

Avans University of Applied Sciences Appeals procedure regulations

Imprint

date	August 2018
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version	
status	Draft

Table of contents

Avans University of Applied Sciences Appeals procedure regulations	1
Table of contents	2
Article 1. General provisions	3
Article 2. Authority of the Disputes Advisory Committee	3
Article 3. Scope of the Appeals Procedure	3
Article 4. Composition of the Disputes Advisory Committee	4
Article 5. Secretary of the Disputes Advisory Committee	4
Article 6. Division into Panels	5
Article 7. Submitting a notice of objection	5
Article 8. Period for filing a notice of objection	7
Article 9. Amicable arrangement and the defence	7
Article 10. Information/documents	7
Article 11. Examining of individuals concerned at the hearing	8
Article 12. Assistance/Witnesses/Experts at the hearing	8
Article 13. Advice of the Disputes Advisory Committee	8
Article 14. Advice in case of immediate urgency	9
Article 15. Decision on the objection	9
Article 16. Appeal	9
Article 17. Final provision	9

Information

The Avans University of Applied Sciences Students' Charter stipulates the rights and obligations of students enrolled at Avans University of Applied Sciences.

This Appeals Procedure is part of the Students' Charter.

Article 1. General provisions

1. **WHW:** the Dutch Higher Education and Research Act (*Wet op het Hoger onderwijs en Wetenschappelijk Onderzoek*)
2. **Avans University of Applied Sciences:** the institution (privately-run university of applied sciences) that falls under the Avans Foundation, as referred to in the appendix to the WHW;
3. **The Executive Board:** the Board of the Avans Foundation, pursuant to Section 1.1 under y of the WHW also the Board of the Avans University of Applied Sciences institution.
4. **Division:** an organisational unit in the sense of Section 10.3b(3) of the WHW, broken down into 'School' and 'Unit'.
5. **Body:** the staff as well as the student body.
6. **Students:** students and external students within the meaning of Section 7.32 et seq WHW.
7. **Staff member:** employee employed by the Avans Foundation based on an employment contract.
8. **Disputes Advisory Committee:** as referred to in Section 7.63a(1) of the WHW (hereinafter also referred to as the 'Committee'), which is responsible on behalf of the Executive Board for dealing with notices of objections submitted to the Executive Board and advises the Executive Board on these notices of objections.
9. **Appeals Tribunal for Higher Education:** an independent body that deals with legal cases related to higher education (research universities and universities of applied Sciences). The Tribunal is registered in The Hague.

Article 2. Authority of the Disputes Advisory Committee

1. The Disputes Advisory Committee advises the Executive Board, pursuant to Section 7.63a(2) of the WHW, about objections from the individuals concerned with regard to decisions other than those referred to in Section 7.61 of the WHW, which fall under the authority of the Examination Appeals Board (see Appendix 1).
2. A refusal to take a decision and failure to take a decision in good time will be regarded as equivalent to a decision. If a decision is not made within the statutory period stipulated for that purpose or within a reasonable period if no period is stipulated, it will be deemed to have been refused.

Article 3. Scope of the Appeals Procedure

This appeals procedure applies to objections submitted by an involved party within Avans University of Applied Sciences, as referred to in Section 7.59a(3) of the WHW.

Article 4. Composition of the Disputes Advisory Committee

1. The Disputes Advisory Committee consists of at least 3 members who are functionally independent of the Executive Board.
2. At least 1 member must be a staff member and at least 1 member a student of Avans University of Applied Sciences, taking care to ensure a balanced representation from the study programmes and the fields of education of Avans University of Applied Sciences.
3. The Executive Board appoints a chairperson and deputy chairpersons from among the members. The chairperson and deputy chairpersons are not employed by Avans University of Applied Sciences outside their work for the Examination Appeals Board or the Disputes Advisory Committee.
4. The appointment of the chairperson, the deputy chairpersons, the members and the deputy members of the Disputes Advisory Committee takes place for a term of 5 years, insofar as it concerns students, this is a term of 2 years. Members are eligible for reappointment. The secretary of the Disputes Advisory Committee oversees the list of resignations.
5. The Executive Board grants discharge to members of the Disputes Advisory Committee at their request. They will only be discharged by the Executive Board if they have ceased to be members of the Disputes Advisory Committee for which they were appointed.

