



REGULATION FOR RULES OF PROCEDURE OF THE EXAMINATION APPEALS BOARD

Article 1 - Definition of terms

In this regulation the following terms should be understood to have the meaning indicated:

- a. **The Act:** the Higher Education and Research Act (WHW).
- b. **The EAB:** the Examination Appeals Board, as indicated in Article 7.60 up to and including 7.63 of the Act
- c. **The Board of Directors:** the Board of Directors of the Theological University of Kampen
- d. **The TUK:** the Theological University of Kampen;

Article 2 - Composition and term of office of the EAB

1. The EAB consists of three members, including the Chair. The members are appointed by the Board of Directors. Members of the Board of Directors are excluded from membership of the EAB.
2. The chair must satisfy the requirements for appointment as judicial official as intended in Article 5 of the *Wet rechtspositie rechterlijke ambtenaren* (Act on legal position of judicial officials).
3. One member will be recruited from the teaching staff and one member from among the students. The Chair will be a person from outside the university.
4. For each member, the Board of Directors will also appoint a substituting member.
5. Appointment of the members is for the term of five years or, where student members are concerned, for a term of two years. The term of members from the teaching staff and the students can be extended by five years, or two years, respectively, at a time. The term of office of the Chair may be extended once, by five years.
6. The Chair will resign after a maximum period of ten years. The Board of Directors will ensure the timely appointment of a successor.
7. In the case of a premature vacancy for a member of the EAB, the Board of Directors will ensure that the vacancy is filled on time.

Article 3 - Secretary to the EAB

1. The EAB is assisted by the policy employee, who will be taking up the task of secretary.
2. The secretary observes the instructions of the Chair of the EAB when carrying out his/her duties.

Article 4 - Authority of the EAB

The EAB deals with appeals concerning:

- a. Study recommendation in the propaedeutic phase, as intended in Article 7.8b, third and fifth paragraphs, and 7.9, first paragraph, of the Act;
- b. Decisions concerning the determination of the number of ECTS credits awarded, as intended in Article 7.9a, as well as concerning the successful completion of the final examination, as intended in Article 7.9d of the Act;
- c. Decisions, other than of a general nature, concerning prior education and admission requirements, in conformity with title 2 of chapter 7 of the Act.

- d. Decisions, taken on the basis of additional admission investigation, as intended in Article 7.25, fourth paragraph, and 7.28, fourth paragraph, of the Act;
- e. Decisions by the Examination Review Committee and examiners;
- f. Decisions by committees as mentioned in Article 7.29, first paragraph, of the Act, and
- g. Decisions, taken on the basis of Article 7.30a and 7.30b of the Act, with a view to admission to educational programmes referred to in this Article.

Article 5 - Submission of an appeal

1. The appeal is addressed to the EAB and is submitted to the secretary (for example through the complaints desk), within six weeks after the day on which the decision was communicated in the manner prescribed.
2. If the appeal has been submitted after the period mentioned in the first paragraph, it will not be considered inadmissible if the appellant can demonstrate that the appeal was submitted as soon as could reasonably be expected.

Article 6 - Content and receipt of the appeal; omissions

1. The appeal is signed and includes: - family and Christian name, address and place of residence of the appellant; - name of the examiner or official body concerned by which the contested decision was taken; - a clear description of the decision that is being contested, if possible, including a copy thereof, or, where the appeal concerns the refusal to rule, a clear description of the ruling which, according to appellant, should have been made; - the grounds for the appeal.
2. The secretary records the date of receipt on the appeal and confirms receipt. The secretary informs the Chair of the receipt of the appeal, at the latest, within one week after receipt of the appeal.
3. The secretary notifies the appellant of any omissions, and requests remedy of this within a time period to be determined by the Chair. If the appellant has not remedied the omissions within this term, the appeal may be declared inadmissible.

