

NVAO • FLANDERS

QUALITY ASSURANCE SYSTEM FLANDERS 2019-2025

REGULATIONS REGARDING
GOVERNANCE PRINCIPLES CONCERNING
THE DECISION-MAKING PROCEDURES OF
THE ACCREDITATION ORGANISATION OF
THE NETHERLANDS AND FLANDERS

October 8th, 2018

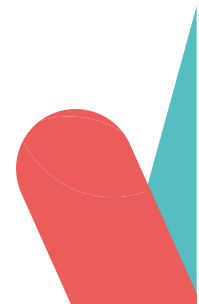


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Inhoud

Chapter 1 General Provisions	4
Chapter 2 Independence and Impartiality	5
Section 1. NVAO	5
Section 2. Panel	6
Chapter 3 Due Diligence and Reasonableness.....	7
Chapter 4 Formal Justification	8
Chapter 5 Public Access.....	8
Chapter 6 Request for Additional Information, Explanations and Clarifications.....	8
Chapter 7 Defence Principle & Complaint Procedures	9
Section 1. Overview.....	9
Section 2. Advisory Board: Composition, Organisation and Function.....	10
Section 3. Procedure	11
Subsection 1. Lodging Objections.....	11
Subsection 2. Admissibility Test.....	11
Subsection 3. Hearing.....	12
Subsection 4. Deliberation and Suggestions	12
Section 4. Final Verdict	12
Chapter 8 Revocability of Decisions.....	13
Chapter 9 Final Provisions.....	13

Accreditation Organisation of the Netherlands and Flanders,

Taking into account the Higher Education Codex of October 11th, 2013, in particular, Articles II.27, II.129, §1, second paragraph and §3, II.132, second paragraph; II.142, §4, II.143, § 2, second paragraph; II.145, §2, II.146, §2, second paragraph; II.148, second paragraph; II.153, §7, third paragraph; and II.384, §3;

Taking into account the Higher Education Codex of October 11th, 2013, amended by the Decree of May 9th, 2018, establishing the quality assurance system in higher education, in particular, Articles II.153/6, §2, fourth paragraph; II.170/7, §3; II.170/13, §5; II.170/18, §5;

After deliberation,

CONCLUSION:

Chapter 1 General Provisions

Art. 1. The terminology used in these regulations should be read with the meaning given to it in:

- 1° The Treaty between the Kingdom of the Netherlands and the Flemish Community of Belgium regarding the accreditation of study programmes within the Dutch and Flemish Higher Education system, signed in The Hague on September 3rd, 2003;
- 2° The coordinated decrees on Higher Education of October 11th, 2013 (Higher Education Codex);
- 3° The assessment frameworks in force in higher education in the Flemish Community: in particular: the assessment frameworks for institutional review, programme accreditation tailored to individual requirements, initial accreditation tailored to individual requirements, study programme accreditation, initial accreditation and extensive initial accreditation;
- 4° The operational frameworks in force in higher education in the Flemish Community. In particular: the operational frameworks for changes in study load and changes in research masters programmes;

For the purpose of these regulations, the following definitions apply:

- 1° Institution: an officially registered institution, a registered institution, or an institution that wishes to become a registered institution in the Flemish Community through initial accreditation;
- 2° Institution's board: the competent administrative body of an officially registered institution, a registered institution, or an institution that wishes to become a registered institution in the Flemish Community through initial accreditation;
- 3° NVAO: the body of the Accreditation Organisation of the Netherlands and Flanders that is authorized by or pursuant to the treaty, designated to exercise the powers set down in these regulations;
- 4° Panel: the panel charged with the external assessment of an institution or a study programme as stated in the assessment frameworks and the operational frameworks, first paragraph, 3° and 4°;
- 5° Inquiry: the formal request from the board of an institution to start an assessment procedure as stated in the assessment frameworks and the operational frameworks, first paragraph, 3° and 4°;
- 6° Assessment Procedure: the steps in the assessment process as stated in the assessment frameworks and the operational frameworks, first paragraph, 3° and 4°;
- 7° Assessment Report: the report in which the panel submits its advice to NVAO in accordance with the provisions in the assessment frameworks and the operational frameworks, first paragraph, 3° and 4°;

