

# HEAR - About this!?

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Fifth edition, 2016

**A guideline for the Dutch Higher Education and Research Act for students and student participation.**

# HEAR-About this!?

HEARA: Higher Education and Academic Research Act

A guideline for the Higher Education and Academic  
Research Act for students and those active in  
Participation.

Fifth edition

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# pREFACE

A legal text is hard to read for the inexperienced reader. Nonetheless, both students and teachers get confronted with the Higher Education and Academic Research Act (HEARA). This especially applies to students and teachers active in participation bodies and education committees. But also student associations, student unions or students with an advisory role in an education or faculty board may have an interest in understanding the Act. The HEARA contains the legal basis upon which the Dutch higher education is founded. Among others, the rights of students, the regulations regarding participation and the structure of higher educational institutions are included.

This book is meant for all that may be confronted with the HEARA and is aimed at familiarizing you with the regulations regarding higher education. We have attempted to avoid difficult legal terminology and, wherever this wasn't possible, explain the terminology. Not every article, but a selection of articles picked by the authors is clarified. In the end (appendix II) we included the most relevant legal articles. We do recommend checking whether the article referred to in this book is still relevant, since articles tend to be amended on a regular basis (both minor and major topics). It is thus of use to have the most recent edition of the HEARA at hand or to check the articles at [www.wetten.nl](http://www.wetten.nl) (this website contains the most up to date version of the applicable law).

## Why was this book composed?

The direct reasoning behind composing this book was the latest big legislative amendment to the HEARA in 2010 ('Versterking besturing'). Because this caused a number of matters to change for students and teachers, the Dutch Student Union and the Landelijk Overleg Fracties (National Consult Fractions) decided to inform students and faculty active in participation on the relevant sections of the HEARA.

In the meanwhile, we have arrived at the fifth edition of *HEAR-About this!?*. Each edition, we aim to be up to date to the best of our abilities with the legislative amendments that have occurred since the previous edition. In case you still encounter an incompleteness or incorrectness while reading this book, please contact the Dutch Student Union via [svb@lsvb.nl](mailto:svb@lsvb.nl). This allows us to continuously improve this book. We thank you in advance!

## Structure, content and reading tips

This book has been partitioned in chapters. Since the HEARA also operates with chapters and the referrals to these may cause confusion, we opted to number our chapters according to the Roman system. The chapters and legal articles will be referred to in accordance with the Arabic numbering system (1,2,3 etc.). Chapter I of this book encompasses a short history of the legal framework of higher education and (student) participation and provides a short overview of the establishment of the current HEARA. Chapters II, III and IV clarify the diverse management and participation structures

at educational institutions, protection of student rights and litigations. Chapter V includes a short summary of the explanatory memorandum (explanation of the law) and indications of its important commitments. Chapters VI, VII and VIII elaborate on the most relevant sections of the Act. These include articles of chapter 7 (education), 9 (structure of universities) and 10 (structure of universities of applied sciences). In order to keep it legible, we always use the masculine form. This book is concluded with a few tips (chapter IX). The appendices contain a list of acronyms (appendix I), relevant legal texts (appendix II), explanation on the Works Councils Act (WCA) (appendix III) and information about the authors (appendix IV). Wherever legal articles are referred to without indicating the specific Act, it will always concern articles within the HEARA. This book will refer to some articles more than once. For instance, the articles from chapter 9 of the Act are used in chapter II of this book, as well as chapter VII. Please take this into account when looking for information about a legal article.

Since many higher educational institutions make use of their own terminology for, for example, participation bodies (such as domain councils/ faculty councils/ school councils/ sub-councils), we advise you to thoroughly address the list of acronyms (appendix I) in order for you to understand what is meant with the terms mentioned in this book. This book also contains a registry in which you can look up terminology. In case you are specifically looking for certain information, the registry allows you to find the associated article in a fairly easy fashion. Subsequently, you may find these articles in this book. Another option is to utilize the search function in the digital version of this book, which is available at [www.lsvb.nl](http://www.lsvb.nl).

We hope that this book will prove to be useful. For additional information, you may contact the Dutch Student Union (tel. 030 - 231 6464 or [www.lsvb.nl](http://www.lsvb.nl)).

The authors

# I. HIStoRy – An ovERvIEW of studEnt pARTICIpAtion And tHE HEARA

History has to start somewhere. The fifties and the sixties form a nice starting point for a story about the history of participation. This does not mean that participation was already existent then, as participation arose halfway through the sixties. Prior to this, (academic) students had a way larger say in their education. Participation as we know it today meant at its establishment a significant reduction of the rights of students and teachers. This text illustrates, very briefly, a number of developments from the history of student participation in order to clarify the context of the Act.

After the Second World War, the student population in the Netherlands increased significantly. The government had issued a study grant, due to the need for a higher educated workforce driving the post-war economy. This allowed for the massification of higher education: from then onwards, each and everyone had the opportunity to study, not just children of affluent families. These ‘fellows’ (students using the study grant) attended universities in increasing numbers and started to organize in a slowly but steady fashion, which particularly took off in the sixties.

The sixties contained large societal revolutions. Lots happened in the field of art and music, the so-called consumer society had arrived; ‘normal’ people were able to go abroad for their holidays for the first time, prosperity increased. Television became increasingly commonplace and foreign events progressively reached Dutch households directly. Additionally, the Netherlands became increasingly secular. All of this together caused unnecessary turmoil. The youth culture, coming into existence in the fifties, flourished partially due to increased leisure time. The sixties embody times characterized by the feminist movements and the provos, as well as times in which large protests against the war in Vietnam were orchestrated.

In this context, the Student Labor Movement (Dutch acronym: SVB) was established in 1963<sup>1</sup>, in order to promote the practical interests of students. The SVB advocated, among other things, against the housing deficiency, pressure to perform, the numerus fixus and the lack of participation of students in their own study program. As the sixties progressed, the requirement for ‘external and internal democratization’ of universities became increasingly important: everyone with the necessary capacities should have access to academic education (people argued for a study wage, since being a student was interpreted as ‘deferred labor’) and at the internal level of the university, students should have more of a say.

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<sup>1</sup> Later on, the SVB collapsed and was succeeded by the Landelijk Overleg Grondraden (LOG), which in turn was replaced by the Dutch Student Union.

In 1969, occupations of various institutions took place, in order to enforce democratization. The first of which was the occupation of the Catholic University of Applied Sciences in Tilburg, which occupants renamed the Karl Marx University. Other large occupations followed in Amsterdam (“het Maagdenhuis”) and in Nijmegen. What followed the student protest was that, in the framework of internal democratization, students and faculty gained co-governance. This meant that the board of a university or university of applied sciences included representation of students and teachers.

Prior to this time, the senate of professors had the final say in universities. This body consisted of all professors, chaired by the rector magnificus. The Act of Academic Administrative Reforms (Dutch acronym: WUB) ended this form of authority in 1970. Since then, students and faculty together comprised a decisive voice in the university board. This form of student participation was revolutionary in comparison with other countries.

In the eighties, lots changed for universities and universities of applied sciences. The then minister of Education, Wim Deetman, amended a number of Acts. Since then, universities of applied sciences fall within higher education instead of the legislative framework of secondary education. Institutions of higher education, encompassing both universities of applied sciences and universities, gained more autonomy (about the first thing that they were allowed to do with this autonomy was deciding in which part of their own institution they would cut, since Deetman was enforcing huge budget cuts). Additionally, the foundations were laid for the later surge of fusions of universities of applied sciences. In terms of participation structures, little changed in these years: the WUB continued to be upheld, and also at the universities of applied science little changed in this aspect. Deetman allegedly meant to keep the participation structures intact: naturally, with a minimal influence of the government, an internal system of ‘checks and balances’ could be upheld.

In 1992, the Higher Education and Academic Research Act (HEARA) was adopted, which replaced various previous laws on higher education. In the meantime, criticism regarding the WUB increased: it was no longer deemed sufficiently flexible, incisive nor efficient. Then minister Jo Ritzen shared this criticism and wanted to get rid of this co-governance under the guise of a ‘more incisive administration’ for universities. This was a peculiar step, since the government had withdrawn influence just about a decennium prior. Due to the abolition of the co-governance, universities were henceforth ran as if they were companies, and all the decisive authority was now in the hands of the management whereas the professionals (teachers) and the students were left with a mere marginal influence. The sole supervision that is left since then, occurs via the Supervisory Board that operates at a large distance from the Executive Board. Despite this, the First Chamber endorsed the Act of Modernization of Academic Administrative Organization (Dutch acronym: MUB) in 1997. This allowed for the implementation of the current participation framework, for both academic (Dutch acronym: wo) and applied

(Dutch acronym: hbo) sciences<sup>2</sup>.

Board members of institutions were predominantly approving of the Act, since faculty members and students no longer had the final say. Students, however, were less approving. Among others, the Dutch Student Union fiercely attempted, albeit fruitlessly, to form an opposition against the Act. When then minister Hermans stated a 'reflection' on the new Act, participation turned out to be a bottleneck, in terms of openness of management, schooling and support, and the position of education committees. These were the actualities up until this book was written.

State secretary of education Mark Rutte wanted to revise the entirety of the HEARA and replace it by a new Act, the Act of Higher Education and Research (Dutch acronym: WHOO) in 2005. This Act would include amendments in the structure of participation. He envisioned the solution of student participation, not entirely surprising for a VVD member, in free market forces. His legislative proposal meant that students were able to 'simply vote with their feet' and leave the program whenever it did not meet their expectations. By allowing the funding of the institution to follow the student, this would facilitate an incentive for institutions to keep the quality at the utmost level and would therefore empower the students to the full extent<sup>3</sup>. Due to the collapse of the cabinet, this bill was declared to be controversial and was subsequently revoked. Ronald Plasterk, who became minister of education after the elections, decided to hold on to the HEARA, while taking over a great number of the proposals of the WHOO. This would largely end up in the amendment 'Versterking besturing'. This large-scale amendment is the main reason behind the appearance of this book.

It is peculiar that in the run up to the amendment 'Versterking besturing', a large majority of the Parliament was in favor of an extension of the rights of participation. In February 2008, a motion was presented by Renske Leijten (SP) and Marianne Besselink (PvdA) that had the purpose of ameliorating participation.<sup>4</sup> The SP, PvdA, GroenLinks, D66, PvdD, the VVD and the PVV and Rita Verdonk voted in favor of this motion, which meant it was adopted with a large majority of the votes. The realized extension, however, turned out to be marginal.<sup>5</sup> Only a number of rights of consultation were added, with which the politicians claimed extension of participation was achieved. Anyone who has been affiliated with participation knows that the right of consultation does not promise much and that participation with this right is completely dependent on the goodwill

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2 It extends beyond the scope of this text, but it is worth to think about how many of the recent malpractices in higher education would have occurred if the students and teachers still had a decisive voice in the management. Think about an hbo-fraud, a rash implementation of competence oriented learning, lowering the level for the sake of return figures, the abuse of regulations such as the binding study advice, the issuing of degrees for the sake of output financing (degree bonus), etc. For interesting literature regarding this kind of (and related) topics, viewed from various academic perspectives, please see e.g. the bundle: Chris Lorenz (editors) *If you're so smart, why aren't you rich - university, market and management* (2008, Amsterdam).

3 Substantively, several objections can be made regarding the matter, but that falls beyond the scope of this text.

4 The motion Leijten cum suis the amelioration of participation in higher education, 31288, nr 4.

5 Concerning legal protection of students, a number of significant improvements have been enforced.

of the board member. Added to that, the participation already had these rights in the form of ‘right to unsolicited advice’. One of the few material improvements is the reverse examination right, which caused the burden of proof to sporadically be in the hands of the board in cases of dispute.<sup>6</sup>

During its passage through Parliament, the D66 submitted an amendment which proposes to put a student member in the Executive Board, following the example of the student assessor that is ordered by law for the faculty and educational boards at universities. The amendment was backed by a majority of the Second Chamber, but failed to succeed due to a strong lobby of the VSNU and HBO-council (which nowadays is called the Union of Universities of Applied Sciences). The First Chamber, which was critical about a number of aspects of the amendment, such as the release of tuition fees for a second study, took a strong opposing stance against this amendment. Minister Plasterk, who was never strongly in favor of having a student with an advisory role in the Executive Board, arranged with the coalition parties that the amendment would never see the light of day. Since then, a motion has been adopted that demands the cabinet to legally empower the student assessor to have an advisory role within executive boards.<sup>7</sup>

The article that serves as a replacement for the student assessor, which has been adopted by the Chamber, is nothing but a dummy package. The article starts off with the pretentious title ‘Versterking besturing’ and states that the participation (as much as) twice a year may invite the Executive Board to meet on the basis of a meeting agenda composed by the participation. Not only are the words ‘to invite’ telling enough (since these do not imply any degree of commitment), it was already possible to propose agenda items. The fact that the Parliament agreed to this, shows not only the lack of knowledge of the then Parliament members about the (prioritization regarding) HEARA, but also the extent to which current board members are willing to prevent that their power monopoly is threatened, even though this threat is largely fictitious and exists of merely one student with an advisory role. In 2014, another motion was adopted to include the student assessor in the Executive Boards of universities and universities of applied sciences, which was ultimately enforced with the legislative amendment of 2016.

In 2015, yet again a revision of the HEARA was announced. This would be named ‘Versterking bestuurskracht’<sup>8</sup>. In the time this act was formulated, turmoil tainted higher education and two long-lasting occupations occurred in Amsterdam. Students and faculty successively occupied the Bungehuis and the Maagdenhuis<sup>9</sup>. They were furious about i.a. budget cuts and the lack of participation. Minister Bussemaker indicated in a response that the occupants would have “their every wish satisfied”, since her bill, as claimed by her own words, included proposals that would significantly strengthen the participation of students and faculty. It seemed that history was bound to repeat itself, since, in line with the prior ‘Versterking besturing’, this bill too barely lead to any

6 Because of this, the participation has been offered a fair chance to win in initiating legal proceedings: for further explanation, see chapter IV, Disputes brought forward by the Participation.

7 The motion Klaver cum suis regarding the student assessor, 31288, nr 116.

8 [insert joke about the creative abilities of the officials of the OCW...]

9 This has been the eleventh time the Maagdenhuis was occupied.

material enforcements of the participation. The Second Chamber, however, intervened and took on an unusually active role. Over forty motions and amendments were issued. Key positives that were stipulated by the Chamber were among others that education committees were granted participation rights and thus became participation bodies, and that at universities of applied sciences too a student assessor would come into place at the decentralized level, and that study points should no longer expire if there is no solid reason for this. More positive suggestions were made, but due to the fact that many political parties emphasized their interests, many proposals did not make the law reform.

It is a good thing that currently, politicians too are seriously considering the expansion of the participation of students and teachers, as well as other rights for students. An increasing political base is potentially as equally striking as the reluctance of the ministry to act upon these wishes.

Still, the key positives that were stipulated with the 'Versterking bestuurskracht' are minimal. Many improvement measures did not make the cut, and the power remains solidly in the hands of executive boards and supervisory boards, which causes students and teachers to remain on the sidelines.

Until better times arrive for participation, students will have to work with the current national laws and regulations. Fortunately, much can be achieved with these. May this book prove useful in this task!

## II. sTRuCTuRE oF tHE pARtICIpAtIon

Referred to or mentioned articles: HEARA 2.2; 7.13; 7.30a; 7.30b; 7.51; 7.59; 9.2; 9.3; 9.4; 9.5; 9.6; 9.12; 9.13; 9.14; 9.15; 9.17; 9.18; 9.30a; 9.32; 9.33; 9.33a; 9.35; 9.37; 9.38; 9.39; 9.40; 9.48; 10.3; 10.3a; 10.3b; 10.3c; 10.16a; 10.16b; 10.17; 10.19; 10.20; 10.20a; 10.25; 10.26.

### Introduction

#### Different levels

As a member of a participation body, you have a large responsibility. You are the interlocutor of the board of your institution, the faculty of your education and in some cases proposed policy needs to be endorsed by the participation before it may be executed. Participation may always issue advice to the board and can thus exert influence and address issues.

One may differentiate between different layers of administration within both universities and universities of applied sciences, and with each of these layers, a participation body is associated. Management structures of universities and universities of applied sciences are largely defined within the Act (HEARA). The organization chart that is depicted hereafter applies to almost every university and university of applied sciences, although some universities of applied sciences are an exception to this rule. For instance, almost all institutions include a Supervisory Board (or a Board of the Foundation with a supervisory role), a central management, decentralized management, and educational program boards or directors. To each of these levels, various participation organs are linked; the central participation is linked to the Executive Board, the decentralized participation is linked to the board of a main division (the HEARA uses the term 'faculty').

There are some institutions that only have one faculty. In these cases, the Executive Board also functions as the Faculty Board and thus takes over the associated tasks. Therefore, the decentralized participation and the central participation are fused into one and this body has the powers of both participation councils. Next to the fusion of the different administrative levels, the structure may also deviate in another fashion. When for example a participation council of a higher level has already agreed upon a regulation, the participation council at a lower level may not reapply their participation rights to the same regulation. In some cases, it may be attempted to lift a regulation that a participation council does have exercisable rights to, to a different level, since the participation rights on the current level are less far-reaching. In the Explanatory Memorandum (EM), however, it is indicated that this is not allowed: "participation follows control." This means that the participation body keeps her original rights. Chapter IX "forewarned is forearmed..." includes an example of this situation with regards to the



model-TER.

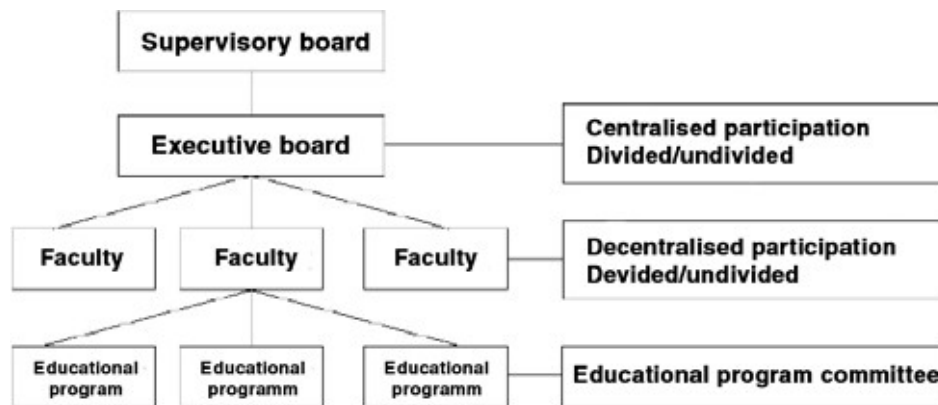


Image 1: Management hierarchy chart

*Tip: as a participation member, pay special attention to the decisions that affect lower levels! Talk with the participation bodies that operate at these lower levels and ask them what their interests and wishes are.*

#### Divided or undivided participation

Participation may take on different structures. One may differentiate between so called divided and undivided structures. Within universities, these two structures have been valid for a longer period of time, whereas for universities of applied sciences it took the legislative amendment 'Versterking besturing' for this to be the case. Prior to that, universities of applied sciences only operated within undivided participation councils. In the divided participation structure, faculty and students are split up in two separate councils and are thus divided. Both councils do negotiate together with the Executive Board in a joint meeting (JM). In the undivided structure, faculty and students are joined in a shared council. An executive board may decide to change the structure, but this has to be in accordance with the participation. Participation at the level of the educational program is always undivided: students and teachers are joined in one educational program committee (EPC). For a clearer overview of both structures, please look at the illustration depicted hereafter. The choice for a participation structure is decided upon at a central level and applies to the whole institution. It is not possible to have an undivided structure at the central level and a divided structure at the decentralized level. The integration of the rights belonging to the divided or undivided structure differs, and therefore we treat them separately in this chapter.

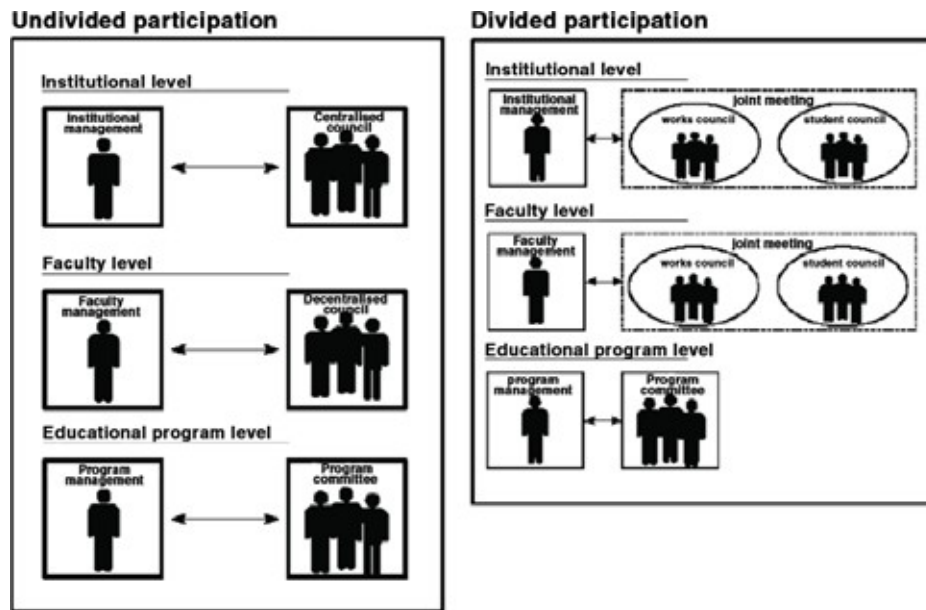


Image 2: Divided and undivided participation

At first glance, one may find few differences between the student council/works council and the central or decentralized council. In a divided structure, the sole topic of conversation is the policy that directly affects the delegation itself. This means the student council primarily talks about student matters, whereas the education committee primarily discusses staff matters. This division in the council into two delegates may cause problems. The assertion that students have nothing to do with staff matters is highly debatable. For example, the didactic qualities of teachers are of great interest to students and one may imagine student matters that do in fact relate to staff matters. Despite the fact that institutions often promote themselves with the communities of students and teachers and the interaction among these, most often the choice still lands on the divided structure. The positive aspect about the divided structure, namely an allegedly greater opportunity to discuss issues in more depth, is mentioned often.

The role of the faculty delegation, the works council (WC), is clearly substantively different in a divided participation structure compared to an undivided participation structure. Since the WC (in a divided structure) falls within the Works Councils Act (WCA) and not within the HEARA, the right to information, for instance, is arranged differently. Additionally, the WC has other rights to consent, such as the career planning of the staff and the means of job evaluation. Appendix II contains information on the WCA.

In a divided structure, a wedge may be driven between the students and the faculty. When this happens, the Executive Board or the Faculty Board may choose for a certain delegation and motivate this choice by saying they took the council into account. In an undivided structure, the fine-tuning between faculty and students is often better due

to the joint meetings. This thus restricts the Executive or Faculty Board from playing the two parties off against each other.

In order to keep this chapter legible for both wo- and hbo-students, we opted for using certain terminology. The terminologies used in this book are the following:

**Central participation:** participation at a central level, both in a divided and an undivided structure. By this we mean university councils, central participation councils, central/university student councils, works councils, etc.

**The central council:** the participation body at central level in an undivided participation structure. This may be the university council, the central participation council, etc.

**The decentralized council:** the participation body at a decentralized level in an undivided participation structure. This may be the faculty council, the (decentralized) participation council, the sub-council, etc.

