



## Regulations for Employee and Student Complaints Procedures at the University of Amsterdam 2021

Adopted by decision no. 2021-057340 of the Executive Board on October 12, 2021

### Individual right of complaint

#### General provisions

##### Article 1

1. All current and former staff members and current and former 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.
5. In these Regulations, undesirable conduct shall in any case, but not exhaustively, be understood to mean any conduct that is harmful to the person concerned, given that it jeopardises or damages their physical or emotional integrity. This may include, but is not limited to, physical or verbal aggression, sexual harassment or other forms of intimidation, discrimination and exclusion, bullying and academic sabotage, as laid down in the Code of Conduct of the University of Amsterdam.

##### Article 2

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.

##### 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 a deputy member nominated by the Executive Board;
  - c. a member and a deputy member nominated by the Central Works Council;
  - d. a member and a deputy member nominated by the Central Student Council.
3. In the event of a complaint relating to undesirable conduct, the Committee may temporarily, for the duration of the handling of the complaint, be supplemented to include an expert in this field, whether or not affiliated with the University. In such case, the chair will decide on the extension of the Committee.
4. 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.

##### Article 5

The complainant may be assisted by a confidential adviser. At the request of the complainant, the confidential adviser may submit the complaint on behalf of the complainant in serious cases, to which Article 6(1)(a) of these Regulations shall not apply. The Complaints Committee shall rule on such a

request and shall also include the interest of the respondent in being able to sufficiently defend themselves against the complaint, and to what extent the complainant's anonymity can be safeguarded during the procedure without prejudice to the opportunities for investigation of the Complaints Committee, in its findings.

### **Written complaints**

#### **Article 6**

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;
  - e. if the notice of complaint is submitted in a language other than Dutch or English and a translation is required in order to consider the complaint properly, the complainant shall be responsible for providing a translation.
2. In the event that the notice of complaint does not meet the requirements referred to in this Article, the complainant shall be given the opportunity to meet the obligations outlined in the first paragraph.
3. 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 considered.

#### **Article 7**

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 consideration or to another department/person responsible for handling the complaint.
3. In the event that the complaint is referred to another department/person responsible for handling the complaint, these Regulations shall not apply.

#### **Article 8**

If possible, the Complaints Committee shall attempt to resolve the complaint by means of mediation at the faculty or at staff/unit level. The Complaints Committee shall only refer the complaint for mediation with the consent of both the complainant and the respondent. The parties may, with due notification to the Committee, cease their cooperation in the mediation effort at any time.

#### **Article 9**

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 6(1) and (2).
  - b. The complaint has been dealt with on a previous occasion with due observance of Article 7 and the following.
  - c. The complaint relates to conduct that took place more than a year before the complaint was submitted.
  - d. The complainant is a party other than the person against whom the conduct was directed, unless that person is acting as his or her authorised representative.
  - e. The complainant's interest or the seriousness of the conduct is manifestly insufficient.
  - f. The complainant could have objected to the conduct.
  - g. The complainant can submit or could have submitted an appeal in this regard, unless the conduct relates to a decision not taken in 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. Prosecution of a criminal offence or investigative proceedings by order of the public prosecutor are ongoing, or 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. By way of derogation from paragraph 1(c), the term for submitting a complaint regarding undesirable conduct shall in principle be three years.
3. The Executive Board shall decide on the application of the first paragraph of this Article and may request advice from the Complaints Committee or its chair.

## **Article 10**

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 consider a complaint if there are other complaints regulations within the University that are more appropriate for the consideration of the complaint in question. In that case, the complainant shall be referred to the relevant complaints regulations.

## **Article 11**

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

## **Complaints procedure**

### **Article 12**

If it is decided that the complaint shall be considered, 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 13**

1. The Complaints Committee shall give the complainant and the respondent the opportunity to be heard. At the request of the parties, the parties may be heard separately from each other. The Complaints Committee shall rule on such a request.
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 Complaints Committee may require a written authorisation from the authorised representative.
4. The Executive Board shall make an interpreter available upon request.
5. 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.
6. A report of the hearing shall be drawn up and shall be submitted to the parties for inspection.
7. If it sees cause to do so, the Complaints Committee may hear witnesses and experts or request them to make a statement in writing.
8. The Complaints Committee sessions shall not be public.
9. The complainant, the respondent and any other parties involved shall keep any information obtained during the complaints procedure confidential.

### **Article 14**

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

### **Article 15**

1. The Executive Board shall handle the complaint within 10 weeks after receiving the notice of complaint.
2. The period referred to in paragraph 1 shall commence as soon as the notice of complaint is considered to be in compliance with the requirements of Article 6, paragraphs 1 and 2.

3. The Executive Board may adjourn the handling 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 may be possible insofar as the complainant agrees to this in writing.

