

Maastricht University

Board of Appeal for Examinations

RULES OF PROCEDURE

as referred to in Article 7.62 of the Higher Education and Research Act, of the Board of Appeal for Examinations of Maastricht University

General

Article 1 Definitions

1. In these rules of procedure, the following definitions apply:

WHW	the Higher Education and Research Act
AWB	the General Administrative Law Act
Board of Appeal	UM's Board of Appeal for Examinations, as referred to in Article 7.60 of the WHW
chamber	the section of the Board of Appeal responsible for hearing an appeal
chair	the chair of the Board of Appeal
secretary	the secretary of the Board of Appeal
Board of Examiners	the board of examiners referred to in Article 7.12 of the WHW
CSP	the Complaints Service Point referred to in Article 7.59a of the WHW
appellant	the party filing an appeal with the Board of Appeal
defendant	the body or examiner against whom the appeal is directed
UM	Maastricht University.

2. If other terms are mentioned that are included in Article 1.1 of the WHW, the definition provided there applies.
3. The relevant provisions of Chapters 6 and 7 of the AWB and the provisions of Articles 7.60 to 7.63 of the WHW apply in full to the judicial process.

Complaints Service Point

Article 2 Address of the CSP

1. The CSP's postal address is PO Box 616, 6200 MD Maastricht, the Netherlands.
2. The CSP's email address is complaintsservice@maastrichtuniversity.nl.

Article 3 Filing an appeal and deadlines

1. The appellant must file the appeal form with the CSP within six weeks of the date on which the contested decision was announced in the prescribed manner or is deemed to have been announced.
2. The CSP confirms to the appellant that it has received the appeal, indicating the date of receipt, and forwards the appeal to the Board of Appeal as soon as possible.
3. If an appeal is filed directly with the Board of Appeal, the board will process it only after intervention by the CSP.
4. If an appeal is filed directly with the Board of Appeal, the date of receipt of the appeal form will be noted, after which the appeal will be forwarded as soon as possible to the CSP. The appellant will simultaneously be notified of this. The date on which the appeal was filed with the Board of Appeal will be considered the date on which it was filed with the CSP.
5. If the CSP has sent an appeal to a body not authorised to deal with it, this body will return the appeal to the CSP as soon as possible.
6. An appeal is deemed to have been filed in a timely manner if it is received before the deadline referred to in paragraph 1. If the appeal is submitted digitally, it is deemed to have been filed on time if it is received by the CSP before the deadline. If it is sent by post, it is considered on time if it is delivered before the deadline and received by the CSP no later than one week after the deadline.

7. If the appeal is directed against a failure to take a timely decision, the filing of the appeal is not subject to a deadline. The appeal may be filed at any time after the administrative body in question has failed to timely take a decision, although it will be declared inadmissible by the Board of Appeal if it is deemed to have been filed unreasonably late.

Board of Appeal

Article 4 Jurisdiction

1. The Board of Appeal has jurisdiction concerning the following decisions:
 - a. decisions on study advice in the propaedeutic phase referred to in Article 7.8b, paragraphs 3 and 5, and decisions on referral in the post-propaedeutic phase referred to in Article 7.9, paragraph 1, of the WHW
 - b. decisions on passing the final examination as referred to in Article 7.9d of the WHW
 - c. decisions of a non-general nature concerning prerequisites and admission requirements taken under the provisions by or pursuant to Title 2 of Chapter 7 of the WHW with a view to admission to examinations
 - d. decisions taken pursuant to the supplementary investigation referred to in Articles 7.25, paragraph 6, and 7.28, paragraph 4, of the WHW
 - e. decisions by boards of examiners and individual examiners
 - f. decisions by committees concerning exemption from prerequisites as referred to in Article 7.29, paragraph 1, of the WHW
 - g. decisions on admission requirements for master's programmes taken pursuant to Article 7.30b of the WHW with a view to admission to the degree programmes referred to in that article.
2. A refusal to decide is considered equivalent to a decision. If a decision is not taken before the deadline indicated by the WHW or (in the absence of such a deadline) within a reasonable period, this will be considered equivalent to a refusal to take a decision.
3. The appeal may be filed with respect to a decision that is in violation of the law.

