

RULES OF PROCEDURE

MAASTRICHT UNIVERSITY ADVISORY COMMITTEE FOR STUDENT AFFAIRS

Procedure of the Maastricht University Advisory Committee for Student Affairs for the handling of appeals against decisions taken by or on behalf of the Maastricht University Executive Board, which do not require filing with the Maastricht University Board of Appeal for Examinations as referred to in Article 7.61 paragraph 1 WHW or in regulations based upon it.

I. GENERAL PROVISIONS

Article 1 Definitions

In these rules of procedure, the following definitions apply:

- a. Interested party: the person(s) whose interests are directly affected by a decision;
- b. Decision: a written decision by or on behalf of the Executive Board, taken on the basis of the WHW or regulations based upon it and involving legal consequences.
The following are considered the equivalent of a decision:
 - a. written refusal to take a decision, and
 - b. failure to take a timely decision;
- c. Complaints Service Point (CSP): the central service point at the Student Services Centre where interested parties can file an appeal against a decision;
- d. Filing an appeal: exercising the power to contest a decision made at Maastricht University;
- e. Advisory Committee: the advisory body installed by the Executive Board as referred to in Article 7.63a of the WHW, in conjunction with chapter 5 paragraph 2 of the UM Administration and Management Regulation (BBRUM);
- f. UM: Maastricht University;
- g. WHW: the Dutch Higher Education and Research Act.

II. THE APPEAL

Article 2 Filing an appeal

1. Appeals are to be filed through the CSP.
2. If the appeal is addressed incorrectly, the date of receipt shall be noted on it and the appeal forwarded as soon as possible to the CSP, accompanied by the original envelope.

Article 3 Confirmation of receipt

1. The CSP confirms receipt of the appeal in writing to the appellant and, noting the date of receipt, forwards the appeal as soon as possible to the secretariat of the Advisory Committee.
2. Appeals filed directly with the secretariat of the Advisory Committee shall be processed only after intervention by the CSP.

Article 4 Representation

1. If the appellant is to be represented by another party, all documents pertaining to the case shall be forwarded to the authorised representative.
2. The authorisation must be in writing, accompanied by the date and signature of the appellant and his/her representative.
3. If the appellant is to be represented by a lawyer, written authorisation is unnecessary.

Article 5 Content of the appeal

1. The appeal must be signed and include at least:
 - a. the name and address of the appellant;
 - b. the date;
 - c. a copy of or a detailed description of the decision against which the appeal is being filed;
 - d. the grounds of the appeal.
2. If the appeal is in a language other than Dutch or English and a translation is required in order to adequately process it, the appellant is responsible for providing the translation.

Article 6 Omissions

1. The CSP determines whether the appeal complies with paragraph 1 of the previous article and is therefore admissible.
2. The CSP informs the appellant of any omissions or oversights in his/her file and the period within which these should be rectified.
3. If the appellant does not rectify these omissions within the period specified, the appeal may be declared inadmissible.

Article 7 Time periods

1. Appeals are to be filed in writing within six weeks of the date on which the decision was announced or was deemed to have been refused to be taken.
2. An appeal is deemed to have been filed on time if it was received before the end of the period referred to in paragraph 1. If the appeal is sent by post, it is deemed to have been filed on time if it is delivered before the end of the period, provided it is received no later than one week after the end of the period.
3. If an appeal is filed after the period in paragraph 2 has lapsed, the appeal shall not necessarily be deemed inadmissible if serious oversight on the part of the appellant cannot reasonably be ascertained.

Article 8 No suspension of decision

The appeal does not suspend the effect of the decision against which it is filed, unless another legal provision stipulates otherwise.

Article 9 New decision

1. The appeal shall be regarded as also pertaining to any decision to withdraw or amend the contested decision, unless the appeal is entirely resolved by that decision.
2. The deciding body shall communicate the new decision to the Advisory Committee as soon as possible.

Article 10 Withdrawing an appeal

1. An appeal may be withdrawn in writing through the secretariat of the Advisory Committee.
2. An appeal may also be withdrawn orally during the hearing.

Article 11 Upholding of decision

A decision against which an appeal has been filed may, despite breach of a written or unwritten legal rule or general principle of justice, be upheld by the Executive Board if this does not appear to disadvantage the interested parties.