- 8° Decision: the decision by NVAO based on the panel's assessment report in accordance with the assessment scale and the assessment rule, as stated in the assessment frameworks and the operational frameworks, first paragraph, 3° and 4°;
- 9° Advisory Board: the advisory body which deals with objections relating to draft decisions and assessment reports by NVAO concerning higher education study programmes in the Flemish Community.

Art. 2. These regulations apply to applications from a board of an institution in accordance with the provisions in the assessment frameworks and the operational frameworks mentioned in Art. 1, first paragraph, 3° and 4°.

Chapter 2 Independence and Impartiality

Section 1. NVAO

Art. 3. An assessment report and a decision based on it are adopted in an independent and impartial manner.

If matters arise during the assessment process which could influence the independence of an assessment, stakeholders are entitled to report this to NVAO. The relevant form is available on the NVAO website. The course of action and follow-up to these reports will be published on the NVAO website.

Art. 4. §1. As stipulated in Art. 2 of these regulations, an NVAO board member will abstain from participating in deliberations and decisions concerning an application if:

- 1° they are a (former) member of:
 - a) the staff of the institution concerned, irrespective of the nature of the employment or the origin of the remuneration;
 - b) a management body of the institution concerned;
 - c) a management body of a legal entity in which the institution has an interest;
 - d) a management body of the hospital affiliated with the institution;
- 2° they had a (former) membership or a (former) representational function in the association to which the institution belongs;
- 3° they were ever involved in providing advice or performing assignments for the institution concerned;
- 4° they have had a (former) spouse, a (former) cohabitation arrangement or family ties to the second degree with persons as referred to in 1°.

There is no longer any incompatibility if the membership, the representative function, the spousal or cohabitation arrangements were terminated 5 years prior to the date of application, or if the advice or assignment was delivered before this period.

For the purposes of the first paragraph, 1°, d), Ghent University Hospital or Antwerp University Hospital are considered to be affiliated to Ghent University and the University of Antwerp respectively.

§2. An NVAO board member may, in addition to the cases referred to in §1, voluntarily refrain from participating in the deliberations and decisions on an application.

Art. 5. §1. With each application, an institution's board can, as specified in Art. 2 of these regulations, submit an objection if it believes that one of the considerations of incompatibility, as described in Art. 4, §1, applies to a board member. Such an objection may be lodged at a later date, if the reason for challenging has arisen later or if this reason has only come to the board's notice at a later date.

§2. A decision on the objection will be taken immediately by the NVAO board without the board member to whom the objection relates.

Section 2. Panel

Art. 6. §1. NVAO convenes its panel according to the principles stated in the Higher Education Codex and in the applicable assessment framework or operational framework.

§2. Membership of a panel, the role of process coordinator and the role of secretary are incompatible with:

1° (former) membership of:

- a. the staff of the institution concerned, irrespective of the nature of the employment or the origin of the remuneration;
- b. a management body of the institution concerned;
- c. a management body of a legal entity in which the institution has an interest;
- d. a management body of the hospital affiliated to the institution;

2° a (former) membership or a (former) representational function in the association to which the institution belongs;

3° providing advice or performing assignments in the past for the institution concerned;

4° having had a (former) spouse, a (former) cohabitation arrangement or family ties to the second degree with persons as referred to in 1°.

There is no longer any incompatibility if the membership, the representative function, the spousal or cohabitation arrangements were terminated 5 years prior to the date of application, or if the advice or assignment was delivered before this period.

For the purposes of the first paragraph, 1°, d), Ghent University Hospital or Antwerp University Hospital are considered to be affiliated to Ghent University and the University of Antwerp respectively.

