

Non-official translation in English; the Regulations in Dutch are official and decisive.

TU Delft Regulation on the Committee for Student Objections and other matters

The Executive Board of Delft University of Technology

Considering that, pursuant to Section 7.63a of the Higher Education and Research Act (WHW), an advisory arbitration committee must be established that advises on objections by students at Delft University of Technology;

that it is desirable to establish an advisory committee, as referred to in Section 7:13 of the General Administrative Law Act, to advise on objections concerning Delft University of Technology;

and

Having heard the employee organisations in the Local Consultation Body (consultation meeting LO508 of 8 June 2020);

with the consent of the General Assembly of the Works Council and the Student Council (consultation meeting of 4 June 2020);

adopts the following rules:

Article 1. (establishment)

For ruling on objections, the Executive Board establishes a TU Delft Committee for Objections, tasked with dealing with the following types of objections:

- a. Objections submitted by students and directed at decisions taken by the Executive Board in accordance with the WHW, with the exception of decisions based on Section 7.61 of said Act.
The definition of 'student' in this Regulation is a student, a prospective student, a former student, an external student, a prospective external student, or a former external student of Delft University of Technology. The Committee counts as the advisory arbitration committee as referred to in Section 7.63a of said Act.
- b. Objections against a decision made by the Executive Board as referred to in the General Administrative Law Act.

Article 2. (composition)

1. The Objections Committee consists of a chair and a deputy chair (a member of the committee), and four members.
2. Advice on objections is given by three members, including the chair or deputy chair.
3. Notwithstanding the provisions of Section 7:13, third paragraph, of the General Administrative Law Act, the hearing may be conducted by the chair or deputy chair or a member who is not a member of the

Executive Board nor who works under the auspices of the Executive Board, if the chair, deputy chair or one or more members is at the last minute unable to be present on the date of the hearing.

4. The chair, deputy chair, and the members are appointed by the Executive Board for a period of no more than three years, and may be reappointed twice thereafter.
5. The deputy chair has the same powers as the chair, referred to in Articles 7 and 8.

Article 3. (appointment requirements)

1. The chair, deputy chair, and the members must have a law degree or have gained comparable relevant experience in the field of education and student affairs or administrative law.
2. The chair and deputy chair must not be a member of the Executive Board or work under the auspices of the Executive Board.
3. The members are not directly involved in the dispute and shall not receive any instructions from the Executive Board regarding the dispute.

Article 4. (dismissal)

1. The chair, deputy chair, and members may be dismissed from the committee by the Executive Board after hearing the relevant parties if they are shown to be unsuitable for the task, or if the Executive Board has other compelling reasons for removing them from office.
2. The chair, the deputy chair, and the members may also resign from the committee at their own request at any time.

Article 5. (secretary)

1. The Executive Board shall appoint a secretary and one or more replacement secretaries to assist the committee.
2. The secretary and deputy secretary will not be part of the committee.

Article 6. (remuneration)

The chair, deputy chair, and members, insofar as they are not employed by Delft University of Technology, have the right to appropriate remuneration, to be established by the Executive Board.

Article 7. (amicable settlement of student objection)

1. Within two weeks of receipt of an objection as referred to in Article 1a, the committee will examine whether an amicable settlement is possible between the student and the person who has taken the decision. The committee may transfer the process of looking for an amicable settlement to the chair or the secretary of the committee.
2. The person who has taken the decision will examine as soon as possible whether an amicable settlement can be reached. During the attempt to find an amicable settlement, the ruling on the objection will be suspended in consultation with the parties.
3. If an amicable settlement is not possible, or if, in the judgement of the chair of the committee, following the procedure by which an amicable settlement may be reached is clearly not going to be successful, or if the interests of the appellant would be disproportionately harmed as a result, the party who has made the decision must submit their position within a period of time stipulated by the committee.
4. If an amicable settlement is reached, then the committee shall terminate the objections procedure. The committee notifies the student, the Executive Board and the dean of the faculty where the student is studying of the fact in writing.

Article 8. (emergency procedure for student objection)

1. When submitting an objection as referred to in Article 1a, a student may indicate that the matter is of immediate urgency and request an urgency procedure, as referred to in Section 7.63a, para. 4 of the WHW.
2. The chair of the committee decides within a week of receipt of the objection and the request whether the matter is indeed of immediate urgency. The chair informs the student and the Executive Board of their decision as quickly as possible. If the chair believes that the matter is of immediate urgency, the committee will issue its recommendation as soon as possible, in such a way that allows the Executive Board to make a ruling within four weeks of receipt of the objection.

Article 9. (revocation and transitional provision)

1. The Regulations of the TU Delft Objections Committee for staff and other matters and the Regulations of the TU Delft Objections Committee for students (Executive Board decision of 9 November 2010) are revoked.
2. The Regulations of the TU Delft Objections Committee for staff and other matters remains in force for objections against decisions made before 1 January 2020.

Article 10. (entry into force)

This Regulation enters into force on 1 January 2020.

Article 11. (short title)

This Regulation shall be referred to as the TU Delft Regulation on the Committee for Student Objections and other matters.

This scheme will be published on the TU Delft website.

This Regulation and its publication on the website will be announced in the TU Delft digital newsletter, *TU News*.