Article 7 - Amicable Settlement

1. The secretary forwards a copy of the appeal without delay, yet at the latest within 1 week, to the chair or president of the body against which the appeal is filed, with the invitation to consult with the appellant whether an amicable settlement of the dispute is possible. The secretary sends a copy of this invitation to the appellant.
2. If the contested decision was taken by an examiner, a copy of the appeal indicated in the first paragraph is forwarded to the chair of the Examination Review Committee, with the invitation to consult with the appellant and the examiner to ascertain whether an amicable settlement of the dispute is possible. If the appeal concerns an examiner who is a member of the Examination Review Committee, the examiner does not take part in the deliberations for consultation.
3. Within five days, at the latest, after receipt of the appeal and the invitation referred to in the first or second paragraph, the chair or president of the body invites the applicant for consultation to determine whether an amicable settlement of the dispute is possible.
4. The chair or president of the body concerned informs the Board, within three weeks after receipt of the appeal and the invitation indicated in the first or second paragraphs, in a well-reasoned manner, of the outcome of the consultation.
5. The secretary informs the Chair as soon as report has been received of the outcome of the consultation. If an amicable settlement has been reached, the Chair will inform the parties that the appeal will not be further dealt with.
6. If an amicable settlement did not prove feasible, then the appeal will be taken into consideration by the Board.

Article 8 - Refraining from amicable settlement

1. The Chair can decide to refrain from making an attempt to reach an amicable settlement, if such an attempt is judged to be pointless or if it should lead to a disproportionate disadvantage for the appellant. In that case, the Chair determines the time limit for submission of the relevant documents and statements of the defence.
2. The secretary forwards a copy of the appeal to the chair or president of the body against which the appeal has been filed, requesting the submission of the relevant documents and statements of defence to the EAB within the time limit indicated in the first paragraph. The secretary forwards a copy of this request to the appellant.
3. If the contested decision has been taken by an examiner, the copy of the appeal mentioned in the second paragraph is forwarded to the chair of the Examination Review Committee.

Article 9 - Preparation of documentation

1. The Chair of the EAB determines the time limit for submission of the relevant documents and statement of defence.
2. Upon request, the Chair can determine that the statement of defence may be submitted later, within what the Chair considers to be a reasonable time limit.
3. Copies of the documents and statement of defence as mentioned in the first paragraph are sent to the appellant without delay. The appellant is given the opportunity to react in writing before a specific date, if there is still time available in view of what has been determined in paragraph 5.
4. Of the appellant's written reaction, as indicated in the third paragraph, a copy is forwarded without delay to the chair or president of the body concerned.
5. Parties may submit additional documents to the EAB up until ten days before the session.
6. The EAB is free to collect, of its own accord, information that is considered necessary and to request documents relevant to the dispute. Upon request, the chair or president of the body against which the appeal has been filed, submits to the EAB without delay, the regulations that were applicable at the time of the examination, or component of the examination, that has led to the filing of appeal and furthermore any documents that the EAB considers necessary for dealing with the appeal.

Article 10 - Resolution without session

1. The EAB may at any stage during the proceedings, rule on the case without session, if it is of the opinion that the appeal is evidently inadmissible or obviously unfounded.
2. The EAB bases its ruling exclusively on the documents regarding the case.

Article 11 - Location and time of session and summons for the session

1. The Chair determines, as soon as possible, the location and time for the session in which the appeal is dealt with.
2. As soon as possible, and in compliance with the Chair's instructions, the secretary summons the members for session.
3. Well on time, the secretary calls upon parties to attend the session.
4. If the appeal concerns a decision taken by an examiner, the secretary will also forward a copy of the summons directed towards the chair of the Examination Review Committee to the examiner.

Article 12 - Viewing of documents

1. Before the matter is dealt with in session, all documents relevant to the case may be viewed by interested parties at the secretarial office during a period of at least a week. The secretary notifies the parties of this in the summons as indicated in Article 11.3.