§3. The panel members, the process coordinator and, if necessary, the secretary, sign a declaration of honour confirming that they are not in a state of incompatibility as stated in §2 and comply with NVAO's code of ethics. This code of ethics is published on the NVAO website. This statement on honour is added to the file. If incompatibility arises after the declaration is signed, the person concerned must report this to NVAO and immediately and completely withdraw from the assessment procedure.

Art. 7. If NVAO makes a decision with regard to the composition of the panel, this decision will be communicated to the institution's board either digitally or in writing.

Art. 8. §1. The board of the institution concerned may lodge substantiated objections to the composition of the panel if the board of the institution believes that one of the considerations of incompatibility as referred to in Art. 6, §2 is applicable to a member of the panel.

Starting one day after the notification of the composition of the panel, the board of the institution has 15 calendar days to formulate objections. Requests for rescission submitted later are inadmissible, unless the reason for the challenge has arisen after the aforementioned notification or if the board of the institution demonstrates that it only became aware of this reason at a later date.

Objections to the composition of the panel are not dealt with in accordance with the provisions in Chapter 7 concerning objections to a draft decision and assessment report.

§2. If incompatibility is actually established, NVAO will investigate the matter immediately and will make changes to the composition of the panel. NVAO will inform the board of the institution of the appropriate changes.

Art. 9. §1. If a member of the panel withdraws during the assessment process, this member will only be replaced if it is essential for making a legally valid decision, in particular when:

- 1° the remaining members have insufficient knowledge of Flemish higher education;
- 2° experts who are essential in delivering a valid assessment report decide to withdraw.

§2. NVAO can appoint substitutes on an ad hoc basis.

§3. Regardless of the state of proceedings, a member of the panel can be replaced at any time.

§4. When a panel member is replaced, the board of the institution board will be notified of the new panel composition in accordance with Art. 7, except when the replacement has already been announced pursuant to §2. In any event there will once again be the possibility for an objection against the new member in accordance with Art. 8.

Chapter 3 Due Diligence and Reasonableness

Art. 10. §1.1. As stipulated in Art. 2 of these regulations, NVAO observes the following time frames for processing applications:

- 1° institutional review: 12 months;
- 2° study programme accreditation tailored to individual requirements: 6 months;
- 3° initial accreditation tailored to individual requirements: 6 months;
- 4° study programme accreditation: 3 months;
- 5° initial accreditation: 6 months. Can be extended to 8 months if subject to a relevance test;
- 6° elaborate initial accreditation: 6 months. Can be extended to 8 months if subjected to a relevance test;
- 7° changes in study load: 5 months;
- 8° rearrangements in the research Master's: 5 months.

2. If it is not possible to make a decision within the specified period, NVAO must inform the institution about the new procedural time frame no more than 15 calendar days after the original deadline.

§2. NVAO will set down its Assessment Report and Decision on the basis of the Assessment Scale and the Assessment Rules set out in Chapter 2.2. and the Assessment Procedure set out in Chapter 3 of the Assessment Framework or the Operational Framework that applies to the application as set down in Art. 2 of these regulations.

Art. 11. In the event of different modes of study, a positive assessment requires that a favourable judgement applies to the various options separately. "Positive assessment" means an assessment that is not negative.

Art. 12. NVAO develops and uses an internal quality assurance system that takes into account consistency in decision-making. This internal quality assurance system is published on the NVAO website.

Chapter 4 Formal Justification

Art. 13. §1. With each enforceable decision that precedes the issuing of a decision, NVAO states:

- 1° the specific facts which form the basis of the decision;
- 2° the grounds on which the decision was based;
- 3° how and why those grounds lead to the decision, based on the stated facts.

This formal justification must be a sufficient basis for all segments of the decision.

The justification will be elaborated in the decision itself or in an additional note.

