

Rules of procedure

Examinations Appeals Board

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CHAPTER I: PRINCIPLES

Article 1 Basis

These regulations implement the provisions of Section 7.62 of the Higher Education and Research Act (WHW) concerning the Rules of procedure for the Examinations Appeals Board (hereinafter: Board of Appeal), as well as the provisions of this Act concerning the rules for matters dealt with by the Examinations Appeals Board and its proceedings.

In the case of a course participant, the matter will be dealt with in accordance with the 'Saxion Course Participant Legal Protection Regulations'.

CHAPTER II: BOARD OF APPEAL

Article 2 Authority of the Board of Appeal

The Board of Appeal rules on the basis of Article 7.61 of the Higher Education & Research Act (WHW) and these regulations on the appeal lodged against:

- a. decisions on binding study advice (Article 7.8b(3) and (5) of the WHW) and binding referral (Article 7.9(1) of the WHW);
- b. decisions on whether or not the final examination (as referred to in Article 7.9d of the WHW) has been passed successfully;
- c. decisions other than decisions of a general nature, taken pursuant to the provisions of Title 2 of Chapter 7 of the WHW, with regard to admission to examinations;
- d. decisions taken on the basis of the additional investigation if the further requirements concerning preliminary study are not met (as referred to in Articles 7.25(5) and 7.28(4) of the WHW);
- e. decisions of examination boards, examiners;
- f. decisions by committees regarding (the result of) the entrance exam (as referred to in Article 7.29(1) of the WHW);
- g. decisions on admission to Master degree programmes (Article 7.30b of the WHW).

In the case of course participants:

- h. decisions on whether or not exams have been passed successfully;
- i. decisions, other than decisions of a general nature, with regard to admission to exams;
- j. decisions of the Examination Board and examiners.

Article 3 Procedure of the Board of Appeal

In plenary session, the Board of Appeal will rule on appeals it received pursuant to Article 2 of these regulations.

Article 4 The size and composition of the Board of Appeal

1. The Board of Appeal consists of two chambers with a total of six members, including the two chairpersons, and, if necessary, six alternate members.
2. The (alternate) chairperson(s) must meet the requirements for appointment as a judicial officer, as referred to in Article 1d of the Judicial Officers Legal Status Act.
3. The chairpersons are appointed in office.
4. Two members and two alternate members are appointed from the student section.
5. Two members and two deputy members are appointed from the lecturer section.
6. The members and alternate members take turns sitting in the Board of Appeal. In addition, members and alternate members may replace each other in order to participate in the work of the Board in the event of inability to attend or absence.
7. The remuneration of members and alternate members shall be determined by decision of the Executive Board.

Article 5 Division into chambers

1. To hear appeals, the Board of Appeal divides itself into chambers consisting of three members.
2. The chairperson determines the composition of the chambers for each appeal, on the understanding that the chamber is chaired by the chairperson or by the other chairperson and that at least one student member and one lecturer member participate in the chamber.
3. No members shall be appointed to participate in a chamber who are members of the Examination Board involved in the dispute or who are students whose performance may be assessed by this Examination Board in that capacity.

Article 6 The term of appointment and dismissal of (alternate) members of the Board of Appeal

1. The members and alternate members of the Board of Appeal are appointed and dismissed by the Executive Board.
2. The appointment is for a term of four years and, in the case of students, for a term of two years. The lecturer and student members may be reappointed once.
3. The chairpersons are immediately eligible for reappointment at the end of their term, on the understanding that the chairpersons may be reappointed twice.
4. In addition to the grounds specified in Article 7.60(6) of the WHW, members and alternate members of the Board of Appeal shall be dismissed by the Executive Board upon dissolution of the Board of Appeal, as well as if they have ceased to possess the capacity that was the basis for their appointment as a member or alternate member of the Board of Appeal.

Article 7 The secretary of the Board of Appeal

1. The Board of Appeal is assisted by a secretary appointed by the Executive Board.
2. The secretary of the Board of Appeal shall observe the instructions of the chairperson of the Board in the performance of their duties.
3. The Executive Board also appoints a deputy secretary who, in the event of the secretary's inability to attend or absence, can take over the secretary's duties.

Article 8 Duty of care of the Executive Board

The Executive Board shall ensure that members as referred to in Article 4, their alternates, and former members and their alternates, are not disadvantaged in their position within Saxion by or as a result of their membership of the Board of Appeal.