Article 5. Secretary of the Disputes Advisory Committee

1. The Disputes Advisory Committee is assisted by an official secretary, who is appointed to that position by the Executive Board with the consent of the chairperson of the Committee.
2. Individuals who are entitled under Section 7.20(1b) of the WHW to use the title of *meester* (title used by law graduates with an LL.M degree or its equivalent) are eligible to be appointed as the official secretary.
3. The official secretary is not part of the Disputes Advisory Committee.
4. The duties of the official secretary include:
 - a. keeping a list of the members of the Disputes Advisory Committee who have stood down;
 - b. convening meetings, placing items on the meeting agenda and maintaining the archive;
 - c. preparing the hearings and related correspondence and compiling of files;
 - d. drafting a short report of the matters discussed at the Disputes Advisory Committee hearing;
 - e. formulating the draft advices and finalised advices of the Disputes Advisory Committee.
5. In order to perform this work, the official secretary may rely on the assistance of a deputy official secretary or secretaries appointed by the Executive Board with the consent of the chairperson of the Disputes Advisory Committee.
6. A meeting will be held at least once every academic year between the chairperson and the official secretary for the purpose of any necessary adjustments to the official secretary's work.

7. The Executive Board may make changes to the appointment and/or dismiss the official secretary of the Disputes Advisory Committee only after the chairperson of the Disputes Advisory Committee has given consent.
8. The Executive Board moreover provides the Disputes Advisory Committee with the personnel and material facilities that are needed for the reasonable performance of its duties.

Article 6. Division into Panels

1. If the Disputes Advisory Committee consists of more than 3 members, it will be split into Panels consisting of 3 members each. These Panels are established for each objection to be handled. The chairperson determines the composition of each Panel and delegates this power by means of this provision to the official secretary. Each Panel will handle each notice of objection in plenary sittings.
2. The Disputes Advisory Committee has appointed for each Panel:
 - a. as chairperson of the Panel: the chairperson or deputy chairperson
 - b. a member from the staff
 - c. a member from the student body
3. A staff or student member may not serve on a Panel that is handling an appeal involving the School or Unit in which they are employed or enrolled.

Article 7. Submitting a notice of objection

1. An individual concerned who has been directly affected in their interests by a decision as referred to in Article 2, paragraph 1, taken against them by or on behalf of the Executive Board, may lodge a written and reasoned appeal against this decision.
2. The notice of objection must be addressed to:
The Disputes Advisory Committee of Avans University of Applied Sciences
Attn. the official secretary
Hogeschoollaan 1, Breda
The postal address is: Postbus 90116 | 4800 RA Breda | The Netherlands
3. The objection may also be submitted via email to: gac@avans.nl.
4. The notice of appeal and all related documents must be drafted in Dutch, insofar as possible. The notice of objection must be signed and contain:
 - a. the name, residential address, city, telephone number and email address of the party who submits the notice of objection;
 - b. the date;
 - c. a copy of the decision against which the objection is directed or, if that is not possible, a clear description of the decision. If the appeal is directed against the refusal of a decision, a description of the decision which, in the opinion of the party submitting the notice of objection, should have been taken;
 - d. the grounds on which the objection is based, namely a substantiated explanation as to why the party submitting the notice of objection believes that the decision is incorrect.
5. The requirements for the notice of objection as set out in paragraphs a-f also apply to objections that are filed via the routes mentioned in paragraph 3. Appeals filed by e-mail do not need to be signed if they are sent from an e-mail address that Avans provides to its students.