**The works council (WC):** the participation body at central or decentralized level existing exclusively of staff members.

Please note that the terms 'central participation' and 'decentralized participation' are generic. Only in cases that specifically concern a council in the divided or undivided structure, we refer to the '(de)central(ized) council' or 'student council/works council'.

**The Executive Board:** the management of the educational institution; at some hbo-institutions, this is referred to as the Management Board.

**Faculty:** this is a decentralized main division within an educational institution. At some hbo-institutions, this is referred to as a school, academy, domain or section.

**The faculty board:** the management/the dean of the faculty (wo) or the management/superintendent of a (main) division or faculty (hbo).

**The faculty regulation:** the regulation that applies to the faculty or (main) division, in which among others the rights of the participation at a decentralized level are defined.

An important disadvantage of the undivided structure is that the student delegation and the progression of meetings can easily be influenced by the teacher delegation. The teacher delegation often exists of people that have done the job for multiple consecutive installments and are therefore more experienced. On top of that, the work method of both delegations may differ. Additionally, it may be challenging to reach a consensus in a large, heterogeneous group involving various interests. This may cause difficulty in standing united as the entirety of the council, something that may be less of a challenge for a separated student council or works council.

A combination of both structures is also possible. In that case, there is a separated education council and student council, but they also join in meetings on a regular basis. In a similar fashion, various committees will include both students and faculty.

*Tip: Make sure that you are well informed about the pros and cons of both structures when a change is proposed. Take into account that a change applies to both the central and decentralized level. If necessary, ask the other councils for information, which can be achieved by for example talking with the delegates of other institutions at the LOF- or SOM-meetings.*

## Rights of the participation

### Right to consent

The right of consultation belonging to the participation includes both solicited and unsolicited advice. The right of solicited advice implies that the Executive Board, the dean or the director of education is ought to formally seek the advice of the participation or education committee prior to enacting a certain regulation. In case they decide to depart from the advice nonetheless, they need to substantiate this decision.

### Right of consultation

Het adviesrecht van de medezeggenschap omvat zowel het gevraagd advies als het ongevraagd advies. Het recht op gevraagd advies betekent dat het CvB, de decaan of de onderwijsdirecteur voor vaststelling van een bepaald reglement eerst formeel advies aan de medezeggenschap of OC dient te vragen. Volgt hij het advies van de medezeggenschap of de OC niet op, dan zal hij dit moeten onderbouwen.

The right of unsolicited advice entails that the participation and the education committee are allowed to provide advice regarding all education or student related matters at all times. This advice, however, is not required to be followed up, yet reasons why this advice is disregarded should be disclosed.

### Right to information

Participation bodies have the right to information. This means that the Executive Board or the Faculty Board needs to provide the central or decentralized participation with necessary information at all times in order to allow for a reasonable execution of her duties. Additionally, the Executive or Faculty Board is required to provide the participation with information that is asked for and that is needed for an adequate execution of associated functions.

### Right of initiative

The participation has the right to take initiative to submit a proposal and/or put an item on the agenda at all times. The Executive or Faculty Board is required to respond to a submitted proposal by the participation. The Act has been amended in 2010 and now includes ‘versterkt initiatiefrecht’ (strengthened right of initiative) for the central participation, which entails that the central participation is allowed to invite the Executive Board twice a year on the basis of an agenda arranged by the participation.

### Elections and the aftermath

The members of the participation bodies are elected by means of a secret written ballot (elections). However, elections are not necessary in case of an equal amount of candidates and available seats. The members of the participation councils elect the chair and the potential vice-chair(s) of the council. The central participation also arranges the distribution of the resources provided by the Executive Board among the council (and possibly among the decentralized councils). The term ‘resources’ is an umbrella term for financial aid, provisions and all other matters that facilitate the participation in executing her duties. The council and the Executive Board meet at least twice a year, but in reality this occurs more frequently. If the regulations do not include the frequency of meetings between the central participation and the Executive Board, this may still be arranged upon request by the participation. Naturally, in order to do this, supporting reasons need to be provided. Below, you may find a number of points that ought to be addressed by the participation according to the WHW. In the participation regulations (the regulation belonging to the university council or the central participation council) may confer additional rights to the council.

## The central level

### The Executive Board

Each educational institution is headed by an Executive Board. Some universities of applied sciences are an exception, as they are headed by a management board instead. At a university, a rector magnificus is seated, who is supported by a maximum of two other people (**article 9.3 paragraph 1**). The Executive Board is appointed by the applications committee, which in turn is installed by the Supervisory Board. Both on the behalf of students and the faculty members represented in the participation, one delegate may be seated in the applications committee. Prior to the nomination, profiles of the members of the Executive Board need to be disclosed. A nomination lasts for over a period of four years. Members of the Executive Board may be adjourned or fired by the Supervisory Board. Prior to the nomination or the dismissal of one of the members of the Executive Board, the Supervisory Board hears the central participation.

### Authorities Executive Board

The law states that the Executive Board is responsible for the management and the administration of the entire university (**article 9.2 paragraph 1**). The chair is the face of the university (**article 9.2 paragraph 3**). When it comes to the duties of the Executive Board, little is legally defined. The Executive Board is ought to establish a manage-

ment- and administrative regulation in which among others the duties are defined (**article 9.4**). Besides this, the Executive Board is able to compose guidelines for the management of the faculties (**article 9.5**) and the Board is ought to ensure a clear accountability towards the Minister of Education, Culture and Science (**article 9.6**).

Little is legally defined about the powers of the management of universities of applied sciences. **Article 10.2** states that the Executive Board is composed of a maximum of three members (**paragraph 1**) and that a member is not allowed to simultaneously fill a seat in the Executive Board of another university of applied sciences. Furthermore, **article 9.3** is referred to, which determines the composition of the Executive Board and the legal position of its members.

*Tip: Since a lot is arranged in accordance with the institutional level, it is sensible to go through these regulations (such as the management and administrative regulations) thoroughly.*

Undivided structure of participation at central level (central or university/ university of applied sciences council)

The participation body at the central level in the undivided structure is called the central council. This may also be called the university/ university of applied sciences council or the central participation council. Each central council has its own regulations. These regulations stipulate practical matters and the rights and obligations of the council.

The Executive Board establishes these regulations with the consent of the central council. The regulations are established or amended when two thirds of the members of the council consent to this.

Right of consent (undivided structure)

What is implied with the right of consent is explained above. It is important to fully understand to what areas your rights of consent apply. The consenting capacities of the central council in an undivided structure for universities are described in **article 9.33** and for universities of applied sciences in **article 10.20**. These rights are equal. Below, you may find a list of assured areas in which the central council the right to consent.

- **The institutional plan.** The institutional management composes a plan concerning the institution every other year. The plan encompasses a description of the content and the specification of the intended policy of the institution for that period. In this plan, close attention is paid to the intentions regarding the enhancement of the quality of the education and the improvement of the setup of the educational programs and the institution. More information regarding the institutional plan is included in **article 2.2**.
- **The setup of the quality assurance system.** The Executive Board is responsible for a good quality assurance system. Being part of the central participation, you have the right to (refuse to) consent to the plan proposed by the Executive Board.
- **The policy in the light of the results of the quality assessment.** The internal and external quality assurance systems of higher education will (if these function accordingly) reveal points of improvement. These are disclosed in e.g. the annual report.

In response to these points of improvement, policy will need to be formulated on which the participation may exercise consenting rights.

- **The Student Charter.** Each higher educational institution contains a student charter, which describes the rights and duties of the students (**article 7.59**). The student charter is composed of a general section, on which the central participation exercises consenting rights, and a study-program-specific section. The latter section also includes the TER, on which the EC exercises advising rights and partial consenting rights starting September 2017. The faculty participation, however, may exercise consenting rights on the TER.
- **The regulation of the participation.** In this regulation, the structure of the participation is described, as well as the rights and duties of the participation, in which different bodies precisely have either the right of consent or the right of consultation, how they get information and what working method is chosen.
- **Human resources.** The faculty delegation exercises exclusive consenting rights regarding these matters.

Right of consultation (undivided structure)

The right of consultation of the participation embodies both the right to solicited advice and the right to unsolicited advice. The central council has the right to unsolicited advice for:

- the budget;
- ‘matters that concern the continuation and expediency within the institution.’ This means that the Executive Board is ought to formally seek the advice of the participation prior to enacting this. In case they decide to depart from this advice nonetheless, they will need to substantiate this decision.

Apart from this, the student delegation exercises their right to consultation on:

- the general staff- and nomination policy;
- the institutional tuition fees;
- the regulation regarding the refund of the statutory tuition fees in case a student quits their studies during the academic year.

The right of providing unsolicited advice entails that the participation is allowed to provide advice regarding all matters at all times. This advice, however, is not required to be followed up, yet reasons why this advice is disregarded should be disclosed.

Regarding the two abovementioned instances that require the consultation of the central council, almost all management matters fall within the educational institution. Many financial matters fall within the budget and other matters almost always have to do with ‘expediency’. The formulation, however, is very generic and may be interpreted in various ways. This is the source of many disagreements between the Executive Board and the participation. It is therefore advisable to clarify within participation regulations on which topics the participation may exercise their consultation rights. Apart from that, the participation of course maintains her right to give unsolicited advice. This means she is allowed to advise the Executive Board on matters beyond the statutory consultation

requirements.

The right of consultation of the central council is described in **article 9.33a** and in **article 10.20a** for universities of applied sciences.

Right to information and the right of initiative (undivided structure)

Naturally, the central council has the right to information and the right of initiative as is previously described.

Divided participation structure at central level (student council and works council)

In the divided structure, students and faculty meet separately and each have their own rights. The divided structure is composed of a student council and a works council (WC) or sub-committee. Additionally, a joint meeting (JM) unites both councils, which in itself has specific authorities. The division means that students no longer discuss human resources, and conversely that the faculty no longer discusses student affairs. The student council's rights must, as a minimum, be *equivalent* to those of the central council, but they do not have to be *equal*. The precise rights of the student council are described in the student council regulation.

Right of consent (divided structure)

The student council and the WC have a joint right of consent on the institutional plan, the setup and policy of quality assurance, the management and administrative regulations, and the participation regulations. Additionally, the student council may exercise their consenting rights on the student charter. The WC is ought to consent to faculty matters. Further information on this can be found in the HEARA in **article 9.30a paragraph 2** for universities and **article 10.16b paragraph 2** for universities of applied sciences.

Right of consultation (divided structure)

The consultation rights are organized in line with the undivided structure, which has been described previously. The right to consultation regarding the budget and matters that concern 'the continuation and expediency within the university' exists. Apart from that, the student council has the right of consultation regarding human resources- and nomination policy, the institutional tuition fees, and the policy regarding the reimbursement of statutory tuition fees. The advisory authorities belonging to members of the student council are described in **article 9.33a** and in **article 10.20a** for universities of applied sciences.

Right to information and right of initiative (divided structure)

Of course both the student council and the WC have the right to information and the right of initiative as described previously.



### The Participation Regulations

At least the following points should be included in the participation regulation of the central council (**wo: article 9.34 paragraph 3, hbo: article 10.20**):

- the matters on which the council may exercise consenting rights;
- the matters on which the council may exercise consulting rights;
- the number of members of the council (a maximum of 24, equally distributed among students and faculty) (wo: article 9.31 paragraph 2, hbo: article 10.17 paragraph 2);
- the method and organization of the elections of the council members;
- the term of office of the council members;
- the method with which the Executive Board provides information to the council;
- the terms within which a consent or abstention needs to be resolved, as well as the terms within which advice needs to be submitted;
- the powers that are exercised by the decentralized councils (faculty council and sub-council);
- the granting of powers to the faculty members of the council in terms of working conditions;
- the execution of the point of concern “equal treatment”;
- a dispute settlement;
- who may approach the arbitration committee.

## The decentralized level

The faculty board or dean (universities)

For universities, the management of a faculty is formed by a dean or a faculty board (**article 9.12**). This means it is possible to choose between either a management headed by one individual (single leadership) or multiple individuals (joint management). In case a dean is opted for (a single leadership), he needs to meet the requirement of being (at least) a professor and he needs to be appointed by the Executive Board after the decentralized participation has been heard in a confidential fashion (**article 9.13 paragraph 1, 2 and 4**). Also when a faculty board is opted for (joint management), it holds true that prior to the nominations within the faculty board, the decentralized participation needs to be heard confidentially by the Executive Board, which is ultimately in charge of nominating the board members (**article 9.13, paragraph 5**). A student who attends all board meetings and has an advisory role, the student assessor, needs to be appointed within the faculty board at universities (**article 9.12 paragraph 2**). This student is part of the board and has an advisory role. It may be decided to grant this student consenting rights as well. The Act prefers a dean to a faculty board. A faculty board may be more favorable as it prevents a dean from monopolizing the management. The position of the student is stronger with a faculty board than with a dean. The remainder of this paragraph discusses the faculty board, but this may as well apply to the dean.

### Authorities of the faculty board

The faculty board is responsible for the general course of affairs within the faculty, and for the management and setup of the faculty in terms of education and research. Additionally, the faculty board aids the central management in preparing the institutional plan (the long-term vision of an institution) and the budget. The board also establishes the faculty regulation, after the consent of the participation. Moreover, the final approval for the faculty regulation has to be provided by the central management. They may only disapprove of the faculty regulation if it is in breach with the law or the public interest (**article 9.14 paragraph 4**). In case you are part of a faculty student council, or if you are a student assessor, it is advisable to be well aware of the authorities belonging to the faculty board.

The aforementioned duties of the faculty board are not always clear. The Act, however, does include descriptions of concrete duties that the management should at least have. These are among others (**article 9.15 paragraph 1**):

- the establishment of the teaching- and examination regulations (TER);
- the establishment of general guidelines for research;
- the establishment of the annual research program of the faculty;
- the supervision of the execution of the TER;
- the supervision of the execution of the research programs;
- the appointment of members of the examination committee;
- the appointment of members of a committee that administers the colloquium doctum;
- the execution of the binding study advice (BSA) (in case an educational program operates with this);
- the establishment of rules concerning exemptions;
- the conclusion of arrangements regarding the common educational programs with other faculty boards.

All of these duties belong to the faculty board, but it may decide to transfer some of these duties to educational program boards or program directors. The ultimate accountability, however, remains in the hands of the faculty board. This means that when duties are transferred to educational programs, the participation operates at faculty level still. Surely, the final responsibility remains at the faculty level. Therefore, the board is required to provide the participation with all information she reasonably needs in a timely fashion. The participation often does not receive this information automatically, but instead needs to ask for it explicitly. Besides this, the board has a number of specific duties to inform. They need to immediately familiarize the decentralized participation with all the resolutions regarding the matters described in the institutional plan and those that concern the faculty. This means that the council needs to be informed as soon as the board set out to work on the institutional plan. At least once a year, the faculty board also gives a written notice to the decentralized participation about the current policy as well as the policy resolutions for the upcoming year regarding financial, organizational and educational matters.

Management faculty/organizational unit (universities of applied sciences)

The HEARA includes little about faculties of universities of applied sciences. **Article 10.3a** states that the Executive Board may arrange through the management and administrative regulations that one or more faculty/organizational units are instituted. When this is the case, the management and administrative regulations should also arrange (**article 10.3b paragraph 3**):

- which faculties are present at the university of applied sciences;
- which educational programs are facilitated within the faculties;
- which authorities the Executive Board has transferred to the faculty boards;
- the composition and working method of the management of the faculty;
- the relationship between the Executive Board and the management of the faculty.

The authorities belonging to the faculty board are not legally defined, but instead are described in the management and administrative regulations. Unlike the universities, the universities of applied sciences are not legally obliged to include a student with an advisory role (student assessor) in the management of a faculty in case the management is composed of multiple members.

*Tip: a student assessor in the management of a faculty has many advantages for both the students and the management. Despite the lack of a legal obligation for the universities of applied sciences, it of course would not hurt to propose a comparable structure to your faculty management. For universities, the assessor is described in **article 9.12 paragraph 2**.*

Undivided participation at decentralized level (decentralized faculty council/sub-council)

A faculty council (FC) in an undivided structure is composed of, like the central council, an equal amount of students as staff. The maximum total amount of members seated in a FC is 24 (**wo: article 9.37 in combination with article 9.31, hbo: article 10.17 paragraph 2**).

This paragraph will outline which rights the HEARA attributes to the decentralized council. These are the minimal rights that the decentralized council may exercise. Additional rights may be issued in the faculty regulation. The rights of a decentralized council are partially derived from the legally defined rights of a central council. Areas in which the Executive Board has transferred board duties to the management of the faculty, the associated participation rights are transferred from the central council to the decentralized council (**wo: article 9.37 paragraph 2, hbo: article 10.25 paragraph 1**). These rights are thoroughly described in chapter VII (management and structure of universities) and chapter VIII (management and structure of universities of applied sciences), and will thus be briefly dealt with. In any case, the decentralized council has the right to meet at least twice a year with the management of the faculty to discuss the course of faculty affairs. Besides this, the faculty board needs to provide the council the platform to discuss each proposal brought forward by the council. This discussion needs to take place prior to the official response of the board to the proposal, for which a term of three months has been established (**wo: article 9.32 paragraph 2, hbo: article**

### 10.19 paragraph 2).

Right of consent (universities of applied sciences)

The HEARA does not include the rights of the decentralized participation at universities of applied sciences. The opposite is true for universities. The Act indicates that the decentralized participation at universities of applied sciences has the same consenting rights and consultation rights as the central participation when it comes to topics that specifically concern the faculty and for which the management of the faculty is responsible (**article 10.25**). For universities of applied sciences, various articles are of relevance. **Article 10.16a** and **10.20** arrange the consenting rights of the central participation, within which a part of the TER is included. **Article 10.25** establishes that the consultation and the consenting rights will be transferred to a sub-council when the decisions are made at a decentralized level. Pay close attention to the regulations that have been formulated regarding this matter and that are included in the faculty- and/or participation regulations. For instance, according to the Act, the TER falls within the consenting rights of the central participation (**article 10.16b paragraph 2 sub d**), whereas **article 10.25 paragraph 1** states that the educational program-specific part is embraced in the decentralized participation instead. For more information, please read the paragraph below on the right of consent at universities.

Right of consent (universities)

The Act determines that the decentralized council, apart from the rights that are derived from those belonging to the central council, has specific consenting rights regarding two matters, the faculty regulation and the TER. These will be discussed hereafter.

**The faculty regulation.** This regulation lines out how the faculty is structured, which educational programs are available and how the participation is organized. The faculty regulation also includes which rights are attributed to the decentralized council. These are at least the legally defined rights, but more may be available. If the faculty board wants to alter something to the structure of the faculty, then they need to get the approval of the decentralized council. But also if the council itself submits a proposal for amending the faculty regulation, the council will have consenting rights on the counterproposal submitted by the faculty management. This is a good example of how the right of initiative and the right of consent may complement each other.

**The teaching- and examination regulations (TER).** The TER describes the setup of an educational program. The TER includes much information about the education programs, such as the amount of required credits for the completion of one's studies, the courses offered, as well as the amount of extra examination opportunities and the method of study guidance. The council is not allowed to exercise their consenting rights on the entire TER; **paragraph 2 sub a to g and paragraph 3 of article 7.13** are excluded. These articles concern the content of the education and are therefore kept beyond the reach of consenting rights. The reason for this is that these subjects need to be arranged at the educational level. The content of the educational program will ultimately be decided by the board of the educational program or the faculty. More information about the TER can be found in **article 7.13**. More information about the consenting rights are

described in **article 9.38** for universities.

The TER of a bachelor program should always include which and if a master program may affiliate with the bachelor program, but this does not fall within the consenting rights of the FC (**wo: article 9.38 sub b, hbo: article 10.20 sub e**). In case the affiliated master program is not offered at the same institution, the decentralized council does have consenting rights on the agreement concluded among institutions about this issue (**article 7.13 paragraph 4**). Also if a master program is considered to fit a bachelor program of another institution, the decentralized council of the institution offering the master program may also exercise consenting rights on the agreements that the institutions reach. The TER of a master program should also include the associated entry requirements (**article 7.30a paragraph 3, article 7.30b paragraph 1**). This is however described in the part on which the participation does not have consenting rights. The consenting rights of the decentralized council that are derived from those belonging to the central council regard matters that are specific to the faculty. The Executive Board should have transferred these topics to the faculty board. This concerns things such as the faculty library, computer rooms and the digital provisions at the faculty, faculty-specific human resources and for example further rules regarding the registration for courses and exams (**wo: article 9.37 paragraph 2, hbo: article 10.25**).

Right of consultation (both universities of applied sciences and universities)

The decentralized participation has, just like the central participation, the right to providing solicited as well as unsolicited advice. This also regards matters that concern the continuation and expediency within the faculty and the budget. The definition of ‘expediency’ can be interpreted in various ways and implies largely the policy decisions that are made at a faculty. More explicit consultation rights can be arranged in the faculty regulation. Even if this isn’t the case, the decentralized council may exercise consultation rights on many subjects. Apart from this, the council naturally has the right to provide unsolicited advice. Earlier in this chapter we described the right to consultation more elaborately.

Right to information and the right of initiative (both universities of applied sciences and universities).

Naturally, the decentralized council also has access to the right to information and the right of initiative such as previously described.

Divided participation at decentralized level (student council and the works council).

The divided structure is composed of the decentralized student council and a WC or sub-council. The rights (right to/of consent, consultation, information and initiative) are in line with those of the undivided decentralized participation and are similarly split as the central student council and the WC. There is a difference though. At a decentralized level, it is not required to have a joint meeting of both councils. In a divided structure, the WC or the sub-committee works in accordance with the Works Council Act (WCA), you may find more about this in appendix III. Little is legally defined for faculty student councils. The rights of the faculty student councils are ought to be at least equivalent to those of the faculty council.

Equivalency does not always imply equality. The student council as well as the WC do have consenting rights on the TER and the faculty regulation.

The precise rights of a decentralized student council are ought to be established in a regulation. These rights are derived from the rights of the central student council, but are more focused on the faculty. The rights of a decentralized student council are elaborately described in this book in the paragraph on the undivided structure: when referred to the faculty council, replace this by the faculty student council. Students at the decentralized level, just like those at the central level, do not have consenting rights on matters concerning the staff, such as human resources. Of course, they are allowed to partake in conversations about these matters. Just because a joint meeting at faculty level is not obligated, does not mean that it is not allowed. It is beneficial to the participation if there is a good interaction between the faculty and the students. After all, issues that concern both groups exist. Also the issues that merely concern one of the groups may benefit from the well-grounded input of the other group.

*Tip: It is advisable to also orchestrate a joint meeting at the faculty level. During a joint meeting, issues such as quality assurance and the long-term vision of the faculty may be discussed, but many more topics that concern both the faculty and the students can be brought to the table.*

## Participation at educational level

The management of an educational program (universities)

At universities, it is possible to choose between either a management headed by one individual or multiple individuals. Also at the educational level, a student needs to be represented in the educational program board in case the management consists of multiple individuals (**article 9.17 paragraph 2**). This student is not confined to a mere advisory role, as is the case at faculty level. At the educational program level, the legislator prefers a board to a director (**article 9.17 paragraph 1**), yet many educational institutions have opted for educational directors instead. Little is legally defined within the Act about the duties of the educational program boards at universities. It is merely clarified that the faculty regulation includes further details about the duties of the educational program board (**article 9.17 paragraph 3**). In practice, the daily course of affairs at an educational program falls within the hands of the educational program board. The lack of clarity regarding the tasks of the educational program board causes the educational program committees (EPCs) to have difficulty deciding whom to contact for specific points. The educational program board does not only meet with the EPC, but may also put forth different committees (such as an education or a curriculum committee). This may cause EPCs to be confronted with accomplished facts that have been produced by different committees. In such a case, the EPC should not refrain from submitting comments and issuing a negative advice on such a proposal, in case it concerns a bad idea.

