

RULES OF PROCEDURE

of the joint

EXAMINATIONS APPEALS BOARD

of the Gerrit Rietveld Academie and
the Amsterdam School of the Arts

as referred to in Article 7.62 of the Higher Education and Research Act

1. Definitions

Article 1

In these Rules the terms below are taken to mean the following:

- a. the Act : the Higher Education and Research Act (WHW)
- b. the Examinations Appeals Board : the Examinations Appeals Board pursuant to Article 7.60 of the Act
- c. the Institutions : the Gerrit Rietveld Academie and the Amsterdam School of the Arts
- d. the Competent Authority : the Executive Board of the Gerrit Rietveld Academie and the general management of the Amsterdam High School of the Arts respectively
- e. the Inspectorate : the Inspectorate pursuant to Article 5.1 of the Act
- f. Student : students, external candidates and auditors as referred to in Title 3 of Chapter 7 (Article 7.32 et seq.) of the Act

2. Examinations Appeals Board

Office

Article 2

The office of the Examinations Appeals Board is domiciled at the Gerrit Rietveld Academie in Fred Roeskestraat 96, 1076 ED Amsterdam. The chamber for the Amsterdam School of the Arts, as referred to in Article 8 of these Rules, is domiciled at Oudezijds Voorburgwal 195, 1012 EX Amsterdam.

Powers

Article 3

Insofar as there is no pending appeal under Article 7.66 or Article 7.68 of the Act, the Examinations Appeals Board shall deliver a ruling solely on appeals against:

- a. decisions to reject, as referred to in Article 7.9, second paragraph of the Act,
- b. decisions for determining the number of credits obtained, as referred to in Article 7.9a of the Act,

- c. decisions other than orders of general application, made under the provisions of or pursuant to Title 2 (educational prerequisites) of Chapter 7 of the Act, with a view to admission to examinations and
- d. decisions of Examination Boards and examiners.

Members and deputy members

Article 4

1. The Examinations Appeals Board consists of six members and six deputy members, all of whom shall be appointed by the Competent Authority. These members may not be part of the Competent Authority or the Inspectorate.
2. The Competent Authority of the Gerrit Rietveld Academie shall appoint, pursuant to Article 8 of these Rules, the members of the chamber responsible for hearing appeals from students, external candidates and auditors of the Gerrit Rietveld Academie. The Competent Authority of the Amsterdam School of the Arts shall appoint, pursuant to Article 8 of these Rules, the members of the chamber responsible for handling appeals from students, external candidates and auditors of the Amsterdam School of the Arts.
3. The Chairman and Deputy Chairman of the Examinations Appeals Board must meet the requirements for appointment as a judge of a district court, as referred to in Article 48, first paragraph, of the Judiciary (Organisation) Act.
4. In case of an allowed challenge against, request to be excused or absence of one or more members, the Chairman shall immediately ensure a replacement.

Appointment

Article 5

1. The members and deputy members of the Examinations Appeals Board shall be appointed for a period of at least three years and for no more than five years or, insofar as students are concerned, for a period of at least one year and for no more than two years. They may be reappointed for another term.
2. At their request, discharge shall be granted to the members and deputy members of the Examinations Appeals Board. Upon reaching the age of seventy years, their discharge shall be granted with effect from the first day of the following month. They shall be dismissed if they are deemed unfit to perform their function due to illness or disability or if they have been convicted of a crime without appeal. Prior to dismissal on the basis of the provisions defined in the preceding sentence, the person concerned shall be informed of the intention to dismiss him and offered the opportunity to be heard with regard to this matter.
3. Moreover, members and deputy members, excluding the Chairman and Deputy Chairman, shall be dismissed if they lose the capacity for which they were appointed as a member or deputy member of the Examinations Appeals Board.

Remuneration

Article 6

1. The Chairman shall be remunerated on the basis of a rate agreed upon with the Competent Authority.
2. For attending the meeting of the Examinations Appeals Board held for the purpose of hearing an appeal, the other members and deputy members, who are not employed by one of the Institutions, shall be paid a remuneration of two hundred guilders per meeting.

Secretary

Article 7

The Examinations Appeals Board shall be assisted by a secretary appointed by the Competent Authority. The Competent Authority may assign one or more staff members to the secretary.

