



NVAO • NETHERLANDS

# REGULATIONS GOVERNING THE AWB OBJECTIONS PROCEDURE OF NVAO

1 January 2023



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With reference to Article 7:13 Awb (see below):

Whereas it is prudent to form an advisory committee to handle objections to decisions of the Board of the Accreditation Organisation of the Netherlands and Flanders (NVAO) that are open to objection, in so far as those decisions relate to the Dutch legal system

## RESOLUTION

## Definitions

### Article 1

The present Regulations use the following definitions:

- a. Awb: means the Dutch General Administrative Law Act (*Algemene wet bestuursrecht*, Bulletin of Acts, Orders and Decrees of the Kingdom of the Netherlands 1992, 315, including subsequent amendments);
- b. NVAO: means the Accreditation Organisation of the Netherlands and Flanders (*Nederlands-Vlaamse Accreditatieorganisatie*), as defined in Article 1.1, at p, of the Dutch Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, Bulletin of Acts, Orders and Decrees of the Kingdom of the Netherlands 2002, 302, including subsequent amendments) in conjunction with Article 1(1) of the Agreement between the Kingdom of the Netherlands and the Flemish Community of Belgium on the accreditation of degree courses offered by Dutch and Flemish higher education; The Hague, 3 September 2003 (Treaty Series of the Kingdom of the Netherlands 2003, 167, including subsequent amendments);
- c. NVAO Service Unit: means the official support unit of NVAO;
- d. Committee: means the advisory committee within the meaning of Article 7:13 Awb;
- e. Chair: means the Committee's chair;
- f. Secretary: means the secretary or deputy secretary as defined in Article 4;
- g. Objection: means an objection within the meaning of Article 7:1 Awb;
- h. Notice of Objection: means a notice of objection within the meaning of Article 6:5 Awb (formal requirements);
- i. Aggrieved Person: means a person submitting a Notice of Objection or their authorised representative;
- j. Interested Party: means an interested party within the meaning of Article 1:2 Awb.

## Objections Committee

### Article 2

2. The Committee is charged with hearing Aggrieved Persons, NVAO's Board and other Interested Parties if applicable, and with advising NVAO's Board on how to decide on Notices of Objection.

## Composition of the Committee

### Article 3

1. The Committee is made up of:
  - a. a Chair, plus
  - b. at least two members, who may be expected, either through their understanding of higher education or on other grounds, to contribute to the Committee.
2. The power to appoint, suspend and dismiss the Chair and the members lies with NVAO.
3. The Chair and the members are appointed for terms of five years. They may be reappointed no more than once.
4. The Chair and the members may resign whenever they wish. If possible, they will then remain in office until their successor has been appointed.
5. The Chair and the members are not part of NVAO, nor does their work fall within NVAO's scope of responsibility.
6. The Chair and at least one member must have a Master's degree in law (*meester in de rechten*).
7. The Chair and the members of the Committee will not participate in the process of reviewing a Notice of Objection where this could jeopardise their impartiality.
8. If the Chair is absent or incapable of acting, the other members of the Committee will appoint a temporary Chair from among their number.

## Secretariat

### Article 4

1. The Committee is assisted by a Secretary or a Deputy Secretary, who is not part of the Committee.
2. The secretariat plans the meetings and makes preparations and subsequent arrangements concerning the hearings, the advice and where appropriate the Committee's decisions.
3. The secretariat arranges for preliminary advice to be drafted for the benefit of the incumbent members of the Committee in preparation for the hearing, for records to be made of the hearings and for the Committee's advice to be drafted.

## Procedures for addressing Notices of Objection and for their review by NVAO

### Article 5

1. Notices of Objection should be addressed to NVAO in The Hague, in the Netherlands.
2. A member of NVAO's Service Unit will note the date of receipt of all Notices of Objection submitted to NVAO.
3. NVAO's Service Unit will confirm its receipt of the Notice of Objection, in accordance with the provisions of Article 6:14 Awb.