Article 5 Content of appeal and omissions

1. The appeal must be dated and signed, and must include at least the following information:
 - a. the appellant's name and address
 - b. the name of the examiner or body that took the contested decision
 - c. a clear description of the contested decision, including (if possible) a copy thereof, or, if the appeal is directed against the refusal to take a decision, a clear description of the decision that, in the appellant's judgement, should have been taken
 - d. the grounds on which the appeal is based
 - e. a claim that is described as precisely as possible.
2. The chair determines whether the appeal complies with the provisions in the previous paragraph. On the chair's behalf, the secretary gives the appellant the opportunity to rectify any omissions before a deadline to be set by the chair.
3. Failure to rectify any omissions before the deadline referred to in the previous paragraph may result in the appeal being declared inadmissible.
4. If the appeal is filed after the deadline referred to in Article 3, it shall not be declared inadmissible on that ground if it cannot reasonably be concluded that the appellant was at fault.

Article 6 Amicable settlement

1. Before the appeal is heard, the Board of Appeal sends the appeal to the defendant and invites the parties to consult on whether the dispute can be settled amicably.
2. Within three weeks (or earlier if possible), the defendant informs the Board of Appeal in writing of the outcome of the consultation, submitting a report of the consultation and any related documents. If an amicable settlement has not been reached, the Board of Appeal takes up the appeal.
3. The chair of the Board of Appeal may decide that an attempt to settle the appeal amicably will not be made if, in his/her judgement, such an attempt will obviously be fruitless or disproportionately prejudice the appellant. The chair may also take such a decision if the appellant so requests.

4. If the defendant informs the Board of Appeal that the appellant did not appear at the consultation to investigate the options for an amicable settlement and the chair rules that the appellant was invited properly, the appeal may be declared inadmissible.

Article 7 Statement of defence

1. If an amicable settlement is not sought or reached, the defendant is given the opportunity to submit a statement of defence within a reasonable period, accompanied by all documents relating to the case.
2. After receiving the statement of defence, the secretary sends a copy to the appellant as soon as possible.

Article 8 Composition of the chamber

1. If the appeal is not settled amicably, the chair appoints two or four other members of the Board of Appeal, who, along with the chair, together constitute the chamber that will hear the appeal. One member is a member of the academic staff. In composing the chamber, the chair endeavours to ensure that the two other members are from a different faculty to the defendant.
2. If a member of the Board of Appeal designated by the chair is not available to take part in the chamber, the chair will designate a substitute.
3. The secretary informs the parties of the composition of the chamber referred to in paragraph 1, including the option of filing an objection as referred to in Article 8a.

Article 8a Objection

1. At any time before the conclusion of the public hearing, parties may object to the appointment of any of the members of the chamber on the basis of facts or circumstances that might prevent them from reaching an impartial verdict. Any designated member may likewise recuse him/herself on the basis of such facts or circumstances.
2. The other chamber members decide as soon as possible whether the objection or recusal shall be permitted.
3. If the objection or recusal is permitted, the chair appoints another member of the Board of Appeal as a substitute. If the objection or recusal pertains to the chair, a deputy chair will stand in for the chair.

Article 9 Size of the Board of Appeal and members' terms of office

1. The Board of Appeal consists of at least six and at most fifteen members. The number of substitute members does not exceed the number of members. The numbers of members and substitute members are, insofar as possible, consistent with the number of UM faculties as stated in the university's administrative and management regulations (BBRUM). With regard to composition, the goal is for one member or substitute member of the Board of Appeal to come from each faculty community.
2. The chair, deputy chair, other members and any substitute members are nominated by the Board of Appeal and appointed by the UM Executive Board for a three-year period, or, for students, one to two years. Members may be reappointed.
3. The University Council has the right of consent regarding the proposed appointment of members of the Board of Appeal.
4. A member of the Board of Appeal shall not simultaneously be:
 - a. a member of the Inspectorate of Education
 - b. a member of the Supervisory Board
 - c. a member of the Executive Board
 - d. dean
 - e. a member of a Faculty Board
 - f. a member, secretary or other supporting member of a Board or Examiners.
5. The chair and deputy chair(s) hold an LLM (or equivalent).

