

## **Rules of Procedure**

Examination Appeals Board of Wageningen University  
Dispute Advisory Committee of Wageningen University

### **Article 1. Definition of terms**

In these Rules, the following definitions will apply.

- a. WHW: Higher Education and Scientific Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*];
- b. Awb: the General Administrative Law Act [*Algemene wet bestuursrecht*];
- c. WU: Wageningen University
- d. the Board: the Examination Appeals Board as defined in Sections 7.60-7.63 of the WHW and/or the Dispute Advisory Committee defined in Section 7.63a of the WHW;
- e. the 'person concerned': a student, prospective student, former student, student who takes exams but does not attend lectures ("non-attending student"), prospective non-attending student or former non-attending student;

## **THE BOARD**

### **Article 2. Functions of the Board**

The Board has the following functions:

- I. In its capacity as the Examination Appeals Board, the Board decides administrative appeals that a person concerned has instituted with regard to a decision as defined in Section 7.61(1) of the WHW.
- II. In its capacity as the dispute advisory committee, the Board renders advice to the Executive Board with regard to objections filed by a person concerned with respect to a decision based on a provision of the WHW, or rules based on that Act, other than that defined in Section 7.61(1) of the WHW.

In order to handle the appeals and objections, the Board divides itself into two sections, each with its own Chair.

### **Article 3. Composition and Term**

1. The Board has six members, including the Chairs of both sections, as well as up to six substitute members who serve as needed, all of whom are appointed and dismissed by the Executive Board.
2. The Chairs are not part of the university community and must meet the requirements for the appointment as a judicial official as defined in Section 5 of the Judicial Officers Legal Status Act [*Wet rechtspositie rechterlijke ambtenaren*].
3. Aside from the Chairs, the Board has two members that are part of the scientific staff at WU and two members that are registered at WU as students.
4. The Board members and substitute Board members are appointed for a maximum term of four years, on the understanding that the students amongst their number are appointed for a maximum of two years. Members and substitute members may be reappointed, with due observance of the aforementioned terms.

5. Board members and substitute Board members may be dismissed at their own request. They may also be dismissed in the cases set out in the second and third sentences of Section 7.60(6) of the WHW.

#### **Article 4. Division into Sections**

1. The Board comprises the following two sections:
  - the examination appeals board; and
  - the dispute advisory committee.
2. Each section has a Chair and two members.
3. In the absence of a section's Chair, the Chair from the other section may act in his or her stead.
4. The Chair of a section will determine its composition for each individual appeal or objection, on the understanding that:
  - a. the section will be chaired either by that Chair himself or herself, by the Chair of the other section or by another substitute Chair;
  - b. the section will comprise one member of the scientific staff and one member from the student body.
5. If a member of a section is unable to attend a particular session, the Chair of the section will appoint another member or a substitute member to act in the absent member's stead.

#### **Article 5. Secretariat**

1. The Board meetings will be held in the presence of an official secretary appointed by the Executive Board.
2. In performing his or her work, the official secretary and his or her possible substitute will duly observe the instructions provided by the Chair of the relevant section.
3. The official secretary will be in charge of keeping a file of the Board's decisions and advice and responsible for preparing the annual report of the Board's work.

### **APPEAL AND OBJECTION**

#### **Article 6. The Student Legal Protection Desk**

1. There is a Student Legal Protection Desk, the facility as defined in Section 7.59a of the WHW that permits a person concerned to submit an appeal or objection.
2. An appeal or objection may be submitted as follows:
  - by post: Wageningen University, Attn: Student Legal Protection Desk, PO Box 9101, NL-6700 HB Wageningen, or
  - by e-mail: [legalprotection.students@wur.nl](mailto:legalprotection.students@wur.nl).
3. The Student Legal Protection Desk will confirm the receipt of an incoming appeal or objection in writing to the submitting party, and, once the receipt date has been recorded on the document, will forward it as soon as possible to the appropriate body. The receipt date established by the Student Legal Protection Desk) is determinative of whether an appeal or objection has been submitted on time.
4. The Student Legal Protection Desk is managed by Wageningen University's Director of Corporate Governance & Legal Services.

#### **Article 7. Term for Submitting an Appeal or Objection**

1. The term for submitting an appeal or objection is six weeks.

2. The term commences on the date after the decision is sent to the party concerned.
3. An appeal or objection will be submitted on time if it is received before the end of the term or, if it is submitted by post, if it is posted before the end of the term and received no later than a week after that term ends.
4. If the appeal or objection alleges a failure to issue a timely decision, it will not be bound to a term for submission. The appeal or objection will be declared inadmissible if it is received unreasonably late.