CHAPTER III: APPEALS PROCEDURE

Article 9 The submission of the appeal

1. The appeal can be lodged by the person concerned, which is understood to mean a (prospective or former) student, a course participant or a (prospective or former) external candidate.
2. The appeal does not suspend the effect of the decision against which it is directed.
3. The appeal must be addressed to the Board of Appeal and submitted to the Complaints and Disputes Office (MKG) via the following page: [Complaints, objections and appeals - Self-service portal](#).
4. The period for submitting an appeal is six weeks. This period commences the day after the decision has been announced.

Article 10 The content of the appeal; rectification of omission

1. The appeal must contain:
 - a. name, address and place of residence of the person concerned,
 - b. the date,
 - c. indication of the relevant examiner or body that took the contested decision,
 - d. a clear description of the grounds for the appeal.
2. If possible, a copy of the decision to which the dispute relates shall be submitted with the notice of appeal.
3. If the requirements referred to in paragraph 1 or any other requirement for the appeal to be considered have not been met, the secretary of the Board of Appeal will notify the person involved and invite them to remedy the situation within a period specified by the secretary.
4. If the person concerned has not remedied the omissions within this period, the secretary of the Board of Appeal may, on behalf of the chairperson, declare the appeal inadmissible.

Article 11 Deadline for submitting an appeal

1. The period for submitting an appeal is six weeks. This period commences the day after the decision has been announced. Announcement takes place by sending or issuing the decision.
2. An appeal is deemed to have been submitted in time if it is received by the MKG before the end of the period referred to in the first paragraph.
3. If the appeal is submitted after the expiry of the period referred to in the first and second paragraphs, a declaration of inadmissibility on that basis shall be omitted if it cannot reasonably be considered that the person submitting the appeal can be blamed for the late submission.
4. If the appeal is directed against the failure to take a decision in time, the appeal will not be subject to a time limit. A notice of appeal can be submitted as soon as an administrative body fails to take a decision in time. However, an appeal will be declared inadmissible if the notice of appeal is submitted unreasonably late.

Article 12 Confirmation of receipt of notice of appeal

The MKG confirms receipt of the notice appeal on behalf of the Board of Appeal by means of a digital confirmation of receipt of the appeal and briefly indicates how the procedure will proceed.

Article 13 Simplified proceedings; objection

1. The chairperson of the Board of Appeal may immediately issue a ruling if they

consider that the Board of Appeal clearly lacks jurisdiction or that the appeal is clearly inadmissible, or if further consideration of the appeal does not appear necessary because:

- a. the appeal is unfounded,
- b. the decision against which the appeal is lodged is manifestly unfounded, or
- c. the decision against which the appeal is lodged has been withdrawn or amended by the competent body and the body concerned has manifestly complied with the objections raised by the person concerned.

The chairperson will base the decision solely on the documents relating to the case. Article 22 (decision) applies mutatis mutandis to this decision.

2. The person concerned may lodge an appeal against the decision referred to in the first paragraph with the Board of Appeal within fourteen days of the date on which the decision was sent. The respondent may lodge an appeal against the decision referred to in the first paragraph under b with the Board of Appeal within fourteen days of the date of receiving the decision.

The person concerned or the respondent must substantiate the appeal with clear arguments.

3. The appeal voids the decision as described in the first paragraph, unless the Board of Appeal declares the appeal to be unsustainable or unfounded.

4. If the Board of Appeal finds that the objection is manifestly inadmissible or unfounded, it shall not declare the appeal inadmissible or unfounded until it has given the person who lodged the objection the opportunity to be heard in person or through a representative.

5. If the appeal only concerns the reimbursement of legal costs, the chairperson may, with the consent of the parties, issue a ruling without holding a hearing.

Article 14

Amicable settlement

1. Before the appeal is considered by the Board of Appeal, the MKG will send a copy of the appeal as soon as possible to the relevant Examination Board or the relevant body referred to in Article 7.61 of the WHW, inviting them to consult with the person(s) involved to see whether an amicable settlement of the dispute is possible. If the appeal is directed against a decision of an examiner, the documents referred to in the previous sentence shall be sent to the relevant Examination Board. If the examiner against whom the appeal is directed is a member of the Examination Board, they will not participate in the deliberations. The invitation contains the request, in accordance with Article 7.61 of the WHW, to communicate the outcome of the deliberation within three weeks of receipt by the Examination Board of the appeal.

2. In the event that an amicable settlement has been reached, the MKG will inform the parties on behalf of the Board of Appeal that the Board of Appeal will not be hearing the appeal.

