

Rules of procedure of the Advisory Committee on Objections of Erasmus University Rotterdam ex Article 51 of the EUR Administrative and Management Regulations.

(adopted by the Executive Board on 16 December 2010)

Section 1. General provisions.

Article 1. General definitions.

The following definitions apply in these regulations:

- a. ***the Act/WHW***: the Higher Education and Research Act ('Wet op het hoger onderwijs en wetenschappelijk onderzoek', WHW); (Act of 8 October 1992, Bulletin of Acts, Orders and Decrees 593; amended thereafter)
- b. ***the Awb***: the General Administrative Law Act (Algemene wet bestuursrecht); (Act of 1 January 1994, Bulletin of Acts, Orders and Decrees 1; amended thereafter)
- c. ***EUR***: Erasmus University Rotterdam;
- d. ***the committee***: The Advisory Committee on Objections (abbreviated to: ACB), as referred to in Article 51 of the EUR Administrative and Management Regulations;
- e. ***the board***: The Executive Board of EUR;
- f. ***the council***: the university council of EUR;
- g. ***the regulations***: the committee's rules of procedure;
- h. ***BBR-EUR***: the EUR Administrative and Management Regulations ('Bestuurs- en Beheersreglement EUR'), as referred to in Section 9.4 of the Act;
- i. ***CAO NU***: the terms of employment are pursuant to the CAO NU (Collective Labour Agreement of Dutch Universities);
- j. ***the objection***: the objection, as referred to in Section 6:4 ff of the Awb.

Article 2. The terms ‘administrative body’; ‘interested party’; ‘decision’; ‘ruling’.

(Sections 1:1; 1:2; 1:3 of the Awb)

1. The term ‘*administrative body*’ is taken to mean:
 - a. a body of a legal entity which has been established by virtue of public law, or
 - b. another person or body that holds any public authority.

2. The term ‘*interested party*’ is taken to mean:
 - a. the party whose interest is directly affected by a decision.
 - b. as regards administrative bodies the interests entrusted to them are regarded as their interests.
 - c. as regards legal entities, their interests are also regarded as being the general and collective interests which they defend in particular by virtue of their goals and as evidenced by the actual activities.

3. The term ‘*decision*’ is taken to mean: a written decision of an administrative body constituting a legal act under public law.

4. The term ‘*ruling*’ is taken to mean: a decision that is not of general purport, including the rejection of a request for a decision.

Article 3. Refusal and fictitious refusal.

(Sections 6:2; 6:12; 6:20 of the Awb)

As regards lodging an objection the following are regarded as equivalent to *a decision*:

- a. the written refusal to take a decision, and
- b. the taking of a decision late.

Article 4. A decision during the procedure in preparation of a decision.

(Section 6:3 of the Awb)

A decision which is taken during the procedure in preparation of a decision is not open to appeal unless this decision directly relates to the interest of the interested party separately from the decision to be prepared.

Section 2. The appointment and dismissal of the chairpersons and members of the committee; the size, composition and tasks of the committee; the official support; secrecy.

(Art. 51, paragraph 2 of the BBR-EUR)

Article 5. The appointment and dismissal of the chairpersons and members of the committee.

1. The committee has one or more chairpersons who are also members and several other members.
2. The chairperson(s) and members of the committee are appointed and dismissed by the board.
3. The chairperson(s) and the members of the committee are appointed for a period of three years. They are immediately eligible for reappointment.
4. Dismissal is granted to the chairperson(s) and the members of the committee by the board on their request.
5. Membership of the committee lapses by operation of law if a member accepts a post which is incompatible with membership of the committee. A member of the board or a faculty board cannot be appointed chairperson or member of the committee.
6. The chairperson(s) of the committee is/are not employed under the responsibility of the board

Article 6. The size and composition of the committee.

