

REGULATIONS OF THE DISPUTES ADVISORY COMMITTEE¹

for HAN University of Applied Sciences

<i>Subject</i>	<i>Regulations Disputes Advisory Committee</i>
<i>Executive Board decision no.</i>	2023/2160
<i>Participation Council consent</i>	N/A
<i>Adopted on</i>	25 April 2023

Artikel 1 The Disputes Advisory Committee

1. 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). In their positions at HAN, the members of the Disputes Advisory Committee work independently of each other.
2. 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 derived from it, other than those referred to in Article 7.61 in that Act.

Article 2 The composition of the committee

1. 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').
2. The Disputes Advisory Committee establishes two chambers. One chamber holds sessions in Arnhem and one chamber holds sessions in Nijmegen.
3. Each chamber has three committee 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 committee members can be deployed in either of the chambers.
5. 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.
6. 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. Members of the Supervisory Board and the Executive Board, directors, heads and MT members within the institution, study coaches, student counsellors and confidential advisers cannot be members of the committee. This also applies to members of the Higher Education Inspectorate.
7. Members of the Disputes Advisory Committee 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 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

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

illness or impairment, 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.

9. The committee members may receive remuneration from the Executive Board.
10. The Disputes Advisory Committee 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 Who can lodge an objection?

1. The objection may be lodged by a person concerned. A person concerned is a student, disenrolled student, prospective student, external student, prospective external student or former 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 objection after disenrolment.

Article 4 The objection

1. Lodging an objection starts with submitting a reasoned letter of objection. The letter of objection is submitted to the official secretary of the Disputes Advisory Committee through the Complaints and Disputes Office (who can be reached by email at Bureau.klachtengeschied@han.nl). The official secretary notes the day of receipt of the letter of objection. The date of receipt is important in determining whether the objection was lodged in a timely manner.
2. The deadline for lodging an objection 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 objection is lodged after the expiration of the period referred to in paragraph 2, the objection is inadmissible (it will not be considered), unless the submitter has a valid reason for this delay.
4. The letter of objection 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 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 submitter;
 - d. the grounds on which the objection is based; and
 - e. the submitter's signature.
5. The official secretary investigates whether the letter of objection complies with the provisions of paragraph 4. If the letter of objection 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 objection is inadmissible.

Article 5 The amicable settlement phase

1. Before considering the objection, the official secretary 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. This phase is mandatory. The relevant body will invite the person concerned for consultation.
2. The body will notify the Disputes Advisory Committee of the outcome of the amicable settlement phase within 15 workdays. The official secretary receives the underlying documents.
3. If an amicable settlement has not proved possible, the Disputes Advisory Committee will consider the objection.

4. If an amicable settlement is reached, the person concerned is requested to withdraw the objection in writing. This can be sent to the Complaints and Disputes Office by email at Bureau.klachtengeschil@han.nl
5. 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.
6. 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. In that case, the chair sets a time limit within which the written defence is to be lodged.

Article 6 Urgency

1. If the outcome cannot be awaited because of an urgent interest or situation, the chair of the Disputes Advisory Committee may, upon request, determine that the committee issue a recommendation to the Executive Board as soon as possible.
2. Within a week of receipt of the request, 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 Disputes Advisory Committee's receipt of the letter of objection.

Article 7 The written defence

1. If an amicable settlement has not proved possible, or has been omitted at the decision of the chair, the body will send a written defence to the Disputes Advisory Committee within the 15-day period mentioned in Article 5 paragraph 2.
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 duties.

Article 8 The session

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, taking into account 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 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 Disputes Advisory Committee 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 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 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 10 workdays 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;or

- 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 condition that they 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 the session.
10. The Disputes Advisory Committee may itself, or at the request of the parties, summon witnesses and experts to the session.
11. 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.
12. The planned session 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 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.
14. If written submissions are made by the parties or the Disputes Advisory Committee during the session, the parties will be given an opportunity to examine those submissions and express views on those submissions.
15. The parties may ask each other questions through 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 the resumption.
18. 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.
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.

Artikel 9 The recommendation and decision

1. The Disputes Advisory Committee advises the Executive Board on objections relating to decisions or the lack thereof based on this Act and regulations derived from 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. If the reconsideration gives cause for the Executive Board to withdraw the contested decision, it may make a new decision if necessary.
6. The Executive Board sends its decision to the parties within 10 weeks of receiving the letter of objection. 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 by the Executive Board deviates from the recommendation by the Disputes Advisory Committee, the reason for this deviation will be given.

Article 10 Other provisions

1. The official secretary will file the recommendations of the Disputes Advisory Committee including the related documents.
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.