

Regulation Ombuds Officer

Preamble

The Ombuds Officer is an independent officer appointed by the Executive Board who, in response to complaints from employees or on his/her/their own initiative, investigates whether an organisational unit or employee of the educational institution has behaved properly in a particular matter.

The Ombuds Officer deals with complaints submitted to him/her/them by individual employees. The Ombuds Officer can advise, refer, mediate, investigate and adjudicate. In the first conversation with the complainant, the Ombuds Officer will consider whether another route is possible. This may be mediation or advice. Putting a question to the Ombuds Officer leads to an advice and information route. Submitting a complaint to the Ombuds Officer leads to mediation and, where appropriate, to a complaint investigation, report and ruling in accordance with the Regulation Ombuds Officer.

The Ombuds Officer has a signalling role with regard to possible structural problems, bottlenecks and abuses within the educational institution, based on complaints submitted to him/her/them. Where appropriate, the Ombuds Officer can make suggestions to the competent authority by means of recommendations to prevent the consequences of improper conduct.

Definitions

Article 1

For the purposes of this regulation, the following definitions shall apply:

- a. Governing body: Chair of the Executive Board.
- b. Body: a part of the organisation of the higher education institution that is charged with a specific function pursuant to a regulation or other decision, such as a disputes committee.
- c. Employee: a person employed or working at the educational institution under any title.
- d. Complaint: a complaint about conduct by the employer and/or employees working for the employer. In this context, a conduct is understood to mean both an act and an omission.
- e. Parties involved: the complainant and the person against whom the complaint is directed.
- f. Ombuds Officer: the person appointed by the employer as an independent officer to handle complaints from employees about conduct (or failure to conduct) by the employer and other employees.

The Ombuds Officer

Article 2

2.1 There is a staff ombudsperson within the educational institute, in this regulation further referred to as 'the Ombuds Officer'.

2.2 The Ombuds Officer is appointed by the Executive Board for a period of six months and may be reappointed.

2.3 The Ombuds Officer shall be independent and impartial in the performance of his/her/their duties. The position of the Ombuds Officer is incompatible with other positions within the educational institution unless it also concerns an independent position as laid down in the job description and for which it also applies that activities do not conflict with the activities as Ombuds Officer.

2.4 The Ombuds Officer deals with employee complaints about conduct by (administrative) bodies and other employees and may conduct investigations as a result. In this context, a conduct is understood to mean both an act and an omission. The Ombuds Officer may make recommendations to those involved as a result of the investigation. The Ombuds Officer's decisions are not binding.

2.5 The Ombuds Officer shall report annually to the Executive Board on his/her/their activities.

2.6 The Ombuds Officer will be dismissed at his/her own request.

The Executive Board may dismiss the Ombuds Officer in the interim, if by his/her actions or omissions he/she seriously damages the trust placed in him/her. As soon as the ombuds officer can be expected to be unable to fulfil his/her duties for a longer period of time, the Executive Board shall appoint a deputy.

2.7 The Executive Board shall provide the Ombuds Officer with the resources necessary for the proper performance of the function.

2.8 Complaints about the Ombuds Officer can be submitted to him/her/them. If they are not resolved satisfactorily, they can be reported to the Chair of the Executive Board.

The right to complain

Article 3

3.1 Any employee of the higher education institution may submit a complaint to the Ombuds Officer about the manner in which a (administrative) body or employee has behaved towards him/her/them in a certain matter.

The complaint

Article 4

4.1 The complaint must be in writing and must contain at least:

- a. the name and address of the complainant;
- b. the date;
- c. a description of the conduct to which the complaint relates and a statement of which (administrative) body or employee has thus behaved and, if necessary, where and towards whom this conduct took place;
- d. the reason why the complainant complains about the conduct;
- e. the signature of the complainant. If the complaint is received by e-mail, this requirement is waived.

4.2 If another complaint, objection or appeal procedure is pending or has already been decided on in relation to the conduct, the complainant is obliged to inform the Ombuds Officer of this immediately. If the conduct is the subject of a dispute that has been submitted to court or in which a court decision has been pronounced, the complainant shall also report this. In such cases, the Ombuds Officer shall declare the complaint inadmissible.

4.3 The complaint should be formulated in Dutch or English.

4.4 The receipt of the complaint will be confirmed in writing within two weeks.

4.5 If the complaint does not comply with the conditions referred to in this article, the complainant will be given the opportunity to comply within two weeks.

4.6 The complaint may be withdrawn at any time, in which case these regulations shall not apply any further and the Ombuds Officer shall inform those concerned accordingly.

Conditions for complaint handling

Article 5

5.1 The complaint will be considered if:

- a. the complaint is lodged by a person who meets the definition of the term employee as defined in Article 1, sub c of these regulations;
- b. the complaint is lodged within one year after the conduct to which the complaint has taken place;
- c. the complaint meets the conditions mentioned in Article 4.1 and 4.3;
- d. the Ombuds Officer has not previously given an opinion on this complaint;
- e. in respect of the conduct under the Complaints procedure undesirable behaviour at the educational institution, a complaint cannot be filed with the relevant commission;
- f. with regard to the conduct, no complaint, objection or appeal procedure – other than those mentioned in e – has been or could be instituted on the basis of the law or a regulation within the academy, and the complainant has not availed himself of this or a decision has already been made on the matter in one of the aforementioned procedures;
- g. the conduct is not the subject of a dispute that has been submitted to court or in which a court decision has been made;
- h. the matter does not belong to the general policy of the educational institution or the administrative body.

