

Regulations for the VHL Student Board of Appeals

Annex g to the Student Statute

Citation Title	Regulations for VHL Student Board of Appeals
In effect from	1 September 2013
Approved by the Executive Board	27 August 2013
Legal Basis	Art. 7.60 of the HRA and Art. 7.63a of the HRA
Short Description	The regulation describes the possibilities and the procedures for lodging a notice of appeal or notice of objection.
Particulars	The Student Board of Appeals has two functions: as the Examination Appeals Board in the sense of Article 7.60 of the HRA and as Advisory Board for Appeals in the sense of Article 7.63a of the HRA.

Introduction

Article 1. The Board of Appeals

The Student Board of Appeals has two functions:

1. as the Examination Appeals Board in the sense of Article 7.60 of the Higher Education and Research Act (HRA).
2. as Advisory Board for Appeals in the sense of Art. 7.63a of the HRA.

Article 2. Address

The Board of Appeals is located in Velp, in the Larenstein building. Mailing Address: Postbus 9001, 6880 GB Velp. The Board of Appeals holds sessions at the location where the petitioner of the notice of objection has his first enrolment. Visitor's Address of Larenstein University of Applied Sciences: Larensteinselaan 26a in Velp and visitor's address of the Van Hall University of Applied Sciences location: Agora 1 in Leeuwarden.

Article 3. Composition and appointment

1. The Board of Appeals has two chambers, one for the Leeuwarden location and one for the Velp and Wageningen locations. Both chambers have 5 members (one joint member, and then 4 members each) namely:
 - One member who is not part of the University of Applied Sciences community (the joint member). This member is the chair of both chambers. He must meet the requirements for appointment as a judicial officer as meant in the Legal Status of Judicial Officers Act;
 - Two members are part of the teaching personnel of the University of Applied Sciences;
 - Two members are enrolled students of the University of Applied Sciences.
2. The teaching staff members and the student members can also serve as alternates at another location's chamber for a member who has the same capacity. The Board of Appeals, in principle, holds a plenary session. The chairperson can, however, decide that a chamber holds a session with three members.
The chairperson, the members, and the alternate members are appointed by the Executive Board. The members are not part of the Executive Board or of the Inspectorate.
3. The members and the alternate members of the Board of Appeals are appointed for 5 years, with the understanding that the student members are appointed for a maximum of two years. Students can be reappointed once for a maximum of 2 years.
4. At their request, members and alternate members of the Board of Appeals can be discharged by the Executive Board. They can also be discharged by the Executive Board in cases named in Article 7.60, second and third sentence of the sixth paragraph of the HRA (having reached the age of 70, incapacitated because of illness or ailment or if convicted of a criminal offense).

5. The Executive Board will award compensation to the members and the alternate members.

Article 4. Secretariat

The Board of Appeals will be assisted by a professional secretary who will be designated by the Executive Board from the general auxiliary and administrative personnel of the University of Applied Sciences. In performing their duties the professional secretary and any replacement thereof will follow the instructions of the chairperson.

Article 5. The Facility

1. There is a Facility as meant in Article 7.59a of the HRA with which a party involved can lodge an appeal or an objection.
2. The following is meant by 'party involved': a student, a future student, a former student, an extraneous, a future extraneous or a former extraneous.
3. An appeal or an objection can be lodged as follows:
 - per post: Van Hall Larenstein University of Applied Sciences, Attn: The Facility, POB 9001, 6880 GB Velp, or
 - per e-mail: Faciliteit@hvhl.nl.
4. The Facility will confirm receipt of an appeal or objection to the petitioner in writing and send it as quickly as possible to the authorized body after the date of receipt has been recorded on it. The date of receipt recorded by the Facility is defining in the question if an appeal or objection has been lodged in a timely fashion.
5. The Facility falls under the responsibility of the Executive Board of Van Hall Larenstein University of Applied Sciences and is located at Larensteinselaan 26a, 6882 CT Velp.