§2. The Formal Justification can be fully or partially sufficient with reference to an assessment report or advice issued if:

- 1° this report or advice itself fully or partially contains the justification;
- 2° this report or advice is added to the decision;
- 3° prior to the referral, evidence is provided that the full or partial follow-up of the Assessment Report or advice has been deliberated.

Art. 14. Assessment reports explicitly indicate how the assessment scale and the assessment rules apply to the application as defined in Art. 2 of these regulations.

Chapter 5 Public Access

Art. 15. NVAO provides a report of all decisions and assessment reports as a result of the applications referred to in Art. 2 to the relevant institutional board(s) and to the Minister.

Art. 16. All decisions and assessment reports are published on the NVAO website.

Art. 17. If the Flemish Government has decided to recognize a proposed study programme as a new study programme, the decision and assessment report preceding this decision will immediately be published on the NVAO website.

Art. 18. When presenting each decision and its underlying assessment report, NVAO states the possibilities regarding objection and appeal.

Chapter 6 Request for Additional Information, Explanations and Clarifications

Art. 19. The provisions of this chapter concern the possibility for NVAO to request additional information, explanations and clarifications with regard to the applications stated in Art. 2 of these regulations.

The provisions of this chapter do not apply to questions from NVAO that relate to ambiguities regarding the actual study programme data such as the name and possible modes of study.

Art. 20. NVAO will request additional information, explanations and/or clarifications when:

- 1° there are any doubts about (the interpretation of) the assessments submitted in the assessment reports;
- 2° on the basis of a submitted assessment report there are any doubts with regard to the assessment grounds in Chapter 2 of the corresponding assessment framework or operational framework.

NVAO can also request additional information, explanations and/or clarifications if it deems such necessary or useful in light of the principle of due care.

Art. 21. §1. A request from NVAO to provide additional information, explanations and/or clarifications is always made in writing, digitally or on paper.

§2. The request as referred to in §1 states:

- 1° the reason for requesting additional information, explanations and/or clarifications;
- 2° which additional information, explanations and/or clarifications must be provided;
- 3° whether the requested information should be provided in writing and/or orally (in the form of an interview);
- 4° in the case of a written response, the period in which the requested information must be received; this period may not be less than 15 calendar days and, if applicable, takes holiday periods into account.

An interview, as referred to in the first paragraph, 3°, is organized in mutual consultation with an institution's board and, if necessary, with the evaluation board. The institution's board and the evaluation board are free to take relevant notes during the interview. NVAO will write a report on this interview and, prior to its final adoption, will submit it to all partners for comment.

Art. 22. NVAO will include the provided additional information, explanations and/or clarifications when processing the application. In its decision NVAO clearly states which additional information, explanations and/or clarifications were requested, as well as the results of that request.

Chapter 7 Defence Principle & Complaint Procedures

Section 1. Overview

Art. 23. The provisions in this chapter, as defined in Art. 2 of these regulations, state the right to submit comments and/or objections regarding each and every enforceable decision made by NVAO which precedes the issuing of a decision.

Art. 24. §1. Comments regarding an enforceable decision or a draft can always be submitted to NVAO in whatever form. These are technical comments.

§2. Objections regarding a draft are submitted to NVAO with due observance of the principles as stated in this chapter. These objections concern the basis of the draft.

§3. NVAO will continuously communicate the possibilities of formulating comments and/or objections as well as the timespan within which this must occur.

§4. The institution's board should always clearly indicate whether what is submitted concerns an objection.

§5. The period of six months for processing an initial accreditation will be extended to eight months if the comments and/or objections of the institution's board are such that the accreditation organisation requires additional expert advice.

Art. 25. The institution's board has the right to be assisted or represented by a lawyer in the objection procedure referred to in this chapter. Each confidential counsellor can act as counsel.

NVAO may require written authorization from a legal counsel except in the case that this counsel is registered as a lawyer, or as a trainee lawyer in a member state of the European Union.

Section 2. Advisory Board: Composition, Organisation and Function

Art. 26. The Advisory Board is established by the NVAO board.

