



Student Charter 2012-2013: Legal protection of students

Legal protection is an important aspect of student rights. Legal protection provides students with the possibility of protecting their interests when they object to a decision or certain behaviour, when their interests are damaged by a decision or when a decision is not forthcoming.

1. Legal protection as stipulated in the Higher Education and Research Act (WHW)

The party concerned can appeal or object to a decision made by individuals, committees, the Executive Board or other University bodies according to the procedures below. In addition, the party concerned can object or appeal a decision that is not forthcoming or remains overdue.

Every party concerned may lodge a formal complaint against inappropriate behaviour towards the complainant by an individual, a committee, the Executive Board or any other University body.

A party concerned may be a student, a prospective student, a former student, an *extraneus* or a prospective or former *extraneus*.

The statutory provisions on legal protection can be found in Title 4 of Chapter 7 of the Higher Education and Research Act (WHW).

All parties concerned can either carry out the procedures themselves or seek legal aid from a lawyer or legal adviser at his or her own risk and expense.

1.1 Facility

Wageningen University has set up a Facility which provides students and parties concerned with information about the various procedures in place at Wageningen University and about legal protection. This digital help desk can be contacted by e-mail or regular mail (faciliteit@wur.nl or Wageningen University c.o. de faciliteit, PO Box 9101, 6700 HB Wageningen). The Facility is located at the Governance & Legal Services Department of Wageningen UR. The Facility is available to students who have queries, requests for information or who want to start an appeal, objection procedure or lodge a written complaint. The Facility also handles objections, appeals and complaints.

Acknowledgement will be sent by the Facility to the submitting party either digitally or in writing upon receipt of an objection, appeal or complaint. The Facility will immediately forward the objection, appeal or complaint to the authorised body for processing, such as the Examination Appeals Board, which also acts as an Objection Advisory Board, or to the Ombudsman. The date of receipt of the objection, appeal or complaint by the Facility determines whether the objection or appeal has been submitted on time.

Objection

If a decision cannot be appealed with the Boards of Appeals for Examinations (see section 1.2), in certain cases a notice of objection can be submitted by the party concerned to the Executive Board of Wageningen University, for example:

- decisions concerning enrolment, de-enrolment, tuition fees and other similar matters,
- decisions concerning the Student Financial Support Regulations (FOS),
- measures such as denial of entry to the buildings or grounds,
- decisions concerning the award of a degree.

An objection must be submitted within six weeks. The date of receipt of the objection by the Facility determines whether the objection has been submitted on time. The Facility forwards the notice of objection directly to the Executive Board.

Subsequent to the timely submission of the objection, the following procedure will apply. An Objection Advisory Board, set up in accordance with Article 7.13 of the General Administrative Act, provides a hearing to the complainant and gives advice to the Executive Board concerning the objection and the decision to be made. The Executive Board then makes a decision about the objection based on the recommendation of the Objection Advisory Board. Appeals against the decision can be made to the Higher Education Appeals Tribunal (see section 1.3).

1.2 The Board of Appeals for Examinations (Article 7.60 Higher Education and Research Act)
Wageningen University has established a Board of Appeals for Examinations.

Grounds for appeal

A party concerned can appeal to the Board of Appeals for Examinations against:

- decisions regarding refusal of admission to a specific study programme,
- decisions regarding the number of credits earned and passing the final student examinations,
- decisions regarding admission to the final Bachelor and Master student examinations,
- certain decisions about the requirements for previous education (prerequisite subjects or profiles),
- decisions of Examining Boards and Examiners,
- decisions based on an entrance examination.

An appeal is lodged when a party is not in agreement with one of the above mentioned decisions. An appeal can also be lodged against a written refusal to make a decision and against a decision which is not made on time.

Deadlines

The deadline for lodging an appeal is six weeks, starting on the day the party concerned is notified about the decision. The date of receipt of appeal by the Facility determines whether the appeal has been submitted on time.

The Board of Appeals makes a decision within ten weeks following receipt of the appeal and informs the parties concerned about the decision within five working days.