6. The objection does not suspend the effect of the decision against which it is directed, unless otherwise provided for in or pursuant to a statutory provision.¹

¹ In accordance with Section 6(16) of the General Administrative Law Act.

7. When the notice of objection is received, the party submitting the objection is informed of the further course of the appeals procedure.
8. The Disputes Advisory Committee informs the person submitting the notice of objection of any omissions they may have made in the notice of objection and invites them to rectify these within a period of time to be stipulated by the Disputes Advisory Committee. If these omissions are not rectified within the stipulated period, the Disputes Advisory Committee may declare the objection inadmissible without any further investigation.

Article 8. Period for filing a notice of objection

1. A notice of objection can be filed within a period of 6 weeks. This period commences on the day after the individual concerned is notified of the decision by transmission or service.
2. A notice of objection is filed on time if the Disputes Advisory Committee receives it before the end of the period.
3. A notice of objection that is sent by post is filed on time if it is posted before the end of the period, provided that it is received no later than 1 week after the end of the period.
4. If a notice of objection is filed after the end of the period, it will not be declared inadmissible if it cannot reasonably be held that the party submitting the objection was in default.
5. If the objection is directed against the failure to make a decision on time, the objection is not bound by a time period. The notice of objection can be filed as soon as the Executive Board has failed to make a decision on time. The Disputes Advisory Committee may advise that the objection be declared inadmissible if the notice of objection is filed unreasonably late.

Article 9. Amicable arrangement and the defence

1. The Disputes Advisory Committee invites the Executive Board to investigate, in consultation with the party submitting the notice of objection, whether an amicable arrangement of the dispute is possible.
2. On behalf of the Executive Board, the Disputes Advisory Committee is informed within 3 weeks of the outcome of the deliberations referred to in paragraph 1.
3. If an amicable arrangement is not possible, the Executive Board or its representative will submit a statement of defence at the same time as the notification referred to in paragraph 2, stating the reasons for the rejection of the objections submitted. The Disputes Advisory Committee then sends a copy of the statement of defence to the party submitting the notice of objection without delay.
4. The Disputes Advisory Committee may dispense with the application of paragraphs 1 and 3 and with the hearing referred to in Article 11 if:
 - a. the objection is obviously inadmissible
 - b. the objection is obviously unfounded
 - c. the objection will be fully met by the Executive Board and will not harm the interests of other parties involved.

The application of this paragraph will be laid down by the Disputes Advisory Committee in an advice to the Executive Board.

Article 10. Information/documents

1. The bodies and staff of Avans University of Applied Sciences, including the Executive Board, provide all information that the Disputes Advisory Committee deems necessary for the performance of its tasks in good time.
2. The parties may submit further documents until 10 days before the hearing.
3. The Disputes Advisory Committee may gather information that it deems necessary and request documents relating to the proceedings of its own accord. The chairperson of the Panel may decide that certain individuals concerned should be present at the hearing.

Article 11. Examining of individuals concerned at the hearing

1. The chairperson of the Disputes Advisory Committee will specify a time and place as soon as possible for the examination of the party submitting the notice of objection by the Disputes Advisory Committee to take place. The parties will be given due notice of the hearing and of their right described in Article 10, paragraph 2 and the possibility of invoking paragraph 7 of this Article. By means of this provision, the aforementioned chairperson delegates the power to set a time and place to the official secretary.
2. The Committee may entrust the hearing to the chairperson.
3. The hearing will take place at an open session, unless the Disputes Advisory Committee decides otherwise.
4. A representative of the Executive Board is invited for the hearing and is given the opportunity to explain their argument.
5. The Disputes Advisory Committee is authorised to hear objections in a joint action and to divide objections that have already been joined or jointly submitted into separate hearings.
6. The parties submitting the notice of objection and the representative of the Executive Board will be heard in each other's presence. They will be heard separately where it is demonstrated that joint hearings would impede prudent treatment. Where they have been heard separately, each will be informed of the hearing in the absence of the other party.
7. Before the hearing, all documents relating to the proceedings will be made available for inspection by the individuals concerned at the Disputes Advisory Committee for at least 1 week. In all other respects, Section 7:4 subsections 2 to 8 of the General Administrative Law Act apply accordingly.
8. Each party will be given an opportunity at the hearing to explain their position. The parties may amend or supplement the content of the objection or defence, as well as the grounds on which these are based, until the hearing is closed, unless the Disputes Advisory Committee is of the opinion that this would unreasonably prejudice the other party.
9. If it transpires that during the deliberations in closed chambers the objection was not examined by a plenary sitting, the Disputes Advisory Committee may decide, instead of delivering its ruling, that the objection is to be continued at a further hearing, at a time that it decides.

