outcome of its deliberations at all times and without having dealt with the appeal in session, regardless of the status of the appeal procedure.
2. The Board bases its decision solely on the records related to the dispute.

Article 13: Place and time of the session; hearing summons

1. Unless the provisions of article 11 apply, the chairperson of the Board determines, within as short a term as possible, the place and time at which the appeal will be dealt with in session.
2. In line with the directions given by the chairperson, the secretary convenes the members of the chamber in question for a session within as short a term as possible.
3. The secretary summons in good time the parties involved to be present at the session.
4. If the appeal concerns the decision of an examiner, the secretary forwards to the examiner in question a copy of the summons sent to the chairperson of the Board of Examiners concerned.

Article 14: Making records available for perusal

1. Prior to the hearing of the appeal in session, the secretary makes the records relevant to the dispute available to interested parties for perusal at the secretariat for at least one week. The secretary notifies the parties thereof in the summons referred to in article 12, paragraph 3.
2. The chairperson may rule that documents containing highly personal information are made available for perusal only to the parties concerned.

Article 15: Representation and assistance in session; witnesses and experts

1. Parties may have an agent represent them in session or they may have counsel to assist them. They are furthermore entitled to call witnesses and experts during the session, provided that they have notified the Board and the opposite party in writing of the names of these persons no later than four days prior to the session. The secretary notifies the parties thereof in the summons referred to in article 12, paragraph 3.
2. The Board may call witnesses and experts ex officio or at the request of the parties involved.

Article 16: Challenge and excusal

1. Prior to the appeal being heard in session, each member of the chamber may be challenged by one or more of the parties involved in the dispute due to facts or circumstances which could prejudice their judicial impartiality. Based on the same facts and circumstances, the members may claim their right to excusal.
2. The other members in session decide as soon as possible whether or not the challenge or excusal is granted. In the event of an equal number of votes, the request is granted.



Article 17: Hearing an appeal in session

1. The appeal is heard in a public session of the Board. In special cases, the Board may decide to hear an appeal entirely or partly in closed session.
2. The chairperson of the Board presides over the hearing. He or she gives all the parties involved the opportunity to present their position. While in session, the parties act in compliance with the directions given by the chairperson. If they fail to do so, the chairperson is entitled to expel them.
3. The secretary attends the hearing and takes minutes of the deliberations made during the session.
4. The parties involved may change the contents of the appeal or the defence, as well as the grounds on which these are based, until the session is declared closed, unless the Board is of the opinion that such changes would unreasonably prejudice the opposite party.
5. If it appears in the course of the session that the enquiry was incomplete, the Board may rule that the session be continued later, at a time to be set by the Board. Instructions can be given to the parties involved as to the evidence.
6. Prior to closing the hearing of the appeal in session, the chairperson sets a date for conveying the outcome of the procedure. If possible, the outcome is announced within four weeks of the closing of the session.

Article 18: Deliberations and outcome

1. The Board deliberates and reaches its decision in the Board Room. It bases its decision on the records that were made available for perusal and on what was brought forward or submitted, without prejudice to the opposite party, in the course of the session.
2. The secretary is present at the deliberations. He or she may cast an advisory vote.
3. Anyone participating in the deliberations is under a pledge of secrecy in regard of everything that is said in the Board Room.

WHW (Decision)

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7.61.4 The Appeals Board decides within ten weeks of receipt of the appeal, which is, in as far as public institutions are concerned, in derogation of article 7:24, paragraph 2, of the General Administrative Law Act.

7.61.5 If the Appeals Board considers the appeal well-founded, it annuls the disputed decision entirely or in part. The Board is not entitled to reach a new decision to replace the annulled one, which is, in as far as public institutions are concerned, in derogation of article 7:25 of the General Administrative Law Act. It may rule that a new decision be made or – if a decision was refused or is considered to have been refused – that a decision nonetheless be taken in the matter or that the preliminary examination, the examination, the admissions enquiry, the further enquiry or any other part of these be held again under conditions to be laid down by the Board. The administrative authority whose decision was annulled makes new provisions in the matter if necessary, with due regard for the decision of the Appeals Board. The Board is entitled to set a deadline for this in its decision.



Article 19: Conveyance of the outcome

1. The decision represents the majority opinion held by the members of the chamber. There is no mention made in the decision of the voting conduct or of dissenting opinions.
2. The decision is dated and includes:
 - a. the names and places of residence of the parties involved as well as the names of their agents,
 - b. the grounds on which the decision is based,
 - c. the decision and
 - d. the names of the Board members who made the decision.
3. The decision is signed by the chairperson of the Board and the secretary. Copies are sent to the parties involved, to the Examination Appeals Board and to the Faculty Board. It is deposited for inspection in the reading room and made available to interested parties. If the appeal concerns a decision made by an examiner, the Board of Examiners in question is also sent a copy of the outcome of the appeal procedure.

Article 20: Consolidation and splitting of consolidated cases

1. The Board is entitled to issue, ex officio or at the request of parties involved, a summons to third parties whose interest is directly affected by the dispute. A third party receiving such a summons becomes party to the dispute.
2. Without prejudice to the provisions of paragraph 1, anyone whose interest is directly affected by the dispute may request the Board's permission to intervene or to join one of the parties involved. If the request is granted, the applicant becomes party to the dispute.
3. In cases such as referred to in the paragraphs 1 and 2 of this article, the Board takes whatever measures are necessary to ensure an orderly procedure.
4. The Board may consolidate cases which deal with the same or a related subject and separate the hearing of consolidated cases.

WHW (Provisional remedy)

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7.61.7

If the urgency of a matter so requires, the chairperson of the Examination Appeals Board may grant a provisional remedy at the request of the appellant, without prejudice to the provisions of article 7.66, paragraph 2, and article 8.81 of the General Administrative Law Act. The chairperson makes his or her decision on the request concerned after hearing or at least summoning the administrative authority or the examiner in question.

Article 21: Provisional remedy

1. The provisions of the articles 8, 10, 11, paragraphs 1, 2 and 3; 13, 14, 15, 17, paragraphs 1, 2, 3 and 6; 19, paragraphs 2 and 3 as well as 19, paragraphs 1 and 3 apply mutatis mutandis to the request for a provisional remedy as referred to in article 7.61, paragraph 7, of the Act.
2. The chairperson may end or alter the provisional remedy after he or she has heard or at least adequately summoned the parties involved. If so, the provisions of the articles 15, 17,



- paragraph 1, 2, 3 and 6, as well as 18, paragraph 2 and 3, apply mutatis mutandis.
3. The provisional remedy ceases to have effect as soon as the Board reaches a decision in the matter, in as far as no other time indication is specified in the decision.

Article 22: Cases not covered by these Regulations

In cases not covered by these Regulations, the decision rests with the chairperson of the Examination Appeals Board. If necessary, he or she submits to the Board members a proposal to alter or amend these rules.

These Regulations were adopted by decision of the Executive Board on 1 october 2013.