Part 1: The Board of Appeals as Examination Appeals Board

Article 6. Authority

1. A party involved can lodge an appeal with the Examination Appeals Board against:
 - a) Decisions on a binding recommendation to stop the study programme (Article 7.8b, third and fifth paragraph of the HRA) and as meant in Article 7.9, first paragraph of the HRA.
 - b) Decisions with regard to determining the number of study points earned as meant in Article 7.9a of the HRA as well as decisions with regard to successfully having passed the final examination, meant in Article 7.9d of the HRA;
 - c) Decisions with regard to the extent of the exemption, meant in Article 7.31a, third paragraph of the HRA;
 - d) Decisions, not being decisions of a general tenor, taken on the basis of the provisions in Title 2 of Chapter 7 of the HRA, with a view to admission to examinations.
 - e) Decisions taken on the basis of the supplementary investigation, meant in Articles 7.25 Paragraph 4 and 7.28, Paragraph 4 of the HRA;
 - f) Decisions from the examining committees and examiners/assessors.
 - g) Decisions from committees as meant in Article 7.29, Paragraph 1 of the HRA;
 - h) Decisions taken on the basis of Articles 7.30a and 7.30b of the HRA for the purpose of admission to the study programmes meant in that article.
2. A decision and a refusal to decide are considered equal. If a decision is not taken within the term set by or under the law, or when such a term is lacking, the decision is not taken within a reasonable amount of time, then the act of taking the decision will be seen as having been refused.

Article 7. Lodging an appeal

1. The appeal can be lodged by or on behalf of a party involved whose interests are directly affected by a decision such as meant in the previous article. It will be submitted with a reasoned notice of appeal.
2. The appeal can be lodged on the following grounds:
 - The decision conflicts with a universally binding regulation, the law or rules established under the law (for example, Education and Examination Regulations).
 - The decision conflicts with reasonableness and fairness.
 - The decision conflicts with a principle of good management.
3. The notice of appeal is lodged with the Facility as meant in Article 5. The Facility confirms the receipt of the notice of appeal in writing to the party involved and sends it as quickly as possible to the Board of Appeals after the date of receipt has been recorded on it.
4. The notice of appeal must be lodged within six weeks after the decision has been made known. When the notice of appeal has been lodged after the term stated in the previous sentence, a declaration of inadmissibility will not be given on these grounds if the petitioner can prove to the satisfaction of the Board of Appeals that he lodged the appeal as quickly as possible as could reasonably be expected.

Article 8. The substance of the notice of appeal

1. The notice of appeal is signed by the petitioner and contains:
 - a) The petitioner's name, address, telephone number , study programme
 - b) Date: Date on which the appeal is lodged
 - c) A clear description of the decision against which the appeal is directed, if possible accompanied by a copy of the decision. In the case that the appeal is directed against a refusal to decide: a clear description of the decision that, in the petitioner's opinion, should have been taken.
 - d) The grounds on which the appeal is based.
2. The chairperson of the Board of Appeals investigates if the notice of appeal meets the provisions in the first paragraph. If the notice of appeal does not meet these provisions, the chairperson immediately informs the petitioner and gives him the opportunity to rectify the omission within a set term. The decision period will be postponed as long as the omission is not rectified. If the petitioner does not rectify the omission within the set term, the appeal is declared inadmissible.

Article 9. Settlement

1. Before considering the appeal, the Board of Appeals sends the notice of appeal to the body against which the appeal is directed with the invitation to discuss with the student involved if a settlement of the dispute is possible.
2. In the case that the appeal is directed against a decision of an examiner/assessor, the notice of appeal will be sent to the Examining Board. If the examiner against whom the appeal is directed is a member of the Examining Board, the examiner will not participate in the discussion meant in the previous paragraph.
3. Within 3 weeks, the body in question informs the Board of Appeals which result the deliberation has led to, accompanied by the documents relevant hereto.
4. The chairperson can decide that an attempt to achieve a settlement can be excluded if, in his opinion, such an attempt is futile or will lead to a disproportionate detriment for the petitioner. In that case the chairperson sets a term within which the written statement of defence must be submitted.