Article 12. Assistance/Witnesses/Experts at the hearing

1. The parties may arrange for a lawyer or authorised representative to assist and/or represent them at the hearing in order to safeguard their interests. If requested, the authorised representative must produce proof of their capacity to act by submitting a power of attorney, unless a lawyer acts as an authorised representative or the party confirms at the hearing that they consent to being represented by the authorised representative.
2. Besides the parties, only a lawyer or authorised representative may address the hearing, unless the chairperson of the Panel decides otherwise.
3. A party may also bring witnesses and experts to the hearing.
4. The Disputes Advisory Committee may, on its own initiative or at the request of the parties, summon and hear testimony from witnesses and experts.
5. The names of the people referred to in paragraphs 1, 3 and 4 must be communicated to the Disputes Advisory Committee secretary no later than 4 business days before the hearing. If the Disputes Advisory Committee summons people on its own initiative, the names of those people must be communicated to the parties within the same period.
6. The Disputes Advisory Committee may hear testimony from each of the witnesses in the absence of the other witnesses who have not yet given testimony.

Article 13. Advice of the Disputes Advisory Committee

The advice of the Disputes Advisory Committee to the Executive Board is submitted in writing and also contains a report on the hearing.

Article 14. Advice in case of immediate urgency

1. In the event of immediate urgency, the chairperson of the Disputes Advisory Committee may, at the request of the Committee, decide that the Dispute Advisory Committee will advise the Executive Board as soon as possible. Page of 11
2. The chairperson will determine whether the objection is urgent within 1 week of receipt of the objection and will inform the individuals concerned and the Executive Board thereof as soon as possible.
3. Contrary to Article 15, paragraph 1, of these Regulations, the Executive Board will then take a decision within 4 weeks of receipt of the objection.

Article 15. Decision on the objection

1. The Executive Board will decide within 10 weeks of receipt of the objection, without prejudice to decisions taken on the basis of the procedure referred to in Article 14.
2. The decision on the objection will be based on sound reasoning, which will be stated at the time of publication of the decision. If the hearing was rejected, an indication will also be given as to the grounds on which this was done.
3. If the objection is admissible, the contested decision will be reviewed on that basis. If the review gives cause to do so, the Executive Board will revoke the contested decision and, to the extent necessary, take a new decision instead. This will be done with due observance of the advice of the Dispute Advisory Committee.
4. If the decision on the objection deviates from the advice of the Dispute Advisory Committee, the decision will state the reason for the deviation and the advice will be sent with the decision.
5. The party submitting the objection will be informed in writing of the decision on the notice of objection.
6. When the decision is issued, the party submitting the objection is informed of the possibility of appeal.

Article 16. Appeal

The individual concerned may file an appeal against the decision on the objection of the Executive Board within 6 weeks at:

The Appeals Tribunal for Higher Education
Postbus 16137
2500 BC The Hague
The Netherlands
www.cbho.nl

The appeal to the Appeals Tribunal must be submitted stating:

- name and address of the appellant
- date of the appeal
- the grounds on which the appeal is based
- a copy of the notice of objection
- a copy of the decision to which the dispute relates
- power of attorney in the event of representation

Article 17. Final provision

1. In all cases not covered by this Appeals Procedure, the chairperson decides and, from the moment that a Panel of the Disputes Advisory Committee is established for handling an objection, the chairperson of that Panel decides.
2. This regulation was adopted by the Executive Board on 21 August 2018.
3. The regulation can be cited as '*Appeals Procedure Regulations of Avans University of Applied Sciences*'.