Article 9a Dismissal

1. Members and substitute members are dismissed from the Board of Appeal:

- a. at their own request
 - b. upon appointment to one of the positions referred to in Article 9, paragraph 4
 - c. if they are no longer a member of the academic staff or university community
 - d. when they turn age 70, effective the following month.
2. The chair, deputy chairs, members and substitute members are also dismissed early if they are unfit to perform their duties due to illness or disability, or if they have received a final conviction for a crime. Before being dismissed on one of these grounds, the party concerned is informed of the intention to dismiss him/her and is given the opportunity to be heard.

Article 9b Secretary

1. The Board of Appeal is assisted by a secretary appointed by the Executive Board. The Executive Board may also appoint one or more deputy secretaries.
2. In performing his/her duties, the secretary follows the instructions given by the chair.

Article 10 Joinder/separation

The chamber has authority to join related cases and separate joined cases.

Article 11 Location and date of hearing

1. After being notified by the defendant about the amicable settlement, the chair decides on a location and date for the hearing.
2. The secretary notifies the parties in writing of the location and date of the hearing at least 10 calendar days in advance.
3. The secretary summons the parties to the hearing.
4. The Board of Appeal's meetings and hearings take place in Maastricht.
5. On its own initiative, the Board of Appeal may gather information it deems necessary and request documents relating to the case.
6. The bodies, staff members and examiners of the institution provide the Board of Appeal with information that the Board of Appeal deems necessary to perform its duties.
7. The parties need not be heard if:
 - a. the appeal should obviously be declared inadmissible
 - b. the appeal is obviously unfounded, or
 - c. the parties have stated that they do not wish to exercise their right to be heard.

Article 12 Reply/rejoinder

1. The chair may decide to give the parties the opportunity to file a reply or rejoinder before a deadline set by the chair.
2. After receiving the reply or rejoinder, the secretary sends a copy to the defendant or appellant.

Article 13 Submission and inspection of additional documents

1. The parties may submit additional documents up to 10 calendar days before the hearing. The chair may also allow documents to be submitted after this period. The secretary sends a copy of the additional documents to the other party.
2. The parties receive a copy of the file no later than one week before the hearing.
3. The chair may, on his/her own initiative or at the request of one of the parties, decide that there are compelling reasons for certain documents not to be made available to all parties. In this case, the parties will be notified of such.

Article 14 Assistance and representation at the hearing; witnesses and experts

1. The parties may be represented at the hearing by an authorised representative or assisted by a lawyer. Parties may also bring witnesses and experts as long as they provide a written list of the names of these persons to the secretary of the Board of Appeal at least four working days before the hearing. The secretary forwards this list to the other parties.

2. The Board of Appeal may call witnesses or experts on its own initiative or at the request of one of the parties. If the Board of Appeal calls a witness or expert on its own initiative, the secretary will inform the parties immediately.
3. If a person is being represented by an authorised representative, the secretary will also send all documents relating to the appeal to the representative.

Article 15 Public or private hearing

The appeal is heard by the Board of Appeal in a public hearing. In exceptional cases, the Board of Appeal can decide that the appeal will be heard in whole or in part behind closed doors.

Article 16 Appearance at the hearing

If a party (or his/her authorised representative) does not appear at the hearing, the chair assesses whether the party was invited properly. If so, the chair decides whether the case will continue to be heard in the absence of that party.

Article 17 Hearing

1. The chair of the Board of Appeal leads the hearing and gives each party the opportunity to explain their position.
2. During the hearing, the Board of Appeal is entitled to question the parties and to request information that the Board deems necessary to assess the appeal.
3. If written documents are submitted during the hearing by the Board of Appeal on its own initiative or to the Board of Appeal by one of the parties, the chair gives the parties the opportunity to inspect those documents and raise relevant concerns. If the chair is of the opinion that the documents will unreasonably prejudice a party in defending him/herself, the chair can exclude the documents from the deliberations or suspend the proceedings until a later date to be set by the chair.
4. The parties may not make video and/or audio recordings of or during the proceedings. The chair may decide to end or suspend the hearing if he/she becomes aware of such recordings. The chair may record or arrange for recording of the hearing if needed to draft the report of the hearing and reach a verdict. The recording shall be deleted thereafter.