#### **Article 16**

1. The Executive Board shall provide the complainant and the respondent with a written and reasoned notification outlining the findings of the investigation of the complaint, as well as any related conclusions, in addition to the necessity of any appropriate measures to be imposed by the competent authority.
2. In the decision, the Executive Board shall state how the parties will be offered follow-up care, and it shall take the necessary arrangements for that purpose.
3. 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.
4. 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.
5. The notification shall state the period within which a petition may be filed with the National Ombudsman in order to have the UvA's actions reviewed.

#### **Article 17**

1. The decision regarding the handling of a complaint concerning the conduct of an administrative body shall not be subject to appeal.
2. The decision and related conclusions with respect to the complaint shall not be subject to appeal.

#### **Miscellaneous provisions**

#### **Article 18**

The Executive Board shall actively ensure the publication of these Complaints Regulations.

#### **Article 19**

The Executive Board shall actively ensure a proper record is maintained of the complaints submitted.

#### **Article 20**

1. The Complaints Committee shall issue a report to the administrative body annually for each calendar year. This report shall outline the number of complaints received that were eligible for consideration by the Complaints Committee and the number of complaints actually handled, in addition to the nature and content of the complaints and the findings and any conclusions.
2. The report shall be submitted to the Executive Board and to the central and decentralised representative advisory bodies. The Executive Board shall publish this report.

#### **Article 21**

These Regulations were adopted by the Executive Board on October 12, 2021 and enter into force on November 1, 2021. 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 28 November 2018 (decision no. 2018-058406) shall be withdrawn.

## *Explanatory Notes to the Regulations for Employee and Student Complaints Procedures at the University of Amsterdam 2021*

### **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:

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

These Regulations must be read in conjunction with the Complaints Committee Regulations (*Reglement van de Klachtencommissie*). These regulations pertain to the procedure within the Complaints Committee.

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 Complaints Regulations only apply to current and former students and current and former employees of the UvA.

A current or former student is understood to mean a person who is or was enrolled at the University of Amsterdam for his or her studies, a degree programme or course, a contract student, an external candidate, a postgraduate Master's student and anyone who makes use of the educational facilities offered by the University of Amsterdam on any other lawful basis.

A current or former employee is understood to mean a person who performs or has performed work for the University of Amsterdam, whether or not in the context of employment with the UvA and whether or not in an employer-employee relationship with the UvA, including trainees and guest lecturers/researchers.

Complaints from other persons (third parties) shall be dealt with by the administrative body itself (the Executive Board or the relevant department) in accordance with Chapter 9 of the Awb.

### **Complaint**

A formal complaint must relate to specific conduct, meaning an act or omission by the administrative body or improper treatment of persons, such as undesirable conduct. The term 'undesirable conduct' follows the definition provided by the UvA Code of Conduct. Undesirable conduct can also take place in the context of career development and can relate to so-called career obstruction. This includes the conduct of individual employees of the University, insofar as this conduct took place during the performance of their job. The conduct of students of the UvA is not covered by these Regulations. Therefore, complaints about or against students or fellow students are, in principle, not considered under these Regulations. An exception to this rule is where the complaint relates to 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 their job.

Anonymous complaints will not be considered, unless the complaint is submitted by a confidential adviser in accordance with Article 5. A case may be considered serious if the submission of the complaint leads to serious concerns regarding the complainant's physical and/or mental well-being or if there is a well-founded suspicion of repercussions from the respondent. The identity of the complainant must be known to the Confidential Adviser, and the anonymity may not harm the

respondent's ability to defend himself or herself against the complaint. In addition, the Complaints Committee may not be hindered in its investigation possibilities as a result of the complainant's anonymity. Whether the complainant can remain anonymous at their request is at the discretion of the Complaints Committee or its chair.

Pursuant to Section 2:6 of the Awb, the language used by the administrative body and the Complaints Committee shall in principle be Dutch. A complaint may, however, also be submitted in English, and the hearing may likewise be conducted in English if the chair or deputy chair considers this possible and desirable. The Executive Board may make an interpreter available upon request.

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. A summary may be provided in English upon request and if this is deemed necessary by the chair.

## **The Committee**

The Committee consists of an external, independent chair (not affiliated with the University of Amsterdam), a member nominated by the Central Student Council or the Central Works Council, depending on the capacity of the complainant (student or employee, respectively) and a member nominated by the Executive Board. If the complaint relates to inappropriate conduct, the Committee may – at the chair's initiative – be supplemented by an expert in the field of undesirable conduct, such that the committee is sufficiently equipped to conduct a thorough investigation of the complaint and issue its advice.

## **Procedure**

Written complaints that qualify for consideration by the Complaints Committee shall be handled in accordance with these Complaints Regulations. The complaints that are not eligible for consideration are described in Articles 6 and 9 of the Regulations; these provisions are largely similar to those in Sections 9:4 and 9:8 of the General Administrative Law Act. The requirements of these articles are applied with some flexibility, particularly when it comes to the time limit for submitting complaints. In cases involving undesirable conduct, the term is, in principle, set at three years. This term may be extended further if there are compelling reasons to do so.