III HANDLING OF THE APPEAL

Article 12 Fact-finding and opportunity to be heard

Before the Executive Board decides on the appeal, it gives the appellant the opportunity to be heard by the Advisory Committee.

Article 13 Waiving of opportunity to be heard

The Advisory Committee can determine that the parties need not be heard if:

- a. the appeal is obviously inadmissible;
- b. the appeal is obviously unfounded;
- c. the appellant has stated that he/she does not wish to exercise the right to be heard;
- d. the appellant has not indicated within the reasonable term established by the Advisory Committee that he/she wishes to exercise the right to be heard; or
- e. the appeal is entirely resolved.

Article 14 Submission and inspection of documents

1. The parties may submit additional documents up to five days before the hearing. The Advisory Committee may decide that documents can also be submitted after this period.
2. The appeal and all other documents pertaining to the case are made available for inspection by parties other than the appellant from five working days prior to the hearing.
3. Together with the invitation to the hearing, or as soon as possible thereafter, the Advisory Committee furnishes the appellant with a copy of the documents pertaining to the case, unless there are compelling reasons not to do so.
4. The Advisory Committee may decide that certain documents pertaining to the case shall only be made available to the appellant for inspection, and informs the appellant of this. The Advisory Committee gives the appellant a reasonable opportunity to inspect these documents prior to the hearing.

Article 15 The hearing

1. The hearing for the Advisory Committee is held behind closed doors. At the request of the interested parties or otherwise, the hearing may be public.
2. The parties are heard in one another's presence, unless there are compelling arguments against this.
3. If the appellant is unable to attend the hearing of the Advisory Committee, he/she is given the opportunity to respond in writing to the written defence submitted by or on behalf of the Executive Board.

4. The Advisory Committee gives the defendant the opportunity to respond in the second round to the appellant's response.
5. A report of the hearing is drawn up and added to the Advisory Committee's advice on the appeal to the Executive Board.

Article 16 Language

1. In accordance with Article 2.6 of the General Administrative Law Act (AWB), the hearing is held in Dutch.
2. If the appellant is not proficient in Dutch, he/she shall be permitted to be accompanied to the hearing by someone who is proficient in Dutch.
3. The appellant may be assisted by a professional interpreter.
4. If the appellant does not know anyone who can assist him/her with the Dutch language during the hearing, he/she may make a request to the Advisory Committee no later than three working days prior to the hearing for the hearing to be held in English.
5. The chair of the Advisory Committee decides on the request referred to in paragraph 4.
6. If the chair of the Advisory Committee deems it necessary in the interests of the case, an interpreter is officially appointed. In this case the costs of the interpreter are borne by the Advisory Committee.

Article 17 Witnesses and experts

1. The interested parties may bring witnesses and experts to be heard, on the understanding that the parties provide a written list of the personal details of these persons to the Advisory Committee no later than five working days prior to the hearing.
2. Travel and other costs of witnesses and experts are borne by the parties that bring them to the hearing.

Article 18 New facts and circumstances

If after the hearing the Advisory Committee becomes aware of facts or circumstances that could affect the verdict, the appellant is notified and given the opportunity to be heard on the new information.

IV THE ADVISORY COMMITTEE

Article 19 The Advisory Committee

1. The Executive Board is assisted in handling and deciding on the appeal by an Advisory Committee installed for this purpose.

2. Based on the submitted documents and the hearing, the Advisory Committee issues the Executive Board with written advice on the decision to be taken on the appeal.

Article 20 Size and composition

1. The Advisory Committee tasked with formulating advice on the submitted appeal consists of three members: a chair and two other members (a UM employee and a UM student). The committee is composed on the basis of the availability of potential members, as indicated in the annual roster.
2. The chairs and other potential members of the Advisory Committee are appointed by the Executive Board for three years or, in the case of students, one year. They may be reappointed.
3. The chair of the Advisory Committee is neither part of nor accountable to the Executive Board.
4. The members of the Advisory Board are functionally independent and must not have been involved in taking the contested decision.
5. Prior to the hearing, the appellant may file an objection against an Advisory Committee member. The chair takes a decision on this objection as soon as possible.
6. The chair and members of the Advisory Committee are dismissed:
 - a. at their own request;
 - b. if they are no longer members of the university community (this does not apply to the chair);
 - c. when they turn 70, effective from the following month.
7. They are also dismissed early if they are not fit to carry out their position due to illness or disability or if they have been convicted of a crime in a final court judgment. Before being dismissed, the party concerned is informed of the intention to dismiss him/her and is given the opportunity to be heard in this regard.
8. The Advisory Committee as referred to in paragraph 1 is assisted by an executive secretary.