4. If any of the requirements set forth in Article 6:5 Awb, or any other requirement that the law imposes for reviewing the Objection, has not been satisfied, NVAO's Service Unit will give the Aggrieved Person the opportunity, in accordance with Article 6:6 Awb, to remedy the shortcoming within a period of time established for that purpose. If the Aggrieved Person does not make use of that opportunity, or does not use it to properly remedy the shortcoming, NVAO may declare the Objection inadmissible under Article 6:6 Awb.
5. If the Committee proceeds to advise NVAO on the Objection, NVAO's Service Unit will inform the Aggrieved Person accordingly as soon as possible. The information provided will also specify the time limits for a decision that apply under Article 7:10 Awb.
6. An authorised representative of the Aggrieved Person or another Interested Party must submit a written authorisation before the Notice of Objection is reviewed at a hearing, unless they are registered as an attorney (*advocaat*) or local counsel or unless the Aggrieved Person or Interested Party accompanies the authorised representative in person at the hearing.
7. The Notice of Objection, if it satisfies all the relevant requirements, will be forwarded to the Committee's secretariat as soon as possible, together with the documents that have been submitted with it.
8. NVAO's Service Unit will also make sure that all documents that the Committee needs for the performance of its duties are available to the Committee on time and in full.

## Preparations for hearings, availability of documents for inspection, invitations to attend meetings

### Article 6

1. The Notice of Objection will be reviewed by the Chair (or temporary Chair) and two Members. The Chair (or temporary Chair) determines in what composition the Committee will review the Objection.
2. The Committee will make a decision on applying Articles 7:3 and 7:4(6) Awb. Under those statutory clauses, the Committee may consider not hearing one or more Interested Parties, in which case the Committee must explain its considerations in its advice.  
If the Committee believes that the Objection is manifestly inadmissible or manifestly unfounded, or if the Interested Parties have declared that they do not wish to exercise their right to be heard, or if the Objection is satisfied in full and this cannot prejudice the interests of other Interested Parties, the Committee will exercise the authority described in Article 7:3 Awb and will present its advice.

## Article 7

1. Having consulted with the Chair (or temporary Chair), the Secretary will arrange for invitations to go out sufficiently ahead of time to the Aggrieved Person, other Interested Parties if applicable and NVAO's representative. The invitations must state the location, date and time of the hearing, and describe the Committee's composition during the hearing. The invitations must also describe the possibility to submit additional documents until ten days before the hearing, how long and where the submitted documents will be available for inspection and what rights Interested Parties have under Article 7:4 Awb, including where applicable a statement, with explanation, that reason exists to limit the possibilities for inspection.
2. The hearing will not take place sooner than on the fourteenth day after the date of the invitation, but otherwise as soon as possible.
3. In urgent cases, and subject to the consent of the parties involved, the hearing may be held within fewer than fourteen days.
4. If the second sentence of Article 6(2) of these Regulations takes effect, the Committee will decide whether to omit sending invitations to the hearing. The Secretary will inform the Aggrieved Person, NVAO and other Interested Parties if applicable accordingly in writing, with an explanation of the reasons.
5. The Secretary will send copies of the Notice of Objection and the other documents concerning the matter to the Aggrieved Person, NVAO and other Interested Parties if applicable, or else will inform them that they will be made available for inspection in accordance with the legal requirements.
6. The Aggrieved Person, NVAO and other Interested Parties if applicable may submit additional documents to the Secretary until ten days before the hearing.
7. The Committee's Chair and its members have the authority to obtain (or request) by themselves whatever information they wish in connection with the preparations for reviewing the Notice of Objection.
8. Acting either at their own initiative or at the request of a member of the Committee, the Chair may seek advice from experts, and if necessary invite those experts to attend the hearing in that connection. If this carries any costs, this requires NVAO's prior approval.
9. The process of reviewing the Notice of Objection, including the hearing, may be suspended if the Aggrieved Person so requests or agrees. After consulting with the Secretary, the Chair (or temporary Chair) will decide whether a request to that effect is reasonable and how much time should be granted. Once invitations to attend a hearing have been sent, the hearing may be rescheduled on request. A request to reschedule a hearing will be reviewed by the Chair (or temporary Chair); it may be granted only if compelling reasons exist.
10. If the Aggrieved Person has announced in writing that they waive the right to be heard, the Committee has the authority to decide:
  - a. to refrain from any hearing whatsoever of the parties, or
  - b. to grant NVAO's representative the opportunity to explain NVAO's arguments.

