

REGULATIONS FOR THE LEGAL PROTECTION OF DECISIONS CONCERNING EDUCATION (EXAMINATION APPEALS BOARD)¹

for HAN University of Applied Sciences

Subject	Regulations for the legal protection of decisions concerning education (Examination Appeals Board)
Executive Board decision no.	2023/2160
Participation Council consent	N/A
Adopted on	25 April 2023

Artikel 1 The Examination Appeals Board

1. The HAN Examination Appeals Board, hereinafter referred to as “the Appeals Board” or “the Board”, is established as:
 - a. The HAN Examination Appeals Board, as defined in Article 7.60 paragraph 1 of the Higher Education and Research Act (in Dutch: WHW);
 - b. The HAN Examination Appeals Board for CROHO-registered post-initial master programmes, in accordance with the decision of the institutional board dated 6 March 2012, no. 2012/280.
2. The Appeals Board is established in the HAN administrative building in Arnhem and holds sessions in that building, insofar as the Appeals Board does not announce a session in a different location, as referred to in Article 2 paragraph 2.

Article 2 The composition of the board

1. The Appeals Board 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 (“members”).
2. The Appeals Board establishes two chambers. One chamber holds sessions in Arnhem and one chamber holds sessions in Nijmegen.
3. Each chamber has three members, namely:
 - a. 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;
 - b. a member belonging to HAN's teaching staff;
 - c. a member who is enrolled as a student at HAN.
4. The members can be deployed in either of the chambers.
5. Contrary to paragraph 3, in complex cases the chair of the Appeals Board may decide to compose the Appeals Board of five members instead of three members, namely a chair or deputy chair, two teaching staff members and two student members.
6. The members are appointed by the Executive Board. In the case of members from HAN, this is done on the recommendation of the Participation Council. When nominating members, the

¹ Students with a complaint or dispute should contact the Complaints and Disputes Office: email address: Bureau.klachtengeschied@han.nl.

Participation Council ensures that the HAN Schools are represented as evenly as possible. Members of the Supervisory Board and the Executive Board, directors, heads and MT members within the institution, study coaches, student counsellors and confidential advisors cannot be members of the committee. This also applies to members of the Higher Education Inspectorate.

7. The members of the Appeals Board are appointed for a period of three years, if they are students, for a period of up to two years.
8. At their own request, the members of the Appeals Board will be dismissed by the Executive Board. Upon reaching the age of seventy, their resignation is granted with effect from the following month. Furthermore, they may be dismissed by the Executive Board in the cases mentioned in Article 7.60 second and third sentence of paragraph 6 of the Higher Education and Research Act (reaching age 70, unfitness due to illness or impairment or in case of conviction for crime).
9. The members may receive remuneration from the Executive Board.
10. The Appeals Board is assisted by an official secretary from HAN's general support 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 The powers of the Appeals Board

1. The Appeals Board rules on appeals lodged by a person concerned (defined in Article 4 paragraph 1) or a course participant who is following a post initial master programme (hereafter referred to as: student), based on Article 7.61 paragraph 1 of the Higher Education and Research Act, against:
 - a. decisions as referred to in Article 7.8b paragraphs 3 and 5, and Article 7.9 paragraph 1 of the Higher Education and Research Act;
 - b. decisions regarding the passing of the final assessment, as referred to in Article 7.9d of the Higher Education and Research Act;
 - c. decisions other than decisions of a general nature, taken on the basis of the provisions under or pursuant to title 2 of chapter 7 of the Higher Education and Research Act, with a view to admission to final assessments;
 - d. decisions taken on the basis of additional investigations, as referred to in Articles 7.25 paragraph 6 and 7.28 paragraph 4 of the Higher Education and Research Act;
 - e. decisions by boards of examiners and examiners;
 - f. decisions by committees as referred to in Article 7.29 paragraph 1 of the Higher Education and Research Act; and
 - g. decisions taken based on Article 7.30b of the Higher Education and Research Act with a view to admission to the degree programmes referred to in that article.
2. The Appeals Board is also authorised to adjudicate as Examination Appeals Committee to the extent that it is designated as an appeal body for that purpose.
3. A decision is equated with:
 - a. the written refusal to make a decision;
 - b. failure to make a timely decision.
4. No appeal can be lodged against decisions of general scope, such as generally binding regulations, plans and policies.

Article 4 Who can lodge an appeal?

1. An appeal may be lodged by a person concerned. A person concerned is a student, disenrolled student, prospective student, external student, prospective external student or disenrolled external student.