Article 10. The statement of defence

1. If a settlement proves to be impossible, or is excluded at the decision of the chairperson, the body sends the statement of defence to the Board of Appeals. This occurs within 3 weeks after receipt

of the invitation as meant in Article 9, Paragraph 1 or within the term in Article 9, Paragraph 4 set by the chairperson.

2. If the appeal is directed against a decision of an examiner/assessor, a statement of defence from the examiner/assessor in question will be attached by the Examining Board.
3. The chairperson can determine if the statement of defence can be submitted later, within a term considered reasonable by him.
4. Outside of the statement of defence, the chairperson can, of his own accord, gather what he considers necessary information and can request documents. The bodies and staff members as well as the examiners/assessors supply the Board of Appeals with the information that this Board needs to execute its duties.

Article 11. Simplified procedure of the notice of appeal

1. The chairperson can decide to waive a hearing as meant in Article 14 if he is of the opinion that
 - a. the appeal is clearly inadmissible;
 - b. the appeal is clearly ungrounded;
 - c. if the petitioner of the notice of appeal and the defending body have declared that they will not use the right to be heard.
2. If the body completely concedes to the appeal and if other parties concerned are not prejudiced in their interests through this action, the chairperson can also waive a hearing.

Article 12. Composition of the Board of Appeals

1. The chairperson determines in which structure the Board of Appeals will consider the notice of appeal, subject to the provisions in Article 3, Paragraph 2. This means that two members from the student body and two members from the staff, or, if the chairperson stipulates this, one member from the student body and one member from the staff will be appointed for the handling of the appeal. The composition will be communicated to the parties when they are summoned for the hearing.
2. If one of the parties is of the opinion that on the basis of facts or circumstances, the impartial judgement of a member of the Board will be hindered, this party can challenge the member in question. On the basis of such facts and circumstances, a member of the Board can also recuse himself.
3. A request for a challenge or a recusal has to be done within 3 working days after receiving the notification about the Board's composition. The remaining members of the Board decide on the request for a challenge or recusal. The request is honoured with a simple majority or if the vote is a tie.
4. If a request, as meant in the previous paragraph, is honoured, the chairperson appoints an alternate for the member in question subject to the provisions in Article 3.

Article 13. Preliminary inquiry

1. After the composition of the Board is definitive, the chairperson determines if, and if so, when the Board will begin its preliminary inquiry.
2. The Board of Appeals can:
 - gather further written information from parties or other bodies;
 - request experts to submit a recommendation or a report in writing.
3. The Board of Appeals can, by virtue of its office or at the request of third parties whose interests have been directly affected by the dispute, bring a new party into the action. All third parties summoned will become party to the proceedings.
4. Without prejudice to the provisions in the previous paragraph, any interested party can request the Board of Appeals for permission to intervene or to join one of the parties. If the request is honoured, the requestor will be considered a party.
5. The Board of Appeals can join related matters and split joined ones.
6. As soon as the chairperson is of the opinion that the preliminary inquiry has provided more clarity and the relevant information in the documents has been presented, the location and time of the

hearing will be set. The secretary immediately summons the parties for the hearing. The summons will happen at least 10 working days before the hearing.