1. On behalf of the preparation for the decision on the appeal, as referred to in Article 7 of these regulations, the committee will always comprise a chairperson and at least two other members, who are also members of the committee.
2. At least one member of the committee, as referred to in the paragraph 1, will be a lawyer and at least one member will be an expert on the matter to which the decision disputed in the objection relates.
3. In the event that an objection is directed at a decision relating to a dismissal or job rating, one of the members of the committee referred to in paragraph 1 will be nominated by the employee organisations which are party to the CAO NU.

Article 7. The tasks of the committee.

1. The committee's task is to advise a university administrative body, at its request, within the framework of the preparation for the decision, which has to be taken by that administrative body with regard to an objection received by that administrative body and to hear the interested party/parties within that framework.
2. With regard to a request by the board to the committee, as referred to in paragraph 1 of this article, a decision will always be taken by, or on behalf of, the board as soon as possible after receipt of an objection.
3. With regard to a request to the committee by any other administrative body, as referred to in paragraph 1 of this article, the administrative body in question will always make a decision as soon as possible after receipt of an objection and after consultation with the board or its authorised representative.
4. The administrative body in question will send a copy of the objection as soon as possible after receipt to the board or to the committee.

Article 8. Official support for the committee.

1. The board is assisted by a secretary who will be appointed by the board. The board can also add one or more deputy secretaries to the secretary. The secretary and the deputy secretary/secretaries must fulfil the requirements for appointment as a district court judge. In the event of the secretary's impediment or inability to attend, a deputy secretary will assume responsibility for the secretary's work.
2. The appointment of the committee secretary and any addition of officials will take place after consultation with the committee chairpersons.
3. When carrying out their work, the secretary and deputy secretary/secretaries of the committee will comply with the instructions of the committee chairperson(s).

Article 9. Secrecy.

1. Anyone who is involved in the execution of the tasks of the committee and, by doing so, gains access to data which s/he knows or reasonably should have known were of a confidential nature, and who is not subject to an obligation to observe secrecy with regard to the data on account of his/her office, profession or a legal regulation, is obliged to observe secrecy with regard to that data except insofar as any legal regulation obliges him to communicate data or the necessity to communicate the data results from his/her task.
2. Paragraph 1 also applies to institutions, and to the people who belong to or work for these, that the committee has involved in the execution of its task, and to institutions and to the people that belong to or work for these, that perform a task by virtue of or pursuant to the law.

Section 3. The procedure relating to the processing of an objection.

Article 10. The submission of an objection.

(Section 6:4 ff of the Awb)

1. An interested party can lodge an objection to a decision by an administrative body through the submission of a reasoned objection to the administrative body that is authorised to decide on the objection.
2. Objections by (prospective or former) students and (prospective or former) external students are to be submitted to the (digital) EUR legal protection facility.
3. The deadline for submitting an objection against a decision is six weeks; or seven days against a decision by the Central Electoral Committee or a Faculty Electoral Committee.
4. The term commences on the day after the day on which the decision was published in the prescribed manner.
5. No fee is payable for the processing of the objection.
6. An objection will have been submitted on time if it has been received before the end of the term referred to in paragraph 3. If sent by post, an objection will have been submitted on time if it is sent by post before the end of said term, provided it is then received no later than one week after the end of said term.
7. If an objection is submitted after the end of the term, it will not be possible to declare it inadmissible if the submitting party cannot reasonably be judged to have been in default.
8. If the objection has been submitted to an unauthorised administrative body, it will be forwarded, after the date of receipt has been noted, as soon as possible to the authorised body, with a simultaneous notification to this effect being sent to the sender.
9. With regard to an objection submitted before the start of the term referred to in paragraph 4 it will not be possible to declare it inadmissible on those grounds if, at the time of submission, the decision had already been made, or had not yet been made but the submitting party could reasonably have known that this was the case. Processing the objection can be continued until the beginning of the term described in paragraph 4.
10. If the objection is related to the late taking of a decision, no time limit will apply to the objection. The objection can be submitted as soon as the administrative body is in default as regards taking a decision on time. The objection is to be declared inadmissible if the objection was submitted at an unreasonably late juncture.
11. The objection does not suspend the operation of the decision against which it is directed, with the exception of an objection that is directed at dismissal due to the discontinuation of a position, redundancy, the loss of a requirement for appointment or due to incompetence or unsuitability. Such a dismissal will not commence any earlier than one week after the employer has taken a decision on the objection.