3. If an amicable settlement cannot be reached, a notice of defence must be submitted by the relevant Examination Board or the relevant body within five working days of notification of the appeal. If the appeal is directed against a decision made by an examiner, the Examination Board will enclose a notice of defence in consultation with the examiner concerned. The chairperson of the Board of Appeal may decide that the notice of defence may be submitted at a later date deemed reasonable by the chairperson. The MKG shall ensure that a copy of the notice of defence is sent to the opposing party without delay.

4. If an amicable settlement has not been possible, the minutes of the amicable settlement meeting will be added to the notice of defence.

Article 15

Written preparation for the hearing

If the appeal is accepted by the Board of Appeal, the chairperson may gather information in preparation for the hearing. The documents submitted by the parties, which must be submitted to the Board at least two weeks prior to the hearing date, will be sent by the Board's secretarial office to the opposing party for information purposes

without delay.

Once the chairperson considers that the positions of the parties are sufficiently clear for consideration at the hearing, the chairperson concludes the written preparatory stage, sets a date for the hearing and invites the parties to attend.

Article 16 Challenges and recusals

1. Before or during the hearing, any of the current members of the Board may be challenged by one or more parties involved in the appeal on the grounds of facts or circumstances that could make it difficult for the member concerned to render an impartial decision.

A member may also recuse themselves on the basis of such facts or circumstances.

2. The other members of the Board decide as soon as possible whether to grant the challenge or recusal. In the event of a tie, the request will be granted.

Article 17 Replacement and assistance at the hearing; witnesses and experts

1. The parties may be represented at the hearing, for instance, by an authorised representative. They may also bring witnesses and experts to the hearing, provided that they provide the names of those persons in writing to the Board of Appeal and to the opposing party no later than the fourth day prior to the hearing.

2. If a party lets someone else represent them, the Board of Appeal will in any case send the documents relating to the case to the representative.

3. The Board of Appeal may call witnesses and experts either officially of its own volition or at the request of the parties.

Article 18 Course of the hearing

1. The appeal will be heard by the Board of Appeal during a public hearing. In special cases, and also at the reasoned request of one of the parties, the Board of Appeal may decide that the hearing of the appeal will take place in whole or in part behind closed doors.

2. The chairperson of the Board of Appeal determines the date, place and time when the appeal will be heard. The parties will be notified of this in writing.

3. The chairperson of the Board of Appeal, or their deputy, will preside over the session. They will give each of the parties the opportunity to explain their position.

4. The parties may change the content of the appeal and the defence, as well as the grounds on which they are based, until the closing of the hearing, unless the Board of Appeal is of the opinion that the opposing party is unreasonably disadvantaged by this change.

5. If it appears before the closure of the hearing that the investigation is incomplete, the Board of Appeal may determine that the hearing will be continued at a time to be determined by the Board of Appeal. In this event instructions may be given to the parties.

Article 19 The hearing in absence of (one of) the parties

1. If one or both parties are absent at the hearing, the chairperson of the Board of Appeal shall ascertain whether that party or both parties, were duly summoned.

2. If a party who is not present has been duly summoned, the handling of the appeal can also take place without the presence of that party or both parties.

Article 20 Merging of cases; splitting

1. The Board of Appeal may, of its own official volition or at the request of the parties, summon third parties whose interests are directly affected by the dispute. The summons makes each third party become a party to the proceedings.

2. Irrespective of paragraph 1, any person whose interests are directly affected by the dispute may request the Board of Appeal to intervene or may join one of the parties.

If the application is granted, the applicant becomes a party to the proceedings.

3. In the cases referred to in the first and second paragraphs, the Board of Appeal shall establish the rules necessary for the proper conduct of proceedings.
4. The Board of Appeal is authorised to join related cases and split joined cases.

Article 21 Deliberation and decision

1. The Board of Appeal holds plenary sessions and deliberates in chambers.
2. It will base its decision solely on the documents made available and the evidence presented at the hearing, without prejudice to the opposing party. After the deliberations, the chairperson drafts a proposal for a decision.
3. The Board of Appeal strives for unanimity in the decisions it makes.
4. If the Board of Appeal is unable to reach unanimity, a decision is taken by a majority vote.
5. The participants in the deliberations are bound to secrecy regarding the matters discussed in chambers.