Amicable settlement

Before an appeal is taken into consideration, the Board of Appeals sends the notice of appeal to the body against which the appeal is lodged inviting them to enter into discussions with the parties concerned in order to determine whether or not an amicable settlement of the dispute is possible. It must be made clear within three weeks whether or not this is possible. If an amicable settlement is not possible, the Board of Appeals shall take the appeal into consideration.

Further proceedings

The sitting is in public. During the sitting, the parties concerned are given the opportunity to present their case in greater detail. Each party can be represented by an authorised individual or assisted by a counsellor, for example, the student counsellor, a lawyer or family member.

Decision on appeal

If the Board of Appeals decides the appeal is justified, the decision against which the appeal was made will be nullified (either partially or completely). The Board of Appeals is not authorised to make a new decision replacing the one that has been partially or completely nullified.

If the decision is nullified, the Board of Appeals decides whether a decision remains to be made in the case or if a new decision is required. The Board of Appeals can also decide if the interim examination, the final examination, the entrance examination, the supplementary examination, or parts of them must be re-taken under conditions established by the Board of Appeals. The body whose decision was nullified shall once again take the case into consideration, taking into account the decision of the Board of Appeals.

If the Board of Appeals decides that the appeal is unjustified, the contested decision or the refusal to make a decision is upheld.

The appeal can also be declared as inadmissible. This means that the appeal cannot be taken into consideration. In that case, the Board of Appeals cannot make a substantive judgement. The parties concerned will be notified about this judgement.

Appeals concerning judgements made by the Board of Appeals can be lodged with the Higher Education Appeals Tribunal within six weeks.

In urgent cases the party concerned can request the Chair of the Examination Appeals Board to make an interim decision.

1.3 The Higher Education Appeals Tribunal (Article 7.64 Higher Education and Research Act)

The Higher Education Appeals Tribunal is located in The Hague.

The appealing party must pay court registry fees of €42.

Grounds for appeal

The party concerned can lodge an appeal to the Higher Education Appeals Tribunal regarding decisions of the Board of Appeals for Examinations, decisions of bodies based on a judgment of the Board of Appeals for Examinations and decisions concerning an objection.

Deadlines

The deadline for lodging an appeal is six weeks starting on the day the party concerned is notified about the decision.

Legal procedure

The procedure at the Higher Education Appeals Tribunal is largely the same as that stipulated by the General Administrative Law Act concerning appeals to the courts. More information on this topic can be found at Higher Education Appeals Tribunal website: www.collegevanberoepho.nl

Judgement

There is no higher appeal open for appeals against decisions of the Higher Education Appeals Tribunal.

2. Confidential adviser inappropriate behaviour

According to the Labour Conditions Act (Arbo-wet), the employer must ensure that the student is protected against inappropriate behaviour and negative consequences of such behaviour. To this end, Wageningen University established the 'Complaints procedure inappropriate behaviour' and appointed one of the student counsellors in the position of 'Confidential Adviser' for students.

Confidential Adviser

Students experiencing inappropriate behaviour by staff or fellow students should report this to the Confidential Adviser for students, who is a designated neutral party and handles all cases in strict confidence. The Confidential Adviser will give advice and take further action based on the experiences of the student. The Confidential Adviser can take various steps, including setting up mediation. Complaints concerning inappropriate behaviour can be discussed with the Confidential Adviser and when necessary presented to the appropriate complaints board.

The Confidential Adviser provides higher administrative bodies with advice, either upon request or on their own initiative. The Confidential Adviser issues an annual report to the Executive Board in which concerned parties remain anonymous.

Complaints concerning a student counsellor acting as a Confidential Adviser can be lodged through the existing complaints procedure to the Legal Affairs Office of Wageningen University (faciliteit@wur.nl).