The management of an educational program (universities of applied sciences)  
 Nothing is included in the Act on the management of educational programs within universities of applied sciences. Each educational program, however, does have its own EPC (**article 10.3c**) and issues advice to the management of the faculty or the organizational unit. **Article 10.3** states that the Executive Board may delegate their powers to the faculty management or the board of other organizational units. The latter most likely implies the services or establishments that are, just like a faculty, directly subjected to the Executive Board.

*Tip: Although the Act states that the EPC issues advice to the management of the faculty and not to the board/director of your educational program, it is advisable to target your educational program managers if they are responsible for the topic examined in the advice. Additionally, it is advisable to maintain good contacts with the management of your educational program, because even though their duties and powers are not legally defined, the management of your education program forms a powerful and important link to the quality of your educational program.*

The educational program committee

The EPC was considered not a participation body, but an advisory body, up until the amendment of 2016. Following the amendment of 2016, the educational program committee gained a number of consenting rights (which shall enter into force September 1st, 2017). This was realized since a chamber majority agreed on an enforcement of the EPC. By means of an amendment, this was arranged.<sup>10</sup> Half of the EPC is composed of students (**wo: article 9.18 paragraph 3, hbo: article 10.3c paragraph 3**). The other half is largely composed of staff members, but also other individuals may be included. The Act does not legally define this composition. For universities, the Act includes that members of the management of an educational program are not allowed to be seated in an EPC (**article 9.17 paragraph 4**). As for universities of applied sciences, nothing is included in the Act on the matter. The EPC may exercise consenting rights on parts of the TER, but the primary task is to issue advice. Additionally, the EPC maintains the right to information and a limited right of initiative. In case the faculty solely includes one educational program, it may be decided to let the faculty council take on the role of the EPC (**wo: article 9.18 paragraph 4, hbo: article 10.3c paragraph 4**).

The EPC is in close contact with the education and is thus predominantly occupied with issues related to education. In principle, the EPC will not engage with issues beyond education, such as research. An EPC does not necessarily cover one educational program. Under the old Act, an EPC of a university could cover a bachelor program as well as one or multiple affiliated master programs. The amendments of 2010 enabled an EPC to cover 'groups of educational programs' (**article 9.18, paragraph 1**). This means that the EPC may still cover a bachelor program and one or multiple affiliated master programs, but also multiple affiliated bachelor programs. But particularly in cases of larger educational programs, grouping of multiple educational programs under one EPC is not desirable. Added to that, 'groups of educational programs' is not specified, which causes for confusion about how many educational programs may be joined under one EPC. Especially when

<sup>10</sup> 34251 nr 67, Altered amendment Mohandis/Duisenberg with which the educational program committees have been provided consenting rights.

these educational programs have many substantial differences among them, the EC may be deterred from issuing good advice.

The Act provides for members of an EPC with a training budget (**wo: article 9.48, hbo: article 10.39**) and they are also ought to be eligible for financial support from the Student Financial Support Fund (**article 7.51 paragraph 1 and 2 sub a**). Added to that, the OCs need to be able to make use of great facilities (**wo: article 9.48, hbo: article 10.39**). Furthermore, the Act includes arrangements that allow the decentralized student council to initiate legal proceedings on behalf of the EPC, in case the EPC considers this desirable (**wo: article 9.40 paragraph 7, hbo: article 10.26 paragraph 2**). All duties of the EPC are derived from the consenting rights that will be granted to her as of September 1st, 2017.

*Tip: When you are part of an EPC, it is advisable to go through the EPC-Guide (Dutch: OC-Wijzer)<sup>11</sup>. This is a book published by the LSVb and includes advice for members of EPCs.*

#### Right of consent and right of consultation

The EPC has consenting rights on a part of the TER that describes the setup of an educational program. Regarding the remaining parts of the TER, the EPC may exercise their consultation rights. Added to that, the EPC has the important task to annually evaluate how this regulation is executed (**wo: article 9.18 paragraph 1 sub a and b, hbo: article 10.3c paragraph 1 sub a and b**). The EPC at universities may issue their advice regarding the TER to both the educational program board and the faculty board. For EPCs at universities of applied sciences, the HEARA states that the EPC advises the faculty board. The management of the educational program is not mentioned in the HEARA, whereas almost all educational programs do have their own board or an educational program director. Therefore, pay close attention to whom is in charge of which specific topic. Furthermore, the EPC is ought to send all her advices to the decentralized participation council since they have a final consenting right on the TER and to enhance a good collaboration.

The EPC also has the right to issue an advice regarding “all matters relating the education of the program” (**wo: article 9.18 paragraph 1 sub c, hbo: article 10.3c paragraph 1 sub c**). This consultation right may be interpreted as a limited right of initiative. It thus offers a broad range of opportunities, such as the opportunity to address all issues regarding education and to issue an advice for improvement to the board of the educational program or the faculty. The board, however, is allowed to disregard this advice on the condition that this choice can be adequately supported (**wo: article 9.35 preamble and sub b and c, hbo: article 10.23 preamble and sub b and c**). To what extent the board of an educational program decides to comply with the advices of the EPC, is strongly dependent on this board. Bear in mind that, in essence, the matters on which the EPC may exercise their consultation rights do need to be related to education. According to the Act, the EPC has nothing to say about, for example, human resources. In case a bad human resources leads to a lower quality of education, the EPC would be able to issue advice. Hence the EPC has a broad range of issues they may formulate advice on.

<sup>11</sup> The EPC-Guide (Dutch: OC-Wijzer) can be found on: <http://lsvb.nl/studenten/medezeggenschap/oc-wijzer>



# III. IEgAl pRotECtion FoR studEnts

Referred to or mentioned articles: HEARA 7.59a; 7.59b; 7.60; 7.61; 7.63a; 7.63b; 7.64; 7.66.

Awb 6:7, 6:8, 9:4, 9:7, 9:8.

## Introduction

Students need to take into account many rules and are often not sure what authorities to approach in case they are dealing with a problem. What authority does the student approach if he wishes to raise an objection to the binding study advice (BSA)? Or what about a student wishing to file a complaint regarding the behavior of a teacher? The HEARA states what actions students may take in such situations. It is possible to submit an **objection** to a certain decision and to **appeal** in case your objection is declared unfounded. A student may also file a **complaint** regarding the behavior of an institutional body or a staff member. This chapter includes a short introduction to the legal articles concerning legal protection of students. For an explanation per legal article, we would like to refer to chapter VI “Articles regarding education”. The specific texts of these articles have been included in appendix II.

In brief, an internal (within the institution) as well as an external (Board of Appeal for Higher Education (Dutch acronym: CBHO)) procedure are in place for students to submit an objection, appeal and complaint. First, you go through the internal procedure. The precise course of this procedure is dependent on the type of objection, appeal or complaint that you issue. In this chapter, we will elaborate on these types as well as the different bodies that will treat an objection, appeal or complaint. In conclusion, we will describe which requirements your notice of objection, appeal or complaints needs to meet and where you could find more information about the policy of your institution.

*Please note the following: These procedures apply to everybody, also to prospective students and alumni. In case you do not get a declaration of admission, you may also utilize these procedures.*

## The internal procedure

Each university and university of applied sciences is required to establish an approachable ‘open facility’ or a complaints office on which students can rely for their complaint, appeal or objection (**article 7.59a paragraph 1**). This complaints office is required to send the students an acknowledgement of receipt and subsequently forward your com-

plaint, objection or appeal to the body responsible for handling it.

#### Objection and administrative appeal

In case you do not agree with the decision of the institution or a body within the institution (for instance when you have received a negative binding study advice (BSA)), you may submit an objection or appeal. A notice of objection or appeal must be submitted to the complaints office/the open facility, which will forward the notice of opposition to the appropriate body. The term for submitting a notice of opposition is six weeks (**article 7.59a paragraph 4**). If this term is exceeded or if the notice of objection or appeal does not meet the form requirements (see the end of this chapter), the objection or appeal will most likely be declared inadmissible. This means that the educational institution does not proceed with a substantive evaluation of the objection or appeal.

There are two different kinds of procedures: objection and appeal. An objection may relate to the assessment of the knowledge or performance of student (such as exam results). In that case, the objection is forwarded to the Examinations Appeals Board (Dutch acronym: CBE) (**article 7.60**). The objection is then called an ‘administrative appeal’.

Each university of applied sciences has its own CBE. The CBE will first aim to consolidate an ‘amicable settlement’ between the parties involved (**article 7.61 paragraph 3**), in other words: evaluate whether or not a dispute may resolve itself without taking legal steps. If this may not work out, the CBE will reach a decision. The body that originally took the decision in question (for instance a teacher) will have to retake the decision with the decision of the CBE in mind. Provided that a student disagrees with this final decision, it is possible to issue for an appeal at the Higher Education Appeals Tribunal (Dutch acronym: CBHO).

Objections regarding the following topics will be forwarded by the complaints office/the open facility to the CBE:

- decisions of examiners;
- decisions of examination committees;
- colloquium doctum committee; if you want to pursue a bachelor program and you do not meet the entry requirements, but you are older than 21, you qualify for an entrance examination. This is the colloquium doctum. Through this exam, your knowledge on a certain topic is tested. Subsequently, the examination committee will decide whether you are admitted to the bachelor program;
- decisions taken regarding the BSA;
- the reference to an academic specialization;
- decisions that have to do with the establishment of the number of credits attained and decisions regarding the final examinations;
- decisions regarding exemptions.

Objections that concern all other topics (such as the height of the tuition fees), will be referred by the complaints office to an arbitration committee (**article 7.63a**). The

arbitration committee will issue an advice to the Executive Board. The Executive Board will decide on the issue within ten weeks (**article 7.63b**). In case the student does not agree with the decision of the Executive Board, they may submit an appeal to the CBHO.

*Tip: In case you are issuing an appeal against a negative binding study advice, indicate that the matter is urgent, since you are about to be deregistered. Submitting an appeal does not have an influence on the decision in question until the CBE has ruled. In this case, you remain deregistered until the CBE has ruled that you may continue your education.*

### Complaints

It is possible to file a complaint about a specific behavior of a staff member of the educational institution (such as a teacher) or about an institutional body. A complaint has to be filed either through a written or oral notice within one year of the occurrence of the behavior in question to the open facility/ the complaints office. In case it is not desired to first approach the individual regarding whom the complaint is filed, it is not obligated to do so. The complaints office will forward your complaint to the Executive Board or to the complaints advisory committee or ombudsman, who advises the Executive Board. The Executive Board always has the final accountability. You may also file a complaint if the problem does not directly concern you, but another individual or group instead.

The General Administrative Law Act (Dutch acronym: Awb) includes rules regarding the complaints handling. The complaint needs to be handled by an independent individual who is not involved with the behaviors regarding which the complaint was filed (**article 9:7 Awb**). A complaint does not need to be handled in case an earlier complaint was filed by the same individual concerning the same incident, in case an appeal was optional but not brought forward, in case the behaviors occurred over a year ago at the moment the complaint had been issued, or in case form requirements were not met (see under the heading 'form requirements') (**article 9:8 Awb**). Whether or not the weight of the behaviors calls for further proceedings, needs to be assessed independently. Who is put in charge of this depends on the management and administrative regulations (Dutch acronym: BBR). The BBR also includes the further processing steps of the complaint. If the complaint is not being processed, the complainant will be informed of this within four weeks. The Executive Board will grant the individual(s) to whom the complaint may concern an opportunity to be heard.

## The external procedure

Each dispute between a student and an institution may be presented to an external body, the Board of Appeal for Higher Education (Dutch acronym: CBHO) (**article 7.64**). In case you do not agree with the decision that followed the submission of your objection, or when you oppose a decision of the examination committee, you may approach the CBHO. A national CBHO does exist, but special institutions may establish their own CBHO. A dispute is ought to be submitted to the CBHO within six weeks (**article 6:7 Awb**). This term goes into effect the day after which the decision was made (**article 6:8 paragraph 1 Awb**). The ruling of the CBHO is binding for both student and institution (**article 7.66**).

It is impossible to appeal against this decision. Naturally, it is legally possible to approach a civil court in the event of a private dispute.

It is not possible to lodge an appeal with the CBHO against an assessment of an examination; what is possible though, is to appeal against procedural errors in the assessment. When you lodge an appeal with the CBHO, you need to pay court fees, which will be refunded when you win your case.

## Form requirements for notice of objection, appeal or complaint

A number of form requirements are ought to be taken into account when writing a notice of objection, appeal or complaint (article 9:4 paragraph 2 Awb). A notice of complaint is a written document in which the complaint is defined. A notice of objection, appeal or complaint needs to include the following:

- the name and the address of the student;
- the date;
- a description of the behaviors against which the complaint is targeted, the decision against which an objection is issued or a decision against which an appeal is lodged;
- the reasons for the submission of the complaint, appeal or objection;
- the student's signature.

The Executive Board is ought to allow the student to be heard. This means that the student should be able to comment on their complaint, objection or appeal. Naturally, the student may request this in their notice of objection, appeal or complaint.

## More information

The legal protection of students is primarily arranged in the HEARA. However, the General Administrative Law Act (Dutch acronym: Awb) also includes a number of important matters. Parts of the Awb are validated by **article 7.59b** HEARA for universities of applied sciences and universities, also in cases of non-public institutions. The Awb is frequently subjected to changes, and that is why we opted to use the HEARA as a starting point. However, if you are looking for more information, you may always address the Awb. You may also reach out to the legal services (legal aid center) of the LSVb. You can call the LSVb via 030-231 3029 or send an email to [studentenlijn@lsvb.nl](mailto:studentenlijn@lsvb.nl).

## iv. disputes brought forward by participation

Referred to or mentioned articles: HEARA 9.34; 9.38c; 9.39; 9.40; 9.46; 10.3c; 10.21; 10.22; 10.26.

Awb 6:5

It may occur that negotiations between the participation body and the management fail to reach an agreement. In case the participation council may exercise advisory or consenting rights on this disagreement, disputes may be initiated. An example of how a dispute may arise, is when the Executive Board brings forward a proposal, for which the participation refuses to consent and the Executive Board, in turn, does not agree. Another example is when the participation disagrees with a proposed decision and the Executive Board pushes the decision forward nonetheless. It is also possible to initiate a dispute when the Executive Board or the faculty board refuses to provide the participation with requested information.

### Who may initiate legal proceedings?

Firstly, the Act clearly defines what constitutes a participation body (**article 9.38c**). This may be one of the following bodies:

- the joint meeting (JM);
- the works council (WC);
- the student council;
- the university council;
- the faculty council;
- the participation council;
- the sub-council;
- the employees' council;
- a delegation of the abovementioned bodies.

In case you are a member of the educational program committee (EPC), **article 9.40** (wo) or **article 10.3c** (hbo) are of significance. The seventh paragraph of **article 9.40** describes the dispute resolution procedure for EPCs at universities, please read more about this towards the end of this chapter. For universities of applied sciences, this is also applicable via **article 10.26 paragraph 2**. Works councils fall, in terms of disputes, not directly under the HEARA and thus have different legal procedures regarding disputes (see Works Councils Act, WCA, in appendix II of this book).

## Types of disputes

Disputes may arise at central or decentralized level. Educational programs also fall within this latter level. Disputes may have different grounds. Firstly, there are disputes regarding consenting rights (Are you, as participation, allowed to exercise consenting rights? Or is it justifiable that you refuse to consent to a proposal whereas the management believes no valid reason supports this refusal of consent?). Apart from that, a dispute may concern the advisory authority, the right to information (for instance, when the Executive Board refuses to disclose requested information) or the content of the participation regulations.

## How to initiate?

This paragraph raises a number of practical points that may be of use in the settlement of a dispute. Not every disagreement between the management and the associated participation body has to lead to a dispute. By simply talking with the managers involved (formally or informally), many problems may be solved. If the willingness to solve the problem together exists, it will most likely work out. Yet a dispute is inevitable in some cases. In these cases, it is important to know how to proceed step by step. This knowledge may also help you to prevent a dispute: threatening to initiate legal proceedings may sometimes prove sufficient.

## Initiating legal proceedings

In the event of a dispute, a higher authority will evaluate whether a solution without a legal intervention (a so-called ‘amicable settlement’) is possible (**article 9.40 paragraph 2**). Who constitutes this higher authority depends on the origin of the dispute. Provided that the Executive Board is the decision-making authority, the Supervisory Board encompasses the authority that will attempt to encourage both parties to resolve the dispute. In case the decentralized board (such as the dean of the faculty) is the decision-making authority, the Executive Board will be the authority that has to encourage both parties to resolve the dispute. If it turns out a solution is not possible, the concerned participation body or management may refer the dispute to the national Arbitration Committee for higher education.

## The national Arbitration Committee

The national Participation Arbitration Committee (henceforth: the Arbitration Committee) is described in **article 9.39** for universities and is applicable for universities of applied sciences via **article 10.26**. The committee is composed of three members and three alternates. The institutional managers elect one member and one alternate, and the participation councils of universities and universities of applied sciences also elect one member and one alternate.

### Exceptions

The Executive Board or the dean may request the Arbitration Committee to make the decision themselves (only in case of disputes concerning a matter to which consenting rights are applicable). The Arbitration Committee may repatriate their powers provided that they find the participation's decision unreasonable, or if the proposed decision is necessitated by compelling organizational, economic or social reasons. In case the dispute concerns the institutional plan, the setup of the quality assurance system, the proposed policy in the light of the results of the quality assessment of the management and administrative regulations, the Arbitration Committee will evaluate whether the management reached the proposal of the decision in a reasonable fashion after carefully weighing the interests involved.

Those members nominate the third member and alternate. In case the dispute is not solved within the walls of the institution, this commission will act as intermediary. The Arbitration Committee is authorized to offer a conciliation proposal without legal intervention. In case both parties (the participation or the management) do not appreciate this, the committee is authorized to make a binding decision.

In this binding decision, a number of matters is assessed, which are included in **article 9.40 paragraph 4**, which also applies to universities of applied sciences via **article 10.26 paragraph 2**. The matters that are assessed are the following:

- whether the management complied with the requirements of the law (the HEARA) and the regulation of the participation (**wo: article 9.34, hbo: article 10.21 and 10.22**);
- whether the management arrived to the proposed decision in a reasonable fashion after carefully weighing the interests involved;
- whether the management has acted negligently towards the participation body.

When the decision of the Arbitration Committee still fails to lead to a suitable solution, another step may be taken. This entails the possibility to initiate legal proceedings in order to seek redress.

*Tip: the Act includes the different procedures for different types of disputes (such as a dispute regarding consenting authority, dispute interpretation, etc.). Always read the right legal article carefully in order to discover the right procedure for your case.<sup>12</sup>*

<sup>12</sup> Since disputes rarely occur and are always very specific, we chose to not elaborate on these articles separately.

## The reversed burden of proof

Due to the legal amendments in 2010, the burden of proof in refraining to consent is reversed. This is included in **article 9.40 paragraph 5**, which is also valid for universities of applied sciences via **article 10.26**. Previously, a participation body had to account for its right whenever it refrained from consenting. Now, this article states that the Executive Board or the faculty board needs to provide proof that solidify that the participation was in the wrong. This applies to consenting to the Student Charter, rules relating working conditions, the choice of participation structures, the policy with respect to the Student Financial Support Fund (Dutch: profileringsfonds) and personal matters.

## Initiating legal proceedings

If the rulings of the Arbitration Committee fail to lead to a satisfactory result, the participation body may invoke their right to initiate legal proceedings (**see article 9.46**). Please be aware that this is a last resort. One is ought to carefully consider whether a lengthy court case and an exhausting procedure are worth the effort. However, if it is worth the effort, go for it!

Initiating legal proceedings is only possible within a month after the decision of the Arbitration Committee was issued and if you believe that the Arbitration Committee incorrectly applied the law (**article 9.46 paragraph 3**). As a participation body, it is impossible to be convicted to pay for the legal costs. The institution will take care of this.

In order to initiate legal proceedings, a notice of appeal is ought to be submitted to the Enterprise Division of the Amsterdam Court of Appeal. How a notice of appeal can be submitted is explained below. More information on this can be found in **article 6:5** of the General Administrative Law Act (Dutch acronym: Awb).

## Terms

In the process of initiating legal proceedings, different terms apply which one should take into account. These terms differ per case, since they depend on the problems and the steps to be taken. That is why we recommend to always pay close attention to the time limit for responding. This is of importance because the exceeding of terms often entails that your notice will not be processed. A number of terms will be elaborated on hereafter.

### The right of consultation

In case the dispute relates to a matter to which consulting rights apply, the execution of the decision will be suspended by four weeks (unless the participation does not have any objections against an immediate execution of the decision).



#### Notice of appeal

The notice of appeal describes the basis for the dispute and the arguments supporting the reasons why the submitter of the appeal should be settled to their advantage. Put simply, the notice of appeal is a letter in which one pleads for one's own righteousness. It is recommended to send the notice of appeal by registered mail.

The notice of objection or appeal includes at least the following:

- the name and address of the submitter;
- the date;
- a description of the decision against which the objection or appeal is targeted;
- a signature of the submitter;
- a mention of any annexes;
- if possible, a copy of the decision on which the dispute is based;
- in case the notice of objection or appeal is composed in a foreign language and a translation is necessary for an adequate processing of the objection or appeal, the submitter is responsible for arranging a translation.

#### Right of consent

In case the dispute relates to a matter on which consenting rights may be exercised, the issue becomes more complicated. No terms are legally defined, which means that the issue is not executed until the dispute is settled. However, the Executive Board or the dean may ask the Arbitration Committee to take the decision. The Arbitration Committee may proceed with this provided that they find the decision of the participation unreasonable, or if the proposed decision is necessitated by compelling organizational, economic or social reasons.

#### Trial

Up until a month after the decision of the national Arbitration Committee, it is possible to initiate legal proceedings. Please read more about this in the previous paragraph ('Initiating legal proceedings').

## The Educational Program Committee

As for EPCs, the Act (**wo: article 9.40 paragraph 7, hbo: article 10.26 paragraph 2**) states that a central or decentralized participation body (as defined in chapter II) may initiate legal proceedings on behalf of an EPC. It should be taken into account though that the advice of the EPC is in line with the advice of the participation body in question.

The participation body may present the dispute to the Executive Board, the Supervisory Board and/or the national Arbitration Committee. However, it is not possible to initiate legal proceedings when it concerns a dispute on which the EPC may exercise advisory authority (**see article 9.46 paragraph 1**).

## More information

For more information about the mentioned procedures, you may reach out to the Dutch Student Union (LSVb). The LSVb employs legal staff and is equipped with a network of lawyers that is composed of specialists in the field of higher education. You may call the LSVb via 030 231 64 64 or send an email via [lsvb@lsvb.nl](mailto:lsvb@lsvb.nl).

