



**University  
of the Arts  
The Hague**

**RULES OF PROCEDURE  
FOR THE  
BOARD OF APPEAL FOR EXAMINATIONS  
Of the University of the Arts, The Hague**

## Rules of Procedure of the Board of Appeal for Examinations of the University of the Arts, The Hague

### 1. DEFINITIONS

#### Article 1

The following definitions apply in these rules:

- a. the Act: The Higher Education and Research Act (WHW) Dutch abbreviation);
- b. Board of Appeal: The Board of Appeal as referred to in article 7.60 of the Act;
- c. the institution: The University of the Arts, The Hague;
- d. the competent authority: The Board of Governors of the institution;
- e. student: students, auditors, and external students (*extranei*) as referred to in article 7.34, article 7.35 and article 7.36 of the Act respectively.

### 2. BOARD OF APPEAL

#### **Establishment**

#### Article 2

The Board of Appeal is established at Juliana van Stolberglaan 1 and Prinsessegracht 4 The Hague.

The postal address is: P.O. Box 11670, 2502 AR The Hague.

#### **Composition, period of appointment, discharge**

#### Article 3

1. The Board has a chairman and a vice chairman, four other members, and an equal number of deputy members.

2. a. Chairman, vice chairman, members and deputy members are appointed for a period of five years and may be re-appointed.
- b. Discharge may be granted to a chairman, deputy chairman, members and deputy members at their own request.
- c. Having attained the age of seventy years they will be granted discharge at the start of the subsequent month
3. They are discharged if they are unfit for their post on account of illness or disability and also if they have been convicted of a crime by an irrevocable court decision.
4. The Board holds plenary sessions.
5. Members who are unable to take part in a session on account of a challenge or an exemption (article 11), or for other reasons, are replaced. The chairman in such circumstances is replaced by the vice chairman.
6. The secretary to the Board of Governors is responsible for the secretariat.

### **3. THE APPEAL**

#### **Lodging an appeal**

##### Article 4

1. The appeal can be lodged by a person whose direct interests have been affected by the decision.
2. The appeal can be lodged in relation to:
  - a. the decision being in contravention of any generally binding regulation,
  - b. in taking the decision, the relevant body clearly used its authority for another purpose than that for which it was intended.
  - c. the body in question in weighing the interests involved could not in all reasonableness have arrived at the decision, or
  - d. the decision is in contravention of any other principle of good governance that is dictated by the general sense of justice.
3. The appeal is lodged in a petition giving reasons within thirty days of the despatch of the decision to the appellant, the performance of the act in relation to the appellant or the undergoing of the act by the appellant. Should this term have expired the Board of Appeal refrains from disallowing the appeal if the appellant can demonstrate that the appeal was lodged as soon as could reasonably be required.

#### **Submission of written appeal**

##### Article 5

1. The written appeal is submitted to the Board of Appeal to the address given in article 2.
2. If the written appeal, contrary to the stipulation in para. 1, has been submitted to a body of the institution other than the Board of Appeal it is nevertheless assumed that the stipulation of that paragraph has been met.

#### **Submission of written appeal**

### Article 6

1. The written appeal is signed and contains:
  - a. the name, address and place of residence of the appellant;
  - b. designation of the body against whose decision or treatment the appeal is directed;
  - c. a clear description of the decision against which the appeal is directed, submitting, if possible, a copy of this or, if the appeal is directed against the refusal of a decision, a clear description of the decision which in the opinion of the appellant should have been taken, or if the appeal is directed against an act, a clear description of that act.
  - d. the grounds on which the appeal rests.
2. The chairman of the Board of Appeal informs the appellant of any omissions and invites the appellant to remedy these within a period of time to be set by the chairman. If the appellant fails to remedy the omissions within this period of time the appeal may be declared inadmissible.

### **Amicable settlement**

### Article 7

1. Before dealing with the appeal the Board of Appeal sends the written appeal to the body that has taken the decision against which the appeal is directed, inviting that body, in consultation with the appellant, to ascertain whether an amicable settlement is possible. If the appeal is directed against a decision of an examination committee or against treatment during the taking of a statutory examination or part of this, the despatch referred to in the first sentence is also sent to the relevant examination committee.
2. The body referred to in para.1 informs the Board of Appeal within twenty days of the outcome of consultation submitting with this the relevant documents. If an amicable settlement has proved impossible the Board of Appeal proceeds to handle the appeal.
3. The despatch and invitation referred to in para. 1 occur on behalf of the Board of Appeal by or on behalf of the chairman of the Board as soon as the written appeal has been received by the Board, or the appellant has remedied the omissions referred to in that paragraph within the period of time referred to in article 6, para. 2.
4. The chairman of the Board of Appeal can decide to refrain from making an attempt to reach an amicable settlement if in his/her opinion such an attempt clearly has no point or would result in a disproportional disadvantage to the appellant. In that case the chairman determines a period of time within which the defence can be submitted.

