



## LEGAL PROTECTION STUDENTS

Theological University Kampen

### Introduction

Students who consider their interests to have been violated, have various possibilities for to protect their legal rights. The student may lodge a complaint, objection or appeal against the decision taken, or omission to do so, by a body of the university. This can be done on the grounds of the Higher Education and Scientific Research Act (WHW) and the regulations based upon it. The legislator has prescribed which body is authorized to handle complaints, objections, or appeals. To prevent students themselves having to determine, on the basis of the applicable laws and regulations, which body is competent to treat their complaint, objection or appeal, the legislature has commanded the institutions for higher education to organize an accessible and univocal facility where students can lodge their complaint, objection or appeal. It is up to the facility to pass on the incoming complaints, objections or appeals to the competent body.

The legal protection of the student can follow an internal or external route. 'Internal' means that a complaint or dispute is presented to the proper body within the university to be dealt with. The student can also follow the external appeal procedure, the Appeals Tribunal for Higher Education (the CBHO in The Hague). In order to do this, it is not necessary that the complaint be submitted through the TUK facility. The procedure for submitting and dealing with a complaint and the committees concerned are discussed below. For the regulations of procedure, please refer to the website.

### Facility / Complaints Desk

The TUK has set up a facility to which students can present a matter in writing. This facility is the e-mail address: klachtenloket@tuk.nl [complaints desk]. The secretarial office manages this e-mail address and is responsible for passing the matter on to the proper committee. A matter can consist of a complaint or a dispute (see below). It goes without saying that a student should first contact the person to whom the matter is related or the one who, due to their position, is most qualified to deal with it. In the case of a complaint of a sensitive nature, however, or if discussing the matter with the person involved does not produce the desired result, it is then obvious that the student should go directly to the complaints desk.

- **Complaint:**

Great dissatisfaction expressed by a student regarding a service, conduct, act or situation which complainant has experienced in his or her dealings with the university and for which he cannot find a solution within the university. 'Omission' also constitutes a conduct. A student's complaint is taken into consideration by the Board of Directors. The university must ensure an adequate consideration of oral and written complaints concerning behaviour of the university and those working under its responsibility. For procedure and detailed provisions regarding complaints, see the *Regulation complaints desk* on the TUK website.

- **Dispute**

A dispute consists of a difference of opinion between a person and an authorized body within the university. As a rule, a dispute is preceded by a decision. Depending on the nature and substance of a dispute, a dispute is dealt with by the Examination Appeals Board or the Board of Directors.

Within the range of disputes, a distinction can be made between disputes which - in short - are related to an assessment of the student's performance and other disputes which are of a more general nature.

Disputes related to assessment of a student's performance.

The first category of disputes regards, for example, disputes as a result of a decision by the Examination Review Committee or examiner. The facility [complaints desk] will bring these disputes before the Examination Appeals Board for consideration.

Disputes for which the Board of Directors have been designated as the competent body.

Other disputes regard, for example, disputes about the amount of the (institution) tuition fees or the reimbursement of costs made. These disputes are presented by the facility [complaints desk] to the Disputes Committee. The Disputes Committee advises the Board of Directors with regard to the dispute. The Board of Directors will await Disputes Committee's recommendation before making a decision.

A description of the general powers and charges of the formerly mentioned bodies now follows.

### **Board of Directors**

Based on the law, The Board of Directors is entitled to make decisions regarding the following matters and concerns:

- reduction and exemption of tuition fees;
- enrolment and unenrolment ;
- financial support;
- violation of house rules and measures of order.

The student may submit an objection against these decisions to the Board of Directors. For the consideration of the objection and the making of a decision, the Board of Directors will present the objection to the Disputes Committee. On the basis of the recommendation of the Disputes Committee, the Board will take its final decision. The student can lodge an appeal against this decision to the Appeals Tribunal for Higher Education (CBHO).

Composition Board of Directors: Prof. R. Kuiper (chair) Drs J. de Jong MCM CMC (member).

### **Disputes Committee**

The consideration of a dispute by the Disputes Committee leads to a recommendation to the Board of Directors, which will, in turn, make a final decision about the matter at hand. The Committee will attempt to ascertain whether an amicable settlement between parties is possible. Regarding a ruling on a dispute, the student can follow the external appeal procedure, the Appeals Tribunal for Higher Education (CBHO) against this ruling. The regulation *Disputes Committee TUK* can be found on the TUK website.

Composition of Disputes Committee: external member, staff member, student.