## v. ExplAnAtory MEMoRAnduM

The legal amendment ‘Versterking besturing’ has its own explanatory memorandum (EM) that elaborates on the establishment of the law and the most important legal articles. The EM globally explains on which topics have been subjected to the most important amendments (see list below). The EM is not very important for a good understanding of the law, but rather it may aid in understanding more about it. In the event of a new policy point regarding one of the following subjects, it naturally would not hurt to go through the associated parts of the EM. You may then check whether these points of policy follow the scope of the law. The following subject include the most important amendments:

- good management and participation;
- students (rights and duties);
- system for tuition fees;
- quality (exams and accreditation);
- internationalization (joint degrees, education abroad);
- acknowledgement of acquired competences;
- research task universities of applied sciences;
- legal persons for higher education [sic!]<sup>13</sup>;
- simplification of legislation.

Those who read the EM carefully notices that a great number of matters are included that are not mentioned by the Act. For instance, the EM includes an explanation about the right of recovery. This is the right of a student to be reimbursed for a (part) of their paid tuition fees when the educational program does not meet its promises or requirements. The right of recovery was part of the bill, but was removed later on by the then Minister of Education, Culture and Science Ronald Plasterk, because it was deemed insufficiently feasible. It was promised that instead alternatives would be looked at with student organizations ISO and LSVb, but this has not yet happened as of the fourth edition of the book.

The Student Financial Support Fund (Dutch: profileringsfonds) is also thoroughly elaborated upon in the EM. When you are asked to consent to a new regulation, it may hurt to go through the explanatory notes in the EM. Among others, these include the goal of the Fund, to whom the fund is accessible, and the guidelines regarding the monthly payable amount. It is of importance that the minister requires the institutions to financially support those students that are in trouble and therefore temporarily incapable of following education. Additionally, the management of the institution owes you financial support when you are active in participation or member of an EPC. It is important to carefully arrange this with the Executive Board and subsequently pass this on to students.

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<sup>13</sup> This is the original text from the Explanatory memorandum. It concerns regulations about institutions of higher education.

Another difference with the old law encompasses the negotiations between the central participation and the Supervisory Board. Following the recommendation of the LSVb, it is legally arranged that the Supervisory Board meet with the participation. The frequency of these meetings is not legally defined, but the EM includes a directive of twice a year. In the Student Chamber (the formal meeting between ISO/LSVb and the minister or state secretary of higher education) it was stated by then minister Plasterk that it evidently concerns an independent meeting, in which the Executive Board is not involved. When your council deems it desirable, you may meet with the Supervisory Board, even if the Executive Board would rather not have this happening.

The importance of a good management culture for the participation is also included in the EM. This entails that the management has to take the participation seriously and should not cross them. One of the advices included in the EM is the appointment of a participation officer. This is an individual specially appointed to guide the range of participation bodies. If your institution has a need for a participation officer, please feel free to propose this to the Executive Board.

The following point arranged in the EM on behalf of a good participation, is that when the management delegates their powers to a different authority, the participation follows. An example given to illustrate this, is when the management delegates a certain topic (on which the participation may exercise a certain right) to an educational program director, the participation retains their rights. This prevents that the decentralized participation is robbed of their consenting rights, since the TER is centrally determined by the central participation that has been allotted advisory rights on the matter. Chapter IX “Forewarned forearmed” includes more about this trick.

Another important clarification stated in the EM regards the article “iudicium abeundi”<sup>14</sup>. This article states that students that are deemed unsuitable for their professional practice by to the Executive Board, will not gain access to, or will be expelled from a certain educational program. The EM clarifies that this cannot simply be done, in other words: something has to be seriously wrong before someone can be refused to enter an educational program. The EM mentions two examples: a pedophilic student that wants to study pedagogy or a medical student that behaves in way that if he were a doctor, disciplinary sanctions would be imposed. Chapter VI of this book (**see description of article 7.42a**) includes more information on this. This chapter also describes how an institutional management may abuse this and what the right sanction is for certain violations. Expelling a student is nowhere near always the case!

The EM also explains when the Executive Board may suspend a student on the basis of vandalism to buildings or other forms of violence, or threats to use violence. Again, this does not concern minor offences, but considerable damage instead. Therefore, you should not fear being expelled for a frivolous stunt getting out of hand.

14 The Explanatory Memorandum mentions “Lucidium Abeundi”, this is a typo.

The EM establishes that the quality of the examination committees of various institutions is inadequate. To complement the legislative proposal, the minister could develop more policy to enhance the quality of examination committees. If you notice an inadequacy of quality at your institution, please contact the LSVb.

*Please be aware that the EM is no formal legal source, but rather serves as to supplement the legislation. This means that the 'value' of an EM is not always clear. It is a document that clarifies the law, its backgrounds and its origin. It is also a piece of the cabinet, which illustrates the current political status quo, showing the current cabinet's interpretation of the law. The EM should therefore always be read as a clarification of the law, over which the legal text takes precedence. The EM is a good source for interpreting the law and one may point to the legal text on the basis of the EM. In the event of a dispute the court may address the EM for this reason. Therefore, assume that the legal text takes precedence, but that the EM may be a valuable explanation of the law, clarifying specific parts.*

# vi. ARTICLES on Education

Referred to or mentioned articles: HEARA 7.4a; 7.8b; 7.9; 7.9a; 7.9b; 7.10; 7.12; 7.12a; 7.12b; 7.13; 7.14; 7.15; 7.23 t/m 7.31; 7.31a; 7.42a; 7.45; 7.46; 7.51; 7.57h; 7.59; 7.59a; 7.59b; 7.60; 7.61; 7.62; 7.63; 7.63a; 7.63b; 7.64; 7.65; 7.66; 9.30a; 9.33 sub g; 10.16b.

Chapter 7 of the HEARA relates to the organization of the education, and is applicable to both universities of applied sciences and universities. This chapter includes, among others, the course load, the study advice, the examination committee, awarding of honorary doctorates, the teaching and examination regulations (TER), titles, admission requirements, exemptions, tuition fees, funds, the Student Charter and the Examinations Appeals Board (Dutch acronym: CBE). The articles of relevance for the participation and the students are described below.

## Article 7.8b Study advice propaedeutic phase

**Articles 7.8 b** and **7.9** are meant to get students to the most appropriate educational program as soon as possible. However, according to the LSVb, the resources deployed are questionable. **Article 7.8b** concerns the (binding) study advice.

**Article 7.8b paragraph 1** states that every student is provided with advice at the end of their first academic year (the propaedeutic phase: existing of 60 credits i.e. European Credits - EC) regarding the continuation of one's studies. A student may be granted the advice to continue the educational program, or that they are required to stop. A student may also get a binding study advice after the first year, in case they have not yet passed their propaedeutic phase. For part-time educational programs, the university of applied sciences or the university determines the moment in which the advice is issued. This means that this does not have to be at the end of the first academic year. Provided that the student passed their propaedeutic phase, the educational program may no longer issue binding 'advice' regarding the progress of a student (**paragraph 2**).

**Paragraph 3** determines that an advice may also be binding (the binding study advice, a.k.a. the BSA). This means that a student who is given negative advice (the advice to quit their studies) is effectively no longer allowed to continue their studies and is deregistered from the educational program. In this case, the student failed to attain the required number of credits during their first year and is therefore deemed unfit for the educational program. The minimum amount of credits a student has to attain to continue their studies is described in the TER. Naturally, personal circumstances should be taken into account. A certain timeframe may be attributed to this 'rejection' (for instance one or two years). In this case, a student may reregister for the educational program after this amount of time. In case no timeframe has been set up, a student is not able to reregister for the educational program at the same institution (**paragraph 5**). A rejection may also apply to a different educational program offered at the same institution with an equivalent propaedeutic phase. The BSA may only be issued if the educational program operates within the framework conditions. For instance, sufficient

and good-quality educational facilities are ought to be available (**paragraph 3**). Think, for example, of sufficient seats available during lectures and good study guidance.

*Note that, starting from the academic year 2013-2014, a number of educational institutions was allowed to experiment with a binding study advice after the first academic year. In order to do this, they had to submit a request to the ministry of Education, Culture and Science in which they indicated what educational programs would operate with a BSA and in what ways they were planning to enhance the study counseling and guidance. Also the Executive board of the Technical University Delft wanted to experiment with two of its educational programs. However, since the student council did not back this up and the Executive Board could not come to a solution with them, it was ultimately decided not to execute the experiments with the binding study advice. Now, the post-propaedeutic BSA has not been implemented anywhere. All participating institutions have moved away from this after experimenting a number of years.*

**Paragraph 4** includes that the BSA has to be preceded by a warning halfway through the first academic year. With this warning, a timeframe should be included in which study results need to be improved. Prior to receiving a BSA, a student has the right to be heard. **Paragraph 5** adds that a student, if excluded from the educational program, may still be admitted later provided that the Executive Board authorizes this.

The exact number of minimum credits that a student has to attain in order to be granted a positive study advice (the study results), rules regarding the provision and the determination of the personal circumstances for which an exception to the BSA is granted, have to be established (**paragraph 6 and 7**). This is often done per educational program and is included in the TER. The institutional management has to make sure this happens.

*Note that the HEARA does not specify what is meant with “personal circumstances”, but this is instead included in a so-called ‘implementation order’ (Implementation Order HEARA 2008, article 2.1 paragraph 1). It concerns issues such as illness, functional disorders, pregnancy, special family circumstances, membership of a participation body and (under different conditions) management activities.*

Article 7.9 Referrals in the post-propaedeutic phase

**Article 7.9** determines the referral of students to different fields of study within the bachelor of studies with a common propaedeutic phase. If multiple majors are possible within a bachelor program, a program may decide that a student only gains access to one or several of these majors. This is only possible if the majors differ in their content to such an extent that it is justified to not allow all students access to a certain major.

**Paragraph 2** includes that the decision regarding admission is based on the study results of a student and/or the study program that a student has followed. Prior to taking this decision, the student has the right to be heard. The institutional board is responsible for taking this decision, but in practice this decision is often taken by the educational program itself.

**Paragraph 3** includes that in the process of weighing of the student's results, personal circumstances should be considered. What precise circumstances these entail are described above under the second note of **article 7.8b**. **Paragraph 4** states that in the process of weighing the study program, the connection of the followed courses to the desired major is evaluated.

#### Article 7.10 Examinations and tests

An 'examination' encompasses the whole educational program (**paragraph 2**), this may be a bachelor or master program. Each examination is composed of all the tests belonging to the program. In essence, a student passes their examination when all the courses are completed. The examination committee may conduct further research before they give out a diploma, but this has to be made public in advance. The management of an institution may establish rules that limit the duration of validity of passed exams. In individual cases, the examination committee may extend this duration of validation. The duration of validation may only be limited if the knowledge, the insight or the skills that are being assessed with the test are demonstrably outdated, (**paragraph 4**). The duration of validation of tests may not be limited in the event of a special circumstance, such as illness, disability or membership of a student council, as listed in **article 7.52 paragraph 2**.

#### Articles 7.12, 7.12a and 7.12b Examination Board

**Article 7.12** concerns the examination committee and elaborates among others on the duties of the examination committee and the way in which members are appointed. The examination committee is the body that establishes in an independent fashion whether a student meets the requirements posed by the TER in terms of knowledge, insight and skills that are necessary for attaining the diploma of the educational program in question. In that respect, the examination committee is ultimately responsible for the quality of the educational program. The examination committee decides, for example, whether the student may be granted an exemption for a course or is allowed to deviate differently from the set rules. An examination committee is put in place for one educational program or a group of educational programs. The latter may have undesirable effects, for example when it concerns large educational programs, which leads to an overload of working pressure on the examination committee. **Article 7.12a** arranges that the examination committee includes at least one teacher connected to the educational program or group of programs. However, this provision does not prevent a lack of expertise regarding certain educational programs that do not have a teacher representative in the examination committee. Apart from this, article 7.12a arranges that at least one member needs to originate from outside the educational program and that members should not have financial responsibilities within the institution.

*Tip: Providing advice about the examination committee is not a formal task of the educational program committee (EPC), yet the EPC may fulfill a signaling role by regularly evaluating whether the quality of advices issued by the examination committee suffices.*

**Article 7.12b paragraph 4** includes a provision that benefits students. This article arranges that an examiner, in case a complaint is issued against him, is not allowed at



that point to partake in the processing of the request/complaint. The fifth paragraph includes the provision that the examination committee reports on her activities annually, and provides this report to the faculty board.

*Tip: As a member of the EPC, it is advisable to request insight in (the non-confidential parts of) this report.*

Article 7.13 Teaching and examination regulations (TER)

**Article 7.13 and 7.14** relate to the TER. The institutional management is required to establish a TER for every educational program or group of programs in which adequate and clear information on the educational program and applicable procedures and rights as well as duties in terms of the education and exams is included. The second paragraph of **article 7.13** states that the TER must establish a number of matters. We will explain these below. Every time, a part of the law is presented wholly or paraphrased, followed by the definition of this part. In some cases, it is clear what the law entails and we will not present an explanation after the sentence.

- a. **the content of the educational program and the associated examinations.** This means that the TER needs to describe the objectives of the educational programs and the examinations that the educational program issues.
- a1. **The method with which the education of the program in question is evaluated**
- b. **the content of the majors within an educational program.**
- c. **the criteria that the graduates need to meet.** This is also referred to as the final attainment targets, i.e. the execution of objectives in concrete attainment targets, translated into qualities in terms of knowledge, insight and skills and the way in which the student gains these qualities during the course of the educational program.
- d. where necessary, **the setup of practical exercises.** This means that the TER needs to include the setup of the practical part of the educational program.
- e. **the course load belonging to different parts and the program as a whole.** The course load of an educational program is expressed in credits. One credit (EC) is equivalent to 28 study hours. It is wise to establish a standard norm that establishes how to measure the course load.
- f. **further rules with respect to study advices and barrier measures** (described in **articles 7.8b paragraph 6 and 7.9 paragraph 5**). Among these one may consider the binding study advice (BSA). Barrier measures are described in **article 7.8b** (study advice propaedeutic phase) and **article 7.9** (referral in post-propaedeutic phase). This means that the EPC may formulate advice regarding the frequency and when in the year the advice is issued to the students and who is in charge of this. The EPC also issues advice regarding the rules for the binding study advice at the end of the first

academic year, in case the educational program operates with these. Other measures, such as the requirement that students need to complete their propaedeutic phase within two years (P-in-2), should always be submitted. Not only is the EPC allowed to provide consultation about this when these measures are implemented, but also each year following the implementation the EPC may issue advice, and thus may advise to abolish a measure. The faculty/sub-council may also advise the dean about this. For members of the faculty councils or sub councils, it is thus very important to closely assess the consequences of the barrier measures for students.

*Tip: Measures through which credits are cancelled, such as the P-in-2, are barely legally valid anymore ever since the amendment of 2016. Article 7.13 paragraph k describes that credits may only be cancelled if a good, substantive reason can be given (such as outdated knowledge and skills).*

- g. **to which master programs article 7.4a paragraph 8 has been applied.** This is somewhat cryptically legally defined and concerns the amount of credits. It is possible that the institutional board determines that the course load of a master program comprises more than 60 EC. If this is true, this should be included in the TER. In this case, the institution must establish a regulation to ensure that the duration of the study grant equal the duration of the program (see article 7.51, student financial support fund).
- h. **the number and order of the tests and the moments these will occur.** The TER includes which tests will take place, how they follow each other and when they will take place.
- i. **the full-time, part-time or dual setup of the educational program.** A program may be offered in various ways. This is established in the TER.
- j. **where possible, the order in which, the periods in which and the number of times the opportunity is offered to take tests and exams per academic year.** This paragraph seems to state the same as paragraph h with the addition that the number of tests and exams (where possible) can be determined per period. This is of relevance for e.g. retakes and interim intake moments.
- k. **the rules relating to the duration of validity of passed tests. Article 7.10 paragraph 4** elaborates further on this. In some cases, it may be decided that tests will not forever hold their validity, for instance when the assessed knowledge is outdated. This must be established in the TER, otherwise the regulation will not be lawful. The fact that the knowledge is deemed outdated, should be verifiable and it is obviously not the intention that this article is used as a profitability measure. For individual cases, the examination committee retains the authority to extend the validity period of test results.

*Tip: Credits will not always hold their validity. At most, the acquired credits will no longer be valid for the bachelor- or master examination. The student may then request a certificate,*

*which states that they have successfully passed certain courses (article 7.11 paragraph 5). A different university may potentially acknowledge the passed courses by means of exemptions, which will allow the student to finish their studies elsewhere.*

- l. whether the tests will be taken orally, in writing or in a different fashion.** The TER must include the methods with which the tests are taken. The examination committee will always have the authority to decide differently. When a teacher desires to operate with a different method of examination than is described in the TER, they should in principle first propose this to examination committee.
- m. the provisions for students with a disability or chronic illness.** This concerns the provisions that are arranged in order to enable these people participation in education and the exams. Financial support is arranged through the Student Financial Support Fund (**article 7.51**).
- n. the publicity of the exams taken orally.** Whether an oral exam is truly public, has to be arranged in the TER. The examination committee may deviate from this provision.
- o. check-terms and exceptions.** The TER should include the duration of the check-term, how the results of the tests and exams are disclosed and how an exception can be made to this rule.
- p. insight in assessed work.** The TER determines the timeframe and way in which someone may be allowed insight in a completed test or assignment.
- q. questions and assessment standards.** The TER should also include how the assessment standards can be accessed, what the timeframe is in which these can be viewed and how students can pose questions as a result of a test or assignment.
- r. exemptions.** The examination committee may decide that a student is granted an exemption for a course, or a part of their studies. The TER must establish the criteria that form the basis on which an exemption is granted.
- s. order.** In some cases a certain course needs to be completed before someone may take the test of a subsequent course. These cases should also be included in the TER. In essence, it is allowed to follow the education (**article 7.34 paragraph 1 sub a**). The student that does not pass the required entrance exam may still enroll in the education.
- t. practical exercises.** Some studies include a part that must be executed in practice, or in a simulated environment such as a laboratory. If such exercises are included in the curriculum, the TER is ought to incorporate these. The TER should also specify which complementary requirements might potentially be needed.

- u. **study progress and the individual study guidance.** The TER is ought to state how the study progress is secured and how study guidance takes place. When your educational program contains many students, the major guidance may come under pressure. To avoid this, you may arrange matters such as: right to individual guidance, the number of hours, the freedom to choose your tutor and the conditions a (external) tutor must meet.
- v. **rules regarding selection.** For this **article 7.9b** is referred to, which legally enables the institutional management to select students for special trajectories within the educational program, for instance through excellence- or honors trajectories. Rules regarding this matter should be included in the TER.

**w. the actual setup of the education.**

In short, the TER establishes many rights and duties of students. Both the student as well as the educational program should comply with these agreements. Although the following points are less explicitly included in **article 7.13**, the TER ideally arranges the following for students:

- **book prices:** a maximum amount per year per course that a student is allowed to spend on required study material.
- **voluntary contribution:** what voluntary contributions may be asked for which courses or excursions and the alternative assignment in case you are not able or willing to pay this contribution.
- **administration:** the method of registration for education and exams, the setup of education- and examination administration and the associated privacy protection and the way in which students are informed about this.
- **contact hours:** the amount of contact hours the educational program must include and the distribution of these hours.
- **education evaluations:** the regulations regarding evaluations, publication of results and the consequences of the evaluations.

**Paragraph 3** states that the TER, for relevant hbo-bachelors, should include how the progression of associate degree to the continuation of a bachelor is arranged.

Regarding the duration of validation of the TER, no universal standards apply. For some institutions, the TER that is established for the starting year of the program remains valid throughout the entirety of the student's study period. One may only deviate from this in the advantage of the student or if the student agrees with the TER from another year. Whether this rule applies is mentioned in the TER itself. For other institutions, amendments of the TER apply to all students that are then following the educational program, despite how far along in the program they are.

Article 7.14 Assessment TER

**Article 7.14** states that the institutional management regularly assesses the TER and specifically pays attention to the protection of the study progress and the adjustment of the course load.

#### Article 7.15 Provision of information to students and prospective students

The **first paragraph of article 7.15** determines the educational institution's information requirement. The institution provides (prospective) students with sufficient information about the institution, the education and the educational programs' names, facilitating the students in comparing the different programs offered, as well as allowing them to form a good assessment of the education and associated exams. Apart from that, students are provided with information regarding the differentiation in the educational offer (such as an honors program) and a potential selection of students.

The second paragraph states that representatives of the educational institutions (the VSNU and the Vereniging Hogescholen) along with the representatives of the students (the LSVb and the ISO) determine the specifications of this information provision. In case they do not agree, the ministry will decide how the information provision should look.

#### Article 7.28 Exemption on the basis of other diplomas

Since a partial implementation of the legislative proposal "*Kwaliteit in verscheidenheid*" (quality in diversity) in September 2013, it is no longer possible to automatically gain access to the wo after completing the hbo-propaedeutic phase. The provision that previously allowed for this has been abolished from paragraph 1. It is possible though, through the new paragraph 1a, for an institution itself to grant admission to students with a completed hbo-propaedeutic phase, albeit with or without additional requirements.

*Note that articles 7.30b, 7.30c, 7.30d, 7.30e and 7.31 together determine the rules and procedures regarding the so-called hard cut.*

#### Article 7.30b Admission requirements other master programs

This article arranges the influx of master programs. For the admission to a master program, the requirement that applies is that one needs to have attained a bachelor degree, or one needs to possess the knowledge, insight and skills that level with those of somebody with a bachelor degree (**paragraph 1**).

If more admission requirements are in place besides the possession of a bachelor degree, these requirements should be included in the TER (**paragraph 2**). Think for instance of demanding certain skills of a student, such as a specific skill in mathematics for a physics master program, which allows one to expect a certain knowledge and skillset of the incoming students within the master program. **Paragraph 5** states that if admission requirements are established, at least two different kinds should be in place. Selecting exclusively on the basis of grades is therefore not allowed.

**Paragraph 3** states that those who do meet the requirements, should also be admitted to the master program as long as spots are available. If a master program does indeed have a limited number of available spots, the institutional management should publicly disclose the rules and information regarding this in a timely fashion (**paragraph 4**).

With the implementation of this new article through the adoption of the legislative proposal "*Kwaliteit in verscheidenheid*", came as of September 1st 2014 the abolishment

of the requirement that each bachelor needs to have an affiliated master program that secured guaranteed admission to graduates. The so-called 'influx masters' are no longer required. In order to prevent some students that do have a bachelor from not being admitted to a master program at all, **paragraph 6** states that the minister may oblige a university to make a master program available to students that would otherwise not be able to follow a master program.

Article 7.30c Admission requirements for academic master programs in the field of education; exemptions to those

This article regards the education programs in which the hard cut does not apply. **Paragraph 1** states that students that register for a university master in didactics (for secondary education) should have already completed a master program prior. Additionally, they should meet the entrance requirements that the educational program operates with. **Paragraph 2** states that the institutional board may issue an exemption if a student does not meet the entrance requirements but does possess equivalent knowledge, insight and skills.

Article 7.32 General regulation registration

This article establishes under what set of conditions one may register as student (**paragraph 5**) and what rights are associated with this (**paragraph 1**). The registration as students confers the right to utilize the educational facilities, the examination provisions and other facilities in terms of initial education (**article 1.1 sub e in relation to article 7.3a**).

Article 7.34 Registration rights as student

Apart from what is stated in **article 7.32 paragraph 1**, **article 7.34** includes an additional number of rights that are associated with registering as a student. For instance, the student is allowed to partake in the education offered institution wide (**article 1.1 sub e**), although the institutional management may limit this access on the basis of the following articles:

- **6.7a**, deviating education with higher tuition fees, such as University Colleges;
- **7.9a, first paragraph**, referral post-propaedeutic phase;
- **7.30a, third paragraph**, requirements to the bachelor program that are not related to the master program;
- **7.30b, first paragraph**, admission requirement of not-influx masters;
- **7.42a**, iudicium abeundi (expelling a student on the basis of a relation between the educational program and the prospective professional practice);
- **7.53, third paragraph**, fixed quota (numerus fixus) due to capacity constraints;
- **7.56**, fixed quota (numerus fixus) due to a lack of available jobs; or
- **7.57h**, violation of house rules.

