

# REGULATIONS FOR THE DISPUTES ADVISORY COMMITTEE<sup>1</sup>

*for HAN University of Applied Sciences*

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| <i>Subject</i>                           | <i>Regulations for the Disputes<br/>Advisory Committee</i> |
| <i>Executive Board<br/>decision no.</i>  | <i>2020/1696</i>   |
| <i>Participation Council<br/>consent</i> | <i>10-7-2020</i>   |
| <i>Adopted on</i>                        | <i>10-7-2020</i>   |

## **Article 1 The Disputes Advisory Committee**

- HAN has established a Disputes Advisory Committee for the benefit of students, prospective students and external students as referred to in article 7.63a paragraph 1 of the Higher Education and Research Act (in Dutch: WHW). The members of the Disputes Advisory Committee are functionally independent.
- The Disputes Advisory Committee advises the Executive Board on objections relating to decisions or the lack thereof based on the Higher Education and Research Act and regulations based on it, other than those referred to in article 7.61 in that Act.

## **Article 2 Size and composition, chambers**

- The Disputes Advisory Committee has a chair, two deputy chairs and eight members, the latter consisting of four teaching staff members and four student members, as well as two deputy members ('committee members').
- The Disputes Advisory Committee establishes two chambers. One chamber holds sessions in Arnhem and one chamber holds sessions in Nijmegen.
- Each chamber has three committee members, namely:
  - one member who is not part of the HAN community. This member is also the chair. They must meet the requirements for appointment as a judge of a district court and should preferably belong to the judiciary;
  - a member belonging to HAN's teaching staff;
  - a member who is enrolled as a student at HAN.
- The committee members can be deployed in either of the chambers.
- Contrary to paragraph 3, in complex cases the chair of the Disputes Advisory Committee may decide to compose the committee of five members instead of three, namely a chair or deputy chair, two teaching-staff members and two student members.
- The committee members are appointed by the Executive Board. In the case of committee members from HAN, this is done on the recommendation of the Participation Council. When nominating committee members, the Participation Council ensures that the HAN schools are represented as evenly as possible. The committee members do not form part of the Executive Board or the Inspectorate.
- The committee members of the Disputes Advisory Committee are appointed for a period of three years, on the understanding that the students among them are appointed for a period of one year.
- At their own request, the committee members of the Disputes Advisory Committee will be dismissed by the Executive Board. Upon reaching the age of seventy, their resignation is granted with effect from the following month. They will be dismissed if they are unfit to perform their duties on account of illness or disability, or if they have been convicted of a criminal offence by a final court decision. Before the dismissal is granted pursuant to the third sentence, the person concerned is informed of the intention to dismiss them and is given the opportunity to be heard on the matter.
- The committee members may receive remuneration from the Executive Board.
- The Disputes Advisory Committee is assisted by an official secretary from HAN's general support

<sup>1</sup> Students with a complaint or dispute should contact the Complaints and Disputes Office: email address: [Bureau.klachtengeschil@han.nl](mailto:Bureau.klachtengeschil@han.nl).

and management staff, to be appointed by the Executive Board. At the request of the chair, one or more deputy official secretaries may be appointed by the Executive Board.

11. The official secretary and any deputies carry out their duties in accordance with the chair's instructions.

### **Article 3 Objection procedure**

1. The objection may be lodged by a person concerned. A person concerned is a student, former student, prospective student, external student, prospective external student or former external student. An objection is lodged by means of a reasoned letter of objection.
2. The letter of objection is submitted to the official secretary of the Complaints and Disputes Office, who records the date of receipt and forwards it to the chair.
3. The letter of objection must be submitted within 6 weeks of the day on which the decision in question was communicated to the student.
4. If the letter of objection is lodged after the expiry of the period referred to in paragraph 3, a non-admissibility declaration on these grounds will be withheld if it cannot reasonably be shown that the applicant was in default.
5. The letter of objection is signed by the applicant and contains:
  - a. the name, address and telephone number of the applicant;
  - b. the date: the date on which the objection was lodged;
  - c. a clear description of the decision that is being objected to, including, if possible, a copy of the decision. In the case that a refusal to take a decision is being objected to: a clear description of the decision that should have been taken, according to the applicant;
  - d. the grounds on which the objection is based;
  - e. the applicant's signature.

### **Article 4 Compulsory attempt to reach an amicable settlement**

1. Before considering the objection, the Disputes Advisory Committee sends the letter of objection to the body against which the objection is directed, with an invitation to examine, in consultation with the persons concerned, whether it is possible to settle the dispute amicably.
2. The body informs the Disputes Advisory Committee of the outcome of the deliberations within 15 working days, submitting the relevant documents.
3. The investigation of an amicable settlement may be omitted if, in the chair's opinion, the objection is evidently inadmissible, evidently well-founded or evidently unfounded.
4. The chair may decide that an attempt to find an amicable settlement will be omitted if, in their opinion, such an attempt would be futile or would result in a disproportionate disadvantage for the applicant. In that case, the chair sets a time limit within which the written defence is to be lodged.
5. If an amicable settlement has not proved possible, the Disputes Advisory Committee will consider the objection.

### **Article 5 Urgent cases**

1. In urgent cases, the chair of the Disputes Advisory Committee may, upon request, determine that the Disputes Advisory Committee will advise the Executive Board as soon as possible.
2. Within a week of receipt of the objection, the chair determines whether it is an urgent case, and informs the person concerned and the Executive Board of this as soon as possible. The Executive Board then takes a decision within four weeks of the body's receipt of the objection.