### **Article 8. The Content of an Appeal or Objection**

1. An appeal or objection must be signed and contain at least:
  - a) the name and address of the person submitting the appeal;
  - b) the date;
  - c) a clear recitation of the decision with respect to which the appeal or objection is being filed, along with a copy of that decision if possible, or, if the appeal or objection regards the refusal to issue a timely decision, a clear recitation of the decision that the submitting party believes should have been issued.
  - d) the grounds for the appeal or objection.
2. If an appeal or objection fails to satisfy the provisions of the first paragraph, it may be declared inadmissible, provided that the submitter has been afforded an opportunity to cure the defect within a term set for that purpose. The term for issuing a decision will be suspended as long as the defect remains uncured.

### **Article 9. No Suspensive Effect**

An appeal or objection will not suspend the effect of the decision that the appeal or objection regards.

### **Article 10. Right to a Hearing**

1. Before a decision is rendered on an appeal or objection, the Board will afford a hearing to the party concerned and a representative of the body that issued the disputed decision. The Parties will be heard in one another's presence.
2. A hearing may be foregone if:
  - a. the appeal or objection is manifestly inadmissible;
  - b. the appeal or objection is manifestly unfounded;
  - c. the parties have indicated that they do not wish to avail themselves of their right to a hearing.Furthermore, in the case of an objection, a hearing may be foregone if the objection is met in full and no harm will accrue to the interests of any other parties concerned.

### **Article 11. Convening a Hearing; Requesting Recusal and Self-Recusal**

1. Unless the provisions of Article 10 are applied, the Chair will, as soon as possible, set a venue and date for the hearing of an appeal or objection.
2. The official secretary will notify the parties of the hearing in good time.
3. The Chair will determine who will comprise the Board that will handle the appeal or objection, with due observance of the provisions of Article 4(4). The notice convening the hearing will inform the parties of the composition of the Board.
4. If one of the parties believes, based on certain facts or circumstances, that it would be difficult for one of the members of the Board to render an impartial decision, this

party may request that the relevant member be recused. A member of the Board may also recuse himself or herself based on such facts and circumstances.

5. A recusal request of either type must be made within three business days after receipt of the notification of the composition of the Board. The remaining members of the Board will decide on both types of recusal request. The request will be granted in the case of a majority vote in its favour or in the case of a tied vote.
6. If a request referred to in the previous paragraph is granted, the Chair will appoint a substitute to act in the relevant member's stead, with due observance of the provisions of Article 4.

## **Article 12. Hearing**

1. The appeal or objection will be dealt with at a public hearing before the Board. In exceptional cases, the Chair may decide to hold all or part of the hearing in private.
2. Parties may have themselves represented by a proxy or with the assistance of counsel.
3. Parties may call witnesses and solicit expert testimony at the hearing, on the understanding that the names of the persons who are to testify are provided to the Board and the other party in writing no later than four days before the hearing. The Board may hear the testimony of these witnesses or experts.
4. The Board may summon witnesses and experts to the hearing either on its own initiative or upon the request of the parties.
5. If a party does not appear at the hearing, the Chair will ascertain whether that party was properly summoned. If so, the case may be dealt with in the absence of that party. The preceding provision also applies if both parties fail to appear at the hearing.
6. A hearing that has been convened will not proceed in the absence of a majority of the members of the Board. In such case, the Chair will adjourn the hearing to a date he or she will determine later.
7. The Chair:
  - a) opens, leads and closes the hearing
  - b) affords all parties the opportunity to explain their position
  - c) ensures that the issue to be heard is dealt with properly and efficiently and results in a decision
  - d) renders decisions, to the extent not otherwise provided by these rules, regarding all of the disputes arising at the hearing with regard to the method used to deal with the issues.
8. If the Board submits written documents on its own initiative during a hearing, or if written documents are submitted to it, both parties will be afforded the opportunity to examine those documents and to express their opinions and positions with regard to the documents' contents.
9. The parties may amend the grounds for appeal or objection and their defence until the hearing is concluded, unless the Board believes that such amendment would cause the other party to be unreasonably disadvantaged.
10. The Chair may suspend the hearing, either on his/her own initiative or at the request of one of the parties, provided that he or she either announces the date that the hearing will be resumed or states how the parties will be informed of the new date.
11. The Chair may decide to discontinue hearing witnesses or experts if he or she decides that the witnesses and experts that have been heard have already sufficiently clarified the case.
12. If, before the end of the hearing, the Chair's view is that the investigation has been insufficient, then he or she may elect to suspend the hearing. Such a suspension decision may be coupled with instructing the parties with regard to the evidence.

### **Article 13. Joining and Severing**

1. Either on its own initiative or at the request of a party, the Board may summon any third parties whose interests may be directly affected by the dispute. Any party so summoned will become a party to the proceedings.
2. Without prejudice to the provisions of the previous paragraph, any party concerned may request the Board's permission to intervene in the proceedings or to join their interests with those of one of the parties. If the request is granted, the requesting party will be considered a party to the proceedings.
3. The Board may join related cases and sever cases that have already been joined.
4. If there are concurrences between cases being processed by the Board and Wageningen University's Advisory Committee on Objections, the relevant Chairs may decide to proceed with a combined hearing and to issue joint advice.