Adopted at the Executive Board meeting of 16 June 2020.

Professor T.H.J.J. van der Hagen
President

EXPLANATORY NOTES

General

The Public Servants (Standardisation of Legal Status) Act (Wnra) entered into force on 1 January 2020. In consequence, employees at universities are no longer public servants but have become employees as defined in the Dutch Civil Code. This means that the objections procedure in the General Administrative Law Act (Awb) no longer applies to legal decisions concerning university employees, unless these decisions were made before 1 January 2020 and fall under the transitional law of the Wnra. For this reason the Regulations of the TU Delft Objections Committee for staff and other matters ceases to apply from 1 January 2020.

This Regulation also covers objections in other matters, submitted on the basis of the Awb. For such objections, for example concerning the Government Information (Public Access) Act (Wob), it is considered desirable to maintain an advisory committee. It has been decided to arrange this in a single regulation with objections submitted by students, for which an objections committee is mandatory under the Higher Education and Research Act (WHW). In this way, the handling of all objections concerning administrative matters is arranged in a single regulation.

Article 43a of the Executive and Management Regulations, which formed a basis for a regulation on objections from staff and other matters, will be adjusted accordingly. The TU Delft Regulation on Student Objections Committee will have 'other matters' added to it and will be re-adopted with an adjusted name.

Student objections

Section 7.59a of the WHW states that the Executive Board is to establish an accessible facility or helpdesk where students can file complaints, objections or appeals. The aim is to make it easier for students to seek legal recourse. Where necessary, the helpdesk refers the student to the right body: besides dealing with complaints within Education and Student Affairs itself and the Student Ombudsman, the helpdesk will refer students to the appropriate committee for dealing with objections and appeals.

Compared to the current situation, there is no change to the way in which student appeals and objections are dealt with. Objections as defined in Section 7.61 of the WHW are dealt with by the Examinations Appeals Board, for which a separate regulation has been drawn up (based on Article 43 of the EMR).

Section 7.63a of the WHW prescribes an advisory arbitration committee for objections submitted by students; like the current committee, this will be what is known as a Section 7:13 Awb (General Administrative Law Act) committee. The WHW does not otherwise use the word 'disputes' as a distinctive criterion and it has therefore been decided to continue designating the advisory committee at TU Delft as an objections committee. This Regulation, included in the EMR and based on Article 42, para. 5 of the EMR, contains elements of the WHW that sometimes differ from the Awb:

- The WHW prescribes that the members of the committee should be functionally independent, which means, according to the Explanatory Memorandum, that they may not accept any instructions from the Executive Board, and that they may have no direct involvement with the dispute; see Article 3, para. 3. Although this was not explicitly prescribed, the rule was followed in practice and the members of the objections committee were recruited from outside the TU Delft workforce as much as possible.
- Attempting an amicable settlement, see Article 7.
- The inclusion of an urgency procedure, see Article 8.

The period within which a ruling must be made is also different to that in the Awb: ten weeks rather than fourteen weeks, with no extensions to this period being permitted. Also, the period starts on the date of receipt of the objection, while in the recently amended Awb, it only starts from the end of the objection period. These deviating elements are included in the WHW itself and not repeated in this Regulation.

Matters that are covered in the Awb itself are not repeated in this Regulation. Reference is made to Section 7:13 of the Awb for the powers of the committee, such as not to grant a hearing, or to assign the chair or a single member to conduct a hearing in the case of inadmissible or obviously unfounded objections. This Regulation deals with matters of an organisational nature, such as the composition of the committees, the appointments procedure, assistance, and remuneration.

ARTICLE BY ARTICLE

Article 1

The competence of the student affairs committee is in line with Section 7.63a, para. 2 of the WHW: this concerns decisions taken in accordance with the WHW, with the exception of the decisions referred to in Section 7:61 of the WHW, which come under the competence of the Examination Appeals Board. If a student invokes another law, such as the Government Information (Public Access) Act (Wob), this will be dealt with by the alternative committee (staff and other matters). The definition of students is the same as the broad definition used in the WHW: prospective and former students may also submit objections, as may current, prospective and former external students.

Section b contains the framework for dealing with other Awb issues.

Article 2

It has been decided that committees should have twice as many members – six – as they need to. Advice on objections is given by three members, including the chair or deputy chair. Hearings shall in principle also be conducted by these three members, but the third paragraph provides for hearings to proceed if one or more members are unexpectedly absent. In any case, Section 7:13 of the Awb allows hearings in the presence of a single independent member.

Article 3

The third paragraph emphasises the independence of the committee members, in accordance with the intention of the legislature. The complete independence of the chair and deputy chair is in line with Section 7:13 of the Awb.

Articles 7 and 8

These articles refer specifically to objections submitted by students.

As stated above, the WHW prescribes the search for an amicable settlement. The procedure for this is in line with the TU Delft Examination Appeals Board Regulations.

The urgency procedure (Article 8) is in line with the provisions of Section 7.63a, para. 4 of the WHW.

Article 9

The revocation of the above regulations is explained under 'General' above. Current cases submitted to the Objections Committee for staff and other matters should be dealt with by that committee under the regulation in force at the time the objection was submitted.