Inappropriate behaviour

Whether behaviour is considered inappropriate or not, depends on the person experiencing it. In general, the following behaviours are considered to be inappropriate:

- Bullying, aggression and violence: includes threats (also through social media), intimidation, verbal abuse and systematically ignoring someone.
- Discrimination: includes making a distinction between groups or individuals on the basis of race, gender, creed, political preference or otherwise,
- Sexual harassment: includes unwelcome sexual advances and other physical harassment of a sexual nature, verbal or non-verbal sexual behaviour which is considered degrading, public and private pressure to partake in sexual activities for favours (for example higher grades or promotion), assault or rape.

3. Ombudsperson function at Wageningen University

The party concerned can either lodge a complaint with the Facility, or contact the ombudsperson directly, who is authorised to perform the statutory tasks of the Facility with respect to complaints (confirms date of receipt of complaint, sends acknowledgement of receipt of complaint and forwards complaint on to the authorised body).

Wageningen University has established a team of ombudspersons for students. The role of ombudsperson is filled by student counsellors. This is a supplementary procedure to the existing complaint and appeal procedures. Students can contact the ombudsperson with complaints about treatment received from an employee of Wageningen UR. The same applies to complaints about undesirable situations or negligence, if they do not concern inappropriate behaviour or a formal decision.

The ombudsperson procedure

The ombudsperson will first consult with the student about whether it is advisable to lodge a complaint. Before a complaint is lodged, the ombudsperson may encourage the student to attempt to resolve the matter with the person/body involved first. The ombudsperson will provide the student with advice on how to go about this. If necessary, the ombudsperson will act as a mediator.

If a complaint is lodged which is not resolved through mediation, the ombudsperson will create a report stating his findings. The student and the other party involved in the conflict will both receive a copy of the report. A copy will also be sent to the Executive Board. If the parties concerned disagree with the way the complaint was handled by the ombudsperson, they can subsequently file a complaint with the national ombudsperson, see section 4.

The ombudsperson can provide higher administrative bodies with advice either upon request or on their own initiative. The ombudspersons issue an annual report on their activities. However, the privacy of individuals is carefully protected at all times.

Complaints concerning a student counsellor acting as an ombudsperson can be made through the existing complaints procedure to the Legal Affairs Office of Wageningen University (faciliteit@wur.nl).

4. National Ombudsperson

Procedure for complaints handled by the National Ombudsperson and his contact address at Wageningen University.

The internal Wageningen University complaints procedure can, in some cases, be followed up by the National Ombudsperson procedure.

This procedure applies to complaints which have already been lodged and handled by Wageningen University. The handling of the complaint by Wageningen University entails the Wageningen University ombudsperson discussing the complaint with the student, evaluating whether mediation is an option and presenting their findings and recommendations concerning the complaint in a written report to the relevant individual/body with which the student has the conflict. The complaint must concern 'behaviour' of an institution or of an official acting on behalf of an institution. Behaviour is defined as actions expressed by either doing something or failing to do something. 'Behaviour' has a broader meaning than 'decisions'. Decisions are made in writing and in many cases open to an appeal or objection procedure. If a complaint concerns a decision which is or was previously open to an appeal, objection or any other legal protection procedure, then the complaint will not be admissible.

5. Other forms of legal protection

Wageningen University has many regulations which have their own arbitration procedures. The most important regulations are listed below.

For queries or more information please contact Corporate Governance & Legal Services Wageningen UR.

Privacy

Wageningen University has its own Personal Data Protection Regulation. These regulations can be found on the Wageningen University website. The Privacy Regulations stipulate how Wageningen UR should process personal data and how individuals whose data are being processed can claim legal protection in accordance with the Personal Data Protection Act (*Wet Bescherming Persoonsgegevens*).

Digital network

Wageningen UR has regulations for network use (WURnet). The WURnet regulations clearly state what is and is not permitted by students when logged onto the WURnet account and regulations for monitoring and control:

- IT facilities at Wageningen UR are to be used for study.
- Use of IT facilities for private commercial activities (for example your own business) or political activities is prohibited. Wageningen UR makes use of Surfnet and private commercial activities are excluded from this.
- The mailbox and the M-disk are also study related.

When 'justified' and only under strict conditions, the institute can intervene regarding suspected abuse of the IT facilities. Administrators must follow an extensive protocol. Needless to say, such action will be the exception and only when the interests of both the student and the institution have been taken into consideration.