### **Article 6 Written defence**

1. If it is not possible to reach an amicable settlement, or if the chair has decided that such a settlement should be omitted, the body sends a written defence to the Disputes Advisory Committee within 15 working days of receipt of the invitation, as referred to in the period set out in article 3 paragraph 1 or paragraph 3.
2. The chair may determine that the written defence may be submitted later, within a period that they consider reasonable.
3. In addition to the written defence, the chair may, upon their own initiative, obtain any information they consider necessary and request documents. The bodies and staff members as well as the examiners provide the Disputes Advisory Committee with the information it needs to carry out its task.

### **Article 7 Preparatory investigation and hearing**

1. If no amicable settlement can be reached, the chair determines the composition of the Disputes Advisory Committee that is to handle the letter of objection in question, in due observance of the provisions of article 2. In the absence of the chair, a deputy acts as chair.
2. The Disputes Advisory Committee can:
  - a. obtain further information in writing from the parties concerned or other bodies; and
  - b. ask experts to provide written advice or reports.
3. The Disputes Advisory Committee may itself, or at the request of the parties, summon third parties whose interests are directly involved in the dispute in question. Any third party becomes a party to the proceedings by summons.
4. Without prejudice to the provisions of paragraph 3, any interested party may request the Disputes Advisory Committee to be permitted to intervene or join one of the parties. If the request is granted, the requestor will be considered a party.
5. The Disputes Advisory Committee may join related cases and split joined cases.
6. As soon as the chair considers that the relevant facts have been sufficiently clarified by the preparatory investigation and the factual information needed to make a decision has been gathered in the documents, the chair will determine the place and time for the hearing. The official secretary immediately summons the parties to the session. The summons takes place at least ten working days before the session.
7. The objection is handled in a session of the Disputes Advisory Committee. The committee may delegate the hearing to a chair or member who is not a member of and does not work under the responsibility of the Executive Board. Insofar as not otherwise provided by law, the Disputes Advisory Committee decides whether the hearing will be held in public.
8. The hearing of interested parties may be waived if:
  - a. the objection is evidently inadmissible;
  - b. the objection is evidently unfounded;
  - c. the interested parties have declared that they do not wish to exercise their right to be heard;
  - d. the objection has been met in full and the interests of other interested parties cannot be harmed as a result.
9. The parties may be replaced at the session by authorised representatives or may be assisted by legal counsel. Furthermore, they may bring witnesses and experts to the session, on the understanding that they will send written notification to the Disputes Advisory Committee and the other party of the names of these persons no later than the fourth working day before that of the session.
10. The Disputes Advisory Committee may itself, or at the request of the parties, summon witnesses and experts to a session.
11. If a party fails to appear at a session, the chair makes sure they were properly summoned. If they were, the case may be heard in the absence of that party. The foregoing also applies in the event that neither party is present at the session.
12. A session that has been called will not go ahead if, in addition to the chair, not all of the committee members summoned are present. If a student member, or a teaching-staff member, or a student member and a teaching-staff member of the Disputes Advisory Committee are absent, the committee may decide to proceed with the planned session with the consent of the parties.
13. The chair
  - a. opens, leads and closes the session;
  - b. gives each of the parties the opportunity to present their point of view;
  - c. ensures that the case to be heard at the session is decided in a proper and efficient manner;
  - d. decides, insofar as not otherwise prescribed in these regulations, how to proceed on any disputes that arise during the session itself.
14. If, during the session, written documents are brought up by the Disputes Advisory Committee or written documents are submitted to the Disputes Advisory Committee, the parties will be given the opportunity to inspect these documents and to express their views on them.
15. The parties may put questions to each other through the mediation of the chair.
16. The parties may change the content of the objection and of the defence, as well as the grounds on which these are based, until the closing of the session, unless the Disputes Advisory Committee believes the opposing party will be unreasonably disadvantaged by this change.
17. The chair may themselves, or at the request of either party, suspend the hearing by informing the parties of the time at which the session will resume or the way in which the parties will be informed of this.

18. The chair may decide not to allow any further examination of witnesses or experts if, in their opinion, the examination of witnesses and experts thus far has already made the facts sufficiently clear.
19. If, before the closing of the session, the chair of the Disputes Advisory Committee considers the investigation to have been incomplete, they may decide to suspend the session. Such a decision to suspend may be accompanied by instructions to the parties to provide evidence.

**Article 8 Recommendation and decision**

1. The Disputes Advisory Committee advises the Executive Board on objections relating to decisions or the lack thereof on the basis of this Act and regulations based on it, other than those referred to in article 7.61 of the Higher Education and Research Act.
2. The committee decides on the application of article 7.4 paragraph 6 and article 7.5 paragraph 2 of the General Administrative Law Act.
3. The recommendation is made in writing and includes a report of the hearing. A copy of the recommendation is sent to the person concerned and the body against which the objection was directed.
4. If the objection is found to be admissible, the contested decision will be reconsidered based on that.
5. Insofar as the reconsideration gives cause to do so, the Executive Board will revoke the contested decision and take a new decision in its place, insofar as is necessary.
6. The Executive Board's decision will be announced within 10 weeks of receipt of the letter of objection, without prejudice to the decisions based on the procedure, by forwarding or issuing it to those to whom it is addressed. In the case of a decision that was not addressed to one or more persons concerned, the decision will be announced in the same way as the original decision.
7. If the decision about the objection deviates from the recommendation made by the Disputes Advisory Committee, the reason for this deviation will be included.

**Article 9 Other provisions**

1. The official secretary ensures that the recommendations made by the Disputes Advisory Committee and the relevant documents are kept in the archives of the Disputes Advisory Committee.
2. The Disputes Advisory Committee issues an annual report on its activities.
3. In cases not provided for in these regulations, the chair will decide, if necessary after consultation with the other committee members.