- a. For students and external students who are already disenrolled, the decisions are from the period in which they were enrolled and a substantial interest is served by the appeal after disenrolment.
2. An appeal can also be lodged by participants of the Language and Prep Program, which is offered by HAN in partnership with Radboud University. Article 3 paragraph 2 designates an authorised authority for this group.

Article 5 The letter of appeal

1. Lodging an appeal starts with submitting a reasoned letter of appeal. The letter of appeal is submitted to the official secretariat of the Examination Appeals Board through the Complaints and Disputes Office (who can be reached by email at Bureau.klachtengeschi@han.nl). The official secretary notes the day of receipt of the letter of appeal. The date of receipt is important in determining whether the appeal was lodged in a timely manner.
2. The deadline for lodging a letter of appeal is six weeks. This period begins on the day after the decision or refusal to make a decision was communicated to the person concerned in the prescribed manner.
3. If the letter of appeal is lodged after the expiration of the period referred to in paragraph 2, the appeal is inadmissible (it will not be considered), unless the submitter has a valid reason for this delay.
4. The letter of appeal is signed by the submitter and contains:
 - a. the name, address and telephone number of the submitter;
 - b. the date: the date on which the appeal was lodged;
 - c. a clear description of the decision being appealed, including, if possible, a copy of the decision. In the case that a refusal to take a decision is being appealed: a clear description of the decision that should have been taken according to the submitter;
 - d. the grounds on which the appeal is based; and
 - e. the submitter's signature.
5. The official secretary investigates whether the letter of appeal complies with the provisions of paragraph 4. If the letter of appeal does not comply with paragraph 4, the submitter will be given the opportunity to comply within a specified period of time. During this time, the decision period is suspended. If the submitter does not take advantage of the opportunity offered within the deadline, the appeal is inadmissible.

Article 6 The amicable settlement phase

1. Before considering the appeal, the official secretary sends the letter of appeal to the body against which the appeal is directed, with an invitation to examine, in consultation with the persons concerned, whether it is possible to settle the dispute amicably. This phase is mandatory. The relevant body will invite the person concerned for consultation.
2. If the appeal is against a decision of an examiner, the board of examiners is the body referred to in paragraph 1.
3. The body will notify the official secretary of the outcome of the amicable settlement phase within 3 weeks. The official secretary receives the underlying documents.
4. If an amicable settlement has not proved possible, the Appeals Board will consider the letter of appeal.
5. If an amicable settlement is reached, the person concerned is requested to withdraw the appeal in writing. This can be sent to the Complaints and Disputes Office by email at Bureau.klachtengeschi@han.nl
6. The investigation of an amicable settlement may be omitted if, in the chair's opinion, the appeal is evidently inadmissible, evidently well-founded or evidently unfounded.
7. The chair may decide that the amicable settlement phase will be omitted if, in their opinion, such an attempt would be futile or would result in a disproportionate disadvantage for the submitter.

Article 7 The written defence

1. If an amicable settlement has proved impossible, the body will send a statement of defence to the Appeals Board within the three-week period mentioned in Article 6 paragraph 3 in any case after it has been established that the person concerned wishes to continue the appeal and no later than five workdays before the hearing.
2. If the decision of an examiner is being appealed, a written defence by the examiner concerned may be attached.
3. The chair may determine that the written defence may be submitted later, within a period that they consider reasonable.
4. 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 Appeals Board with the information it needs to carry out its duties.

Article 8 The challenge and excusal of members

1. The Appeals Board immediately informs the parties of the intended composition referred to in Article 2 paragraph 3.
2. If one of the parties believes that certain facts or circumstances would hinder an impartial assessment by a member of the board, this party may challenge the inclusion of the member in question. A member of the board may also be excused on the grounds of facts and circumstances such as these.
3. A request for challenge or excusal must be made within three workdays of receipt of the letter regarding the composition of the board. The other members decide on requests for challenge or excusal. In the event of a tie in the voting, the request will be granted.
4. If a request as referred to in paragraph 3 is granted, the chair will designate an alternative member in the place of the member concerned, in accordance with Article 2 paragraph 3. If the chair is challenged or excused, they will be replaced by the deputy chair.
5. Immediately after a final decision is made on the composition of the board, the chair will determine whether, and if so when, the board will commence the preparatory investigation as referred to in Article 9.