Camera surveillance

Regulations relating to camera surveillance have been drawn up. These regulations relate to the camera surveillance carried out at the various Wageningen University locations. The regulations also provide legal protection for persons who have been filmed.

Labour conditions

The aim of the Labour Conditions Act (Arbo-wet) is to promote the safety and health of the employee in a work situation. The Labour Conditions Act (Arbo-wet) also applies to students carrying out activities comparable to those in professional practice. This covers students carrying out an internship or thesis

research within Wageningen UR and who are, therefore, carrying out similar activities to regular employees. The responsibility for ensuring good working conditions for students carrying out either an internship or thesis research is delegated to the directors of the science groups or the section of the organisation where the student is working. Students may contact the relevant directors with queries or complaints.

The Higher Education and Scientific Research Act (WHW) provides protection for students who are not protected by the Labour Conditions Act (Arbo-wet).

The staff department 'Education, Research & Innovation' is responsible for safety in lecture rooms and other workspaces. Students can contact the secretary (0317-482356) for queries and complaints.

The Wageningen UR Intranet site provides information on the prevention of repetitive strain injury (RSI) [http://www.intranet.wur.nl/nl/services/veiligheid-en-milieu/arbo-\(a-z\)/RSI-preventie/Pages/WUR-rsi-preventie.aspx](http://www.intranet.wur.nl/nl/services/veiligheid-en-milieu/arbo-(a-z)/RSI-preventie/Pages/WUR-rsi-preventie.aspx)

6. Students and copyright

There are two ways in which a student (of whichever category) can come into contact with copyright: copyrights belonging to others and their own copyrights. The following procedures, based on the Copyright Act, are applicable.

Copyright belonging to others

The student must adhere to copyright restrictions or provisions when using text extracts from books and magazines. The author or publisher's imprint is shown on the first pages of the publication.

In a limited number of situations it is permitted to make photocopies or to use text or images without the author's permission:

- *Photocopies* It is permitted to make photocopies of scientific works, as defined by the Copyright Act, for private (study) use;
- *Citing* It is permitted to cite a short extract (max. 10,000 words) from a work that has been lawfully released to the public domain either through a speech or scientific article. This applies to texts, images and sounds. The amount of words cited should be proportional to the purpose. The source and the author should always be mentioned.

Permission from the rightful owner (either the publisher or author) is required for extracts larger than the size mentioned above and for adaptations and translations.

Original copies of laws (in state publications), judgements, government decisions and notes and reports published by the government are not copyrighted, unless this is specifically mentioned in the work itself.

Use of text or image extracts from books, magazines, or the internet in theses and papers without citing the lawful owner constitutes plagiarism and could even mean a violation of copyrights. Further information on plagiarism can be found in the rules and regulations of the examination committee.

Copyright belonging to the student

The student is the owner of the copyrights to a thesis produced by them, unless they have transferred ownership of said copyrights to another person. Details of the student's copyrights are agreed to in writing. Subjects deemed confidential, agreements made with the institution where the internship is carried out, or the thesis supervisor can limit the student's copyrights.

Copyrights give the student the right to publish or copy the thesis, unless other limitations are in place. The student is responsible for the content of the work. The university is responsible for the supervision and the evaluation of the student while producing the thesis. For this purpose, the university is entitled to access to a few copies of the thesis and use of them for educational purposes.

7. Disciplinary measures

In accordance with article 7.57 of the Higher Education and Research Act (WHW), the Executive Board may make provisions and take measures for the purpose of running the institution.

Students (of whichever category) are obliged to behave in accordance with the instructions given by the person in charge of maintaining order, cleanliness and safety of the University buildings.

This means that students using equipment, objects and computer facilities, amongst others, belonging to Wageningen UR, should exercise care.

If provisions are violated, the Executive Board can take measures, for example, give a warning, a reprimand or deny access to the buildings and grounds of Wageningen UR. The Executive Board can also expel the student for a serious violation of the provisions.