Article 11. Confirmation of receipt of an objection.

(Section 6:14 of the Awb)

1. The administrative body to which the objection has been submitted will confirm receipt thereof in writing as soon as possible to the party/parties that submitted the objection.
2. The EUR legal protection facility will confirm receipt of the objection in writing to the student or external student who submitted the objection.
3. If the objection is submitted to an unauthorised administrative body, it will be forwarded, as soon as possible after the date of receipt, to the authorised body, with a simultaneous notification being sent to the sender.

Article 12. Sending of objection to the committee.

The administrative body or the legal protection facility will send the objection to the committee as soon as possible after the decision, as referred to in Article 7, paragraphs 2 and 3.

Article 13. The content of the objection.

(Section 6:5 of the Awb)

1. The objection must be signed and contain at least:
 - a. the name and address of the submitting party,
 - b. the date,
 - c. a description of the decision against which the objection is directed,
 - d. the grounds of the objection.
2. Wherever possible, the objection will be accompanied by a copy of the disputed decision to which the dispute relates.
3. If the objection is drawn up in a foreign language and a translation is necessary for the proper processing of the objection, the submitting party must arrange a translation.

Article 14. The retraction of the submitted objection.

1. The objection can be retracted in writing by, or on behalf of, the party that made the objection. Following receipt of the notification of retraction, the administrative body that is required to decide with regard to the objection will immediately inform the committee.
2. The objection can also be verbally retracted during the hearing. The administrative body in question will be immediately informed on behalf of the committee.

Article 15. Retraction or amendment of the disputed decision.

(Section 6:18; 6:19 of the Awb)

1. The fact that an objection to a decision is pending will not give reason for an existing authority to retract or change that decision.
2. If the administrative body proceeds to retract or change the disputed decision, it will immediately notify the committee.
3. After retraction or amendment, the administrative body will not take a decision, as long as the objection is pending, with regard to which the content or purport corresponds to the original decision, unless:
 - changed circumstances justify such and
 - the administrative body is authorised to do so.
4. The administrative body will notify the committee immediately of a decision as referred to in paragraph 3.
5. If the administrative body has taken a decision to retract or change the disputed decision, the objection will be considered as being also directed against the new decision, unless that decision complies entirely with the objection.
6. Retraction of the disputed decision will not prevent annulment of said decision if the party submitting the objection has an interest therein.

Article 16. The rectification of defaults.

(Section 6:6 of the Awb)

1. The party submitting an objection will be informed in writing, on behalf of the committee, of any defaults it has committed and will be invited to rectify these defaults within a deadline to be set for that purpose.
2. In the situation in which the party submitting an objection has not rectified the defaults committed by it as referred to in paragraph 1, the (chairperson of) the committee can advise the administrative body to declare the objection inadmissible.

Article 17. Decision not to hear the interested party/parties.

(Section 7:3 of the Awb)

The (chairperson of the) committee can decide not to hear the interested party/parties,

if:

- a. the objection is manifestly inadmissible,
- b. the objection manifestly is unfounded, or
- c. the interested parties have declared that they do not wish to invoke the right to be heard, or
- d. the administrative body in question has complied in full with the objection and the interests of other interested parties are not prejudiced as a result.

Article 18. The written preparation of the hearing.