Art. 27. The Advisory Board is established in the buildings of NVAO. The correspondence address for the Advisory Board will be published on the NVAO website.

Art. 28. §1 The Composition of the Advisory Board is as follows:

- 1° Three college members who are entitled to vote, consisting of:
 - a) a lawyer chairperson,
 - b) two experts with demonstrable experience in higher education or, as defined in Art. 1 of these regulations, with experience as a member of at least one panel.
- 2° a secretary without voting rights.

§2. Depending on the file, the Advisory Board can be supplemented with one or two substantive members entitled to vote:

- 1° a domain expert with demonstrable experience as a member of at least one panel, or
- 2° an educational expert with demonstrable experience as a member of at least one panel;

The NVAO board can indicate a substitute for one of the college members or the secretary.

§3. The board members and the secretary cannot be NVAO staff members.

§4. The board members and the secretary will refrain from participating in activities involving an objection if at the time of registering the objection:

- 1° they are part of the administrative, academic or teaching staff of the institution that is objecting, and/or
- 2° they are a member of one of the governing bodies of the institution that is objecting.

§5. The board members and the secretary are appointed by the NVAO board for a period of 5 years and are eligible for reappointment. They may only be authorized by the NVAO board; they can only be dismissed by the NVAO board in the event of gross negligence or manifest misconduct. Dismissal by the NVAO board cannot be based on the content of the advisory practice of the Advisory Board.

Board members and the secretary can personally resign via registered letter addressed to the NVAO board. They will remain in office until a new board member or secretary has been appointed.

Art. 29. The Advisory Board can only validly hear, deliberate, vote and decide when all the members of the college or their deputies, and the secretary or his/her deputy, are present.

Art. 30. The Advisory Board is responsible for all tasks of (practical and administrative) support, which are not explicitly assigned to the secretary in these regulations, assisted by NVAO. This concerns in particular possible reservations of meeting rooms and (lunch and hotel) facilities for the board members and for the secretary him/herself.

Section 3. Procedure

Subsection 1. Lodging Objections

Art. 31. §1. The institution's board formulates its objections in a notice of objection and addresses it to the Advisory Board.

This notice of objection must be submitted within an expiry period of 15 calendar days. The expiry period starts the day after receiving the draft decision. The postmark or the date of the sent e-mail serves as the date of the notice of objection.

§2. The notice of objection must include a minimum of all of the following statements:

- 1° the name and contact details of the institution's board, namely a postal address, a telephone number and an e-mail address;
- 2° the draft decision by NVAO to which the notice of objection relates;
- 3° a description of the rule(s) and/or standard(s) that were violated and the way in which the rule(s) and/or standard(s) were violated according to the institution's board.

The institution's board can add persuasive documents to the notice of objection if it so deems necessary. These attached documents are bundled and are registered in an inventory.

The notice of objection is dated and signed by the institution's board or by its counsel.

Art. 32. §1. Each notice of objection is registered by the NVAO when received. This registration includes:

- 1° the identity of the institution's board;
- 2° the date of the postmark or of the e-mail;
- 3° the draft decision by NVAO to which the notice of objection relates.

§2. NVAO confirms receipt of the notice of objection and immediately forwards the notice of objection to the secretary of the Advisory Board.

Subsection 2. Admissibility Test

Art. 33. §1. The Advisory Board assesses the admissibility of every incoming notice of objection.

A notice of objection is inadmissible if at least one of the following conditions are met:

- 1° the notice of objection has not been submitted by or on behalf of the institution's board;
- 2° the notice of objection has not been submitted within the corresponding expiry period stated in Art. 31, §1, second paragraph;
- 3° the notice of objection manifestly does not comply with Art. 31, §2, first paragraph.

If the opinion of the Advisory Board is not communicated within a period of 30 calendar days, the notice of objection will be considered admissible.

§2. If the Advisory Board determines that a notice of objection is inadmissible, the objection procedure will end without further action. The Advisory Board will inform the institution's board digitally or in writing.