5.2 The Ombuds Officer may omit handling the complaint if:

- a. the complaint is settled amicably;
- b. the complaint is manifestly unfounded;
- c. the interest of the complainant or the weight of the conduct is manifestly insufficient; such to be assessed by the Ombuds Officer.

5.3 If the Ombuds Officer decides not to deal with the complaint on the basis of the provisions of Articles 5.1 and 5.2, he/she/they shall notify the complainant and, if the complainant had already been informed about the complaint, the (administrative) body concerned or the staff member concerned in writing as soon as possible, stating the reasons.

5.4 If the decision to withhold treatment (Article 5.3) is based on the fact that another procedure is open to the complainant, the complainant will be made aware of this.

5.5 The decision of the Ombuds Officer mentioned in Article 5.3 is not subject to any objection or appeal.

Complaint investigation

Article 6

6.1 If mediation is not considered useful, or an attempt at mediation has not led to an amicable settlement of the complaint, the Ombuds Officer shall give the (administrative) body or the employee whose conduct the request refers to and the complainant the opportunity to explain their point of view in writing or verbally, whether or not in each other's presence – at the discretion of the Ombuds Officer.

6.2 The ombudsperson may, if he/she deems this necessary to assess the complaint, also give others the opportunity to take note of the complaint and make oral or written statements about it.

6.3 The ombudsperson is authorised to request information from (administrative) bodies and employees or to request and inspect documents concerning a matter to which a complaint relates.

6.4 (Administrative) bodies and employees are obliged to provide the statements requested in the fourth subsection and the information and/or documents referred to in the fifth subsection within the reasonable term indicated by the ombudsperson.

6.5 Without prejudice to the provisions of the eighth paragraph, the Ombuds Officer shall inform the parties about the information gathered by him/her.

6.6 (Administrative) bodies and employees may indicate that information and/or documents, about which they deem confidentiality necessary for very important reasons, are only provided on the condition that their confidential nature is maintained by the Ombuds Officer.

6.7 Before concluding the investigation, the Ombuds Officer shall inform the complainant and the (administrative) body or the staff member in writing of his/her preliminary findings and give them the opportunity to respond to these findings in writing within a reasonable period to be specified by him/her/them.

The findings

Article 7

7.1 The Ombuds Officer assesses whether or not the (administrative) body or the staff member behaved properly in the matter he/she/they investigated.

7.2 The report of the Ombuds Officer, in which his/her/their opinion is given, contains the considerations on which this opinion is based and is sent to the complainant, the (administrative) body or the staff member and the Executive Board.

7.3 The Ombuds Officer may make such recommendations in the report as he/she/they deem(s) appropriate. These recommendations may relate to the specific conduct which is the subject of the petition, or to more general aspects which have come to light during the investigation.

7.4 The person authorised to implement the recommendations, as referred to in the third subsection, shall inform the Ombuds Officer within one month after receipt of the report, in a substantiated manner, whether and if so, how the recommendations have been or will be implemented. Recommendations need not be implemented if they are contrary to general policy. The Ombuds Officer shall immediately inform the complainant and the Executive Board in writing.

7.6 If the administrative body or the staff member considers not following the recommendation(s) for weighty reasons, he/she/they shall inform the Ombuds Officer with reasons. The Ombuds Officer shall send a copy of this to the complainant and the Executive Board.

7.7 The complainant can appeal the Ombuds Officer's assessment to the National Ombudsman.

Annual report

Article 8

The Ombuds Officer shall submit an annual report of his/her/their activities to the Executive Board. The report shall in any case include the number of cases handled and an anonymised summary thereof. Any description of the cases handled shall be such that the privacy of the employees concerned is fully protected.

Confidentiality

Article 9

The Ombuds Officer is bound to secrecy of everything that comes to his/her/their knowledge in the performance of his/her/their duties, insofar as this follows from the nature of the case.¹ This duty also applies to all persons working for him/her/them and to those persons who are or have been involved in a specific case. The Ombuds Officer may be released from his/her/their duty of confidentiality if the safety of employees and the Ombuds Officer is threatened.

Retention period

Article 10

¹ Incidentally, the court may demand procedural documents from the Ombuds Officer for handling a case.

A settlement agreement resulting from a mediation, a report of findings and a decision taken following a report of findings shall be deleted from the personnel file after three years. Data held by the Ombuds Officer will also be removed from the Ombuds Officer's archive after three years.

Protection

Article 11

Persons concerned who have, in good faith and with due observance of the provisions of the Regulation Ombuds Officer, contacted the Ombuds Officer or submitted a complaint, shall not be disadvantaged in any way in their position, insofar as such disadvantage is the result of their contacting or submitting a complaint to the Ombuds Officer.

Official title, entry into force

Article 12

These regulations may be cited as 'Regulations Ombuds Officer Staff Gerrit Rietveld Academy' and came into force on 11 May 2023.