Article 14. Hearing

1. The appeal will be handled in a public hearing of the Board of Appeals. In special cases, the chairperson can decide that the hearing of the appeal will occur fully or partially in closed session.
2. Parties can allow themselves to be represented by an authorized representative or allow themselves to be assisted by a legal adviser at the hearing.
3. Parties can bring witnesses and experts to the hearing with the understanding that they submit the names of those persons to the Board of Appeals and to the opposing party no later than four days before the hearing. The Board of Appeals can hear these witnesses or experts.
4. The Board of Appeals can, by virtue of its office or at the request of the parties, summon witnesses and experts to the hearing.
5. If a party does not appear for the hearing, the chairperson ascertains if the party has been duly summoned. If that is the case, then the proceedings may continue without the presence of the party. The preceding is also applicable if both parties do not appear at the hearing.
6. A planned hearing cannot progress if the summoned members of the Board are not in the majority. In that case the chairperson adjourns the hearing until a later time that he will determine.
7. The chairperson:
 - a) opens, leads and closes the hearing;
 - b) gives every party the opportunity to explain its position;
 - c) ensures that the issue to be dealt with in the hearing is brought to a decision in an appropriate and efficient way;
 - d) decides, as far as not otherwise prescribed in this regulation, with respect to all disputes arising in the hearing about procedural conduct.
8. If during the hearing written documents are officially brought into the discussion because of the Board of Appeals or if written documents are submitted to the Board of Appeals, both parties will receive the opportunity to examine the documents and to state their opinion about them.
9. Parties can question each other through the chairperson.
10. Parties can amend the grounds of the appeal and the defence as well as the grounds on which they are founded until the hearing's closing unless the Board of Appeals is of the opinion that the opposing party would unreasonably be disadvantaged by these amendments.
11. The chairperson can, by virtue of his office or at the request of one of the parties, suspend the proceedings while also announcing the time that the hearing will resume or the way in which the parties will be informed of this information.
12. The chairperson can decide not to allow any further examination of witnesses or experts when, in his opinion, the facts have been sufficiently elucidated by the witnesses and experts who have been heard.
13. If the chairperson is of the opinion before the closing of the Board's hearing that the investigation has been insufficient, he can decide to suspend the hearing. A decision to suspend can be accompanied by giving instructions to the parties with regard to the evidence.

Article 15. The decision

1. The decision will be announced within 10 weeks after the receipt of the notice of appeal. The decision can be held over for 4 weeks maximum. The summer holidays will not be counted in the holdover.
2. The Board of Appeals will deliberate and decide in closed session. The decision is based solely on the documents that previous to or during the hearing have been brought forward and that which has been brought forward by the parties during the hearing.
3. The Board of Appeals decides with a majority vote. If the vote is tied, the chairperson's vote is decisive.
4. If the Board of Appeals considers the appeal grounded, it will completely or partially nullify the contested decision. The Board can determine that a decision needs to be taken again or, if a decision has been withheld, that the decision still needs to be taken on whether the interim examination/test/assessment, examination, the admission examination, the supplementary examination or any part thereof will be administered again under conditions established by the

Board of the Appeals. The Board of Appeals is not authorized to take a new decision in place of the completely or partially nullified decision.

5. To the extent required, the body whose decision has been nullified will provide again in the matter in accordance with the decision of the Board of Appeals. The Board of Appeals can set a term for this action in its decision.
6. The decision of the Board of Appeals is written and dated, and it contains:
 - a) the names and addresses of the parties and the authorized representatives;
 - b) the decision on the appeal;
 - c) a sound reasoning for the decision that states on which basis the decision was taken if the hearing was waived;
 - d) the names of the Board of Appeals members who rendered the decision;
 - e) if applicable, the possibility of the right of appeal stating the term and the authority.
7. A copy of the decision will be sent to the parties as well as to the Examining Board or the body that is concerned with this matter and, if necessary, the director in question.
8. Anyone may request to look at the decision in anonymous form at the secretariat of the Board of Appeals.

Article 16. Provisional remedy

1. In urgent cases, the petitioner lodging the notice of appeal can request a provisional remedy from the chairman of the Board of Appeals pending the decision in the main action. In the request for a provisional remedy, Article 7 and 8 of this regulation apply *mutatis mutandis*. The request must show a direct, demonstrable importance that requires urgent relief.
2. The chairperson decides on this request after the body in question or the examiner/assessor in question have been heard, or at least have been summoned.
3. The provisional remedy is terminated as soon as the case is decided unless another time is indicated in the decision.

Article 17. Final stipulations

1. The professional secretary is responsible for archiving the decisions taken by the Board of Appeals.
2. Each year the Board of Appeals issues an annual report of its activities.
3. In cases not provided for in this regulation, the chairperson will decide, if necessary, after consulting the remaining members of the Board.
4. These regulations are regulations in the sense of Article 7.62, Paragraph 1 of the HRA. The regulations, as well as any change thereof, need the assent of the university board (Executive Board of Van Hall Larenstein).