## **Simplified procedure: objection**

### Article 8

1. The chairman of the Board of Appeal can give an immediate decision if in his/her opinion the Board of Appeal is clearly not competent or the appeal is clearly inadmissible or the further handling of the appeal is unnecessary because:
  - a. the appeal is clearly unfounded;
  - b. the decision against which the appeal is directed clearly cannot stand, or
  - c. the decision against which the appeal is directed has been withdrawn or amended by the relevant body and the body in question has clearly acquiesced to the objections of the appellant.

The chairman bases the decision solely on the documents that relate to the case. Article 17 is likewise applicable to this decision.
2. Against the decision referred to in para. 1 in the preamble and in a and c, the appellant can lodge an objection with the Board of Appeal within a fortnight of the day on which the decision was despatched. Against the decision referred to in para. 1 b, the defender, within a fortnight of the day on which the decision was despatched to him/her, may object to the decision to the Board of Appeal. The objection is made in writing giving reasons and signed by the appellant or the defender respectively. Article 7.61 para. 6 of the Act and article 6 para. 2 of these rules of procedure are likewise applicable.
3. As a result of the objection the decision referred to in para. 1 is no longer valid unless the objection is declared inadmissible or unfounded by the Board of Appeal.
4. If the Board is of the opinion that the objection is clearly inadmissible or unfounded it only resorts to declaring this inadmissible or unfounded after having given the party making the objection the opportunity to be heard in person or through an authorized representative.

## **Written preparation for handling at the hearing**

### Article 9

1. If an amicable settlement as referred to in article 7 has proved impossible, a written defence by the body in question is added to the documents referred to in the article and within the period of time referred to in para. 2 of the article. The chairman of the Board of Appeal may decide that the written defence can be submitted later, before a date that he/she considers reasonable. A copy of the written defence is immediately sent to the appellant.
2. If the appellant lets it be known that he wishes to make a statement of reply to the written defence or the person or persons in question or the body in question let it be known that they wish to respond to the statement of reply with a statement of rejoinder, the chairman of the Board of Appeal provides the opportunity for this to a certain deadline determined by the chairman if, bearing in mind para. 3, time is still available for this. The Board of Appeal immediately makes available to the opposing party a copy of the statement of reply and the statement of rejoinder.
3. For dealing with the case at the hearing all the documents relating to the case will be deposited with the Board of Appeal for a minimum of three days for inspection by

interested parties. This is brought to the notice of the parties at the same time by the Board of Appeal. The chairman of the Board of Appeal may determine that only the parties may inspect the documents with contents of a highly personal nature.

### **Determining the place and date of the hearing of the appeal**

#### Article 10

1. The chairman of the Board of Appeal determines as soon as possible a place and date at which the session to handle the appeal will take place. Parties are informed of this in good time.
2. The chairman of the Board of Appeal, at his/her own initiative, may gather information that he/she considers necessary and request documents relating to the case.

### **Challenge and exemption**

#### Article 11

1. Before the session dealing with the case each of the sitting members of the Board of Appeal can be challenged by one or more of the parties to the appeal on the grounds of facts or circumstances which could hamper the member in question forming an unbiased opinion. Members may exempt themselves on the basis of such facts and circumstances.
2. The incumbent members of the Board of Appeal decide as soon as possible whether the challenge or the exemption is permitted. The request is granted if the vote is tied.

### **Replacement and assistance at the hearing: witnesses and experts**

#### Article 12

1. Parties may be represented at the hearing by an authorised party or may be assisted by a lawyer. They may also call witnesses and experts to the hearing on the understanding that they provide a written list of the names of these persons to the Board of Appeal and to the opposing party at the latest four days before the hearing.
2. The Board of Appeal may call upon witnesses and experts by virtue of its office or at the request of the parties.

### **Hearing**

#### Article 13

1. The appeal is dealt with at a public session of the Board of Appeal. In special cases the Board of Appeal may decide that the handling of the appeal will take place in full or in part in a session behind closed doors.
2. The chairman of the Board of Appeal chairs the hearing. He/she gives each of the parties the opportunity to explain their point of view.
3. The parties may change the content of the appeal and of the defence as well as the grounds on which these rest up until the close of the hearing unless the Board of

Appeal is of the opinion that the opposing party is unreasonably prejudiced as a result of this change.

