



## Regulations for Employee and Student Complaints Procedures at the University of Amsterdam

*Disclaimer:* This translation is provided for information purposes only. In the event of a difference of interpretation, the original Dutch version of this document is binding.

Adopted by the Executive Board by decision no. 2018-058406 dated 28 November 2018

### Individual right of complaint

#### General provisions

##### Article 1

1. All staff members and students of the University of Amsterdam have the option of submitting a complaint regarding the conduct of an administrative body of the University towards them in a specific matter.
2. Complaints shall be handled in accordance with Chapter 9 of the General Administrative Law Act (*Algemene wet bestuursrecht*).
3. The term ‘conduct’ of the administrative body shall be understood as the behaviour of a person working under the responsibility of the administrative body.
4. For the purposes of these Regulations, the ‘administrative body’ is the Executive Board.

##### Article 2

1. The Executive Board is responsible for the proper handling of written and oral complaints about its conduct and about the conduct of management bodies operating under its responsibility.
2. Submission of a complaint to the Executive Board must not lead to an adverse treatment of the complainant by the Executive Board.

##### Article 3

1. The Executive Board entrusts an independent committee (hereinafter: the Complaints Committee) with the task of handling and providing advice regarding the complaints.
2. The Complaints Committee is composed as follows:
  - a. An external chair and an external deputy chair
  - b. A member and deputy member nominated by the Executive Board
  - c. A member and deputy member nominated by the Central Works Council
  - d. A member and deputy member nominated by the Central Student Council
3. The Complaints Committee is obliged to maintain confidentiality about the information obtained during the complaints procedure.

##### Article 4

The complaint shall be handled by a Complaints Committee whose members are not involved in the conduct to which the complaint relates.

#### Written complaints

##### Article 5

1. The notice of complaint must at least include the following information:
  - a. Name and address of the complainant
  - b. Date
  - c. Description of the conduct that resulted in the complaint and the name of the body

- or individual responsible for the conduct
- d. Signature of the complainant
  2. If the notice of complaint is submitted in a language other than Dutch and a translation is necessary in order to handle the complaint properly, the complainant shall be responsible for providing a translation.
  3. In the event that the notice of complaint does not meet the provisions referred to in this Article, the complainant shall be given the opportunity to meet the obligations outlined in the first paragraph.
  4. If the complainant does not make use of this opportunity and the notice of complaint fails to comply with the obligations, this notice of complaint shall not be handled.

**Article 6**

1. The Executive Board shall confirm receipt of the notice of complaint in writing within seven days.
2. The notification of receipt shall state whether the complaint will be forwarded to the Complaints Committee for handling or to another department/person responsible for handling the complaint.
3. In the event that the complaint is forwarded to another department/person responsible for handling the complaint, the present Regulations shall not be applicable.

**Article 7**

The Complaints Committee shall try to address the complaint through mediation, if possible.

**Article 8**

1. The Executive Board is not obliged to handle a complaint in case of the following:
  - a. The notice of complaint does not comply with the requirements of Article 5, paragraphs 1 and 2.
  - b. The complaint has been dealt with earlier with due observance of Article 6 and the following.
  - c. The complaint concerns conduct which occurred more than a year before the complaint was submitted.
  - d. The complainant is not the person against whom the conduct was directed.
  - e. The complainant's interests or the seriousness of the conduct is manifestly insufficient.
  - f. The complainant could have objected to the conduct.
  - g. The complainant may or could have submitted an appeal in this regard, unless the conduct involves a decision not taken on time.
  - h. As a result of legal proceedings initiated in this regard, the matter has been or was submitted to the judgment of a court other than an administrative court.
  - i. Investigative proceedings by order of the public prosecutor or prosecution of a criminal offence are ongoing, or if the conduct is part of the investigation or prosecution of a criminal offence and an investigation or prosecution is ongoing in respect of this offence.
2. The Executive Board takes a decision regarding the application of the first paragraph of this Article and may request advice from the Complaints Committee or its chair.