APPENDIX 1

Powers of the Disputes Advisory Committee

1. Pursuant to the second paragraph of Section 7.63a of the WHW, the Disputes Advisory Committee advises the Executive Board on decisions or on the absence thereof other than those referred to in Section 7.61 of the WHW.
This includes the objections of parties to decisions:
 - a. with or by virtue of Title 2 of Chapter 7 of the WHW with a view to the prior education requirements and admission requirements.
These are decisions taken by or on behalf of the Executive Board regarding:
 - requirements of the curriculum, Section 7.25 WHW;
 - supplementary requirements, Section 7.26 WHW;
 - requirements for the position, Section 7.27 WHW;
 - exemption on the basis of other diplomas, Section 7.28 WHW;
 - exemption on the basis of an entrance examination, Section 7.29 WHW;
 - enrolment for the post-propaedeutic phase, Section 7.30 WHW;
 - admission to the study programmes referred to in Section 7.31 of the WHW, following a bachelor's degree programme.
 - b. with or by virtue of Title 3 of Chapter 7 of the WHW, with a view to enrolment or termination of enrolment as a student or external student. These are decisions taken by or on behalf of the Executive Board regarding:
 - termination due to serious fraud on the recommendation of the examination board (Section 7.12b(2) of the WHW);
 - rules of a procedural nature, Section 7.33 of the WHW;
 - failure to respect the principles and objectives of the institution (Section 7.37(6 and 7) WHW),
 - violating the rules, regulations and disciplinary measures of the institution (Section 7.57h WHW);
 - measures to deny access to the institution's buildings and grounds, Section 7.57h WHW;
 - the termination of a study programme by the board of the university of applied sciences with regard to the consequences for the students enrolled in that study programme, Section 7.34(2) WHW;
 - the termination of the enrolment, Section 7.42 of the WHW;
 - the termination of the enrolment, Section 7.42a of the WHW on the grounds of the student's behaviour or statements in relation to future professional practice, as advised by the examination board or student counsellor (*ludicium abeundi*);
 - the amount of the tuition fees, Sections 7.43 and 7.44 of the WHW;
 - payment of tuition fees, Section 7.47 of the WHW;
 - reduction of and exemption from tuition fees, Section 7.48 of the WHW;
 - reimbursement of the tuition fees, Section 7.49 of the WHW;
 - financial aid from the Fund for Financial Support of Students Profileringsfonds Scheme, Section 7.51 of the WHW;
 - the request for the issue of the statement declaring that the relevant examination board can issue the diploma, Section 7.58 of the WHW.

APPENDIX 2

Sample letter for filing an objection with the Executive Board of Avans University of Applied Sciences

To:

The Executive Board.
c/o The Disputes Advisory Committee of Avans University of Applied Sciences
Attn. the official secretary
Postbus 90116 | 4800 RA Breda| The Netherlands

Re: Filing an objection

Dear Disputes Advisory Committee,

I am enrolled for the 20xx-20xx academic year at Avans University of Applied Sciences on the study programme Bachelor/Master/AD ... under student number [student number], and with this notice of objection I am filing an objection against:

- the decision taken on [date]

I disagree with this decision because:

- [written substantiation of the objection with supporting facts and documents]

The following documents are attached:

- copy of the initial decision;
- the following supporting documents:
 1. [summary of all documents accompanying the objection]
 - 2.
 - 3.
 - 4.
 - 5.

Yours sincerely,

[signature]

[date]

[first name + surname]

[address]

[telephone number and email]