2. The Chair may determine that documents of a very personal nature may only be viewed by the parties concerned.

Article 13 - Replacement and assistance at the session; witnesses and experts

1. Parties may be assisted by a legal adviser and may authorize someone to replace them at the session. Furthermore, parties may be accompanied by witnesses and experts, providing that they submit the names of these persons in writing to the EAB and the opposite party four days before the session, at latest. The secretary notifies the parties of this in the summons as indicated in Article 11.3.

2. The EAB may summon witnesses and experts, in its official capacity or upon request of parties.

Article 14 - Dealing with appeal at session

1. The appeal is dealt with in a public session of the EAB. In special cases, the EAB may decide to deal with the appeal entirely or partly behind closed doors.

2. The Chair presides over the session. He gives each party the opportunity to clarify their point of view. At the session, all persons present are expected to behave in conformity with the Chair's instructions. The Chair has the authority to have those who do not comply removed.

3. The secretary attends the session and takes notes of the deliberations during the session.

4. Parties may alter the contents of the appeal and of the statement of defence as well as of the grounds upon which they rest, until the closing of the session, unless the EAB is of the opinion that the opposite party is unreasonably disadvantaged by this alteration.

5. If, before closing of the session, it becomes apparent that the investigation has been incomplete, the EAB may decide to continue the session at a later date, to be determined by the Board. Parties may be given instructions with respect to the evidence.

6. Before concluding the session, the Chair announces a date for the ruling. The decision of the EAB is pronounced within ten weeks after receipt of the appeal. This period can be prolonged by the Chair with, at the most, fourteen days. Both parties are informed of this by the secretary.

Article 15 - Deliberations and ruling

1. The EAB bases its ruling exclusively on the documents which have been presented for inspection as well as on what has been brought forward at the session or has been submitted without disadvantage to the opposite party.

2. The secretary attends the deliberations in an advisory role.

3. With respect to what is discussed in the council room, participants of the deliberations are bound to strict confidentiality.

4. The EAB comes to a decision within ten weeks after receipt of the appeal.

5. The ruling is in conformity with the sentiments of the majority of the members of the council room. The ruling mentions neither the votes ratio, nor the minority points of view.

6. If the EAB rules that the appeal is founded, it will annul the decision entirely or in part. The EAB does not have the authority to make a new decision. It may determine that a decision should be taken anew, or, in the case that a decision was refused, be taken, or it can stipulate that the test, exam, admission investigation, additional investigation or any part of these, should be repeated, under conditions to be determined by the Board. The body of which the decision has been annulled, deals with the case once more where necessary, in compliance with the ruling of the EAB. The EAB may impose a time limit in its ruling.

7. The rulings are dated and include: - names and places of residence of the parties and other authorized persons; - the grounds upon which the ruling rests; - a ruling, and - the names of the members who have given the ruling.

8. The ruling is signed, by the Chair and the secretary, and a copy sent to the parties concerned as well as to the Board of Directors, and is available for interested third parties. If the appeal concerns a decision of an examiner, a copy of the ruling is sent to the relevant Examination Review Committee.

Article 16 - Interim measures

1. If it is a matter of urgency, the EAB may take interim measures at the request of the appellant. The Chair decides on this request after having heard the body concerned or the examiner concerned, or at least after having summoned the parties for hearing.
2. The interim measure may be withdrawn or modified by the Chair after parties have been heard, or at least summoned for hearing.
3. The interim measure expires as soon as the EAB has ruled in the main issue, in so far as the ruling does not specify otherwise.

Article 17 - Cases not provided for in this regulation

Cases not provided for in this regulation are decided on by the Chair of the EAB. If necessary, the Chair proposes an amendment or modification of the regulation to the members of the EAB.

Article 18 – Final provisions

1. The Chair ensures that this regulation is observed.
2. This regulation is referred to as Regulation for Rules of Procedure of the Examination Appeals Board’.

Determined thus by the Examination Appeals Board of the TUK on 2012
....., Chair of Examination Appeals Board.