Chambers

Article 8

1. The joint Examinations Appeals Board of the Gerrit Rietveld Academie and the Amsterdam School of the Arts shall be divided into two chambers. One chamber shall hear appeals relating to the Gerrit Rietveld Academie, while the other chamber shall hear appeals relating to the Amsterdam School of the Arts.
2. Each chamber shall have three members. A chamber shall hold plenary sessions.
3. A chamber shall be headed by the Chairman or, in his absence, the Deputy Chairman or a member of the Examinations Appeals Board appointed thereto by the Competent Authority.
4. The number of deputy members per chamber shall be equal to the number of members.
5. Besides the Chairman, at least half the members of the Board shall be teachers.

Powers of the chambers

Article 9

For the purposes of Articles 13 to 22, the relevant chamber and its Chairman shall act in place of the Examinations Appeals Board and the Chairman of the Examinations Appeals Board respectively.

3. Appeal

Lodging of appeal

Article 10

1. The appeal may be lodged by the person concerned.
2. The appeal may be lodged on the grounds that:
 - a. the decision is contrary to any generally binding regulations,
 - b. when taking the decision, the Institution or an affiliated body thereof has apparently used its power for a purpose other than that for which this power is granted,
 - c. the Institution or an affiliated body thereof would have been unable to reasonably arrive at the decision by considering the interests involved or
 - d. the decision is contrary with any other existing principle of good administration based on the general sense of justice.
3. The appeal must be lodged, stating reasons, within four weeks after the notification of the decision to the appellant.

Submission of appeal

Article 11

The appeal shall be filed with the Examinations Appeals Board domiciled at the registered office of the competent chamber.

Amicable settlement

Article 12

1. Before hearing the appeal, the Examinations Appeals Board shall send this to the body against which the appeal is directed, inviting it to examine, in consultation with the concerned persons, whether an amicable settlement is possible. If the appeal is directed against a decision of an

- examiner, the notification referred to in the first sentence shall be sent to the relevant Examination Board.
2. Following this, the body referred to in the first paragraph shall communicate the outcome of the consultation to the Examinations Appeals Board, within three weeks and together with the relevant documents. If an amicable settlement cannot be reached, the appeal shall be heard by the Examinations Appeals Board.
 3. The notification referred to in the first paragraph and the invitation shall be sent on behalf of the Examinations Appeals Board by the Chairman of the Board as soon as the appeal is received by the Examinations Appeals Board.
 4. The Chairman of the Examinations Appeals Board may decide to dispense with an attempt to arrive at an amicable settlement, if he considers that such an attempt is clearly meaningless or shall result in disproportionate harm to the appellant. In this case, the Chairman shall prescribe a period within which the defence must be filed.

Written preparation of hearing

Article 13

1. If an amicable settlement, as referred to in Article 12, appears impossible, a defence from the relevant body shall be attached to the documents referred to in that Article, within the period specified in the second paragraph of that Article. The Chairman of the Examinations Appeals Board may decide that the defence may be filed later within a period of time considered reasonable by him. A copy of the defence shall be sent without delay to the appellant.
2. If the appellant indicates that he wishes to submit a further statement of defence or if the person or persons concerned or the relevant body indicate(s) that he/they/it want(s) to respond to this statement with a memorandum of reply prompted by the further statement of defence, the Chairman of the Examinations Appeals Board shall grant, if there is still time for this in light of the provisions of the third paragraph, the opportunity to do so within a period to be determined by him. A copy of the further statement of defence or memorandum of reply prompted by the further statement of defence shall be provided to the other party forthwith by the Examinations Appeals Board.
3. Prior to the hearing, all documents relevant to the proceedings shall be made available for inspection by interested persons for a period of at least three days at the office of the Secretary of the Examinations Appeals Board. This shall be simultaneously informed to the parties by the Examinations Appeals Board. The Chairman of the Examinations Appeals Board may decide that documents whose contents are of a very personal nature are only made available for inspection for the parties involved in the appeal.

Determining the place and time of hearing the appeal

Article 14

1. The Chairman of the Examinations Appeals Board shall determine, as soon as possible, where and when the hearing of the appeal shall take place. The parties shall be given timely notice thereof.
2. The Examinations Appeals Board may obtain, at its own initiative, any information it deems necessary and request documents relating to the proceedings.

Challenge and request to be excused

Article 15

1. For the hearing, each of the current members of the Examinations Appeals Board may be challenged by one or more of the parties involved in the appeal based on facts or circumstances which might make it difficult for the member concerned to form an impartial judgement. A member may request to be excused on the basis of such facts and circumstances.