Part 2: The Board of Appeals as Advisory Board for Appeals

Article 18. Authority

1. As Advisory Board for Appeals, the Board of Appeals advises the Executive Board of Van Hall University of Applied Sciences about objections against other decisions on the basis of the HRA and the regulations based thereon than those for which the Examination Appeals Board is authorized. A party involved can object to at least the following decisions:
 - a. decisions taken on the grounds of Chapter 7, Title 2 of the HRA concerning registration, deregistration, tuition fees and the like;
 - b. decisions concerning financial support from the Profile Fund;
 - c. decisions and/or measures on being banned from the buildings or grounds of the University of Applied Sciences such as meant in Article 7.57h of the HRA;
 - d. decisions regarding issuing a diploma;
 - e. other decisions than those decisions summarized in this article taken on the grounds of Chapter 7 Title 3 of the HRA that are taken by or on behalf of the Executive Board.

2. Article 6, Paragraph 2 of this regulation applies mutatis mutandis.

Article 19. Lodging a notice of objection

1. A notice of objection is signed and contains at least the following:
 - Name and address of the petitioner lodging the objection
 - Date
 - A description of the decision against which the objection is directed
 - Grounds for the objection
2. If possible, a copy of the decision should be submitted with the notice of objection.
3. A notice of objection must be lodged within six weeks after the decision which is being objected to has been announced.
4. The notice of objection is lodged with the Facility as meant in Article 5. The Facility confirms in writing the receipt of the notice of objection to the party involved and sends it as quickly as possible to the Board of Appeals after the date of receipt has been recorded on it.

Article 20. Procedure for the objection

1. The chairperson of the Board of Appeals investigates if the notice of objection meets the provisions in the first paragraph of Article 19. If the notice of objection does not meet these provisions, the chairperson immediately informs the petitioner and gives him the opportunity to rectify the omission within a set term. The decision period will be postponed as long as the omission is not rectified. If the petitioner does not rectify the omission within the period set, the appeal is declared inadmissible.
2. Before the Board of Appeals issues a recommendation, it gathers the necessary information about the relevant facts and interests. In this situation, Article 13 applies mutatis mutandis
3. The Board of Appeals hears the petitioner of the notice of objection. The Executive Board or the one who has taken the decision on behalf of the Executive Board will be given the opportunity to be heard.

Article 21. The hearing

1. Parties will be heard in each other's presence.
2. The chairperson of the Board of Appeals can decide that the hearing will be waived if
 - the objection is clearly inadmissible;
 - the objection is clearly ungrounded;
 - parties have let it be known that they do not want to use their right to be heard;
 - the request has been completely satisfied by or on behalf of the Executive Board.
3. The hearings of the Board of Appeals are, in principle, not public.
4. Article 14 applies mutatis mutandis.

Article 22. The recommendation

The recommendation will be issued in writing and contains an account of the hearing.

Article 23. The decision

1. The Executive Board takes a decision as quickly as possible after the receipt of the recommendation of the Board of Appeals but, in any case, within 10 weeks after the day of the notice of objection's receipt.
2. The period can be held over for 4 weeks maximum. This will be communicated in writing to the petitioner.
3. The decision on the objection is in writing and is soundly reasoned. If the hearing is waived, the grounds for the waiver will be stated. If the objection is admissible, a reconsideration of the disputed decision will take place on the grounds of the objection. In so far as the reconsideration

gives cause, the Executive Board ensures that the administrative body that took the contested decision retracts the decision and, in so far as necessary, takes a new decision in its place. If the Board of Director's decision departs from the recommendation of the Board of Appeals, the reason for the departure will be stated in the decision and the recommendation will be sent along with the decision.

Article 24. Announcement and appeal

1. The decision on the notice of objection will be announced by sending it to the petitioner.
2. The announcement will also state the possibility of lodging a notice of appeal within 6 weeks with the Higher Education Appeals Tribunal in The Hague.

Article 25. Final Stipulation

1. The General Administrative Law Act applies in cases that are not provided for in this regulation.
2. The regulation comes into effect on 1 September 2013.

As adopted by the Board of Appeals after being approved by the Executive Board.