(Section 7:4 of the Awb)

1. A written defence can be submitted to an objection generally by or on behalf of the administrative body in question.
2. Interested parties can submit additional documents to the board up until ten days before the hearing.
3. For at least a week prior to the hearing, the secretary of the committee will make the objection and all other documents relating to the case available for perusal by the interested party/parties. The interested party/parties can obtain copies of these documents upon payment of the costs.
4. Insofar as the interested parties approve, paragraph 2 does not have to be applied.
5. When summoned to the hearing the attention of the interested party/parties will be drawn to the provisions in paragraph 3 and a reference will be made as to where and when the documents are available for perusal.
6. Whether at the request of the interested party or otherwise, paragraph 3 can be ignored insofar as secrecy is required on serious grounds. The interested party/parties will be notified if this provision is applicable.
7. Serious grounds are, in any event, not present insofar as the obligation exists, pursuant to the Government Information (Public Access) Act ('Wet openbaarheid van bestuur'), to grant a request for information contained in these documents.
8. If a serious ground is based on the fear of damage to the physical or mental health of an interested party, perusal of the documents in question can be reserved for an authorised representative who is either a lawyer or a doctor.

Article 19. Determining the time and place of the hearing.

1. On behalf of the committee the secretary will determine, as soon as possible, the place and time at which the interested party/parties are going to be heard within the framework of advising on the objection, with due regard for the statutory decision deadline.
2. On behalf of the committee the secretary will summon the interested party/parties and the administrative body to attend the hearing. Wherever possible the period before summons will include five non-working days.
3. The secretary can take the initiative, on behalf of the committee, to collect the information it considers necessary which relates to the proceedings.

Article 20. Challenges and exemptions.

1. Each member of the committee can be challenged by one or more of the interested parties involved in the objection on the grounds of facts or circumstances which would hamper the formation of an unbiased opinion by the member in question with regard to advising on the objection-related decision.
2. A member can also claim exemption from giving testimony on the grounds of facts or circumstances.
3. The other members of the board present will decide as quickly as possible whether the challenge or exemption is to be permitted. In the event of an equality of votes the request will be permitted.

Article 21. Replacement and assistance at the hearing; witnesses and experts.

(Section 7:8 of the Awb)

1. The interested party/parties and the administrative body can be assisted or represented by an authorised representative or counsel. Evidence of the authority to represent of an interested party or of the administrative body will be provided if requested in the form of a written authorisation, issued by the interested party in question or the administrative body.
2. They can also be accompanied at the hearing by witnesses and experts, provided they submit the names of those people in writing to the committee and the other party by no later than four days before the day of the hearing.
3. The costs of witnesses and experts are for the account of the interested party they accompany.
4. If a party is represented, the secretary will, in any event, send the documents relating to the case to the authorised representative.
5. The committee can summon witnesses and experts, either on its own initiative or at the request of the interested party/parties.

Article 22. The hearing.

(Section 7:5 ff of the Awb)

1. The parties will be heard by the committee.
2. The task of hearing can be assigned to the chairperson of the committee, and/or to one or more members of the committee. This member/members may not be part of, nor be employed under the responsibility of, the administrative body in question that has to take the decision with regard to the objection.
3. The chairperson or one of the members of the committee referred to in paragraph 2 will chair the hearing and give the interested party/parties the opportunity to be heard.
4. On behalf of the committee, the party submitting the objection will be invited to attend the hearing as well as the interested party/parties who has/have expressed an opinion during preparation of the decision.
5. On behalf of the committee a representative of the administrative body that took the disputed decision will be invited to attend the hearing and will be given an opportunity to clarify the administrative body's viewpoint.
6. The hearing will be a public hearing. The (chairperson of the) committee can - whether at the request of one of the two parties or otherwise - decide that the hearing should take place behind closed

doors.

7. The interested party/parties will be heard in each other's presence. On its own initiative or on request, the interested parties can be heard separately if a reasonable case can be made that a joint hearing will hinder careful proceedings or if, during the hearing, facts or circumstances will become known with regard to which secrecy is required on serious grounds.

8. If the interested parties are heard separately, each of them will be informed of the matters heard in their absence. The committee can disregard this, whether at the request of the interested party or otherwise, insofar as secrecy is required on serious grounds. Notification will be given if this provision is applicable.

9. Serious grounds are, in any event, not present insofar as the obligation exists, pursuant to the Government Information (Public Access) Act ('Wet openbaarheid van bestuur'), to grant a request for information contained in these documents.