Apart from following education (**paragraph 1 sub a**), **sub b** includes the right to take exams and tests that belong to the educational program; **sub c** includes the right to access collections (such as a library or databases), **sub d** includes the right to utilize facilities that were meant for students, such as the services of the student counselor;

finally, sub e includes the right to study guidance (see **article 7.13 paragraph 2 sub u** as well).

Once an educational program is terminated, students are ought to be offered the opportunity to finish the program within a reasonable amount of time, possibly at a different institution, as is stated in the **second paragraph**. It is therefore not the case that current students are disadvantaged by the termination of the program. It is the responsibility of the educational institution to provide a reasonable amount of time to the current students to finish their studies.

The fourth paragraph determines that a student who no longer possesses a bachelor degree, but is still admitted to a master program by the institutional board on the basis of “serious inequity” (**article 7.30a, third full sentence**), may not receive their master degree until they have received a bachelor degree. In conclusion, the **fifth paragraph** establishes that a student following an associates degree at an institution, has the right to utilize the facilities of that institution.

As indicated, **articles 7.32 paragraph 1 and 7.34 paragraph 1 sub a** connect registration with the right to follow education (**article 1.1 sub e**). How does this right relate to **article 7.30a**, in which the pathway to an affiliated master is obstructed until a bachelor degree is received? The answer is that a student is allowed to follow the education of the master, but is not allowed to take the associated tests. **Article 7.34 paragraph 1 sub b** connects the right to take tests to the (master) educational program, whereas following initial education is not connected to the educational program but to registration instead. Therefore, a student is free to follow the education belonging to the master program, as long as the institutional board does not establish any legitimate limitations as referred to in **article 7.34 paragraph 1 sub a**.

**Article 7.42a** Student conduct in relation to the prospective professional practice  
The institution is allowed to, according to **paragraph 1 article 7.42a**, reject or terminate the registration of a student if they are not suitable for a certain profession. In this case the student has to demonstrate to be unsuitable, on the basis of their behaviors or statements, for the execution of a profession that the educational program in question prepares for, or demonstrate to be unsuitable for an internship that is part of the educational program. First, there should always be an advice issued by the examination committee or the dean (or the dean of a comparable body).

According to **paragraph 2**, not only does the institution itself have the right to reject a student, but so does another institution. This only applies for the same or equivalent educational programs. The student may also be forbidden from, in case they follow a different education, attending education that is similar to the education they were not allowed to follow previously. Also in this case, the examination committee or the dean needs to issue advice (**paragraph 3**).

The institutional management establishes the precedent procedures and informs the student as well as the Dienst Uitvoering Onderwijs (DUO) (**paragraph 4**). This regulation

was established for very exceptional cases. The chapter on the ME (chapter V) includes more about this. Examples of these cases are among others a pedophilic student that wants to study pedagogy or a medical student who exhibits immoral behaviors during their internship.

The *iudicium abeundi* should not be used inappropriately. If the student involved for example commits fraud during tests and exams, the appropriate sanction is exclusion from one or multiple tests and exams for a maximum period of a year (**article 7.12b paragraph 2**). In case of serious fraud, the Executive Board may on proposal from the examination committee decide to terminate the registration. The student may then register for an equivalent program at the same institution or for the same program at a different institution.

In case a student causes serious nuisance or violates the house rules, the Executive Board may deny access to the buildings for a year or deregister the student for at most a year (**article 7.57h paragraph 1**). Does the student continue to cause serious nuisance despite the warning of the Executive Board? Only then the student may be permanently deregistered or denied access to buildings (**paragraph 2**). Here also it applies, just like it does for deregistration on the basis of serious fraud, that a different institution may not reject the student.

*Tip: Pay close attention. This rule may never be abused as an easy way to get rid of 'difficult' students, for instance because a student committed examination fraud.*

#### Article 7.45 Amount of statutory tuition fee

This article concerns the amount of the statutory tuition fee. These amounts are established via a resolution of the government (**paragraph 1**) and annually indexed (**paragraph 5**).

**Paragraph 4** states that the institutional board informs the minister of Education about the amount of the tuition fees of part-time programs and dual programs. The amount of these tuition fees may never exceed the statutory tuition fee (**paragraph 3**).

#### Article 7.45a Statutory tuition fee

This article concerns the statutory tuition fee. The **first paragraph** states that a student pays the statutory tuition fee when they have not yet attained a degree (bachelor or master) of a previous (first) educational program. For example, a student who plans to follow a second bachelor or second master, will need to pay the statutory tuition fee (**see article 7.46**). However, this does not apply to students that are taking an education in teaching or medicine for the first time (as is described in **paragraph 2**). For which educational programs this applies, please address the CROHO-list<sup>15</sup>. For a pre-master, you pay a maximum amount of half of the statutory tuition fee for the first 30 EC, and for the second 30 EC a maximum amount of once the statutory tuition fee. The costs for potential credits on top of these 60 EC are free of charge. Apart from this, students

<sup>15</sup> This can be found via DUO's website: [www.duo.nl](http://www.duo.nl).



of Surinamese nationality pay the statutory tuition fee, as part of the group of students mentioned in **article 2.2 paragraph 1** of the Act on Student Finance 2000 (student financing). The statutory tuition fee only applies to students that are registered for a full-time study program (**paragraph 4**). The tuition fees for part-time or dual students are established by the Executive Board and are lower than the statutory tuition fee (**paragraph 5**). **Paragraph 3** arranges that the category of students paying the statutory tuition fee, can be extended by a decision of the institutional board. In case a student acquires a degree (bachelor or master) during the academic year, and is part of another educational program on top of that (a second bachelor or master), they need to pay the statutory tuition fee for the remainder of the year (**paragraph 6**).

#### Article 7.46 Institutional tuition fees

**Article 7.46** arranges the institutional tuition fee. This is the rate that institutions may request of their students in case they do not meet the requirements established in **article 7.45a** (and are not registered at the Open University) (**paragraph 1**). **Paragraph 2** states that the institutional board decides the amount of the tuition fee for different groups of students; this amount may differ per educational program and/or per group of students. **Paragraph 3** states that the institutional tuition fee may not be lower than the statutory tuition fee. **Paragraph 4** states that if a student meets the conditions under which statutory tuition fees are owed to him, for example when the student moves, the institutional board reimburses the amount due for the part of the year in which the conditions were met. The student is required to submit a request for this. **Paragraph 5** states that the institutional boards establish further arrangements regarding the institutional tuition fees.

Thus, as a student, you pay either the statutory tuition fee or the institutional tuition fee.

*Note that since the academic year of 2014-2015, it is legally arranged that for all students that follow a second bachelor- or master program and have started these during their first studies, the statutory tuition fees apply.*

**Article 7.47a Exemption statutory tuition fees due to board function**  
Along with the amendment of 2016, a new article has been added to the Act, which came into force January 1st, 2017, regarding the so-called tuition-fee-free fulfillment of a board function. This article arranges that a student may be exempted from paying their tuition fees for a period of one academic year. This is decided by the institutional board. The condition is that the student in question fulfills a full time board function belonging to a student organization with full legal capacity or fulfills a seat at the central participation council. The institutional board may also take this decision if they believe that a student is occupied with activities that are of importance to the institution.

The Act clarifies that a student may only be exempted from paying tuition fees if no classes or examinations are taken during that period. Additionally, the activities may not be commercial in nature.

Article 7.51-51j Financial support regarding exceptional circumstances (Student Financial Support Fund)

**Articles 7.51 through 7.51j** concern the financial support in relation to exceptional circumstances, also known as the Student Financial Support Fund (Dutch: *profielingsfondsen*). This is a fund that each institution is ought to have accessible and from which scholarships and other forms of financial support are provided to students. **Article 7.51c** defines the conditions that the student must meet in order to claim financial support. Potentially the most important one is that students are not to have already acquired a degree for the educational program for which they are registered and that they are to meet the requirements for statutory tuition fees. Educational institutions may establish further regulations, for example for students that are taking a second educational program. The central participation is allowed to exercise consenting rights on these regulations.

**The second paragraph of article 7.51** specifies when a student may claim financial support, for example when a student is active in the board of an association or participation, but also when a student is ill or is delayed in their program due to another (personal) reason. **Article 7.51a** arranges financial compensation for master programs that extend the term for which the student receives a student grant. Additionally, students may receive support if the educational program is terminated because accreditation has not been granted (**article 7.51b**). **Article 7.51d** states that the institutional board may also grant scholarships to students without a Dutch nationality. **Article 7.51e** describes the so-called 'tuition-fee-free fulfillment of board function'. This entails that an institution may financially support a student for activities in a board or participation body when a student is not registered at the institution. The most important condition for this is that the student may receive (a form of) study grants if they would be registered and that this support is only possible for one academic year tops (**paragraph 2b**). It is not required to include these regulations in the Student Financial Support Fund, but the possibility to do this is given. **Article 7.51h** states that the institutional board is ought to establish rules regarding the procedure (**article 7.51f**). According to **article 7.51g**, an institution may deviate from this, in the form of 'provisions for additional support'. **Article 7.51i** requires education institutions to keep track of their administration in terms of which amounts are transferred to which students and to inform students in writing about this.

The EM states that a student may only claim an exceptional circumstance at one institution at a time. This means that you will not be rejected when you have been part of the board of a study association and you get seriously ill the following year, but instead that you may not claim financial support at multiple institutions for the same circumstance. When you receive financial support from another organization, you will not receive additional support from your institution.

**Article 9.33 sub g (wo) and article 10.20 sub h (hbo)** states that the participation may exercise consenting rights on the policy regarding the Student Financial Support Fund, such as the **58 VI**. Articles regarding the initiation of education, the duration and the amount of the financial support. The amount that the student receives,

however, may not exceed the student grants that a student would receive and a public-transport compensation.

*Tip: be attentive of the equal distribution of scholarships and that the institutional board does not exclude important groups of students from receiving a scholarship. Unfortunately, the participation has little say regarding the amount of money attributed to the Student Financial Support Fund, but you may always send your advice when you believe that the fund is insufficient.*

*Also, be attentive as a member active in participation whether or not you want to include the possibility for tuition-fee-free fulfillment of a board function in the Student Financial Support Fund; the central participation has consenting rights on this matter. The amount in the fund is only to be spent once; by reimbursing tuition fees to fulltime board members, other students may not or may get a lower amount of support.*

#### Article 7.57h House rules and disciplinary measures

The institutional board may establish regulations and measures relating to good expediency in the buildings and the terrains belonging to the university of applied sciences or university. In case an individual failed to comply with these regulations, the institutional board remains the right to either fully or partly deny this individual access to the building or terrain. This may last for a period up to a year. The institutional board may also decide to terminate the student's registration for a year (**paragraph 1**). If the individual that violated the regulations caused severe nuisance within the buildings or terrains of the institution, and did not cease causing nuisance after a warning of the institutional board, the institutional board may deny access to the institution or terminate the student's registration definitively. These measures are meant for very exceptional cases. Former minister Plasterk elucidated that this concerns students that for example have used violence against a teacher, or carry a firearm around the institution.

*Tip: Be attentive that this measure is not misused; for example by removing peaceful student protestors.*

#### Article 7.59 Student Charter

The Student Charter is a collated document that is established at every institution, containing the rights and duties of students. Moreover, these rights and duties may also already be included in the Act or a different regulation. Additionally, the appeal procedures that a student may use to vindicate their legal rights are also included. Each student receives a copy upon their first registration, and, "when necessary", also upon a registration in a following year. In any case, the Student Charter is composed of two parts: the education program specific part and the institution specific part. **Article 7.59** clearly states what these parts specifically should include. **Article 9.33 sub c** (wo) and **10.20 sub c** (hbo) describe that the central participation council has consenting rights on the Student Charter. The most important points of the Charter are the following:

- the educational program specific part includes information on the program setup and supporting facilities, existing at least of information about: 1) setup,

organization and execution of education; 2) the student provisions; 3) facilities regarding study guidance.

- furthermore, the educational program specific part includes the established Teaching and Examination Regulations (TER) and the procedures that protect the educational program specific rights of the student.
- the institution specific part includes a description of the appeal procedures and how to submit a notice of appeal within the institution, as well as the legal standing of the student.
- moreover, a description is included of the procedures that the institutional board has founded for the protection of the rights of the student.

#### Article 7.59a Accessible facility

**Article 7.59** is titled ‘accessible facility’. This entails a facility in which students, former or prospective students and extraneous students may turn to when they have a complaint or if they wish to submit a notice of appeal or objection. The facility processes this complaint and ensures that the complaint is referred to the right location. This facility has been legislatively established on the advocacy of the LSVb and is meant to facilitate students in getting their complaint to the right location. This provision simplifies submitting a complaint. Added to that, the provision ensures that no more procedural errors are made by the student which would otherwise obstruct their complaint from being processed. **Paragraph 1** states that further regulations regarding this facility need to be established by the institutional board in the administrative and management regulations (Dutch acronym: BBR). The central participation council has consenting rights on the BBR on the basis of **article 9.30a paragraph 2 sub c**, hbo: **article 10.16b paragraph 2 sub c**. This means that it is the duty of the central participation to closely monitor whether further regulations regarding the facility will be duly met by the institutional board. **Paragraph 4** states that the term in which an appeal or objection is ought to be submitted encompasses six weeks and that the date of receipt by the facility is decisive.

*Tip: the provision in the Act may be interpreted rather broadly. For instance, opening an e-mail address to which students may send their complaints is sufficient. A physical counter would in many cases be more effective than solely having an e-mail address, but as participation, you may assess which method is most suitable for your educational institution. In order to guarantee a good processing of the students’ complaints, it is important that competent people process the complaints.*

#### Article 7.59b Complaints

**Article 7.59b** states that the complaint procedure at educational institutions (as well as private institutions) is the same as for all other public institutions of the government. This procedure is thoroughly described in chapter 9, title 1 of the General Administrative Law Act (Dutch acronym: Awb). This article states that the institutional board is responsible for processing complaints of individual students within the institution. A complaint is

only processed if it meets the form requirements (as is described in chapter III on right protection). The complaint needs to be processed by an independent individual and the complainant has the right to be heard prior to the ruling of the complaint. The term in which a complaint needs to be processed encompasses six weeks, the rulings of the assessment of the complaint must be duly justified.

According to the Awb, institutions have the opportunity to adjust the complaint procedure in accordance with the institution. For instance, the institution is free to appoint one or multiple individuals for the processing of complaints, or to institute a complaint committee. Furthermore, an institution may opt for making it obligatory for the student to communicate their complaint to the individual that executed the behavior in question prior to processing of the complaint (although this may create a threshold in submitting a complaint). The central participation council has consenting rights on the administrative and management regulations, in which supplementary procedures are specified.

#### Article 7.60 Examinations Appeals Board

**Article 7.60** states that each institution has an Examination Appeals Board (Dutch acronym: CBE). Its members are nominated by the institutional board for a term of three to five years, whereas for the student members this term is one to two years. The same applies for alternates. Apart from the chair, the CBE consists of at least half teachers or members of the academic staff. The members and the alternates are not part of the institutional board or of the inspection.

#### Article 7.61 Authorities of the Examinations Appeals Board

The authorities of the CBE are listed in **article 7.61**. Appealing to the CBE may be possible for decisions about or of:

- rejection and deregistration of the student due to a BSA (**article 7.8b paragraph 3 and 5**);
- the denial of access to certain majors in a bachelor (**article 7.9 paragraph 1**);
- the successful completion of a final examination (**article 7.9d**);
- specific admission to exams, not based on general decisions by the pre-education and admission requirements (these are described in **article 7.23 to 7.31**);
- admission to an educational program on the basis of supplementary research belonging to a different degree than the havo- or vwo degree (**articles 7.25 paragraph 5 and 7.28 paragraph 4**);
- examination committee and examiners;
- committees that assess the admission of individuals older than 21 that do not meet the admission requirements (**article 7.29 paragraph 1**);

Before the CBE processes the appeal, it will firstly attempt to solve the dispute amicably. The CBE sends out an invitation for this to the body against whom the appeal is lodged. It may be that the appeal is lodged against an examiner who is also member of the examination committee. In this case, he will not attend the meeting in which the examination committee aims to solve the dispute between the two parties amicably. Within three weeks, the body in question will inform the CBE about the results of the

meeting. If it turns out that an amicable solution between the two parties is not possible, the CBE will process the appeal (see chapter III in this book).

The CBE decides within ten weeks past the expiration date of submitting the notice of appeal. In case the CBE rules in favor of the appellant, the decision against which the appeal is lodged will be reversed either partially or completely. The CBE itself will not take a new decision. It may decide that the body that needs to reverse their decision must review the matter, on the basis of the rulings of the CBE. It may establish framework conditions or a term.

In case an appeal is subject to a certain time pressure, the chair of the CBE may establish a provisional arrangement for the appellant. The appellant is ought to indicate this preference. The chair decides on this after having heard or summoned the body or examiner in question.

*Tip: Please utilize this regulation if you lodge an appeal against a BSA.*

#### Article 7.62 Rules of procedure

**Article 7.62** includes further rules regarding: the size and composition of the CBE, the potential division in rooms (see **article 7.64** below), the term of office of the (alternate) members, attempting to solve a dispute between the parties concerned amicably, or when this option is disregarded.

#### Article 7.63 Duty of information provision

According to **article 7.63**, bodies, staff members and examiners are all required to provide information to the CBE that the CBE considers necessary for the execution of its task.

#### Article 7.63a Authorities and composition of dispute advisory committee

Each institution has, apart from a CBE, a dispute advisory committee, that provides counsel to the institutional board regarding objections against the (lack of) decisions on the basis of the HEARA, that are not mentioned in **article 7.61**. Apart from this advisory role, she evaluates whether a settlement is possible in certain cases. The chair of this committee may decide whether or not there is a case of urgency and subsequently may force the institutional board to make a decision within four weeks.

#### Article 7.63b Decisions pertaining objections

Within ten weeks after receiving the objection, the institutional board decides what it will do with the notice of objection.

#### Article 7.64 Higher Education Appeals Tribunal

A national Higher Education Appeals Tribunal for higher education (Dutch acronym: CBHO) is located in The Hague. Special institutions may institute their own CBHO. The CBHO is composed of three to seven members and an equally large amount of alternates. It is supported by a secretary of the ministry. The CBHO meets in so-called 'chambers', which are groups of members of the CBHO (i.e. not the entirety of the CBHO meets for

every appeal). The CBHO establishes their own working method in a regulation. **Article 7.65** assesses the legal position of the members of the CBHO (see chapter III).

**Article 7.66 Authorities and procedure Higher Education Appeals Tribunal**

Each student may lodge an appeal against a decision of the institution, based on the HEARA or a regulation based thereon. It is not possible to appeal against the decision of the CBHO. In this case, it also applies that the institutions and the bodies in question provide information that the CBHO deems necessary (see chapter III).

## vII. ARTICLES REGARDING MANAGEMENT AND STRUCTURE OF UNIVERSITIES

Referred to or mentioned articles: HEARA 7.13; 7.51; 9.3; 9.7; 9.8; 9.13; 9.14; 9.17; 9.18; 9.30; 9.30a; 9.31; 9.32; 9.33; 9.33a; 9.34; 9.35; 9.36; 9.37; 9.38; 9.38b; 9.47; 9.48; 9.50.

Chapter 9 of this HEARA describes the management and participation at universities. For special universities, it applies that exceptions to the law may be made in some cases. This cannot simply be done; only when the “unique nature” of the special institution calls for an amendment of the participation directive. You can find more about this in chapter IX under the heading “We are a special institution”.

These articles arrange i.a. which participation bodies are in action and what their duties are, how the Executive Board (Dutch acronym: CvB) is appointed and which rights of complaint and litigation procedures are established. The articles of relevance for the participation and the students are described henceforward. These concern the rights and duties of the participation in particular.

Article 9.3 Composition Executive Board; legal position members

**Article 9.3 paragraph 2** arranges that board members are appointed on the basis of public profiles. **Paragraph 3** states that the appointment of members of the board occurs through a Selection Committee, in which at least one student member and one staff member are represented on behalf of the central participation. Apart from that, the paragraph describes the right to be heard in cases of appointment and dismissal of members of the Executive Board. When the Supervisory Board (Dutch acronym: RvT) wishes to appoint or dismiss a member of the Executive Board, the participation should be heard in advance according to this article. This is ought to happen on a point in time in which the hearing may still have a material effect on the decision. Merely the right to be heard pertains to the participation; hence no true participation is in place. This means that the participation is not allowed to exercise information rights or the right to initiate legal proceedings.

*Tips: The delegates in the Selection Committee on behalf of the students and the staff members are full members of the Selection Committee. Take on that position.*

*Do not hesitate to ask questions, also if you do not agree with a proposal, as this is the purpose of this right to be heard. The conversation is confidential, so you do not need to be afraid of being on bad terms with a prospective CvB-member in case you are critical.*



*Aim for having a student assessor within the Executive Board at your institution. More information about the student assessor can be found in chapter I and II. According to the law, it is not required to have a student representative seated in the central management, but it can do no harm to propose such an idea, provided that this is well substantiated and it can count on support.*

#### Article 9.7 Composition Supervisory Board

The amendment ‘Versterking besturing’ includes that the participation may henceforth propose a member of the Supervisory Board. This right is described in **article 9.7 paragraph 2**. A proposal should be composed of at least two names, from which the minister may choose. When the minister decides to deviate from these recommendations, a new proposal may be submitted. This article does not apply to the special catholic institutions (University of Tilburg and Radboud University) of which the members of the Supervisory Board (Board of the Foundation) are appointed by the College of Bishops.

Based on **article 9.7 paragraph 5**, the participation maintains the right to provide counsel regarding the members of the Supervisory Board. **Article 9.8 paragraph 2** includes that the Supervisory Board should meet at least twice a year with the central participation in full confidentiality (i.e. without the Executive Board). In the EM of the law it is explicitly mentioned that this meeting should take place in the absence of the Executive Board.

#### Article 9.13 Appointment and resignation dean

The decentralized participation is ought to be heard in decision-making concerning the appointment or dismissal of the dean of the faculty or the faculty management. This is ought to happen on a point in time in which the hearing may still have a material effect on the decision.

#### Article 9.17 Board Education Programs

**Article 9.17** describes the composition of the educational program board: the dean ensures that each educational program is headed by multiple individuals or a program director. **Paragraph 2** states that if the board of an educational program is composed of more than one individual (i.e. a board including multiple individuals), one student member is seated in this board at all times; the student assessor. This student member is not allowed to be simultaneously seated in the participation. In the clarification of the law it is mentioned that internal division of tasks may prevent a student from interfering too much with controlling the teachers. Board members are not allowed to partake in the educational program committee (Dutch acronym: OC).

*Tip: When you are part of the educational program committee or the faculty council, it is of importance to have good communication with each other and (if present) with the student seated in the program- or faculty board. This student may provide much information and may cause the opinion of the participation to have an influence on the policy plans in an early stage.*

## Article 9.18 Educational Program Committees

**Article 9.18** describes the rights and duties belonging to the educational program committee (EPC). An EPC can be instituted for an educational program or a group of programs. The latter is the case for the (small) teacher trainings at many universities of applied sciences.