§3. If the Advisory Board determines that the notice of objection has been submitted in an admissible manner, it may, if desired, proceed to designate additional substantive members of the college.

Subsection 3. Hearing

Art. 34. §1. The institution's board and NVAO are invited by the secretary to a hearing at the request of the members of the board. The convocation is sent digitally or in writing, and should include the following:

- 1° the date, place and time of the hearing;
- 2° the right to be assisted or represented by legal counsel as defined in Art. 25;
- 3° the right to submit a plea during the hearing.

§2. The hearing cannot take place earlier than 15 calendar days after the convocation has been announced.

Art. 35. §1. The lawyer chairperson decides on any request for postponement, relocation or suspension of the hearing.

§2. The lawyer chairperson decides on any request to hear third parties.

§3. The hearing is not public.

§4. The lawyer chairperson leads the hearing.

The parties are to be heard in each other's presence.

The secretary is responsible for drawing up a record of proceedings regarding the hearing.

Subsection 4. Deliberation and Suggestions

Art. 36. §1. The Advisory Board deliberates and decides in private.

The Advisory Board will proceed to a vote if no consensus can be reached. An advisory proposal is approved when at least half, plus one of the college members, agree with the proposal.

§2. The advice expresses itself on the validity or invalidity of the objections.

The advice deals point by point with the legal and substantive aspects of the objections, in the light of the standards and principles that apply to the NVAO procedures.

§3. The advice is drawn up by the secretary according to the guidelines given by the members of the board.

The advice is signed by the chairman and the secretary.

§4. Within a period of 15 calendar days after the hearing, the secretary forwards the advice to the institution's board and to NVAO.

Section 4. Final Verdict

Art. 37. In the light of the continuation of the procedure, the NVAO board will make a decision based on the advice of the Advisory Board.

Art. 38. §1. The issuing of a final decision on an admissible objection leads to one of the following consequences:

- 1° If the notice of objection is declared unfounded, the original draft decision and the underlying assessment report will be definitively adopted;

- 2° If the notice of objection is upheld and the advice of the Advisory Board is fully or partially adopted, the original draft decision or assessment report will be withdrawn; the NVAO board will reformulate the withdrawn draft decision or assessment report as set out in Art. 40, §4;
- 3° If the notice of objection is well-founded and the advice of the Advisory Board is not adopted, the original draft decision and the underlying assessment report will be definitively endorsed.

The NVAO board has a special obligation to state an explanation in the event that the advice of the Advisory Board is not adopted.

§2. NVAO will inform the Advisory Board of the final decision.

Art. 39. With each decision, NVAO states the possibilities regarding objection and appeal.

Chapter 8 Revocability of Decisions

Art. 40. §1. The NVAO board can revoke any irregularly taken enforceable decision prior to the issuing of a draft decision. If the cancellation is not made on time, the provisions of §2 or §3 apply.

§2. The NVAO board can revoke an irregularly taken draft decision regarding an application as set out in Art. 2 of these regulations during the expiry period, Art. 31, §1, second paragraph.

§3. The NVAO board can revoke an irregular decision and assessment report concerning an application as set out in Art. 2 of these regulations during the expiry period stated in Art. 39.

§4. After a revocation, the NVAO board reformulates the revoked decision, draft decision or assessment report, taking into account the right of the institution's board to comment, to formulate objections, and to lodge an appeal on the new decision as referred to in chapter 7.

Chapter 9 Final Provisions

Art. 41. The regulations of December 14th, 2015 that set out the administrative principles which apply to the decision-making procedure by the Accreditation Organisation of the Netherlands and Flanders concerning Higher Education in the Flemish Community, are revoked.

Art. 42. These regulations and any changes thereto are published for inclusion in the Belgian Official Gazette.

They will also be published on the NVAO website.

Art. 43. These regulations came into force on September 1st, 2019.



Colofon

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