### **Article 14. Withdrawal**

1. An appeal or objection may be withdrawn in writing.
2. An appeal or objection may also be orally withdrawn during the hearing.

### **HANDLING AN APPEAL**

In supplement to Articles 1-14, Articles 15-19 of these Rules apply to handling an appeal.

### **Article 15. Powers of the Board**

1. In its capacity as a examination appeals board, the Board is empowered to hear appeals in respect of the following decisions:
  - a) Decisions as defined in Sections 7.8b(3) and (5) and 7.9(1) of the WHW;
  - b) Decisions regarding the determination of the number of credits earned as defined in Section 7.9a of the WHW, as well as decisions regarding passing a final examination as meant in Section 7.9d of the WHW;
  - c) Decisions regarding the scope of the exemption referred to in Section 7.31a(3) of the WHW;
  - d) Decisions not having a general purport that are taken pursuant to the provisions of Title 2, Chapter 7, of the WHW and that regard the granting of permission to sit for examinations;
  - e) Decisions taken pursuant to the additional investigation referred to in Sections 7.25(4) and 7.28(4) of the WHW;
  - f) Decisions from examination committees and examiners;
  - g) Decisions of committees as referred to in Section 7.29(1) of the WHW;
  - h) Decisions taken pursuant to Sections 7.30a and 7.30b of the WHW that regard the admission to the programmes of study referred to in those Sections.
2. A refusal to render a decision will be equated with a decision. If a decision is not taken within the term for doing so as provided by or pursuant to the law, or, if no such term has been prescribed, within a reasonable period of time, then the decision will be considered to have been refused.

### **Article 16. Amicable Settlement**

1. Prior to handling the appeal, the Board will send the appeal to the body against which the appeal has been instituted and will invite that body to enter into a consultation with the relevant student to determine whether the dispute may be amicably settled.

2. If an appeal regards the decision of an examiner, it will be sent to the examination committee. If the examiner against whom the appeal is instituted is a member of the examination committee, that examiner will not take part in the aforementioned consultation.
3. Within 3 weeks of its receipt of the invitation referred to in the first paragraph of this Article, the relevant body will inform the Board of the result of its consultation and will provide the Board with any relevant documentation in this regard.
4. The Chair may decide that an attempt to reach an amicable settlement may be foregone if he/she believes that such an attempt would be pointless or would unacceptably disadvantage the submitter. In such case, the Chair will set a term within which the documents relevant to the case as well as a statement of defence must be submitted.

### **Article 17. Written Preparation**

1. If an amicable settlement appears to be impossible, or if an attempt to reach such settlement is foregone pursuant to a decision by the Chair, then the body will provide the Board with all the documents relevant to the case, as well as a statement of defence. This will be done within 3 weeks of the receipt of the invitation referred to in Article 16(1) or within the term set by the Chair pursuant to Article 16(4).
2. If the appeal is instituted against the decision of an examiner, the examination committee's response will include the examiner's statement of defence.
3. The Chair may permit the statement of defence to be submitted later, within a term the Chair considers reasonable.
4. A copy of the documents and statement of defence will be sent immediately to the party who submitted the appeal. If, in light of the provisions of the fifth paragraph of this Article, there is sufficient time remaining, the Chair may afford the appealing party the opportunity to respond to the documents and statement of defence in writing within a term to be determined later. The body against which the appeal has been instituted will immediately be sent a copy of the appealing party's response.
5. The parties concerned may submit additional documentation to the Board until ten days before the hearing.
6. The Board may, on its own initiative, gather the information it considers necessary and request documents it considers relevant. The bodies, examiners and other Wageningen University employees will provide the Board with all of the information that the Board considers necessary for performing its duties.

### **Article 18. The Decision**

1. The Board will render a decision within 10 weeks of receiving the appeal.
2. The Board will deliberate and render its decision in private. The decision will be based solely on the documents that were provided prior to or during the hearing, as well as the parties' assertions during the hearing. If a hearing is foregone based on the provisions of Article 10, the Board will base its decision solely on the documents that are relevant to the case.
3. The Board will take its decisions based on a majority of votes. In the case of a tied vote, the Chair's vote is determinative.
4. If the Board considers an appeal to be well founded, it will nullify all or part of the disputed decision. In deviation from Section 7:25 of the General Administrative Law Act [*Awb*], the Board is not empowered to replace the decision that has been wholly or partly nullified with a new decision. The Board may determine whether the case will be decided again, or, if a decision has been refused, will be decided as yet, or whether the examination, admissions investigation, additional investigation or any

part of these procedures will be repeated subject to conditions to be imposed by the Board.

