

D A Design Academy
E Eindhoven

Design Academy Eindhoven

REGULATIONS BOARD OF APPEAL FOR THE EXAMS

July 2017

These Regulations of the Board of Appeal for the Exams (hereinafter: the Board of Appeal or the Board) are based on Section 7.60 of the Higher Education and Research Act (Wet op het Hoger Onderwijs en Wetenschappelijk Onderzoek, 'WHW') and are a more detailed elaboration of the provisions contained therein.

1. EXAMINATION APPEALS BOARD

1.1 The Board of Appeal for the Exams is appointed by the Executive Board. The Board of Appeal consists of no more than three members - the chairperson and two teaching staff members working for Design Academy Eindhoven.

1.2 The members are appointed by the Executive Board for a period of three years, after which they are eligible for reappointment.

1.3 The members may be discharged prematurely at their own request by the Executive Board. Notwithstanding the provisions in Section 7.60(6) of the WHW, members may be dismissed by the Executive Board in the event they cease to hold the capacity on which their appointment as member of the Appeals Board was based.

1.4 The secretariat of the Board of Appeal is provided by Design Academy Eindhoven's board secretariat.

2. PROCEDURAL REGULATIONS

2.1 The Board of Appeal for the Exams working procedure is detailed in these procedural regulations. Students considering an appeal would be well-advised to consult these regulations and the Student Charter beforehand.

3. COMPETENCE OF THE EXAMINATION APPEALS BOARD

3.1 Section 7.61(1) of the WHW describes the matters on which the Board of Appeal is competent to decide.

3.2 A refusal to issue a decision is equated with a decision. Any decision not made within the term required by or pursuant to the law, or not made within a reasonable period should such a term be lacking, is considered a refusal.

4. INTERESTED PARTY - APPELLANT

4.1 The Board of Appeal provides legal protection to students of Design Academy Eindhoven.

4.2 Under the Dutch Higher Education and Research Act (WHW), staff of the university of applied sciences or examination committees are not parties able to file an appeal with the Board of Appeal.

That means that an examiner who disagrees with a decision by the examination committee, for example, may not appeal to the Board of Appeal. The party filing the appeal is generally referred to as the appellant.

5. DECISIONS WHICH ARE APPEALABLE

5.1 An appellant may appeal to the Board of Appeal for the Exams against negative decisions by the examination committee in the following contexts:

- a. Graduation
- b. Negative binding recommendation on continuation of studies (BSA)
- c. Final assessment of a semester or trimester
- d. Extra examination resit
- e. Penalty for fraud
- f. Period of validity of course results
- g. A request for a reassessment
- h. Doing an internship
- i. Facilities concerning a functional impairment
- j. Exemption

6. SUBMITTING AN APPEAL

6.1 The notice of appeal should be sent within six weeks of the day on which the decision was made known to the appellant. The notice of appeal may only be submitted online through loket@designacademy.nl

The Loket will register receipt of the notice of appeal and will submit the appeal to the Board of Appeal for further handling.

6.2 As minimum requirements, the notice of appeal should contain the following information:

- a. The appellant's name, home address, place of residence, telephone number,
- b. The date,
- c. The appellant's degree programme and student number,
- d. Details of the part of the degree programme on which the decision being appealed against was made.
- e. A clear description of the decision against which the appeal is directed, if possible with the submission of copies or other documents.
- f. The grounds of the appeal, i.e. a substantiated statement explaining why the decision is wrong in the appellant's opinion. The appellant may therefore not confine themselves to stating merely that they do not agree with a certain decision.

7. AMICABLE SETTLEMENT

7.1 Before the Board of Appeal handles the appeal, the procedure for an amicable settlement referred to in Section 7.61(3) of the WHW will be followed.

7.2 The body (the defendant) against which the appeal is directed will inform the Board of Appeal – within three weeks supported by relevant documents – whether an amicable settlement is possible.

7.3 If no decision is made within that term or an amicable settlement proves impossible, the dispute will then be put before the Board of Appeal to decide. Where an amicable settlement proves impossible, the defendant will submit a statement of response with the Board, refuting the grounds for the notice of appeal. The statement of response to the appeal will always be

shared with the appellant.

7.4 In urgent cases, the Board of Appeal may decide to deviate from the term of three weeks.

7.5 The Board of Appeal may decide that the procedure under Section 7.61(3) of the WHW may be omitted if it comes to one or more of the following conclusions:

- a. The appeal is evidently inadmissible.
- b. The appeal is clearly unfounded.
- c. Following this procedure is evidently futile.

7.6 The Board of Appeal may also decide in the circumstances under a. and b. of the preceding sub-clause that a statement of response need not be filed and/or a hearing need not be held, and that therefore the appeal will not be handled. The latter decision will always be recorded in a written ruling.

8. INFORMATION/DOCUMENTS

8.1 The bodies and staff of Design Academy Eindhoven will provide, in a timely fashion, all information that the Board of Appeal considers necessary to perform its work, in accordance with the provisions of Section 7.63 of the WHW.

8.2 The parties may submit further documents up to five working days before the hearing.

8.3 The Board of Appeal is authorized to gather further information as it deems necessary and request documents relating to the proceedings.

9. PROCEDURE AT THE HEARING

9.1 The chairperson decides in as short a time as possible when and where the appeal will be heard. The parties will be notified in a timely manner.

9.2 In the event that the parties involved have stated that they do not wish to exercise the right to a hearing, the Board may forgo holding the hearing.

9.3 The Board of Appeal is competent to hear associated appeals in joint action and to split joined or collectively filed appeals.

9.4 The chairperson of the Board of Appeal may take any measures necessary to ensure that the hearing is conducted in an orderly fashion.

9.5 At the hearing, each party is given the opportunity to explain their position.

9.6 If during the deliberations following the hearing it appears that the examination at the hearing was incomplete, the Board may decide that the hearing will be continued at a date to be determined later.

10. REPRESENTATION/ WITNESSES/ EXPERTS AT THE HEARING

10.1 The parties may be assisted or represented by a lawyer or authorized representative. The authorized representative must demonstrate their competence by providing a written power of attorney, unless the authorized representative is a lawyer or the appellant issues a statement at the hearing agreeing to representation by the authorized representative.

10.2 In addition to the parties, only those parties acting as an authorized representative may speak at the hearing, unless determined otherwise by the chairperson.

10.3 The Board of Appeal may call and hear witnesses or experts on its own initiative or at the parties' request.

10.4 The names of the persons referred to in sub-clauses 1, 2 and 3 must be made known to the Board of Appeal no later than four days before the hearing. The names of any persons summoned by the Board will be made known to the parties within the same timeframe.

11. DECISION

11.1 The Board may give its decision orally during the hearing or in writing after the hearing. If the decision is given orally, the hearing will be adjourned temporarily to give the Board time to

determine its position. An oral decision is always followed by a written decision.

11.2 If the appeal is declared well-founded, the contested decision will be annulled in part or in full. The Board of Appeal for the Exams is not competent to make a new decision in the place of the partially or fully annulled decision.

11.3 The Board bases its decision exclusively on the documents submitted for appeal and based on what was presented at the hearing.

12. FINAL PROVISIONS

12.1 All matters not provided for in these Regulations will be decided by the chairperson.

12.2 These regulations were adopted by the Executive Board on 1 July 2017.

12.3 These regulations come into effect on 1 July 2017 and replace any previous versions of these regulations.

12.4 Decisions by the Board of Appeal for the Exams are binding on all parties. An appeal against the decision by the Board of Appeal may be lodged with the national Higher Education Appeals Tribunal.

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