

Complaints Regulations of the Open Universiteit (Klachtenregeling Open Universiteit)

These regulations were prepared with due observance of the provisions of the Dutch Higher Education and Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek) and chapter 9, Complaint Handling, of the Dutch General Administrative Law Act (Algemene wet bestuursrecht)

Article 1. Scope

These regulations apply to all complaints about the conduct of the Open Universiteit, with the exception of:

- a. Complaints concerning undesirable behaviour in accordance with the Complaints Regulations on Undesirable Behaviour of the Open Universiteit (Klachtenregeling ongewenste omgangsvormen Open Universiteit).
- b. Complaints concerning research integrity for which, under the Research Integrity Complaints Regulations (Klachtenregeling wetenschappelijke integriteit), the Complaints Committee (Klachtencommissie wetenschappelijke integriteit) has competence.
- c. Complaints concerning a written decision of the Executive Board against which objections may be lodged, in accordance with the Regulations on Student Objections Procedures of the Open Universiteit (Regeling behandeling bezwaren studenten Open Universiteit) or to which the Disputes Committee Regulations of the Open Universiteit (regeling Geschillencommissie Open Universiteit) apply.
- d. Complaints concerning a decision of an examiner or the Board of Examiners for the examinations of the Open Universiteit and against which an appeal may be lodged with the Examination Appeals Board pursuant to Section 7.61 of the Dutch Higher Education and Research Act. Such complaints should be lodged with the Examination Appeals Board in accordance with the Appeals Procedure for the Examination Appeals Board.

Article 2. Definitions

In these regulations, the following terms shall have the following meanings.

- a. Complaint: An expression of dissatisfaction, oral or written, regarding the manner in which a body of the Open Universiteit or a person whose actions can be imputed to that body, has conducted itself in a certain situation towards the complainant;
- b. Conduct: an act or omission (of a body or of a person working under the responsibility) of the Open Universiteit;
- c. The Complaints and Disputes Service Point (1-loket Klachten en Geschillen): the accessible and easily identifiable facility as referred to in Section 7.59a of the Dutch Higher Education and Research Act for lodging complaints under these regulations.
- d. Student: a person concerned as defined in Section 7.59a of the Dutch Higher Education and Research Act: Students, prospective students, former students, contract students, prospective contract students and former contract students;
- e. Employee: persons currently employed by the Open Universiteit;
- f. Third party: persons other than students or employees;
- g. Complaints Committee: the independent committee appointed by the Executive Board to handle complaints and advise the Executive Board with regard to complaints;
- h. Executive Board: the management of the Open Universiteit;
Open Universiteit: the legal entity established pursuant to public law within the meaning of Section 1.3(4) of the Dutch Higher Education and Research Act;
- i. Regulations: these Complaints Regulations of the Open Universiteit;

Article 3. Lodging complaints

1. Any person shall have the right to lodge a complaint with the Executive Board regarding the manner in which a body of the Open Universiteit, or a person whose behaviour can be imputed to the Open Universiteit, has conducted itself in a certain situation towards him or her, in so far as those involved have not been able to reach a solution in joint consultation.
2. Complaints may be lodged orally and also in writing. Complaints lodged digitally or electronically shall be treated as written complaints. Written complaints will hereinafter be referred to as notices of complaint.

3. Where the complainant is a student, he or she must lodge the complaint with the Complaints and Disputes Service Point. The details of the service point are as follows:
 - The digital address is 1-loketKlachtenengeschillen@ou.nl
 - The postal address is Postbus 2960, 6401 DL Heerlen
 - The physical address is 1-loket Klachten en Geschillen, Valkenburgerweg 177, 6419 AT Heerlen
 - The telephone number is +31 (0)45-5762888.
4. The Open Universiteit shall provide digital or paper complaint forms in a visible and accessible place, including in any event an Open Universiteit web page, which students may use to lodge a notice of complaint.
5. The Complaints and Disputes Service Point shall send (automatic) confirmations of receipt to complainants who lodge complaints digitally.
6. The Complaints and Disputes Service Point shall send complaints lodged in writing and all other documents pertaining to the complaints to the Complaints Committee, as referred to in these regulations, as soon as possible for further handling.
7. The Complaints and Disputes Service Point shall record complaints that are lodged orally on a complaint form and send that form as soon as possible to the secretariat of the Complaints committee, as referred to in these regulations, for further handling/settlement.
8. Complainants who are employees or third parties must lodge oral complaints with the chair of the Complaints Committee and written complaints with the Executive Board.