Article 21 Procedure

1. The executive secretary notifies the interested parties of the composition of the Advisory Committee in the invitation to the hearing.
2. The executive secretary sends to the members of the Advisory Committee at least five working days prior to the hearing, or as soon as possible thereafter, copies of all documents pertaining to the case.
3. The chair of the Advisory Committee is responsible for leading the investigation.

4. The Advisory Committee tasked with formulating advice on the submitted appeal is authorised to collect all information and data it considers necessary and to hear all staff it considers desirable in order to formulate its advice.
5. A representative of the department responsible for or involved in the contested decision taken by or on behalf of the Executive Board is invited to hear the appellant. This representative is given the opportunity to explain the standpoint of the Executive Board.
6. The Advisory Committee issues the Executive Board with written advice within six weeks of receiving the appeal. This period can be extended by a maximum of two weeks.
7. The advice is accompanied by a report of the hearing.

Article 22 Amicable settlement

1. The Advisory Committee examines whether an amicable settlement between the parties is possible and whether this possibility was adequately explored on behalf of the Executive Board prior to the hearing. If an amicable settlement is reached, the parties notify the Advisory Committee of this and the appellant is requested to withdraw the appeal.
2. The Advisory Committee notifies the Executive Board of the termination of the handling of the appeal as a result of the amicable settlement.
3. If an amicable settlement cannot be reached, after the parties have been given the opportunity to be heard the Advisory Committee issues the Executive Board with written advice on the decision to be taken on the appeal.

Article 23 Urgent cases

1. Upon request, the chair of the Advisory Committee determines whether a case is urgent within a week of receiving the appeal from the CSP, and informs the appellant and the Executive Board of this as soon as possible.
2. In urgent cases, the Executive Board takes a decision on the appeal within four weeks of receiving the appeal through the CSP. In that case the Advisory Committee may expedite the hearing of parties and/or the formulation of advice for the Executive Board.

V THE VERDICT

Article 24 Decision period

The Executive Board takes a decision within 10 weeks of receiving the appeal from the CSP, except in urgent cases as referred to in Article 23 of these rules of procedure.

Article 25 Suspension/lapsing of decision period

1. The period within which the decision must be taken is suspended as of the day after that on which the appellant is requested to rectify an omission as referred to in Article 6 until the date the omission is rectified or the period set for this expires without the omission being rectified.
2. Further suspension of the decision period is possible insofar as the appellant and other interested parties agree or are not disadvantaged by this, or as necessary in order to comply with statutory procedural requirements.

Article 26 Verdict

1. If the appeal is admissible, the contested decision shall be reconsidered on the grounds of the appeal.
2. If deemed necessary on the basis of this reconsideration, the Executive Board revokes the contested decision and, if needed, takes a new decision.

Article 27 Announcement of verdict

1. The verdict on the appeal is sent to the appellant.
2. The verdict includes the rationale on which the decision is based. If the hearing was waived pursuant to Article 14, the verdict additionally indicates the grounds on which this waiver was based.
3. The verdict is also accompanied by the advice issued by the Advisory Committee and the report of the hearing.
4. If the Executive Board's decision deviates from the advice of the Advisory Committee, the verdict indicates the rationale for this decision.
5. The verdict is issued in the form of an appealable decision, indicating competent court and the appeal period.

Article 28 Costs

Appeals are handled free of charge.

Article 29 Informing of CSP

Once the appeal has been handled, or in any case no later than the end of the statutory period in which the appeal must be handled, the Advisory Committee informs the CSP in writing of the outcome of the case.

Article 30 Unforeseen situations

In situations not covered by these rules of procedure, the provisions of the AWB apply and the matter is decided by the chair of the Advisory Committee.

Laid down by the Executive Board on 11 December 2018.

Maastricht, November 2018

DG/MF