Article 22 Decision

1. Before closing the hearing, the chairperson will announce when the decision will be delivered. This decision will be made within two weeks of the closing of the hearing and within ten weeks from the day after the deadline for submitting the appeal has expired. The secretary will ensure the parties are notified thereof in a timely manner.
2. The deadline will be suspended from the date on which the person submitting the appeal was requested to remedy the omission until the date on which the omission has been remedied or the deadline set for this purpose has expired without being used.
3. Further postponement is possible if the person concerned agrees and other interested parties are not harmed by this or agree to it.
4. The decision of the Board is dated and contains the following:
 - a. the names of the parties and, if applicable, the name of the authorised representative,
 - b. the grounds on which the decision is based,
 - c. the decision, and
 - d. the names of the members of the Board who issued the decision.
5. The decision must be based on sound reasons that are stated when the decision is announced. If the hearing is waived, the grounds for doing so shall also be stated.

6. In its decision, the Board will include a reference to the legal remedies available, stating where and within what period an appeal may be lodged.
7. The decision on the objection is signed by the President of the Executive Board and sent in copy to the person concerned and made available to interested parties. The Board may decide to omit the names of the parties from copies provided to interested parties.

Article 23 Appeal to the Council of State

1. An appeal may be lodged with the Administrative Jurisdiction Division of the Council of State against a decision of the Board or a declaration of inadmissibility or unfoundedness of an objection, by the person concerned as referred to in Article 9 of these regulations. This is possible up to six weeks from the day on which the relevant decision was announced.
2. Contrary to the definition of the person concerned as referred to in Article 9 of these regulations, course participants enrolled in contractual education, do not have access to appeal to the Administrative Jurisdiction Division of the Council of State (Raad van State). A course participant may, however, take the matter to civil court.

CHAPTER IV: PROVISIONAL RELIEF

Article 24 Provisional relief

Is so required by urgent circumstances, the chairperson of the Board of Appeal may, at the request of the interested party, provisional relief in accordance with Article 7.61(6) of the WHW.

Article 25 Handling of the request for provisional relief

1. In cases where the interests of the person submitting the request require immediate relief, the person submitting the request may, pending the decision on the main case, submit a reasoned request to the chairperson of the Board of Appeal for provisional relief.

2. The request for provisional relief must meet the requirements set out in Article 10 of these regulations.

3. In the event that the request for provisional relief does not, in the opinion of the chairperson, comply with the provisions of the preceding paragraph, Article 10, paragraph 3 of these regulations shall accordingly apply.

4. If, in the opinion of the chairperson, a request for provisional relief is admissible, the chairperson will determine the date, place and time on which the request will be heard. The secretary of the Board shall immediately notify the parties thereof and, on behalf of the chairperson, shall immediately ensure that the request for provisional relief is sent to the chairperson of the relevant Examination Board or the relevant body, with an invitation to submit a notice of defence within a specified period. A copy of the notice of defence must be provided to the person who submitted the request without delay.

5. For the handling of the request for provisional relief, Articles 9(3), 17 and 18 of the regulations apply mutatis mutandis, on the understanding that where reference is made to the Board of Appeal, this should be read as referring to the chairperson of the Board of Appeal.

6. Before closing the hearing, the chairperson will announce when the decision will be delivered. This decision will be issued within one week of the closing of the hearing. This period may be extended by the chairperson by a maximum of one week. The secretary will ensure the parties are notified thereof in a timely manner.

Article 26 Lifting or amendment of provisional relief

At the request of the interested party, the provisional relief may be lifted or amended by the chairperson after hearing the parties, or at least after duly summoning them.

Articles 17, 18(1), (2) and (4) and Article 22(1), (4)(a), (b) and (c), and (7) shall apply mutatis mutandis.

Article 27 No appeal possible

No appeal can be lodged against a decision in provisional relief proceedings.

Article 28 Expiry of the provisional relief

The provisional relief shall lapse as soon as the Board of Appeal has ruled on the main case, unless another date has been specified.

CHAPTER V: OTHER MATTERS

Article 29

Plenary meetings; decision-making

1. The Board of Appeal holds a plenary meeting once a year to discuss the general affairs of the Board. All (alternate) members and the persons referred to in Article 6 are invited to attend the meeting.
2. The Board of Appeal can only make decisions in the plenary meetings if the majority of the (alternate) members are present.
3. Decisions are reached by a majority of the votes cast.
4. Blank votes will not be counted.

Article 30

Annual report

The Board of Appeal reports annually to the Executive Board on its activities, identifies bottlenecks and, if necessary, initiates amendments to these regulations.

Article 31

Definition of the year of session

A year of session is equal to one calendar year.

Article 32

Unforeseen cases

In all cases not covered by the law or these Rules of Procedure, the Board of Appeal shall decide.

Article 33

Citation title

These regulations may be cited as: Saxion Rules of Procedure Examinations Appeals Board

Article 34

Entering into force

These regulations will enter into force the day after they have been approved by the Executive Board.