Article 4 Representation

1. In looking after his or her interests, a person lodging a complaint, as well as the person whose conduct the complaint relates to, may be assisted or may be represented by an authorised representative.
2. The Executive Board may ask an authorised representative to provide a written authorisation.
3. The Executive Board may refuse to allow assistance or representation by a person against whom there are serious objections. The complainant and the person providing assistance or representation shall be informed in writing of the refusal. Assistance or representation by lawyers cannot be refused.

Article 5. Procedural requirements for written complaints

1. A written complaint must always be signed and should at least include the following:
 - a. the name and the address of the person lodging it;
 - b. the date;
 - c. the signature of the person lodging it;
 - d. a description of the behaviour against which the complaint is directed.
2. If the notice of complaint was drawn up in a language other than Dutch or English and a translation is required for it to be handled properly, the person lodging the complaint shall be responsible for providing a translation.
3. If the notice of complaint does not satisfy the conditions referred to in this article, the complainant will be given the opportunity to meet his or her obligations.

Article 6. No obligation to handle complaints

1. The Open Universiteit is not obliged to handle a complaint if it pertains to conduct on the part of the Open Universiteit:
 - a. with regard to which a complaint has already been lodged and that complaint was handled in accordance with these regulations;
 - b. which took place more than one year before the complaint was lodged;
 - c. against which the complainant could have lodged an objection;
 - d. against which the complainant can or could have lodged an appeal, unless the conduct comprises a failure to take a decision in time;
 - e. which, through the institution of proceedings, is or was subject to the ruling of a judicial body other than an administrative court, or

- f. while a criminal investigation by order of the public prosecutor or a prosecution is pending, or if the conduct is part of the investigation or prosecution of an offence and a criminal investigation by order of the public prosecutor or a prosecution regarding that offence is pending.
2. The Open Universiteit shall not be obliged to handle a complaint if the complainant's interest or the importance of the conduct is clearly insufficient.
3. As soon as possible, but no later than four weeks after the complaint is received, the complainant shall be informed in writing that the complaint will not be handled.
4. Notifications that a complaint will not be handled shall state the period within which the complainant may go on to lodge an application with the National Ombudsman.
5. If an alternative complaint, objection or appeal option is available for the conduct to which an employee's or third party's complaint pertains, the Complaints Committee shall notify the person lodging the complaint without delay and forward the notice of complaint that manifestly falls within the competence of another body to said body without delay, while at the same time informing the person lodging the complaint.
6. If a student's complaint is incorrectly addressed, it shall be forwarded to the Complaints and Disputes Service Point as soon as possible after the date of receipt has been entered by the body lacking competence to handle it, accompanied by the original envelope, stating the sender's name, with the person lodging the complaint being notified at the same time.
7. The Complaints and Disputes Service Point shall send documents - not being complaints intended for it - which manifestly fall within the competence of another body to said body without delay, while at the same time informing the sender.
8. If the Complaints and Disputes Service Point has sent a student's complaint to a body lacking competence to handle it, that body shall return the document to the Complaints and Disputes Service Point as soon as possible.

Article 7. Complaints Committee

1. The Executive Board shall appoint a Complaints Committee for a period of three years, comprising at least a chair and two members. An appointment as member of the Complaints Committee may be extended for renewable periods of three years.
2. The Complaints Committee shall be assisted by an official secretariat.
3. The handling of complaints shall take place in the Dutch language.

Article 8. Handling of oral complaints

1. Oral complaints that those involved have been unable to resolve to their mutual satisfaction shall be handled and/or settled by the chair or deputy chair of the Complaints Committee.
2. The chair or deputy chair of the Complaints Committee shall be responsible for the proper handling of complaints.
3. The chair or deputy chair may decide that an oral complaint should be handled by the Committee in accordance with articles 10 to 16.
4. The chair or deputy chair shall inform the Complaints Committee and - if the complaint was lodged by a student - the Complaints and Disputes Service Point as well - of the manner in which the complaint has been settled.