4. If it is apparent before the hearing closes that the inquiry has not been complete the Board of Appeal may determine that the handling of the case at the hearing will be continued at a time to be set by the Board. Instructions may accordingly be given to the parties regarding the evidence.
5. Before the hearing is closed, the chairman of the Board of Appeal announces when the decision will be made. The decision will be made within a fortnight of the close of the hearing. This period of time can be extended by a maximum of a fortnight by the Board of Appeal. The parties are informed of this in good time.

### **Combining and splitting**

#### Article 14

1. In its official capacity or at the request of third parties, the Board of Appeal may call into the case third parties whose interests are directly involved in the dispute. Each third party by being summonsed becomes party to the case.
2. Irrespective of para. 1 each party whose interests are directly involved in the dispute may request the Board of Appeal for permission to intervene or to join one of the other parties. If this request is admitted the requesting party becomes party to the case.
3. In the cases referred to in para. 1 and 2, the chairman of the Board of Appeal recommends measures which are necessary for the process to proceed properly.
4. The Board of Appeal is authorised to combine interrelated cases and to split combined cases.

### **Deliberations and method of decision-making**

#### Article 15

1. The Board of Appeal deliberates and decides in chambers. It bases its decision solely on the documents deposited for inspection as well as on that which is brought up at the hearing or has been submitted without the opposing party being prejudiced as a result.
2. The Board of Appeal decides by a majority vote.

### **Decision**

#### Article 16

If the Board of Appeal considers the appeal founded, the Board of Appeal determines that the competent authority, under conditions to be set by the Board, within thirty days or within a period of time that the Board of Appeal deems fit, should take a new decision, or if the decision is considered to have been refused, nevertheless takes a decision, or determines that under conditions to be set by the Board and to a deadline set by the Board, the test, the examination, the admission test, the supplementary research or any other part of this, will be done again under conditions to be set by the Board of Appeal.

## **Decision**

### Article 17

1. The decisions of the Board of Appeal are dated and include:
  - a. the name and place of residence of the parties and the name of the authorised representatives;
  - b. the grounds on which the decision is made;
  - c. a decision;
  - d. the name of the members of the Board of Appeal who have made the decision.
2. The decision signed by the chairman of the Board of Appeal, and by the secretary, is sent as certified copy by recorded delivery to the parties and the competent authority. The decision is made available for inspection by interested parties. In the latter case the Board of Appeal may determine that the names of the parties and others are erased in the certified copy.

## **4. PRELIMINARY REMEDY**

### **Request for preliminary remedy**

#### Article 18

In cases in which the interests of the appellant require an immediate provisional remedy, the appellant, while awaiting the decision in the main case, can submit a reasoned petition to the chairman of the Board of Appeal requesting a provisional remedy.

### **Handling of the request for a provisional remedy**

#### Article 19

1. The chairman of the Board of Appeal decides on the request referred to in article 18.
2. Having received the request as referred to in para. 1 the chairman of the Board of Appeal determines as soon as possible the place and date at which the public hearing of the appeal will take place. The parties are informed of this in writing in good time.
3. Articles 6,9 para. 1 and 3, 10, 12, 13 para. 1, 2 and 5, 14 para. 1 and 3, 17 para. 1 a, b and c, and paragraph 2 are likewise applicable to the request for a provisional remedy.

### **Cancellation or amendment to the provisional remedy**

#### Article 20

The provisional remedy may be cancelled or amended by the chairman of the Board of Appeal once he has heard the parties, or at least has properly summonsed them. Articles 12, 13, paras 1, 2 and 5, and 17 para. 1 a, b and c, and para. 2 are likewise applicable.

## **Expiry of provisional remedy**

### Article 21

The provisional remedy expires as soon as the Board of Appeal decides in the main case, in so far as the decision of the Board of Appeal indicates no other time.

## **5. REVIEW OF DECISIONS**

### **Review of decisions**

#### Article 22

1. Review of a decision of the Board of Appeal can take place at the request of each of the parties on the basis of facts or circumstances that have further come to light which if they had been known earlier could have resulted in a different decision.
2. Paras 3 and 4, in so far as is necessary, are likewise applicable to the request for review.

### **Final provisions**

#### Article 23

In cases where these rules of procedure do not provide the chairman of the Board of Appeal decides, if necessary after consulting other members.

Decided by the Executive Board 10 February 2011.