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. The complaint may then be referred to the appropriate body with the consent of the complainant. 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, in accordance with Section 9:8 of the General Administrative Law Act.

If the complaint can be resolved through mediation to the satisfaction of the complainant, this method should be given preference. Mediation can take place at any time during the complaints procedure, but the relevant opportunities will often already be investigated at the start of the 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 enter into a dialogue with one another, either informally or otherwise. 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 need to be considered further by the Complaints Committee and the Executive Board. If one of the parties wishes to break off the mediation attempt, the formal procedure before the Complaints Committee will be resumed immediately.

If the complaint is being considered or if consideration resumes, it shall be referred 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 will be removed from the complaint, although the complainant's name will in principle remain visible. The respondent will be asked to respond to the complaint within 14 days.

A hearing shall be held, unless the complainant indicates that he or she wishes to relinquish this right. The parties may be assisted at the hearing if desired. The UvA will not reimburse the costs of

legal or other assistance. The Executive Board will make an interpreter available if requested and if it sees reason to do so. The committee may decide that it is necessary to question witnesses or experts. This can be done both at the hearing and in writing.

As complaints are often sensitive in nature, the hearings will not be public. In principle, the complainant and the respondent will be heard in each other's presence. The hearing of the complainant and the respondent may take place outside one another's presence at the request of one or more parties. The chair will rule on this request. It should be borne in mind that the parties can then still be given the opportunity to respond in writing to the arguments put forward by the other party. A report will be drawn up of the hearing. The Complaints Committee will subsequently issue an advice on the handling of the complaint to the Executive Board.

### **The Decision**

The Executive 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 admissible or unfounded. This decision shall also set out any appropriate measures to be taken. In addition, the decision will state how the parties involved will be provided with follow-up care. Provisions will be made for this purpose if necessary. This may include a referral to a confidential adviser, psychologist or student psychologist or internal or external guidance within the relevant degree programme/department in order to achieve reconciliation and create/restore a workable situation.

The decision of the Executive Board cannot be appealed. The complainant may submit a request to the National Ombudsman ([www.nationaleombudsman.nl](http://www.nationaleombudsman.nl)) to investigate how the UvA has conducted the matter. Under Section 9:24(1) of the General Administrative Law Act, this may take place up to one year after the decision was issued.

### **Review**

The Executive Board will have these regulations as well as their impact and the way they function evaluated two years after their entry into force. The Legal Affairs Department will conduct the review and will gather input from all the various stakeholders, including from the Central Student Council and the Central Works Council, for that purpose.

## **Annex I**

### **Students:**

The Arbitration Committee for Student Objections

<https://www.uva.nl/en/about-the-uva/organisation/legal-affairs/student-objections/student-objections-kopie.html>

The Examination Appeals Board

<https://www.uva.nl/en/about-the-uva/organisation/legal-affairs/examination-appeals-board/examination-appeals-board.html>

The Appeals Tribunal for Higher Education (CBHO)

<https://www.cbho.nl/english>

### **Staff:**

Disputes Committee

<https://medewerker.uva.nl/bestuursstaf-gde/shared-content-secured/medewerkersites/uva-medewerkers/nl/az/cao-en-aanvullende-regelingen/nieuwe-rechtspositie-vanaf-2020/nieuwe-rechtspositie.html#Wat-kan-ik-doen-als-ik-het-niet-eens-ben-met-mijn-leidinggevende>

Confidential adviser for individual legal status

<https://medewerker.uva.nl/bestuursstaf-gde/shared/subsites/extranet/nl/a-z/vertrouwenspersonen/vertrouwenspersoon.html?origin=vZ6Zix83QJO7MLoEUc4pmA>

### **General:**

The ombudsperson

<https://www.uva.nl/en/about-the-uva/about-the-university/social-safety/ombudsperson/ombudsperson.html>

The National Ombudsperson

<https://www.nationaleombudsman.nl>

Confidential advisers

<https://student.uva.nl/en/content/az/confidential-adviser-for-undesirable-behaviour/confidential-adviser-for-undesirable-behaviour.html>

Confidential adviser for academic integrity

<https://www.uva.nl/en/research/research-environment/academic-integrity/academic-integrity.html#Confidential-advisers-for-academic-integrity>

Academic Integrity Committee

<https://www.uva.nl/en/research/research-environment/academic-integrity/academic-integrity.html#Academic-Integrity-Committee>

National Board for Research Integrity (LOWI)

<https://lowi.nl/en/home/>

Doctorate Board

<https://www.uva.nl/en/research/phd/documents-and-forms/documents-and-forms.html>

Whistleblowers

<https://medewerker.uva.nl/content-secured/az/klokkenluiden/klokkenluiden.html>