5. The body whose decision is nullified will reprocess the case, duly observing the Board's decision. The Board may set a term for this processing in its decision.
6. The Board's decision will be dated and in writing and will contain:
  - a) the names and addresses of the parties concerned and their counsel or representatives;
  - b) the decision on the appeal;
  - c) proper grounds for the decision; if a hearing was foregone, the decision must also contain the grounds for doing so;
  - d) the names of the Board members that rendered the decision;
  - e) notification that the decision may be appealed by filing an appeal within six weeks with the Appeals Tribunal for Higher Education [*College van beroep voor het hoger onderwijs*] in The Hague, the Netherlands.
7. The parties and the Executive Board will all be sent a copy of the decision.
8. The redacted form of the decision will be kept by the Board's secretary and will be available upon request.

### **Article 19. Provisional Relief**

1. Upon the appealing party's request, the Chair may grant provisional relief if immediate action is required. Article 8 of these Rules applies *mutatis mutandis* to requests for provisional relief.
2. The Chair will decide on this request after the relevant body or the relevant examiner has been heard, or has at least been summoned to be heard.
3. The provisional relief will expire as soon as a decision is rendered in the underlying case, unless the decision stipulates another date.

### **HANDLING AN OBJECTION**

In supplement to Articles 1-14, Articles 20-25 of these Rules apply to handling an objection.

### **Article 20. Powers of the Board**

1. In its capacity as the dispute advisory committee, the Board renders advice to the Executive Board with regard to objections filed with respect to a decision based on the WHW and the rules based on that Act other than those with respect to which it is empowered to decide in its capacity as the examination appeals board.
2. A refusal to render a decision will be equated with a decision. If a decision is not taken within the term for doing so as provided by or pursuant to the law, or, if no such term has been prescribed, within a reasonable period of time, then the Executive Board will be considered to have refused to take a decision.
3. The Board will investigate whether an amicable settlement between the parties is possible.
4. If the case is extremely urgent, then, upon request, the Chair may determine that the Board will render advice to the Executive Board as soon as possible. Within a week of receiving the objection, the Chair will determine whether the situation involves extreme urgency and will notify the party concerned and the Executive Board of that fact as soon as possible. In that case, the Executive Board, in deviation from Section 7:10 of the General Administrative Law Act, renders a decision within four weeks of receiving the objection.

## **Article 21. Amicable Settlement**

1. Before hearing the parties, the Board will investigate whether an amicable settlement between the parties is possible.
2. Without prejudice to the provisions in the first paragraph, the Board may also investigate whether an amicable settlement is possible between the parties during the hearing.

## **Article 22. Written Preparation**

1. The documents that relate to the case that the parties do not already have will be sent to the parties when they are notified of the hearing.
2. The parties concerned may submit additional documentation to the Board until ten days before the hearing.
3. The Board may, on its own initiative, gather the information it considers necessary and request documents it considers relevant. The bodies and employees of Wageningen University will provide the Board with all of the information that the Board considers necessary for performing its duties.

## **Article 23. The Advice**

Unless the parties have reached an amicable settlement, the Board will render its advice to the Executive Board. The advice will be rendered in writing and will contain a report of the hearing.

## **Article 24. The Decision**

1. As soon as possible after receiving the Board's advice, but in any case within 10 weeks of receiving the objection, the Executive Board will render a decision on the objection.
2. The term will be suspended with effect from the date on which the objecting party is requested to cure a defect as referred to in Article 8 until the date on which the defect is cured or the term has expired without a cure being effected.
3. The term may be adjourned for a period of no more than 4 weeks. The objecting party will be notified of the adjournment in writing.
4. The decision on the objection will be in writing and will be based on sufficient grounds. If a hearing has been foregone, the decision will indicate the grounds for having done so.
5. If the objection is sustained, then the disputed decision will be reconsidered based on the objection. To the extent so prompted by said reconsideration, the Executive Board will revoke the disputed decision and, as necessary, render a new decision in its place.
6. If the decision on the objection deviates from the Board's advice, the decision must set out the reasons for said deviation and the advice must be enclosed with the decision.

## **Article 25. Notification and Appeal**

1. The objecting party will be notified of the decision on the objection by sending that party a copy of the decision.



2. The notification must state that the decision may be appealed by filing an appeal within six weeks with the Appeals Tribunal for Higher Education in The Hague, the Netherlands.

## **FINAL PROVISIONS**

### **Article 26. Final provisions**

1. These Rules may be cited as the Rules of Procedure for the Examination Appeals Board and Dispute Advisory Committee of Wageningen University.
2. These Rules were established by the Board on 14 February 2011, with the consent of the Executive Board, and enter into effect on 1 September 2010.
3. The Chair of the relevant section of the Board will take decisions in situations not provided for in these Rules.