2. The other current members of the Examinations Appeals Board shall decide as soon as possible whether to allow the challenge or request to be excused. In case of an equality of votes, the request shall be allowed.

Replacement and assistance at the hearing; witnesses and experts

Article 16

The Examinations Appeals Board may, ex officio or at the request of the parties, summon witnesses and experts.

Hearing

Article 17

1. The Chairman of the Examinations Appeals Board shall lead the hearing. He shall allow each party the opportunity to explain its position.
2. The Examinations Appeals Board shall deliver its ruling within ten weeks of receiving the appeal. The Chairman of the Examinations Appeals Board shall notify the parties thereof before the hearing is closed.

Deliberation and decision-making method

Article 18

1. The Examinations Appeals Board shall deliberate and decide in chambers. It shall base its ruling solely on the documents made available for inspection as well as information presented or discussed, without the counterparty being prejudiced hereby, at the hearing.
2. The Examinations Appeals Board shall decide by a simple majority of votes.

Decision

Article 19

1. If the Examinations Appeals Board considers the appeal to be justified, it shall nullify the decision in whole or in part. It may subsequently determine that a decision must be taken anew or, in case of rejection, an initial decision will still have to be taken in the matter or that the interim exam, exam, admission test or any part thereof must be held again under conditions to be defined by the Examinations Appeals Board.
2. The body whose decision has been annulled shall again deliberate, insofar as necessary, on the matter with due regard for the ruling of the Examinations Appeals Board. The Board may set a time limit for this in its ruling.

Ruling

Article 20

1. The rulings of the Examinations Appeals Board shall be dated and shall include:
 - a. the names and addresses of the parties and the names of the authorised agents,
 - b. the grounds for the ruling,
 - c. a decision and
 - d. the names of the members of the Examinations Appeals Board who have delivered the ruling.
2. A copy of the ruling, signed by the Chairman of the Examinations Appeals Board and the Secretary, shall be sent by registered post to the parties and to the Competent Authority. It shall also be made available for inspection by interested persons. In the latter case, the Chairman may decide that the names of the parties and others involved are omitted in the copy.

4. Preliminary injunction

Request for preliminary injunction

Article 21

1. In matters where the interests of the appellant require an immediate injunctive relief, he may request the Chairman of the Examinations Appeals Board for a preliminary injunction, by means of a reasoned application and pending a ruling in the main proceedings.
2. The Chairman shall decide regarding the request after having heard or at least summoned the relevant body or the examiner concerned.

Hearing of the request for a preliminary injunction

Article 22

1. The Chairman of the Examinations Appeals Board shall decide regarding the request referred to in Article 21.
2. Upon receiving a request, as referred to in the first paragraph, the Chairman of the Examinations Appeals Board shall determine, as soon as possible, the place and time of the public hearing of the request. The parties shall be informed of this in time and in writing.
3. Article 13, first and third paragraphs, Articles 14, 16, 17, 20, first paragraph under a, b and c and second paragraph and Article 26 shall apply *mutatis mutandis* to the request for preliminary injunction.

Revocation or modification in the preliminary injunction

Article 23

The preliminary injunction may be revoked or modified by the Chairman of the Examinations Appeals Board after he has heard or at least duly summoned the parties. Articles 16, 17, and 20, first paragraph under a, b and c and second paragraph shall apply *mutatis mutandis*.

Lapse of the preliminary injunction

Article 24

The preliminary injunction shall lapse as soon as the Examinations Appeals Board takes a decision regarding the main proceedings, insofar as no other time period has been defined for this in the ruling of the Examinations Appeals Board.

5. Review of rulings

Review of rulings

Article 25

1. The review of a ruling of the Examinations Appeals Board may take place at the request of either party, based on facts which have become evident later or circumstances which, if they had been known previously, might have resulted in a different ruling.
2. In case of a request for review, paragraphs 3 and 4 shall apply, to the extent necessary, *mutatis mutandis*.

6. Obligation to provide information

Obligation to provide information

Article 26

The bodies and staff members as well as examiners of the Institution shall provide the Examination Appeals Board with the information it deems necessary for the performance of its duties.

7. Concluding provisions

Unforeseen circumstances and entry into effect

Article 27

1. In case of unforeseen circumstances not provided for in these Rules, a decision shall be taken by the Chairman of the Examination Appeals Board, if necessary after consulting the other members.
2. These Rules shall enter into effect the day after the adoption thereof by the Competent Authority of the Institution.

Adopted on 14 July 1994 by the Competent Authority of the Gerrit Rietveld Academie.