Article 9. Handling of written complaints

Written complaints shall be handled by the Complaints Committee in accordance with articles 10 to 16.

Article 10. Written complaints; Confirmation of receipt by the Complaints Committee

1. The Complaints Committee shall confirm receipt of notices of complaint in writing, including those lodged electronically or digitally, no later than two weeks after receipt.
2. The Complaints Committee shall provide information about its subsequent procedure in the confirmation of receipt.

Article 11. Mediation

The Complaints Committee shall initially attempt to resolve complaints through mediation. Where a complaint is resolved through mediation, the obligation to apply the provisions of these regulations further shall cease to apply. A complaint shall be regarded as having been resolved once the complainant has confirmed such to the Open Universiteit.

Article 12. File on the proceedings

If the parties are unable to reach an amicable settlement, a hearing shall take place at which the substance of the complaint will be dealt with. The file on the proceedings shall contain a copy of the notice of complaint, as well as documents exchanged and included by the complainant and the defendant, and shall be transmitted to the defendant, the complainant and the Complaints Committee in good time before the start of the hearing. Defendants and complainants may lodge additional documents up to 10 days before the hearing.

Article 13. Hearing both sides of the argument

1. The Complaints Committee shall grant complainants and the persons to whose conduct the complaint relates the opportunity to be heard. Hearings shall take place in camera.
2. Complainants and defendants may be heard together or separately. Hearings may take place orally, in writing or online (video calling).
3. The Complaints Committee may dispense with a hearing of a complainant and/or defendant where:
 - a. the complainant and/or the defendant has stated he or she does not wish to exercise the right to be heard; or
 - b. the complainant and/or the defendant has not stated he or she wishes to exercise the right to be heard within the deadline set by the Open Universiteit; or
 - b. [sic] the complaint is clearly unfounded.
4. The Complaints Committee shall prepare a record of the hearing.

Article 14. Complaints Committee's advice

To settle a complaint, within six weeks of its receipt by the Executive Board or by the Complaints and Disputes Service Point, the Complaints Committee shall transmit a report of findings, accompanied by its advice and, if applicable, recommendations. The report shall also contain the record of the hearing.

Article 15. Deadline

1. The Executive Board shall settle a complaint within ten weeks of receipt of a notice of complaint.
2. The Executive Board may adjourn handling for no more than four weeks. The complainant and the person whose conduct the complaint relates to shall be notified in writing of the adjournment.
3. Further delay is possible provided the complainant consents to such in writing.

Article 16. Notification

1. The Executive Board shall notify the complainant and the person whose conduct the complaint relates to, stating reasons, of the findings of the investigation into the complaint, the advice and the record, as well as any conclusions that it attaches to them.
2. Where the conclusions of the Executive Board in respect of the settlement of a complaint differ from the advice as referred to in article 14, this shall be communicated, stating reasons, to the complainant and the person whose conduct the complaint relates to.
3. The Executive Board shall declare a complaint founded or unfounded.
4. If a further complaint can be lodged with an external body, this will be mentioned in the notification. The Executive Board shall also advise the complainant of the possibility of lodging an application with the National Ombudsman within a year of the date on which the complaint was settled in the notification referred to in the preceding paragraph.

Article 17. Recording complaints

1. The Complaints and Disputes Service Point shall be responsible for the proper recording of complaints lodged by students.
2. The Complaints Committee shall be responsible for the proper recording of complaints lodged by employees and third parties.
3. The Executive Board shall be responsible for recording with due care notices of complaints lodged with the Open Universiteit.
4. The Executive Board shall be responsible for publishing, in anonymous form, the number of complaints lodged and how they were dealt with in the Open Universiteit's annual report.

Article 18. Short title and entry into effect

1. These regulations may be cited as 'Complaints Regulations of the Open Universiteit'.
2. The Complaints Regulations of the Open Universiteit were adopted by the Executive Board on 9 February 2021 following a positive recommendation from the Local Consultation, the Works Council and the Student Council.
3. These regulations will come into effect on 9 February 2021.