**Article 9**

1. If the Executive Board decides not to handle the complaint, the complainant shall be informed of this decision, including the reasons for this decision, in writing, as soon as possible and no later than four weeks after receipt of the complaint.
2. If other possibilities of complaint, objection, or appeal exist in relation to the conduct that has resulted in the complaint, the Complaints Committee shall immediately inform the complainant thereof.
3. The Complaints Committee shall not handle a complaint if there are other complaints regulations within the University that are more appropriate for handling the complaint in question. In that case, the complainant shall be referred to the relevant complaints regulations.

**Article 10**

Once the Executive Board has dealt with the complaint, through mediation or otherwise, to the satisfaction of the complainant, there is no further obligation to apply the provisions of these Regulations.

**Complaint handling****Article 11**

If it is decided to handle the complaint, a copy of the notice of complaint and the enclosed documents shall be sent to the person against whose conduct the complaint has been submitted (hereinafter: the respondent).

**Article 12**

1. The Complaints Committee shall give the complainant and the respondent the opportunity to be heard.
2. The composition of the Committee shall be indicated in the invitation to the hearing.
3. During the hearing, the complainant and the respondent may be assisted or represented by an authorised representative. In that case, the Executive Board may require a written authorisation from the authorised representative.
4. The hearing of the complainant may be abandoned in case of the following:
  - a. The complaint is manifestly unfounded.
  - b. The complainant has stated that he or she does not wish to make use of the right to be heard.
  - c. The complainant fails to state whether he or she wishes to make use of the right to be heard within the period set by the Complaints Committee.
5. A report of the hearing shall be drawn up and sent to the parties for inspection.
6. The Complaints Committee sessions are not public.
7. The complainant, respondent and any other parties involved must maintain confidentially about the information obtained during the complaints procedure.

**Article 13**

The Complaints Committee shall send a report of the findings, accompanied by its advice and any recommendations, to the administrative body. The report will contain an account of the hearing.

**Article 14**

1. The Executive Board shall settle the complaint within 10 weeks after receiving the notice of complaint.
2. The period referred to in paragraph 1 commences as soon as the notice of complaint is considered to be in compliance with the requirements of Article 5, paragraphs 1 and 2.
3. The Executive Board may adjourn the settlement of the complaint for a maximum of four weeks. The adjournment shall be communicated in writing to the complainant and the respondent.
4. Further adjournment is possible insofar as the complainant agrees to this in writing.

**Article 15**

1. The Executive Board shall send a written and reasoned notification to the complainant and the respondent of the findings of the investigation of the complaint as well as any related conclusions. A copy of the report of findings, the account of the hearing and the advice of the Complaints Committee shall be enclosed as appendices to the decision regarding the complaint.
2. If the conclusions of the Executive Board deviate from the advice of the Complaints Committee, the reasons for this deviation shall be stated in the conclusions.

3. The notification shall also indicate the ombudsman to whom the complainant may subsequently submit a notice of request and the period within which this must be done.

**Article 16**

1. The decision regarding the handling of a complaint about the conduct of an administrative body is not subject to appeal.
2. The opinion and related conclusions with respect to the complaint are not subject to appeal.

**Other provisions****Article 17**

The Executive Board is responsible for publishing these Regulations.

**Article 18**

The Executive Board is responsible for maintaining a proper record of the submitted complaints.

**Article 19**

1. The Complaints Committee shall report annually to the administrative body for each calendar year. This report shall indicate the number of complaints received and the number of complaints handled, as well as the nature and content of the complaints, findings and any conclusions.
2. The report shall be sent to the Executive Board and to the central and decentralised representative advisory bodies. The Executive Board shall publish this report.

**Article 20**

These Regulations were adopted by the Executive Board on 28 November 2018 and take effect on 1 December 2018. As of this effective date, the previous Regulations for Employee and Student Complaints Procedures at the University of Amsterdam as adopted by the Executive Board on 23 February 2012 (2012cb0051) shall be withdrawn.

## *Explanatory Notes to the Regulations for Employee and Student Complaints Procedures at the University of Amsterdam*

### General

The purpose of these Regulations is to provide an individual employee or student with the means to end or expose an undesirable situation or conduct, avoiding arbitrariness and careless treatment.