Article 18 Change of position

The parties may change the substance of their appeal or defence, as well as the grounds on which they are based, at any time before the end of the hearing, unless the chair of the Board of Appeal is of the opinion that doing so will unreasonably prejudice the other party's position.

Article 19 Suspension of proceedings

1. The chair of the Board of Appeal may, on his/her own initiative or at the request of one of the parties, suspend the proceedings until a later date to be set by the chair.
2. The secretary will inform the parties when the proceedings will be resumed.

Article 20 Verdict deadline

1. The Board of Appeal reaches a verdict within 10 weeks, calculated from the day after the deadline for filing the appeal.
2. The period referred to in paragraph 1 shall be stayed from the date on which the appellant is asked to rectify an omission as referred to in Article 5, paragraph 2, until the date this omission is rectified or the deadline for doing so has passed without rectification of the omission.
3. The Board of Appeal may extend the verdict deadline by at most four weeks. Parties will be notified in writing.
4. Further extension of this deadline is possible if the appellant consents to such and if the other parties consent or their interests will not be prejudiced as a result of the extension.

Article 21 Deliberations

The Board of Appeal bases its verdict solely on what was put forward at the hearing, on the written documents and on what it knows to be true based on its own knowledge.

Article 22 Adjournment of proceedings

If it becomes apparent before the verdict that the investigation was incomplete, the Board of Appeal may decide to resume the proceedings on a date to be set by the chair. Instructions may be given to the parties regarding submission of evidence. If the proceedings are adjourned by the Board of Appeal, the secretary notifies the parties of the date on which the proceedings will resume.

Article 23 Verdict

If the Board of Appeal finds the appeal to be well-founded, it will reverse the contested decision in whole or in part. The Board of Appeal does not have authority to take a new decision to replace the original decision. It may determine that a new decision must be taken, or, if the decision has not been taken, that a decision has to be taken, or that the assessment, examination, admission test, supplementary investigation or any part thereof needs to be resat, under conditions to be set by the Board of Appeal. The defendant shall provide for the case again as needed, with due observance of the Board of Appeal's verdict. The Board of Appeal may set a deadline for this in its verdict.

Article 24 Content of written verdicts

1. The Board of Appeal's verdict is dated and includes:
 - a. the names and addresses of the parties, and, if applicable, the name of the authorised representative
 - b. the grounds on which the verdict is based
 - c. the verdict
 - d. the names of the Board of Appeal chair, members and substitute members who rendered the verdict.
2. The verdict, signed by the chair/deputy chair and the secretary, is sent to the parties. A copy thereof is sent to the Board of Appeal members and substitute members.
3. The verdict will be published in anonymised form on the UM website. The secretary provides an annual overview of the rulings to the Executive Board and the Faculty Boards.
4. The verdict indicates which parties may file a higher appeal, as well as the relevant appeal body and deadline.

Article 25 Temporary injunction

In urgent cases, the chair/deputy chair may, at an appellant's request and in anticipation of the verdict in the main case, grant a temporary injunction without prejudice to the provisions of Article 8:81 of the AWB. The appellant submits an application to this end, supported by reasons. The chair decides on this application after hearing (or, at a minimum, summoning) the parties. This hearing may be waived if the defendant informs the chair or secretary that he/she is willing to comply with the request for a temporary injunction.

Article 26 Representation

The Board of Appeal is represented at law and otherwise by the chair or secretary.

Article 27 Archiving

The secretary ensures that the verdicts rendered by the Board of Appeal, along with the accompanying documents, are filed in the Board of Appeal's archives.

Article 28 Unforeseen situations

In situations not (clearly) covered by these rules of procedure, the chair decides on the matter, preferably after consulting with the other Board of Appeal members.

Citing this document

These regulations may be referred to as the 'Rules of Procedure of the Maastricht University Board of Appeal for Examinations'.

Laid down by the Maastricht University Board of Appeal for Examinations in its decision of 30 May 2024, following consent from the Executive Board on 22 April 2024 and the University Council on 30 May 2024.

Maastricht, 30 May 2024

This is a translation of the document 'Reglement van Orde College van Beroep voor de Examens'. In case of a difference in interpretation, this translation cannot be used for legal purposes and the Dutch version is binding.