The amendment of 2016 fundamentally alters the task belonging to the educational committee. It has been clarified more elaborately that the education committee has the task 'to provide advice regarding the enhancement of the program's quality'. Of greater relevance is the committee's consenting rights regarding parts of the TER, which will come into force September 1st, 2017. With this, the educational program committee shifts from being an advisory committee to a participation body.

The tasks of an EPC are as follows:

- (Refusing to) consent to a large part of the TER (**see article 7.13**);
- Provide advice regarding the remaining parts of the TER;
- Annual assessment of the execution of the TER;
- Providing solicited and unsolicited advice to the board of an educational program and the faculty regarding all matters related to education that concern the educational program(s).

These advices are ought to be sent to the faculty council (Dutch acronym: FR) for the sake of notification. **Paragraph 3** states that the dean/ the faculty board is ought to respond in writing to the advice sent by the educational program committee within two months.

**Paragraph 4** states that the conditions that apply to being seated in a university council and the method of appointment (as described in **9.31 paragraph 3 – 8**) are also applicable to the educational program committee. For instance, it is arranged that half of the members must be students, that a member of the board/ dean is not allowed to also be seated in the educational program committee, and that elections for the members occur via a confidential, written vote. But **paragraph 4** also arranges that the board of the educational program may decide to employ a different method of appointment along with the dean and the faculty council. This is ought to happen annually.

**Paragraph 5** states that the educational program committee may invite the board or the dean of the educational program to discuss the intended policy at least twice a year. The educational program committee composes an agenda for that meeting. **Paragraph 6** of the article states that a faculty with merely one educational program does not need to have a separate EPC. In this case, the Faculty Council executes the tasks of the EPC.

In order to execute your tasks well as an EPC, you may request information. As such, it is customary for many educational programs to receive course evaluations and subsequently engage in a dialogue with the teacher in order to discuss improvements for the course. Additionally, the EPC may for instance request to receive exit-surveys and internal self-evaluation of the program.

*Tip: Request the EPC-Guide (Dutch: OC-Wijzer) at the LSVb. This book was especially made for members of educational program committees and is filled with information and advices for EPCs.*

**Article 9.18 paragraph 1 sub a and b** mention that the EPC may exercise consenting rights on the TER and advisory rights on the remaining part. This implies that the educational program committee possesses an important tool that allows it to participate in policy-making. It is of relevance to have a close look at the article regarding the TER (**article 7.13**) and to clarify for yourself to what matters the consenting rights and/or the advisory rights apply.

For all advices applies: the educational program may follow up on this advice, but if this does not happen, this needs to be supported by clear arguments.

*Tip: Ensure good cooperation between the Faculty Council and the EPC. Make sure a negotiation occurs between both forums, prior to the Faculty Council decides on whether or not to consent to the TER.*

*In case the Faculty Council does not consent to the TER, the old TER remains enforced. With this method, the Faculty Council may obstruct disadvantageous regulations.*

*In case of issues, always address the TER first. Often, rules are described in it. Whenever the educational program fails to comply with these rules, you may address the issue more easily with the program.*

*Do believe certain regulations in the TER are incorrect or problematic? Try to rewrite these, since some programs will take on your suggestion.*

*Also check the clarity of the phrasing of the regulations in the TER. Are 'regular' students able to understand these? This has to be the case.*

#### Article 9.30 Choice of participation structure

**Article 9.30** arranges that universities may choose between a divided or undivided participation structure. This choice may, if so desired, be retaken after a minimum of five years. A more extensive clarification about the different structures is described in chapter II of this book.

#### Article 9.30a Right to consent joint meeting staff/ students

**Article 9.30a** describes the topics on which the joint meeting (Dutch acronym: GV) may exercise consenting rights. This is the meeting in which the works council (Dutch acronym: OR) and the student council get together in the divided participation structure. Paragraph 2 states that the central participation maintains at least the right to consent regarding the institutional plan, measures in the light of the results of the quality assessment and the management and administrative regulations. Apart from this, the student council and the OR both maintain the right to consent to a number of student and staff related matters.

These are mentioned in **article 9.33** and are also described in chapter II of this book. The third paragraph states that the Executive Board also needs to establish a participation regulation, which arranges the topics on which the participation council (Dutch acronym: MR) may exercise consenting rights. This regulation should also include which ways students and staff may exert influence. This implies that, even when one delegation is more numerous in members, the delegation as a whole does not have more influence. Accordingly, students make up 50% of the votes, and the staff the other 50%.

*Tips: the Article establishes the topics on which the participation at least maintains consenting rights. Naturally, the participation regulations may include more topics.*

*Besides this, make clear agreements with the Executive Board in order to ensure clarity for both the Executive Board and the participation council on, for example, what “measures following the results of the quality assessment system” entail. In the past, several disagreements have occurred due to a difference in interpretation of the law by the participation council and the Executive Board.*

#### Article 9.31 The University Council

This article arranges that a university council (Dutch acronym: UR) is established, composed of a maximum of 24 individuals. Half of the members of the university council is composed of students, the other half of staff. Staff members with a board function are not allowed to partake in the council (**paragraph 4**). Candidates are to be chosen by means of a confidential, written election, unless the number of candidates does not surpass the number of available seats (**paragraph 6**). The **fifth paragraph** states that the university council is ought to establish a regulation with rules of domestic nature and the way in which the resources made available for the participation are distributed. The **eighth paragraph** determines that the council itself elects a chair and a vice-chair.

#### Article 9.32 General authorities and duties university council and council members

**Article 9.32** regards the general authorities of the university council (see chapter II). The first paragraph states that the university council will discuss the general affairs with the Executive Board when asked for by one of either parties at least twice a year.

**The second paragraph** states that the university council is allowed to make propositions to the Executive Board at all times. The Executive Board is required to speak with the university council about this and when the Executive Board does not execute the proposition, it is ought to support this by means of a written response. This has to happen within three months and the Executive Board needs to provide reasons why the proposition is not put into action.

**The third paragraph** requires that the council enhances openness, publicity and mutual consultation and the fourth paragraph states that the university council needs to guard against discrimination.

**The fifth paragraph** states that the Executive Board, in the beginning of the year, discloses in writing a number of data about the university, such as the composition of the several bodies. Additionally, this paragraph arranges that the university council is provided with the intended policy regarding financial, organizational and educational matters at least once a year. Apart from that, the Executive Board needs to inform the university council on all intentions on the basis of the institutional plan.

**The sixth paragraph** states that the Executive Board is required to provide all information needed by the university council in a timely fashion by its own initiative. The Executive Board is also required to provide the university council with all the information it needs in order to execute its tasks adequately. This also concerns information about the content of the activities of, among others, the Executive Board and the Supervisory Board.

**The seventh paragraph** arranges that someone of the university council may temporarily be excluded from a meeting. Subjects that concern certain individuals may, when desired by the university council, be discussed in a confidential part of the meeting.

**The eighth paragraph** arranges the official facilities. For instance, this paragraph establishes that the Executive Board is required to ensure a written report of the public assemblies. Additionally, the agendas of the meetings, as well as other documents, need to be forwarded to the members in a timely fashion. When committees are issued, these need to be allowed to meet and discuss with the university council at least once per year.

**The ninth paragraph** states that the (candidate-) members of the university council should not be disadvantaged on the basis of their membership. This may seem self-explanatory, but may turn out to be an important provision in terms of compulsory classes, exams and such. **Paragraph 9** also determines that a staff member may not be fired because of their membership in the university council.

*Tip: the provision of paragraph 6 which states that information is ought to be disclosed in a timely fashion was included again, this time more explicitly, during the amendment 'Versterking besturing'. Because often, this turned out not to be the case. Therefore, be attentive that you receive the right information on time and potentially arrange certain agreements with the Executive Board about what is meant with 'on time'.*

*Make agreements with the teachers regarding the failure to attend classes and examinations. One is ought to take into account your membership of the participation and is not able to just oblige you to be present, while you also have to be present at a council meeting or other obligations associated with your participation activities.*

### Article 9.33 Right to consent university council

**Article 9.33** includes the topics on which the university council may exercise consenting rights. This are more topics than are listed in **article 9.30a**, since in case of a university council (undivided participation), the Works Councils Act (Dutch acronym: WOR) is not applicable. The Executive Board is ought to be given permission for the establishment of the institutional plan, the setup of the quality assurance system, the Student Charter, the Management and Administrative regulations, the choice of the participation structure, consenting rights to the guidelines of the budget, and the policy regarding the student financial support fund. Without the permission of the university council, the Executive Board may not put into force any of the plans concerning the abovementioned topics.

**Article 9.33 sub g** describes the consenting rights on the student financial support fund. We describe this with **article 7.51**, which concerns the student financial support fund.

*Tip: As a university council, try to propose ideas regarding the quality assurance. You have consenting rights on the quality assurance plan, so the Executive Board will be more easily swayed to listen to your comments and put these into action.*

### Article 9.33a Advisory authority university council

**Article 9.33a** includes the topics on which the university council may exercise advisory rights. This concerns 'the continuation and expediency of affairs', the budget of the university and differentiation of tuition fees.

Furthermore, the student delegation of the university council (or the student council in case of a divided structure) has advisory rights regarding human resources (on which the staff maintains consenting rights), the policy regarding the institutional tuition fee and the regulation regarding the reimbursement of the statutory tuition fee, in case a student terminates their studies during the academic year. Students also maintain advisory rights regarding selection, the registration date, and the choice of study sessions.

*Tip: these advisory rights are very broadly formulated. As a university council, you may easily try to categorize a topic within 'expediency' of the university. Try to make a good agreement with the Executive Board about this, because a quarrel about whether or not you may bring forth an advice about something only distracts from the actual substance of your point.*

### Article 9.34 Regulations university council

**Article 9.34** establishes that each UR needs to have a regulation in which a number of matters is arranged. **Paragraph 3** states that in this, at least the array of topics on which the participation has consenting and advisory rights should be established, of how many members the council should be composed, how they are elected and how long they are seated for. Additionally, the regulation should arrange in which ways the Executive Board informs the council, what the tasks are that belong to the faculty councils and how disputes are dealt with. **Paragraph 1 and 2** state that the Executive Board needs to establish a regulation and this regulation needs to be presented, just like all amendments, to the central participation. The regulation is only established when at least two thirds of the council consents to it.

*Tip: Always read the regulation thoroughly and try, if necessary, to propose amendments. Topics on which the participation maintains consenting rights are often described in the most vague possible way in the participation regulations, so try to clarify these and also ensure a good dispute resolution.*

#### Article 9.35 Advice

**Article 9.35** contains a description of the right of consultation. A number of conditions are associated with the right of consultation. For instance, **article 9.35 sub a** states that the Executive Board needs to request consultation from the participation when the advice may still influence the decision-making. Additionally, the council should be enabled to meet and discuss with the Executive Board about the provided advice (**9.35 sub b**), the council should be informed of the decision as soon as possible (**9.35 sub c**), and the council should once more be able to meet and discuss with the Executive Board when their advice is not taken into account (**9.35 sub d**).

#### Article 9.36 Special authorities

**Article 9.36** concerns special authorities belonging to the participation. **Paragraph 1 states** that the Executive Board needs the consent of a part of the university council (teacher delegation and student delegation) in order to make decisions that regard the legal situation of the staff of the university. **Paragraph 2** states that the university council does not have consenting rights on these decisions if they are prescribed by the law or if it is also arranged in the collective agreement (Dutch acronym: CAO). Besides this, the university council also does not have any consenting rights if it has been involved in the process of decision-making in other ways. This implies that the participation may be asked only for advice in an earlier stage, which means that their consent is no longer required in a later stage.

*Tip: if you are asked for advice or if you are asked to partake in brainstorming regarding a decision that relates to the legal situation of the staff, always inquire about the further decision-making: will the staff be involved with the decision later on? You are always able to make the choice to rather consent at the end than to provide advice halfway through, although afterwards less can be altered.*

#### Article 9.37 Faculty council

**Article 9.37** describes the composition of the faculty council (Dutch acronym: FR). According to **paragraph 1**, each university that has a multitude of faculties, needs to institute a faculty council for each faculty (otherwise the tasks of the faculty council will be executed by the university council). **Paragraph 2** states that the faculty council has the same authorities as the university council when it regards faculty-specific matters (i.e. things that only regard the faculty in question) and the dean has the associated responsibility. The authorities of the university council are described in **article 9.32**.

#### **In summary, the faculty council:**

- discusses the general course of affairs with the faculty board at least two times a year;

- maintains the right of initiative and the faculty board is required to discuss the initiative;
- is provided with the proposed policy (financial, organizational and educational matters) by the faculty at least once a year;
- maintains the right to information (all information requested by the council should be provided).

The meetings of the faculty council are fundamentally public. This means that students and staff are allowed to attend the meetings. The members of the faculty council are not to be disadvantaged on the basis of their membership (also in terms of mandatory lectures, exams, etc.). The third paragraph of the article refers to **article 9.31**: candidates are chosen by means of a secret written ballot, unless the number of candidates does not exceed the number of available spots. The faculty council maintains advisory rights regarding the general facilities of the faculty and also exercises participation for central services within the faculty, as described in **article 9.50** (see chapter II).

#### Article 9.38 Right to consent faculty council

**Article 9.38** states that the dean or the faculty board needs the consent of the faculty council for:

- establishing the faculty regulation (**article 9.14**);
- determining the teaching and examination regulations (**article 7.13**). With the exception of **article 7.13 paragraph 2 sub a to g and v**, namely:
  - the content of the educational program;
  - the method with which the education is being evaluated;
  - the content of the majors;
  - the evaluation criteria;
  - the setup of practical assignments;
  - the course load (per subject);
  - the detailed rules regarding the BSA and the referrals during the post-propaedeutic phase;
- to which masters the educational program grants access;
- selection for special trajectories within the educational program;
- exemptions for admission to the educational program;
- transition to the master program.

#### Article 9.38b Regulations faculty council

The faculty regulations include at least:

- the number of members of the faculty council (**9.34 paragraph 3 sub c**);
- the course and the method of elections (**9.34 paragraph 3 sub d**);
- the term of office of the members of the council (**9.34 paragraph 3 sub e**).



#### Article 9.47 Committees

This article states that the Executive Board needs to enable students and staff to establish committees. These committees can provide solicited or unsolicited advice to the university council regarding matters that specifically concern them. If the committee requests this, the university council is ought to present the written advice of the committee to the Executive Board. Prior to the Executive Board's response, this council will be enabled to discuss the matter at least once.

*Tip: Not all expertise is always present in the council. For each topic, assess whether the expertise of others could be a desired addition and invite these people to a preparatory (committee) meeting.*

#### Article 9.48 Provisions and schooling

As of January 1st, 2017, this article now also included that the central and decentralized councils and the educational program committees maintain the right to the facilities that they need for an adequate fulfillment of their tasks. This means that they are allowed, among other things, administrative, financial, and legal support and schooling. The Executive Board decides, together with the central council, the size of the educational budget for the participation and how much time they are allowed for the necessary schooling. The staff may get this education during working hours and without loss of salary.

*Tip: On the basis of this article, you may often get your expenses for the training days of i.a. the LSVb, LOF and SOM and also this book refunded by your institution.*

# vIII. ARtIClEs REgARdIng MAnAgEMEnt And stRuCtuRE oF unlvERsItIEs oF ApPlIEd sCIEnCEs

Referred to or mentioned articles: HEARA 1.18; 2.9; 7.13; 7.46; 7.48; 7.51; 9.3; 10.2; 10.3b; 10.3c; 10.3d; 10.8a; 10.16a; 10.16b; 10.17 to 10.25; 10.34; 10.39.

Chapter 10 of the HEARA is completely dedicated to universities of applied sciences. This chapter arranges i.a. of how many people the central and decentralized participation is ought to be composed, how the Executive Board (Dutch acronym: CvB) is appointed, and which rights of complaint and arbitration procedures are available. The articles relevant for the participation and students are described below. These primarily concern the rights and duties of the participation.

## Article 10.2 paragraph 3 Central management or Executive Board

When the supervisory board desires to appoint or dismiss a member of the Executive Board, a selection committee is ought to be installed on the basis of this article, in combination with **article 9.3 paragraph 2**. In this committee, an one individual on behalf of both the students in the participation and the staff may be seated.

*Tips: the delegates in the selection committee on behalf of the students and the staff are full members of the selection committee. Take on this role.*

*Dare to ask critical questions and also express, if necessary, your opposition to a nomination, as for this very reason the right to be heard is established. The conversation is confidential, so there is no need to fear that a prospective Executive Board member will antagonize you when you are critical.*

*Try to ensure that your institution includes a student assessor in the Executive Board. More information on the student assessor can be found in chapter I and II. According to the law, it is not required that a student partakes in the central management, but there is no harm in proposing such an idea, provided that it is well-founded and is accounted for by a support base.*

This article states that the institutional board composes a regulation with rules regarding the management structure of the university of applied sciences and the formation of relevant documents such as the teaching and examination regulations (**article 7.13**). **Paragraph 3** states that the management regulation also stipulates:

- a. which faculties or units are present and which educational programs;

- b. which authorities the Executive Board has transferred to the faculty board or the board of other units such as educational programs;
- c. how faculty boards and boards of other units are composed and how they operate, and;
- d. the position of the faculty board or the board of the unit in question in relation to the Executive Board.

Since the amendments of 2016, this article includes a fourth paragraph. This paragraph states that for each joint management, a student with an advisory role is included, the so-called student assessor (took effect September 1st, 2017). Universities have been familiar with this provision for a longer time<sup>16</sup>, see **article 9.12 paragraph 2**.

#### Article 10.3b Board- and management regulations

This article states that the institutional board composes a regulation with rules regarding the management structure of the university of applied sciences and the formation of relevant documents such as the teaching and examination regulations (article 7.13). Paragraph 3 states that the management regulation also stipulates:

- a. which faculties or units are present and which educational programs;
- b. which authorities the Executive Board has transferred to the faculty board or the board of other units such as educational programs;
- c. how faculty boards and boards of other units are composed and how they operate, and;
- d. the position of the faculty board or the board of the unit in question in relation to the Executive Board.

Since the amendments of 2016, this article includes a fourth paragraph. This paragraph states that for each joint management, a student with an advisory role is included, the so-called student assessor (took effect September 1st, 2017). Universities have been familiar with this provision for a longer time, see article 9.12 paragraph 2.

#### Article 10.3c Educational program committees

The amendment of 2016 includes a fundamental change in the task of the educational program committee. It clarifies that the educational program committee has the task to 'advise about the advancement of the quality of an educational program'. However, of greater relevance is that the educational program committee has been allotted the right to consent parts of the TER (took effect September 1st, 2017). With this, the educational program committee now shifts from being just an advisory committee to also being a participation body. The tasks of the educational program committee are:

- the decision (not) to consent to a large part of the TER (**see article 7.13**);
- provide advice regarding the remaining parts of the TER;

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<sup>16</sup> See chapter 1 'History - an overview of student participation and the HEARA', page 10.

- assess the execution of the TER on an annual basis;
- provide solicited and unsolicited advice to the board of an educational program and the faculty regarding all matters relating education that concern the educational program(s).

These consultations are ought to be sent to the faculty council for possible consideration.

**Paragraph 3** states that the dean/ the faculty council should send their response in writing to these consultations offered by the educational program committee within two months.

**Paragraph 4** states that the conditions that apply to partaking in a university council and the method of election (as described in **10.17, paragraph 3 to 8**) are also applicable to the educational program committee. As such, it is arranged that half of the members must be students, that a member of the board/ dean is not allowed to also partake in the educational program committee, and that the elections for the members occur through a secret written ballot. But **paragraph 4** also arranges that the board of an educational program may decide, with the dean and the faculty council, to issue a different method of election. This is ought to happen annually.

**Paragraph 5** states that the educational program committee may invite the board of the educational program at least twice a year to discuss the proposed policy. The educational program committee composes the agenda for that meeting. **Paragraph 6** of the article states that a faculty with merely one educational program does not need a separate educational program committee. In this case, the faculty council executes the tasks of the educational program committee.

In order to properly execute your tasks as an educational program committee, you may request information. For instance, it is common for many educational programs that the educational program committee receives the course evaluations and subsequently enters into a dialogue with the teacher in order to discuss improvements for the course. Additionally, the educational program committee may request exit-surveys and internal self-assessments.

*Tip: Request the 'OC-Wijzer' at the LSVb. This book was made especially for the members of the educational program committees and is filled with information and advices concerning educational program committees.*

**Article 10.3c paragraph 1a and b** mention that the educational program committee maintains consenting rights to parts of the TER and advisory rights regarding the remaining part. This means that the educational program committee has an important tool in hands to partake in policy-making. It is of relevance to thoroughly check the article concerning the TER (**article 7.13**) and to clarify for yourself to which matters the consenting rights or the advisory rights apply.

For all consultations applies: the educational program may take on this advice, but if this does not happen, the decision to deter from the advice should be supported by clear

arguments.

*Tips: Ensure good cooperation between the faculty council and the educational program committee. Make sure that a meeting occurs between both parties, prior to the decision of the faculty council (not) to consent to the TER.*

*If the faculty council does not consent to the TER, the old TER will stay enforced. The faculty council can, through this method, prevent disadvantageous regulations.*

*In case of issues, always look into the TER first. Often, it includes relevant rules. If the educational program does not adhere to these, you may more easily address the educational program.*

*Do you think a certain rule in the TER is incorrect or problematic? Try rewriting it, and occasionally educational programs will adopt your suggestion.*

*Also look at how clearly regulations are articulated in the TER. Are 'normal' students able to understand it? This should be the case.*

#### Article 10.3d Separation management and supervision

In the amendment 'Versterking besturing', it is established that the participation may henceforth nominate a member a member of the Supervisory Board (**paragraph 4**). A nomination should be composed of at least two names, out of which the minister may elect one. When the minister does not appoint either of the nominated candidates, a new nomination may be brought forward. On the basis of the **fifth paragraph** of this article, the participation has the right to submit an advice concerning the profiles of members of the Supervisory Board. The sixth paragraph of this article states that the supervisory board is ought to meet at least twice a year in confidentiality (thus without the Executive Board) with the central participation. The confidential nature of this meeting is specified in the Explanatory Memorandum of the law.

#### Article 10.16a Choice of participation structures

**Article 10.16a and 10.16b** are introduced as a result of the legislative proposal 'Versterking besturing' with the intention of aligning the participation systems at universities of applied sciences and universities to the greatest extent. The articles arrange that an Executive Board can choose between different participation systems. What these systems entail is largely described in chapter II of this book.

**Article 10.16a paragraph 1** states that the Executive Board may choose whether the Works Councils Act (Dutch acronym: WOR) is applicable or not. However, it is ought to get the consent of the Works Council (**paragraph 5**). The **third paragraph** states that when the Executive Board decides to consider the Works Council Act applicable, a participation provision for students of the university of applied sciences is ought to be established. With this, the student delegation is meant. When this is decided, **articles 10.17 up to 10.25** are not applicable. Instead, the student delegation's authorities should at least be equal to the authorities described in these articles. The Works Council

may also exercise consenting rights on this according to the **fifth paragraph** of this article. The sixth paragraph states that the participation provision needs to align, as much as possible, with the organizational structure, decision-making procedures and distribution of responsibilities within the institution. As such, it can be ensured that students do not vote for matters concerning teachers and that the central participation may not decide about decentralized matters.