This is in accordance with the stipulations of the following:

- Working Conditions Act (*ARBOwet*), Sections 1 and 3, concerning psychosocial work stress
- Civil Code (*Burgerlijk Wetboek*), Article 7:658
- Equal Treatment Act (*Algemene Wet Gelijke Behandeling*), Section 1a
- Collective Labour Agreement for Dutch Universities (*CAO Nederlandse Universiteiten*), Article 1.12, paragraph 3
- Occupational Health and Safety Catalogue (*ARBOcatalogus*)
- Chapter 9 of the General Administrative Law Act (*Algemene wet bestuursrecht, Awb*)

These Regulations must be read in conjunction with the Complaints Committee Regulations (*Reglement van de Klachtencommissie*).

### Explanation

The UvA has set up a Complaints Committee for handling complaints from employees and students. In accordance with Chapter 9 of the Awb, any person may file a complaint with an administrative body. These Regulations only apply to the students and employees of the UvA. Complaints from other persons shall be dealt with by the administrative body itself (the Executive Board or the relevant department) in accordance with Chapter 9 of the Awb.

A formal complaint must relate to a specific conduct, where this implies an act or omission by the administrative body in how they treat someone. This includes the conduct of individual employees of the University, insofar as this conduct took place during the performance of the job. The conduct of students of the UvA is not covered under these Regulations. Therefore, complaints about or against students or fellow students based on these Regulations are, in principle, not handled. An exception to this is if it concerns a complaint about the conduct of a student working as an employee, for example, in the position of student assistant, insofar as this conduct took place during the performance of the job.

### Procedure

Written complaints that qualify for consideration by the Complaints Committee shall be handled in accordance with these Regulations. Complaints that do not qualify for consideration are described in Articles 7 and 9 of these Regulations. The requirements specified in Article 7 shall be applied with a certain degree of flexibility. Anonymous complaints shall not be handled. The administrative body may decide to handle the complaint even if it does not qualify for consideration under Article 9 of these Regulations. The complainant shall be informed if an objection or appeal is the more proper procedure to follow, or if other complaints regulations are more appropriate for the complaint in question. With the consent of the complainant, the complaint may then be forwarded to the appropriate body. If the administrative body is not required to handle the complaint, the Complaints Committee shall issue a recommendation in this regard within three weeks. If the administrative body decides not to handle the complaint, the administrative body must notify the complainant of this within four weeks. If the complaint can be resolved to the satisfaction of the complainant through mediation, this method should be given preference. Mediation may take place at any time during the complaints procedure. In such cases, with the consent of the complainant and/or the respondent, the other party shall be asked whether it is possible for the parties to have a discussion, informal or otherwise, with one another. During the hearing as well,

the parties may decide, by mutual consent, to enter into discussions with each other (once again), in order to resolve the complaint jointly. Once the complainant indicates that his or her complaint has been resolved satisfactorily, the complaint shall not be dealt with further.

If it is decided to handle the complaint, it shall be forwarded to the person against whom the complaint has been submitted (i.e. the respondent). Before this is done, the direct contact details of the complainant are removed from the complaint, although the complainant's name remains visible. The respondent shall be requested to respond within a certain period of time. A hearing shall be held, unless the complainant indicates that he or she wishes to relinquish this right. A report of the hearing shall be drawn up. Subsequently, the Complaints Committee shall issue an advice to the Executive Board. The Board shall take a decision regarding the complaint with due observance of the above-mentioned advice, which may result in a declaration of the complaint being well-founded or unfounded. This decision is not subject to appeal. The complainant may submit a request to the National Ombudsman ([www.nationaleombudsman.nl](http://www.nationaleombudsman.nl)) to investigate how the administrative body has conducted the matter. This may be done within one year after the decision regarding the complaint (Section 9:24 of the Awb).

Pursuant to Section 2:6 of the Awb, the language used by the administrative body and the Complaints Committee shall be Dutch. By way of exception, correspondence may be in English and the hearing, if the chair or deputy chair considers this desirable and possible, may also take place in English. The advice and the account of the hearing issued by the Complaints Committee and the final decision of the Executive Board shall be drawn up in Dutch, with no exceptions. If necessary, the parties may be assisted by an interpreter. Any necessary translations shall be at the expense of the complainant and/or the respondent.