If the possibility described at b. takes effect, the Aggrieved Person will be informed in writing, and as soon as possible after the hearing, of the proceedings at the hearing in the Aggrieved Person's absence.

## Hearing

### Article 8

1. The Chair presides over the hearing.
2. The Chair will close the review if, having inquired among the members, they consider the advice to be sufficiently prepared based on the statements of the parties and the others invited to the hearing by the Chair.

### Article 9

1. The Committee's hearings are open to the public.
2. The hearing will take place behind closed doors if the Chair of the Committee or one of the members present there considers this to be necessary, or if the Aggrieved Person or NVAO so requests.

If the Committee then decides that compelling reasons exist for not conducting the hearing in public, the hearing will take place behind closed doors.

3. As a rule, hearings are held in The Hague.
4. The Secretary will draw up a record of each hearing.

### Article 10

1. If it becomes apparent, after the Committee's hearing has ended but before the advice is drawn up, that further investigation should be done, the Chair may carry out or commission that investigation at their own initiative or at the request of a member of the Committee.
2. The Secretary will send copies of the information obtained from the further investigation to the members of the Committee, the Aggrieved Person, other Interested Parties if applicable and NVAO.

These then each have ten days after having acquired that further information to submit a request to convene a new hearing. The Committee will decide on such requests.

3. A new hearing as described at 2 in this Article 10 will be governed wherever possible by the provisions of these Regulations, modified accordingly.

## Deliberations and decisions

### Article 11

1. The Committee conducts its deliberations and makes its decisions about what advice it will issue behind closed doors.

2. The Committee's decision on what advice to issue is based on a majority of the votes. If the votes are tied, the Chair's vote carries deciding weight. Dissenting opinions are disclosed and explained in the advice if the dissenter so requires.
3. The advice will be accompanied by explanations, and will contain a proposed decision on the Objection.
4. The advice is signed by the Chair or, if the Chair is unavailable, by one of the members, and by the Secretary or, if the Secretary is unavailable, by the Deputy Secretary.

## Article 12

Except in extraordinary situations, the Committee will issue its advice to NVAO within four weeks after the hearing. The advice will be accompanied by the record meant in Article 9(4) of these Regulations and any further information received by the Committee.

If the Committee is of the opinion that the time limit of twelve weeks meant in Article 7:10 Awb is insufficient for the Committee to issue its advice and for NVAO to subsequently decide on the Notice of Objection, the Committee will request NVAO sufficiently far in advance to postpone its decision.

NVAO's Board may decide to postpone its decision. Copies of the decision to postpone the decision will be sent to the Committee, the Aggrieved Person and other Interested Parties if applicable.

## Final provisions

### Article 13

In situations for which these Regulations do not provide, the Chair – having heard the members – will decide what procedure the Committee will follow.

### Article 14

These Regulations came into effect on 1 February 2005. This was announced in the Dutch Government Gazette. The amended Regulations take effect on 1 January 2023, replacing the previously mentioned Regulations.

### Article 15

The Regulations are available for inspection at the Committee's secretariat and can be obtained through NVAO's website at [www.nvao.net](http://www.nvao.net).

### Article 16

References these Regulations may quote them as "Regulations Governing the Awb Objections Procedure of NVAO".