*Note: the Works Council has consenting rights on the choice of the participation structure as well as the substance of the participation provision. Students are excluded from these votes.*

Article 10.16b Right of consent JM

**Article 10.16b** concerns the consenting rights of the central participation. The **first paragraph** states that, when it is decided that the Works Council Act (Dutch acronym: WOR) is applicable at universities of applied sciences, a joint meeting (JM) is ought to occur. With this is meant a meeting between the Works Council and the student council, as is described in chapter II of this book. The **second paragraph** arranges the topics on which this joint meeting may exercise consenting rights. It concerns establishments or alterations of:

- the institutional plan;
- the set-up of quality assurance;
- management- and administrative regulations (Dutch acronym: BBR);
- the TER (with the exception of the **sub a to g of article 7.13**).

**The third paragraph** states that the Executive Board is ought to establish a participation provision. The topics that require the consent of the JM and that are ought to be included in the provision, are also thoroughly described in chapter II of this book.

Article 10.17 Participation Council

This article concerns the appointment of a participation council (Dutch acronym: MR). In the first paragraph, it is established that each university of applied sciences must have a participation council. The second paragraph states the number of members that make up this council. At a university of applied sciences with less than 750 students, the council is ought to be composed of a maximum of ten members; at universities of applied sciences with 750-1250 students, the council is ought to be composed of a maximum of fourteen members; and at universities of applied sciences with over 1250 students, the council is composed of a maximum of 24 members. The third paragraph of this article arranges that half of the members of the participation council is made up of students, and the other half is made up of staff members. The members of the participation council are not allowed to partake in the management of an organizational unit. With this is meant e.g. the management of the institution or a faculty.

**Paragraph 5** states that the staff members may stand for election independently or on behalf of a staff organization. **Paragraph 6** states that a written election should be held when the number of candidates is greater than the number of available spots. These

elections should be organized in such a fashion that each vote can remain confidential.

**Paragraph 7** states that rules of procedure should be established that arrange, among other things, the compensations and the sub councils or committees of the central participation. **Paragraph 8** arranges the participation of the associate degree program: it may have its own sub council. In case the program is partially taught at a college for intermediate vocational training (Dutch: mbo), the staff of that institution may be seated in this sub council.

**Article 10.19 General authorities and duties participation and council members**  
This article establishes the rights and duties of the participation. The Executive Board allows the participation council to discuss the general course of affairs at least two times per year. Additionally, the Executive Board and the council meet if one of both parties is requested to do so (**paragraph 1**).

The participation council may submit proposals and make their positions known to the Executive Board (the right to unsolicited and solicited advice). The Executive Board should respond in writing within three months, in the form of a proposal. Prior to giving this response, the Executive Board is ought to have discussed this with the council at least once (**paragraph 2**).

**Paragraph 5 and 6** establish the information provision of the Executive Board to the council. At the start of the year, the Executive Board informs the central participation about:

- the composition of the Executive Board or the central management;
- the organization of the university of applied sciences;
- the task distribution between the Executive Board and the central management;
- the key points of ongoing policy.

Additionally, the Executive Board informs the central participation at least once a year about the policy concerning financial, organizational and educational matters.

The Executive Board is required to provide all information needed by the council in a timely and voluntary fashion. With this is implied that the Executive Board discusses with the participation details regarding the amount and content of the terms and conditions of employment with relation to the various groups of staff, the members of the Executive Board and the Supervisory Board. Executive Board is also required to provide all the information needed and requested by the council to fulfill their tasks well.

**Paragraph 7** states that the central participation may decide that a certain individual, who has a large personal interest in a meeting, may not partake in this meeting. This may be valid for a whole meeting, or a part of it. In case an individual is excluded from (a part of) the meeting, this (part of the) meeting is private. This means that now audience is allowed to be present, that the minutes of (this part of) the meeting are not public and that the content of the discussed part is not to be shared with people that were not part of the meeting.

**Paragraphs 9 and 10** protect members of the participation council in their position. As such, staff members of the participation council are not to be fired because of their membership and students are not to be disadvantaged in their study progress because of their involvement in the participation. This does not only apply to members of the participation council, but also to candidate-members and previous members.

*Tips: Make arrangements with your teachers about missing lectures and tests. One is ought to take into account that you are a member of the participation and that you cannot be required to be present during the time you also have a council meeting or other duties that belong to your participation work.*

*At the start of the academic year, try to get a clear picture of when the Executive Board will provide the participation with information. You may ask for a schedule of the dates when the important information is sent to you. This allows you to take these into account and it allows you to ensure that the Executive Board adheres to their duties.*

*Also if only the student delegation of the council requests a meeting, this shall have to be ensured.*

#### Article 10.20 Right of consent participation council

The Executive Board is ought to get the consent of the participation council for the establishment or amendment of the following matters:

- the institutional plan;
- the set-up of the quality assurance system (specified in **article 1.18 paragraph 1**), as well as the proposed policy following the results of this quality assurance (this policy is articulated in **article 2.9 paragraph 2**, second sentence);
- the Student Charter (**article 7.59**);
- the management- and administrative regulations. In this paragraph, article 10.18 is referred to, but this article expired in 2010.
- the teaching and examination regulation (TER) with exception of the sub a to g and w and **paragraph 3 of article 7.13** (see chapter VI of this book);
- regulations regarding the terms and conditions of employment;
- the choice of participation structures, as is described **article 10.16 a paragraph 1**,
- consenting rights to the main outline of the budget, **article 9.33 paragraph 2**; and
- the policy of the institutional management regarding the Student Financial Support Fund (**article 7.51**, also described in chapter VI of this book).

*Tips: If you do not consent to the proposed parts, the old regulation shall remain in force. This way, unpleasant amendments can be blocked. Once they are included in the regulations, it is hard to remove them, so be attentive of that!*

*Do you have a good idea that helps improve a regulation? Do not hesitate to submit a proposal! Argue why it is important that the management adopts this proposal.*



*The Act includes fixed topics that form a minimum on which the participation may exercise consenting rights. Naturally, the participation regulation may include more topics. Apart from this, make clear agreements with the Executive Board in order to clarify for both the Executive Board as the participation council what is meant with, for example, “measures following the results of the quality assurance system”. In the past, various disputes occurred because of a differing interpretation by the participation council and the Executive Board of the legal articles.*

Article 10.20a Advisory authority participation council; advisory authority students  
The Executive Board is ought to ask the participation council for advice regarding:

- matters relating to the goals, continuation and expediency within the university of applied sciences;
- the budget, including i.a. the amount of the institutional tuition fees. Consenting rights apply to the main outlines, but the participation may always advise on the rest.

The Executive Board must request advice from the students (paragraph 2) of the participation council about:

- the general human resources and remuneration policy;
- the policy concerning the institutional tuition fees, as intended by **article 7.46**;
- the regulation regarding the reimbursement of statutory tuition fees if a student concurrently studies another program elsewhere (see **article 7.48 paragraph 4**);
- tuition fees differentiation;
- special trajectories, such as excellence trajectories, within the educational program;
- study choice counsels and the registration date for the educational program.

**Paragraph 3** describes a number of advisory rights that have to do with the appointment and the dismissal of members of the Supervisory Board (see **article 10.3d paragraph 4**) and the Executive Board (see **article 10.2 paragraph 3** and **article 10.3d paragraph 2 under a**). These advisory rights apply to the entirety of the participation council (not just the students).

**Article 10.23** describes which conditions the advice needs to meet.

Article 10.21 Participation regulations

This article establishes that each participation council needs to have a regulation in which a number of matters are arranged. **Paragraph 1 and 2** states that the Executive Board must establish a regulation and this regulation, as well as its amendments, are ought to be submitted to the central participation. This regulation will only be documented when at least two thirds of the central participation consents to it.

Article 10.22 Content participation regulations

This article stipulates the minimum of matters that should be arranged in the participation provision. This concerns i.a. which topics the participation may exercise consenting and advisory rights on, the number of members the central and decentralized participation

should contain, the method of election, and the term of office. In addition, the provision should arrange the way in which the Executive Board informs the central participation, the tasks of the decentralized participation and how disputes are dealt with.

*Tip: Always go through the regulation thoroughly and try to propose amendments if necessary. Topics on which the participation may exercise consenting rights are often described in the participation provision/regulation as ambiguously as possible, so try to get a clear understanding of these and, on top of that, ensure a good dispute settlement. Additionally, make sure there is a clear task description for the decentralized participation. It can be frustrating if it is not clear who is responsible for a certain topic.*

#### Article 10.23 Advice

This article describes advisory rights. The advisory right of the participation is connected to a number of conditions. For instance, sub a states that the Executive Board is to request the participation for counsel when the counsel may still have an influence on the decision-making process. In addition, the participation needs to be enabled to discuss with the Executive Board prior to submitting their counsel (**sub b**). On top of that, the participation has to be informed about the decision as soon as possible (**sub c**), and has to be able to discuss once more with the Executive Board or the Supervisory Board when the counsel is not adopted in the final decision-making (**sub d**).

*Tip: Apart from required solicited advice concerning the issues, the participation is also always allowed to submit unsolicited advice regarding whichever issue. Utilize this.*

#### Article 10.24 Special authorities

**Article 10.24** concerns special authorities of the participation. **Paragraph 1** states that the Executive Board needs the consent of a part of the central participation council (teacher delegation and student delegation) for decisions that have to do with the legal situation of the staff of the university of applied sciences. **Paragraph 2** states that the participation council cannot exercise consenting rights on these decisions if they are prescribed by the law or if they are analogously arranged in the collective agreement (Dutch acronym: CAO). Apart from this, the central participation is also unable to exercise consenting rights if they have been involved with the formation of the decision in different ways. This means that the participation can be asked solely for counsel in an early stage, which would obliterate the need for their consent in a later stage. Paragraph 3 states that, in cases of appointment or dismissal of a member of the Executive Board, the participation council is heard in confidentiality at a point in time that still allows the opinion of the participation to have an influence on said appointment or dismissal.

*Tip: If you are asked for advice or if you are asked to think along about a decision that concerns the legal situation of staff, always make sure you are informed about the further decision-making: is the staff involved with the decision later on? You may always choose to consent at the end as opposed to exercising advisory rights halfway through.*

#### Artikel 10.25 Sub-Councils

**Article 10.25** lists the tasks of the decentralized participation. The **first paragraph** explains that the decentralized participation has the same tasks at the faculty/ the school/ the domain as the central participation does at the institution, however, for matters specific to the faculty/ the school/ the domain and for which the faculty bears the responsibility. The authorities of the central participation council are described in **article 10.19**.

**Paragraph 2** states that for the decentralized participation, a number of similar rules apply as for the central participation. These are described for the central participation in **article 10.17**.

#### Article 10.34 Committees

**Article 10.34** states that the Executive Board is ought to enable the staff and students of the central participation to institute committees. These committees can be asked to submit solicited or unsolicited advice to the central participation about matters that specifically concern them. If the committee requests this, the central participation is ought to submit the written advice of this committee to the Executive Board. Prior to responding, the Executive Board allows the central participation to meet and discuss the matter at least once.

*Tip: Not all expertise is always present within the central participation itself. For each topic, consider whether the expertise of others could be a valid contribution and invite these people to a preparatory (committee) meeting.*

#### Article 10.39 Provisions and schooling

This article includes that participation councils and EPCs have the right to provisions they reasonably need for an adequate fulfillment of their tasks. In addition, the Executive Board is ought to establish with the central participation how much schooling, needed for the fulfillment of their tasks, they are provided with. The staff is allowed to get this schooling during office hours and with continuation of salary.

*Tip: On the basis of this article you may be reimbursed by your institution for expenses of training days provided by the LSVb, LOF and SOM, as well as the costs for this book.*

## Ix. FoREwARnEd Is FoREARMEd

The intention of this book is to offer students and participation a tool in utilizing the law. Unfortunately, this is not always sufficient in a meeting with ‘heavy’ board members that have years and years of experience and thus are familiar with various tricks in handling representative bodies. Below, you can find ten examples of suchlike tricks employed by managers of educational institutions, and a way of dealing with these as (a member of) participation.

“The Hague orders us to do so.”

Many managers tend to say that a certain arrangement must be made because the politics in The Hague have decided this. And that they do not have a choice, because it is ordered by the Ministry of Education, Culture and Science. Or it is said that they are closely followed by the Education Inspectorate (Dutch: Inspectie voor het Onderwijs) or the Accreditation Organization of the Netherlands and Flanders (Dutch: de Nederlands-Vlaamse Accreditatieorganisatie). Make sure that you are updated on the latest developments in the field of higher education (for instance via the LSVb, the LOF or the SOM) in order to avoid becoming overwhelmed. Always make sure you are well prepared and try to take into account multiple arguments that may be employed by the management in a meeting. In case the management claims that “The Hague orders us to do so”, always check whether this is true.

“He is not being appointed, this is a re-appointment.”

It often happens that somebody is appointed to become a member of the Executive Board. A second term as a member of a board is not strange, however, the participation must submit their advice about this each time. In case of a re-appointment, this right to be heard still applies! The law only acknowledges appointments, not re-appointments. Therefore, let yourself not be fobbed off by the statement that it concerns a re-appointment and that the participation is thus not to be heard.

“Unfortunately, the decision has already been made. You’re allowed to provide input next time.”

There are decisions that, once they are taken, are hardly reversible. Sometimes the management will already start executing a plan, without the counsel of the participation. The management will tell you that you are free to provide input next time, whereas exclusion of the participation’s consenting rights at this point in time is not reasonable / costs a lot of money / is not justifiable to the people involved / etc. Of course, this is not how things should go. You have your rights and you may certainly use those. If you are willing to do this, after you were actively excluded from the process, is of course entirely up to the (potentially controversial) plan that is on the table. It is possible to address the arbitration committee.

*Tip: always ensure that you are informed about the plans well in advance, and indicate that you would like to be involved in the thinking process or the implementation of the plans. If you are relatively early, you have the highest odds of exerting influence.*

“That is indicated in the model-TER.”

Decentralized councils have consenting rights to a part of the teaching and examination regulations (TER), advisory rights apply on the remaining parts. At more and more institutions, a model-TER is instituted. This is a blueprint of the TER, in which certain topics are established by the institutional management in agreement with the central participation. The decentralized participation often faces the excuse used by the dean or the management that “they cannot do anything about it, because the issue is already arranged in the model-TER.” Make sure that you are up to date about what the central council has and has not done. Have they joined discussions about a central TER? Make sure that you know which rights the decentralized council may exercise. According to the Explanatory Memorandum, the adage “participation follows control” applies, and therefore, when a regulation is being transferred to a different level of management, the participation at this level must maintain their original rights. In any case, let yourself not be fobbed off by an excuse. Presence of a member of the central council at a decentralized meeting may also create a lot of clarity!

“Better luck next year.”

Sometimes, boards postpone tough decision-making to after the summer period (“better luck next year”). That may have a strategic reason, because the new academic year means a new and still inexperienced student delegation. At the beginning of a year, it is often quite a bit harder, as a member of participation, to confront your management, or to see through tricks like “The Hague ordered us to do so”. Beware of this and let the ‘new council’ not walk all over you! If you (as the ‘old council’) are busy with an important topic and notice that the decision-making is likely to take longer than your own term, make sure to intervene. You may push for the decision to be taken sooner. In case this fails, make sure that your successors are well instructed, update them and compose a thorough instruction dossier. Of course you may always stay involved when your term has ended.

“The old regulations are fine with us.”

Certain regulations are annually presented to the participation for the sake of consent, such as the Student Charter. With this, the following dilemma may arise: if a participation refuses to consent, the old regulation remains in force. For certain points, this may be outdated and less useful and then you are left with no choice. In order to avoid these kinds of situations, it is wise to be informed early on about which points a discussion may potentially be triggered in terms of a certain regulation. This allows you to properly prepare yourself, and possibly propose alternatives. In case the situation threatens to escalate to a stalemate: stick to your guns! The management may appear confident to continue with the old regulation, but that is not always the case: they want to adjust the regulation for a reason. Bluffing is a nice game, make sure that you master the art yourself.

“So you want information? Get ready for ten thousand pages.”

The right to information of the participation may prove to be interesting: you have the right to sufficient information, at a point in time in which this still matters. Sometimes it concerns information that the management is not too eager to share. In these cases, the management may shower you with information, or create an illusion that it is ‘ten thousand pages’. Do not shy away from great amounts of information: make sure that you know what is important (for instance, via your predecessors, your network and/or professionals). Also try to clarify which information you would like to have: if you already know what you want, it is easier to get. Some information is just very extensive, for example a budget. Make sure that you deal with this in a useful fashion: compose a workgroup that will focus on this, divide the work between different members and make sure that somebody with expertise in numbers looks at it, for example a policy officer that has coauthored the piece.

“Nice, but this has long been policy.”

As a (member of) participation, you may propose your own initiatives. This may cost a lot of time, money and/or energy for a manager. Often, the excuse “that it is a nice plan, but that it has long been policy” is used. If you subsequently indicate that this is not the case, the response is often stunned. For instance, the issue does not lie with the management, but with the faculty or service: “we will take a look at it at some point.” Your own initiative often requires thorough preparation: be aware of what is there, be informed about the various regulations and be on top of it. Make sure you stand firm when you propose your own initiative, and also that the rest of the participation backs your initiative.

“No, we really do not have money for that.”

“No, we really do not have money for that” is one of the most often used arguments to send a plan or problem directly to the exit. It is also often said that “the pros do not outweigh the cons”, that “the proposal is not feasible”, that the “problem is non-existent”, or that “the problem will not be solved by the proposed measure.” Make sure that you take this into account in your preparations! Think ahead about possible counterarguments for the abovementioned statements (fallacies) of managers. In short: the issue does in fact exist, can be solved with your own proposal, is feasible and the pros do in fact outweigh the cons.

“We are a special institution.”

The Act includes a number of exemption provisions for special institutions. It may therefore occur that certain issues are arranged in a different way. Unfortunately, some Executive Boards use this regulation to their advantage by using the excuse “we are a special university and do not have to adhere to the law” in justifying constructions that are not legally allowed. An example is voting proportions in which the staff delegation is benefitted in comparison to the student delegation. The Explanatory Memorandum states that: “After all, the general principle employed is that, within the various sectors of higher education, participation structures and authorities of the participation are harmonized to the greatest possible extent. For special institutions, exemption provisions are instituted, because of their own nature i.e. the religious or faith-based convictions, to deviate from the maintained participation regulations (sic).” This implies that structures

and authorities have to be equal as much as possible and that special institutions may only enforce exemptions based on a special nature. A faith-based institution may not just simply decide that the staff delegation has more of a say, because this is not justifiable in any way by the faith-based nature.

In conclusion

Maybe you laughed about the abovementioned, maybe some things are all too familiar to you. The sad truth is that abovementioned examples, albeit somewhat cynically described, are not a product of the authors' imaginations, but are instead (although somewhat exaggerated) based on actual events. Forewarned is forearmed, and thus be aware, being the participation, about such tactics and ensure a thorough preparation.

## AftERwOrd

We hope that reading this book has provided you with more insight about the rights of students and the participation. You may continue to use this book as a reference. Be constantly aware of your rights and point these out to others. But perhaps most importantly: utilize your rights! In case you still have questions in response to this book, or desire help in enforcing your rights, or are active in participation, you may always rely on the LSVb, the LOF (for participation at universities) and the SOM (for participation at universities of applied sciences). We are all accessible through calling 030 - 231 64 64 or through sending an email to [lsvb@lsvb.nl](mailto:lsvb@lsvb.nl) / [lof@lsvb.nl](mailto:lof@lsvb.nl) / [som@lsvb.nl](mailto:som@lsvb.nl).

We would like to thank a number of people for helping us with the substantive check or helping us in another way with the realization of one or multiple editions of the HEARA (Dutch: WHWatisdat!?). These people are ms. and mr. Alink-Van Kemenade, Sander Breur, Tim van den Brink, Marcel Koning, Pieter Gerrit Kroeger, Pepijn Oomen, Klaas Swart, Sergej Themen, Mark Wossink en Stefan Lightfoot. In addition, we would like to thank Irma van den Tillaart, Trees Ruijgrok and Barbara Visser of the Ministry of Education, Culture and Science for answering our questions.

At the end of this book, all that remains for us to do is thank you, the reader, for your commitment to students, institutions and the quality of education. We encourage you to continue this commitment in order to make life for students in the Netherlands just a little bit more beautiful.

The authors.



# Appendix I: List of Acronyms

Dutch Acronym	Dutch Term	English Term	Explanation
Awb	Algemene wet bestuursrecht	WGeneral Administrative Law Act	Act that includes the regulations regarding the relationship between the government and the individual citizens, businesses and such.
bama-systeem	Bachelor Mastersysteem	Bachelor's-Master's system	System that has been implemented since September 1st, 2002, which serves to create a greater comparability within Europe's higher education.
BBR	Bestuurs- en beheersreglement	Management and administrative regulations	Regulation in which rules have been established regarding the management, administration and set-up of the institution.
BSA	Bindend Studieadvies	Binding study advice	The right of the institutional management to force a student to quit their studies during the propaedeutic phase.

CBE	College van beroep voor de examens	Examinations Appeals Board	Independent institution before which an appeal may be exercised against the decisions of the examination committees, examiners, and admission committees regarding matters of education.
CMR	Centrale Medezeggenschapsraad	Central Participation council	The participation body at central level that consist of: students and staff; or students; or staff.
Cobex	College van beroep voor de examens	Examinations Appeals Board	See CBE
CSR	Centrale studentenraad	Central student council	See CMR
CvB	College van bestuur	Executive Board	The central management of an institution.
Decaan	Decaan	Dean	A one-man executive management: management of a faculty or a different name for a main division of an institution.
DR	Deelraad	Sub council	The participation body that, at decentralized level, is composed of: students and staff; or students; or staff.

DUO	Dienst Uitvoering Onderwijs	Executive Education Agency	Previously known as 'IB-groep' and CFI. DUO finances and informs education. Think for example of study grants, tuition fees and exams.
EC	European Credit	European Credit	A label for credit within the ECTS.
ECTS	European Credit Transfer System	European Credit Transfer System.	The system with which credits are appointed in a bama-system. This European system enables international comparability.
FB	Facultair Bestuur	Faculty management	Decentralized management: management of a faculty or a different name for a main division of an institution.
FMR	Facultaire Medezeggenschapsraad	Faculty Participation council	See DR.
FMT	Facultair Management Team	Faculty Management	Decentralized management: management of a faculty or a different name for a main division of an institution.
FOR	Facultaire Ondernemingsraad	Faculty Works Council	See DR.
FR	Faculteitsraad	Faculty Council	See DR.
FSR	Facultaire Studentenraad	Faculty Student council	See DR.

GV	Gezamenlijke vergadering	Joint meeting	The label for the negotiations between the Executive Board and the students as well as the staff of a divided participation council.
hbo	Hoger beroepsonderwijs	Education in Applied Sciences	Applied sciences that are taught at a university of applied sciences.
HBO-raad	Hoger Beroepsonderwijs raad	HBO-council	The union representing the interests of workers and employers of the public Dutch universities of applied sciences, currently known as 'Vereniging Hogescholen'.
HO	Hoger onderwijs	Higher education	Academic education and education within applied sciences.
Inspectie	Inspectie van het Onderwijs	Education Inspectorate	The inspection body that serves to protect the quality of education.
Inst.best	Instellingsbestuur	Institutional management	See CvB.
ISO	Interstedelijk Studenten Overleg	Dutch National Students Association	National student union that advocates for the general interests of students in higher education.
LOF	Landelijk Overleg Fracties	National consultation between fractions	National foundation that aims to ameliorate and reinforce university participation.