10. If a serious ground is based on the fear of damage to the physical or mental health of an interested party, perusal of the documents in question can be reserved for an authorised representative who is either a lawyer or a doctor.

11. A report will be made of the hearing.

12. If, during the hearing, written documents are submitted to the proceedings, the interested party/parties will be given the opportunity to take cognizance of those documents and to respond to the content.

13. The party/parties can change the content of the objection and of the statement of defence, as well as the grounds on which these are based up until the closure of the hearing, unless the committee is of the opinion that the other party would be unreasonably prejudiced by this change.

14. If it transpires, before the closure of the hearing, that the investigation has not been complete, a decision can be taken to continue the hearing proceedings at another point in time. In addition, the party/parties can be issued with instructions regarding the evidence.

15. Before the closure of the hearing, the committee chairperson will give notice of when the advice will be issued.

Article 23. Proceedings in the absence of the interested party/parties or the representative of the administrative body.

1. If the interested party/parties or the representative of the administrative body do not attend the hearing, the chairperson of the committee will make sure that this party/these parties were properly summoned. If that is not the case, the committee will deliberate about what should be done in the given circumstances.
2. If an absent interested party has been properly summoned, the hearing of the objection can also take place without said interested party/parties or the representative of the administrative body being present.

Article 24. Combination of objections; division.

1. The committee can, on its own initiative or at the request of the parties, bring third parties into the action whose interests are directly affected by the dispute. Each third party will then become a party in the action as a result.
2. Without prejudice to the provisions in paragraph 1, any party that has an interest in the dispute, can ask the committee for permission to join one of the parties. If the request is allowed, the requesting party will become a party to the proceedings.
3. In the instances referred to in paragraphs 1 and 2, the committee will take those measures which are necessary for a proper process.
4. The committee is authorised to combine related matters and divide combined matters.

Article 25. New facts or circumstances.

(Section 7:9 of the Awb)

If after the hearing facts or circumstances become known which may be of considerable importance for the decision to be taken with regard to the objection, the interested parties will be informed to that effect and they will be given an opportunity to express an opinion on the matter.

Article 26. The recommendation; decision deadlines.

(Section 7:10 of the Awb)

1. The deliberation and decision regarding the advice to be issued will take place in chambers.
2. The board will base its judgement exclusively on the documents made available for perusal and on that put forward at the hearing or, without the other party being prejudiced as a result, that which was submitted.
3. The advice has to be adopted by a majority of votes. In the event of an equality of votes, the committee chairperson will have a casting vote. A minority decision can be included in the recommendation.
4. The advice must be based on sound reasons. In addition, if the decision is taken not to hear pursuant to the provisions in Article 17 of the regulations, an indication must also be given of the relevant ground.
5. The committee will issue the advice in writing to the administrative body that has to decide with regard to the objection, along with a report of the hearing. The committee will issue the advice to the administrative body by such a deadline that the administrative body is able to take a decision on the objection by the deadline referred to in Section 7:10 of the Awb (12 weeks after the end of the

objections deadline, which deadline can be extended by a period of six weeks).

Article 27. The decision on the objection.

(Sections 7:11 and 7:12 of the Awb)

1. The decision on the objection must be based on sound reasons, which will be referred to when the decision is issued. In addition, if a decision is taken not to hear the interested party/parties, an indication will also be given of the applicable ground.
2. The administrative body will decide on the objection within the statutory decision deadline of 12 weeks. The administrative body may postpone the decision for a maximum of six weeks. Written notification of the adjournment will be given to the interested party/parties and to the committee.
3. The deadline by which the administrative body is required to decide will be postponed as of the day on which the submitting party is asked to rectify an omission up until the day on which the omission is rectified or the relevant deadline has passed.
4. Further postponement is possible insofar as the submitting party involved consents and the interests of other interested parties are not harmed as a result, or if they consent.
5. The administrative body will also send a copy of its decision on the objection to the committee

Section 4. Final provisions.

Article 28.

The committee chairperson(s) will decide in cases that are not provided for in these regulations.