### **Examination Review Committee**

Based on the law and the Examination Review Committee Regulations, the Examination Review Committee is authorized to make decisions regarding the following:

- a decision with respect to a student having met the conditions set by the Education and Examination Regulation (OER) regarding the knowledge, insight and skills necessary to obtain a degree;
- a decision regarding the request of the person entitled to the award of a degree certificate to postpone this;
- a decision regarding the granting of exemption for taking one or more exams;
- a decision regarding the request by a student for permission to follow a self-composed programme of educational modules offered by the university, which are linked to an examination, of which the examination leads to the obtaining of a degree, where the committee must also indicate to which university education that programme is considered to belong;
- In the case that a student or external student commits fraud, a decision regarding the measure of revocation of the student's right to take one or more examinations, during a period specified by the Examination Review Committee with a maximum of one year.

The student objecting to this decision, can follow the external appeal procedure, the Appeals Tribunal for Higher Education (CBHO). A student can also submit a request to the Examination Review Committee to consider revision of a decision by the Examination Review Committee or the examiners.

The *Examination Review Committee Regulations* can be found on the website.

Composition of Examination Review Committee: E. Blokland MSc, Drs I.D. Haarsma (chair), Prof. P.H.R. van Houwelingen, Drs. J. Modderman (external), Drs C.T. Schaafsma (administrative secr.)

### **Examination Appeals Board**

The Examination Appeals Board is authorized to make decisions regarding disputes about the assessment of students' achievements. The Examination Appeals Board is authorized to make the following decisions:

- a decision regarding binding recommendations on continuation of studies (Article 7.8b paragraph 3 and 5 WHW);
- a decision by the Board of Directors with regard to notifying the DUO that the student has successfully taken his graduation examination (Article 7.9d WHW);
- a decision, not of a general scope, relating to prior education and admission requirements taken on the basis of title 2 of chapter 7 of the WHW, with a view to the admission to examinations;
- a decision grounded on additional investigation on the basis of which the Board of Directors can stipulate that the owner of a pre-university (VWO) certificate who does not meet the admission requirements for a program at the TUK, may, nevertheless, enrol, on condition that the investigation proves that requirements have been met that are comparable in content (Article 7.25 sub. 4 WHW);
- decisions of the Examination Review Committee and examiners;
- decisions by a committee appointed by the Board of Directors with respect to the university entrance examination or *colloquium doctum* (Article 7.29 sub. 1 WHW);
- decisions taken on the grounds of Article 7.30 and 7.30b of the WHW, with a view to the admission to the master's programme.

The Examination Appeals Board has the charge to investigate whether or not an amicable settlement can be reached between the student and the party that made the disputed ruling. The

EAB carries out a limited review and is authorized to quash the disputed decision. Then the body that had taken the disputed decision will have to make a new decision, taking into account the ruling of the EAB.

Composition of the Examination Appeals Board: external member, teaching staff member, student

**Appeals Tribunal for Higher education (CBHO) (*national body*)**

The Appeals Tribunal for Higher Education (CBHO in The Hague) is authorized to rule on all disputes on the grounds of the WHW, or regulations based on it, relating to matters between the student and the university. Hereby applies, however, that all possibilities offered by the internal legal protection procedures must first be exhausted. The Appeals Tribunal for Higher Education (CBHO) can, for example, rule on disputes relating to the following subjects: tuition fees or examination fees, financial support, exemptions, enrolment, contributions and violations of the university's house rules and rules of order.

See for further information: <http://www.cbho.nl/english>

**Complaints Committee for harassment (undesirable conduct)**

If the matter concerns undesirable conduct, the complainant can turn to the Complaints Committee or the confidential adviser. The *Harassment Complaints Regulation* can be found on the TUK website.

Composition of Complaints Committee: Drs G.L. Born (chair), Ms N. Jansen-Van Prooijen LL.M. (official. Secr.), Verwooldsebeek 64, 8033 DC Zwolle, tel. no. 038-4533108, Ms M. Verhage-van Kooten LL.M., Ms Drs N.G. Nuninga-Douma.

Confidential adviser: Dr Myriam Klinker-de Klerck (internal) and Mr Wilfred de Vries (external).

**Confidential Inspectors Complaints Office (*national complaints office*)**

Students, staff, executive boards and governing boards can contact the confidential inspectors of the Inspectorate of Higher Education if problems occur in or around the university in the field of:

- undesirable behaviour (sexual intimidation and sexual abuse);
- physical violence;
- gross bullying;
- extremism and radicalism.

The confidential inspector is available during office hours at telephone number 0900-111 3 111 (local tariff).