Artikel 9 The session

1. If no amicable settlement can be reached, the chair determines the composition of the Appeals Board that is to handle the letter of appeal in question, taking into account the provisions of Article 2 paragraph 3. In the absence of the chair, a deputy acts as chair.
2. The Appeals Board may:
 - 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 Appeals Board may itself, or at the request of the parties, summon third parties who have a direct interest in the dispute. Any third party becomes a party to the proceedings by summons.
4. In addition to the provisions of paragraph 3, any interested party may request the Appeals Board to also be permitted to participate or join one of the parties. If the request is granted, the requestor will be considered a party.
5. The Appeals Board 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 is evidenced by the documents, the chair will determine the place and time for the session. The official secretary will summon the parties to the session at the shortest possible notice. The summons takes place at least ten workdays before the session.
7. The appeal is heard in a public session of the Appeals Board. In special cases, the chair may decide that all or part of the appeal will be heard in a closed session.
8. The parties may be replaced at the session by authorised representatives and/or may be assisted by legal counsel. Furthermore, they may bring witnesses and experts to the session, on the

condition that they send written notification to the Appeals Board and the other party of the names of these witnesses and experts no later than the fourth working day before the session.

9. The Appeals Board may itself, or at the request of the parties, summon witnesses and experts to the session.
10. If a party does not appear at the session, the chair will verify that the party was 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 appears at the session.
11. The planned session will not go ahead if, in addition to the chair, not all of the members summoned are present. If a student member, or a teaching staff member, or a student member and a teaching staff member of the board are absent, the board may decide to proceed with the planned session with the consent of the parties.
12. 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 matter to be heard at the session will be decided properly and efficiently; and
 - d. decides, insofar as not otherwise prescribed in these regulations, how to proceed on any disputes that arise at the session itself.
13. If written submissions are made by the parties or the Appeals Board during the session, the parties will be given an opportunity to examine those submissions and express views on those submissions.
14. The parties may ask each other questions through the chair.
15. The parties may change the content of the appeal and of the defence, as well as the grounds on which these are based, until the closing of the session, unless the Appeals Board believes the opposing party will be unreasonably disadvantaged by this change.
16. 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 the resumption.
17. The chair may decide not to further examine witnesses or experts if, in the chair's opinion, the facts have already become sufficiently clear as a result of the witnesses and experts already heard.
18. If, before the closing of the session, the chair of the Appeals Board 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 10 The verdict

1. Before closing the hearing at the sitting, the chair announces when the verdict will be given. The verdict will be given within ten workdays of the closing of the session, and within ten weeks of receipt of the letter of appeal.
2. The full Appeals Board deliberates and decides in a closed session. The Appeals Board bases its verdict exclusively on the documents submitted prior to or during the session.
3. The Appeals Board decides by majority vote. In the event of a tie in the voting, the chair's vote is decisive.
4. If the Appeals Board considers the appeal to be well-founded, it will either nullify the contested decision entirely or partially. The Appeals Board may decide that the case must be decided again or, if a decision has been refused, that a decision must still be made, or that the final assessment, the entry assessment or any part thereof must be administered again under conditions set by the board. The Appeals Board does not have the authority to replace a nullified decision with a new one.
5. In accordance with the Appeals Board's verdict, the body whose decision has been nullified will reconsider the case as necessary. The Appeals Board may set a time limit for this in its verdict.
6. The verdict of the Appeals Board is dated and contains:

- a. the names and addresses of the parties and authorised representatives;
 - b. the grounds on which the verdict rests;
 - c. the decision; and
 - d. the names of the members who have reached the verdict. If it is possible to appeal the verdict, this will be stated in the verdict.
7. The verdict will be sent to the parties. The Executive Board, the board of examiners concerned and the relevant dean will receive a copy of the verdict. An outline of the verdict will be published on the HAN website.

Article 11 Special procedures: provisional arrangement and review

1. If the outcome in the main case cannot be awaited because of an urgent interest or situation, the chair may, upon request, grant a provisional arrangement pending the verdict in the main case. The provisions of Article 5 apply equally to a request for a provisional arrangement.
2. The chair decides on this request after hearing the body in question or the examiner concerned, or at least after having summoned them.
3. The provisional arrangement lapses as soon as the Appeals Board has decided on the main case, unless stipulated otherwise in the provisional arrangement.
4. A review of a verdict by the Appeals Board may, at the request of each of the parties, be held on the basis of further facts or circumstances that might have led to a different verdict, had they been known earlier.
5. The provisions of these regulations apply equally to the request for a review, insofar as this is necessary.

Article 12 Other provisions

1. The official secretary will file the decisions of the Appeals Board including the related documents.
2. The Appeals Board reports on its activities annually.
3. In cases not provided for in these regulations, the chair will decide, if necessary after consultation with the other members.