LSVb	Landelijke Studentenvakbond	Dutch Student Union	National organization advocating for students' interests, federation of local unions.
MT	Management Team	Management Team	Decentralized management: management of a faculty or a different name for a main division of an institution.
MUB	Wet modernisering universitaire bestuursorganisatie	Act of Modernization of Academic Administrative Organization	Legal amendment of 1997 that fundamentally changed the management of educational institutions. This law undid the democratization of the WUB, and staff as well as students lost their right to co- management.
MvT	Memorie van toelichting	Explanatory Memorandum	The document that is written for every law in which the writer explains what is meant with the legal articles and/or why a certain article is being amended.

NVAO	Nederlands-Vlaamse Accreditatieorgani- satie	Dutch-Flemish Accreditation Organization	The organization that was founded following the convention between the Netherlands and Flanders that safeguards the quality of a (group of) educational program(s).
OC	Opleidingscommissie	Educational program committee (EPC)	Committee composed of the students and teachers that supervise the quality of a (group of) educational program(s).
OER	Onderwijs- en Examenregeling	Teaching- and Examination regulations	This includes information regarding the education program, the quality thereof, the tests and exams.
OLC	Opleidingscommissie	Educational program committee	See OC.
OR	Ondernemingsraad	Works council	See CMR.
RvT	Raad van toezicht	Supervisory Board	The body that supervises the central management of an institution.
SB	Stichtingsbestuur	Board of the Foundation	See RVT.
SOM	Studentenoverleg Medezeggenschap	Student consultation of Participation	National network for and by students that are active in the participation within applied sciences.

UR of Uraad	Universiteitsraad	University council	See CMR
USR	Universitaire Studentenraad	Student council	See CMR
VSNU	Vereniging van Universiteiten (voorheen Vereniging van Samenwerkende Nederlandse Universiteiten)	Association of Universities in the Netherlands	Advocates for the interests of the 14 Dutch universities within the cabinet, politics, government and civil society organizations.
WHW	Wet op het hoger onderwijs en wetenschappelijk onderzoek	Higher Education and Research Act (HEARA)	Dutch legislation in which higher education and research is laid down.
wo	Wetenschappelijk onderwijs	Academic education	Education at academic level that is provided at a university.
WOR	Wet op de ondernemingsraden	Works Councils Act	Dutch legislation in which the participation for staff and officials is defined.
WUB	Wet op de universitaire bestuurs Hervorming	University Governance Reform Act	Legislation that was implemented in 1970 and was centered on the democratization of universities.

# Appendix II. Legislative texts HEARA

In the adopted legislative proposal '*Versterking bestuurskracht*', different amendments will be implemented at different times. For the most up-to-date and reliable version of the law, check [www.wetten.nl](http://www.wetten.nl).

**Please note: the following translation is authoritative and translated officially by the Dutch government. Any translation added by the LSVb will be shown in italics.**

## Chapter 1. General provisions

### Title 1. Definitions and description of scope

#### Article 1.1. Definitions

- a. Our Minister: Our Minister of Education, Culture and Science and, insofar as education and research in the fields of agriculture and the natural environment is concerned, Our Minister of Economic Affairs;
- b. higher education: academic higher education and professional higher education;
- c. academic higher education: education that is aimed at preparation for independent practice of science or the professional application of academic and/or scientific knowledge, and that furthers insight into the coherence of the sciences;
- d. professional higher education: education that is aimed at the transfer of theoretical knowledge and the development of skills directly geared to professional practice;
- e. undergraduate education: higher education as referred to in Article 7.3a;
- f. institution: an institution or legal body as referred to in Article 1.2;
- g. higher education institution: an institution as referred to in Article 1.2, paragraph a, or a legal body providing higher education;
- h. public authority institution: an institution run by a statutory legal body;
- i. privately run institution: an institution run by a legal body with full legal rights;
- j. board of an institution:
  - of a government-funded institution: the executive board, unless stipulated otherwise;



- of a legal body with full legal rights that provides accredited programmes: the body designated as such in the bylaws;

**Article 2.1. Implementing Decision HEARA: Personal circumstances in the binding study advice and referral to major**

- 1.** The personal circumstances meant in articles 7.8b, third paragraph, and 7.9, third paragraph, of the law, are exclusively:
  - a. illness of the individual in question,
  - b. physical, sensory or other functional disorder of the individual in question,
  - c. pregnancy of the individual in question,
  - d. special family circumstances,
  - e. the membership, including the chairmanship, of:
    - 1.** universities: the university council, faculty council, the body that is established on the basis of the participation regulation, as defined in article 9.30, third paragraph, article 9.51 respectively, second paragraph, of the law, the management of an educational program or the educational program committee, as well as the membership of a board of a foundation that according to the statutes is aimed at the exploitation of provisions, belonging to the student provisions, or a body that has equal tasks in the institutional board's judgment,
    - 2.** universities of applied sciences: the participation council, sub council, student committee or educational program committee,
  - f. other circumstances in the regulations, as defined in the articles 7.8b, sixth paragraph, and 7.9, fifth paragraph, of the law, that can be indicated by the institutional board in which the individual in question develops activities ad part of the organization and the management of matters of the institution,
  - g. the membership of a board of a student organization of a certain size with full legal capacity, or a comparable organization of a certain size, that advocates primarily for the general interest of society as a whole and that develops actual activities for this purpose.
- 2.** The institutional management may establish further rules for the sake of the applicability of the first paragraph, part g, regarding the maximum number of board members that are eligible per organization per academic year, as well as which board functions become available.

- k. academic year: the period of time that commences on 1 September and ends on 31 August of the following year;
- l. Inspectorate: the Inspectorate as referred to in the Wet op het onderwijstoezicht [hereinafter referred to as Supervision of Education Act];
- m. programme: a bachelor's programme or a master's programme as referred to in Article 7.3 for which accreditation has been granted or a positive initial accreditation decision has been taken;
- n. work-based programme: a programme as referred to in Article 7.7, second paragraph;
- o. faculty of medicine: the faculty comprising the programmes preparing for the profession of doctor of medicine;
- p. accreditation organisation: the Accreditation Organisation of the Netherlands and Flanders, referred to in Article 1 of the Accreditation Treaty;
- q. accreditation: the hallmark expressing the accreditation organisation's positive assessment of the quality of a programme;
- r. initial accreditation: the hallmark expressing the accreditation organisation's positive assessment of the quality of an intended programme;
- s. institutional audit: the hallmark expressing the accreditation organisation's positive assessment of a higher education institution's internal quality assurance and the efforts it expends to improve its output, insofar as the quality of its programmes is concerned;
- t. assessment cluster: programmes that are similar in terms of educational content;
- u. credit: a credit in the sense of Article 7.4, first paragraph;
- v. Accreditation Treaty: the Treaty between the Kingdom of the Netherlands and the Flemish Community of Belgium, concluded on 3 September 2003 in The Hague, pertaining to the accreditation of Dutch and Flemish higher education programmes (Tractatenblad [hereinafter referred to as Treaty Series] 2003, 167);
- w. AD [Associate Degree] programme: the programme referred to in Article 7.8a, first paragraph;
- x. initial accreditation of AD programme: procedure that expresses the positive assessment of the quality of a new AD programme; x1. personal registration number: Citizen Service Number as referred to in Article 1, part b, of the Wet algemene bepalingen burgerservicenummer [Citizen Service Number (General Provisions) Act], or, as the case may be, the education number assigned by Our

Minister, as referred to in Article 7.31d, third paragraph; x2. basic education register: basic education register as referred to in Article 24b of the Supervision of Education Act;

**y.** executive board:

- of a privately run institution: the body of the institution designated as such in the bylaws;
- of a public authority institution: the body of the institution authorised to perform this task under this Act;

**z.** degree: a degree as referred to in Article 7.10a, Article 7.10b or Article 7.18;

**aa.** legal body for higher education: a legal body with full legal rights providing undergraduate programmes, with the exception of the State, or a legal body with full legal rights providing postgraduate master's programmes, with the exception of the State;

**ab.** BES public body: public body of the islands of Bonaire, Sint Eustatius or Saba.

## Chapter 7.

Article 7.8b. Recommendation regarding continuation of studies in propaedeutic phase

- 1.** The board of a government-funded research university, university of applied sciences or university set up on an ideological basis shall provide each student, no later than at the end of his first year of enrolment in the propaedeutic phase of a full-time or work-based bachelor's programme, with a recommendation regarding the continuation of his studies within or outside the bachelor's programme. Where part-time bachelor's programmes are concerned, the board of the institution shall determine the time at which the recommendation is issued.
- 2.** Without prejudice to the first paragraph, the board of the institution may issue the recommendation as long as the student in question has not passed the propaedeutic examination.
- 3.** With respect to programmes designated to that effect by the board of the institution, the board of the institution may attach a rejection to a recommendation as referred to in the first or second paragraphs, within the timeframe referred to in the second paragraph, but no sooner than towards the end of the first year of enrolment. This rejection may only be issued if the student, in the opinion of the board of the institution, taking his personal circumstances into account, must be deemed unfit for the programme, because his academic achievement does not meet the requirements the board has set in that respect. The board of the institution may attach a term to the rejection. The board of the institution may extend the rejection to programmes that share a common propaedeutic examination with the programme concerned. The board of the institution may only exert the authority

by virtue of this paragraph if it has provided such services and facilities in the propaedeutic phase of the programme concerned as to safeguard the opportunities for a proper progress of the studies.

4. Before the board of the institution proceeds to reject a student, it shall extend a warning to the student concerned, stipulating a reasonable term within which his academic achievement must have improved to the satisfaction of that board. Before proceeding to reject a student, the board of the institution shall afford the student the opportunity to be heard.
5. Following rejection pursuant to the third paragraph, the student's enrolment in the programme concerned at the institution involved shall be terminated. The student cannot re-enrol in that programme at that institution, unless the board of the institution has implemented the third sentence of the third paragraph or unless the person concerned requests to be enrolled in the programme concerned at a later date, making a reasonable case, to the satisfaction of the board of the institution, that he will be able to successfully complete that programme.
6. The board of the institution shall set down further rules with respect to the implementation of the previous paragraphs. These rules shall, in any case, pertain to the academic achievement, and the services and facilities referred to in the third paragraph, as well as the term referred to in the fourth paragraph.
7. An implementing regulation shall stipulate which personal circumstances, as referred to in the third paragraph, the board of the institution shall take into account in its assessment.
8. For the purpose of this Article, «propaedeutic phase» shall be understood to include the first period in an academic higher education bachelor's programme carrying a workload of 60 credits. For the purpose of this Article, «propaedeutic examination» shall be understood to include the interim examinations attached to units of study in the first period of an academic higher education bachelor's programme with a combined workload of 60 credits.

#### Article 7.9. Referral in post-propaedeutic phase

1. If a bachelor's programme comprises more than one specialisation after the propaedeutic phase, the board of the institution may decide, with respect to programmes it has designated to that effect, that a student enrolled in such programme shall only have access to one or more of the specialisations, such to be specified in its decision. The board of the institution may only exert the authority by virtue of this paragraph if the various specialisations of the programme differ to such an extent in terms of nature and content as to warrant the exertion of this authority.
2. Upon application of the first paragraph, the board of the institution shall base its decision

- a. on the student's academic achievement,
- b. on the study programme followed by the student, or
- c. on a combination of a and b.

Before making a decision, the board of the institution shall afford the student the opportunity to be heard.

3. Upon weighing the academic achievement referred to in the second paragraph, under a and c, the board of the institution shall take the student's personal circumstances into account. An implementing regulation shall set out which personal circumstances the board of the institution shall take into account in its assessment.
4. Upon weighing the study programme of the student, as referred to in the second paragraph, under b and c, the board of the institution shall assess whether the components of the programme selected by the students are sufficiently aligned with the specialisation for which the student has opted.
5. The board of the institution shall set out further rules to implement this Article. These rules shall, in any case, pertain to the difference in specialisations, referred to in the first paragraph, to the academic achievement, referred to in the third paragraph, and to the alignment of programme components and the specialisations of the programme as referred to in the fourth paragraph.
6. For the purpose of this Article, «propaedeutic phase» shall be understood to include the first period in an academic higher education bachelor's programme carrying a workload of 60 credits.

Article 7.9b. Selection for special courses aimed at attaining higher levels

1. If the board of an institution offers a special course within a programme, aimed at attaining a higher level of knowledge among students, the board of the institution may select students for such a course.
2. The board of the institution shall stipulate rules pertaining to the selection referred to in the first paragraph.

Article 7.10. Examinations and interim examinations

1. Each interim examination shall comprise a survey of the knowledge, insight and skills of the examinee, as well as the assessment of the outcomes of that survey.
2. If the interim examinations of the units of study contained in a programme or the propaedeutic phase of a bachelor's programme have been passed, the examination shall have been passed, insofar as the examining board has not decided that the examination shall also comprise a survey as referred to in the first paragraph, to be conducted by the examining board itself.

3. *The institutional board is responsible for the practical organization of the examinations and interim examinations.*
4. *The institutional board may limit the period of validity of a successfully passed examination, except for the authority of the examination committee to extend the validity period for an individual case. The validity period of a successfully passed examination may only be limited provided that the examined knowledge or the examined skills are demonstrably outdated. The validity period of the examinations cannot be limited in case of a special circumstance as defined in article 7.51, second paragraph. The institutional board establishes further rules regarding the execution of this paragraph.*

Article 7.11. Certificates and attestations

1. To attest that an interim examination has been passed, the examiner or examiners concerned shall issue proof to that effect.
2. To attest that the examination has been passed, the examining board shall issue a certificate, after the board of the institution has certified that the procedural requirements for such issue have been satisfied. For each programme a single certificate shall be issued. The certificate pertaining to the examination that has been passed shall state relevant data, including, in any case:
  - a. the name of the institution and which programme, as listed on the register referred to in Article 6.13, the certificate concerns,
  - b. the components the examination has comprised,
  - c. as the occasion arises, which qualification the certificate entails, taking into account Article 7.6, first paragraph,
  - d. which degree, as referred to in Article 7.10a, first or second paragraphs, has been conferred, and
  - e. on which date the programme was last accredited or on which date the programme was initially accredited as referred to in Article 5a.11, second paragraph, and
  - f. if the certificate pertains to a joint programme or a joint specialisation as referred to in Article 7.3b, the name of the institution or, with respect to joint programmes, institutions that has or have provided or co-provided the programme or specialisation concerned.
3. Those who qualify for the issue of a certificate may request the examining board, in accordance with the rules to be set out by the board of the institution, to postpone that issue.
4. The examining board shall append a supplement to the certificate attesting that the final examination has been passed. The supplement is intended to provide insight into the nature and content of the completed programme, also with a view to the international recognisability of programmes. The supplement shall, in any case, state the following data:

- a. the name of the programme and the institution that provides the programme,
- b. whether the certificate concerns an academic higher education programme or a professional higher education programme,
- c. a description of the content of the programme, and
- d. the workload of the programme.

The supplement shall be formulated in Dutch or in English. It shall meet the standard format as agreed upon at the European level.

5. Those who have passed more than one interim examination and cannot be issued with a certificate as referred to in the second paragraph, shall upon request receive a statement to be issued by the examining board concerned, listing, in any case, the interim examinations that have been passed.

#### Article 7.12. Examining board

1. Each programme or cluster of programmes at the institution shall have an examining board.
2. The examining board is the body that determines, in an objective and expert manner, whether a student satisfies the conditions set out in the teaching and examination regulations with respect to the knowledge, insight and skills required to earn a degree.

#### Article 7.12a. Appointment and composition of the examining board

1. The board of the institution shall set up the examining board and appoint the members on the basis of their expertise in the field of the programme or cluster of programmes concerned.
2. The board of the institution shall ensure that the independent and expert functioning of the examining board is sufficiently safeguarded.
3. Upon appointing the members of the examining board, the board of the institution shall ensure that:
  - a. at least one member is attached to the programme concerned or to one of the programmes in the cluster of programmes as a teacher;
  - b. insofar as universities of applied sciences are concerned, at least one member does not have any ties with the programme concerned or with one of the programmes in the cluster of programmes;
  - c. members of the board of the institution or persons that otherwise bear financial responsibilities within the institution are not appointed.
4. Before proceeding to appoint a member, the board of the institution shall hear the members of the examining board concerned.

#### Article 7.12b. Duties and powers of the examining board

1. In addition to the duties and powers referred to in Articles 7.11 and 7.12, second paragraph, an examining board shall have the following duties and powers:

- a. ensuring the quality of the interim examinations and examinations without prejudice to Article 7.12c
  - b. setting down guidelines and instructions within the framework of the teaching and examination regulations, as referred to in Article 7.13, for the assessment and determination of the results of interim examinations and examinations,
  - c. granting permission to a student, by the examining board that is most appropriate in that respect, to follow a curriculum composed by that student as referred to in Article 7.3d, whose examination shall lead to the conferral of a degree, whereby the examining board shall also indicate which programme of the institution that curriculum is deemed to constitute part of for the purpose of this Act, and
  - d. granting exemption for the sitting of one or more interim examinations.
2. If a student or external student commits fraud, the examining board may deprive the student concerned of the right to sit one or more interim examinations or examinations to be designated by the examining board, for a maximum term of one year, to be stipulated by the examining board. In the event of serious fraud, the board of the institution may, at the suggestion of the examining board, permanently terminate the enrolment of the student concerned in the programme.
  3. The examining board shall set down rules regarding the performance and exercise of the duties and powers, referred to in the first paragraph, sub-sections a, b and d, and the second paragraph, and regarding the measures it may take in that respect. The examining board may stipulate that, under conditions to be set by it, not every interim examination needs to have been passed in order to establish that the examination has been passed.
  4. If a student submits a request or files a complaint involving an examiner who sits on the examining board, the examiner concerned shall not participate in the handling of the request or complaint.
  5. The examining board shall annually draw up a report on its activities. The examining board shall submit the report to the board of the institution or the dean.

#### Article 7.13. Teaching and examination regulations

1. For each programme or cluster of programmes offered by the institution, the board of the institution shall set down teaching and examination regulations. The teaching and examination regulations comprise adequate and clear information regarding the programme or cluster of programmes.
2. The teaching and examination regulations shall set out, without prejudice to other relevant provisions of this Act, the procedures and rights and obligations with respect to the education and examinations that apply for each programme or cluster of programmes. This shall comprise, as a minimum:
  - a. the content of the programme and of the associated examinations,
  - b. the content of the specialisations within a programme,
  - c. the qualities relating to knowledge, insight and skills a student must have



- acquired upon completion of the programme,
- d. wherever necessary, the structure of practical exercises,
  - e. the workload of the programme and of each unit of study that constitutes part of that programme,
  - f. the further rules, referred to in Articles 7.8b, sixth paragraph, and 7.9, fifth paragraph,
  - g. the master's programmes with respect to which Article 7.4a, eighth paragraph, has been implemented,
  - h. the number and the consecutiveness of the interim examinations as well as the times at which they may be sat,
  - i. the full-time, part-time or work-based structure of the programme,
  - j. wherever necessary, the order in which, the periods of time within which, and the number of times per academic year that students shall be afforded the opportunity to sit the interim examinations and examinations,
  - k. wherever necessary, the period of validity of interim examinations that have been passed, subject to the authority of the examining board to extend that period of validity,
  - l. whether the interim examinations shall be administered orally, in written form, or in another manner, subject to the authority of the examining board to stipulate otherwise in exceptional cases,
  - m. the manner in which students with a handicap or chronic illness shall reasonably be afforded the opportunity to sit the interim examinations,
  - n. the public nature of interim examinations to be administered orally, subject to the authority of the examining board to stipulate otherwise in exceptional cases,
  - o. the period of time within which the result of an interim examination shall be announced, and whether and how this period of time may be departed from,
  - p. the manner in which and the period of time during which the student who has sat a written interim examination shall have access to his assessed work,
  - q. the manner in which and the period of time during which cognizance may be taken of questions and assignments, posed or given within the framework of a written interim examination, and of the standards underpinning the assessment,
  - r. the grounds on which the examining board may grant exemption from sitting one or more interim examinations on account of interim examinations or examinations in higher education passed earlier, or, as the case may be, on account of knowledge or skills acquired outside the higher education domain,
  - s. wherever necessary, that passing interim examinations shall be a pre-condition for admission to sitting other interim examinations,
  - t. wherever necessary, the obligation to participate in practical exercises with a view to admission to sitting the interim examination concerned, subject to the authority of the examining board to grant exemption from that obligation, whether or not under the imposition of substitute requirements,

- u. the monitoring of progress and the individual student counselling,
- v. if applicable: the manner in which students are selected for a special course within a programme, as referred to in Article 7.9b, and
- w. the actual instructional practice.

#### Article 7.14. Assessment of teaching and examination regulations

The board of the institution shall ensure that the teaching and examination regulations are regularly assessed, taking into consideration, with a view to the monitoring and adjustment, if necessary, of the workload, the ensuing study time for the students.

#### Article 7.15. Provision of information to students and prospective students

1. The board of the institution shall provide such information to students and prospective students regarding:

- a. the institution,
- b. the curriculum to be followed in a general sense,
- c. the differentiation in the range of programmes offered,
- d. the selection of students, and
- e. the names of the programmes,

so as to enable these students and prospective students to compare the options, form a proper opinion on the content and structure of the study programme followed or to be followed, and the examinations, and properly prepare for the requirements set.

2. The representatives of the institutions and the appropriate student interest groups shall jointly set down agreements regarding the specifications of the information referred to in the first paragraph. If they fail to do so, the further specifications of content and form of the information required to compare programmes and choosing an appropriate programme may be set down in a Ministerial Order. The Ministerial Order may set out different specifications for different clusters of institutions.

#### Article 7.28. Exemptions pursuant to other diplomas

1. Those who have earned a degree as referred to in Article 7.10a shall be exempt from satisfaction of the qualification requirements referred to in Article 7.24, first or second paragraphs, respectively, without prejudice to the third and fourth paragraphs. Exempt from satisfaction of the qualification requirements referred to in the first sentence shall also be those who qualify for enrolment in academic higher education or professional higher education in the country of a treaty party that has ratified the Treaty concerning the recognition of higher education qualifications in the European Area (Tractatenblad [Treaty Series] 2002, 137), without prejudice to the authority of the board of the institution to, pursuant to Article IV.1 of the treaty referred to, point out a considerable difference between the general requirements concerning admission on the territory of the relevant country in which the qualification has been attained and the general requirements stipulated by or pursuant to this Act. A similar authority exists pursuant to the second paragraph,

third and fourth sentences, the third and fourth paragraphs and Articles 7.26, 7.26a and 7.27.

- 1a.** The board of the institution may require the holder of a certificate of passing a propaedeutic examination at a university of applied sciences who does not possess a diploma as referred to in Article 7.24, first paragraph, or a diploma designated by Ministerial Order as at least equivalent pursuant to the second paragraph, or a diploma deemed at least equivalent by the board of the institution, upon his application for enrolment in a bachelor's programme at a research university, to demonstrate his command of knowledge, insight and skills to successfully complete such bachelor's programme.
- 2.** The board of the institution shall grant exemption from the qualification requirement referred to in Article 7.24, first or, as the case may be, second paragraph, to the holder of a diploma, awarded in the Netherlands or not, that has been designated by Ministerial Order as at least equivalent to the diploma referred to in the relevant paragraph, without prejudice to the third and fourth paragraphs. The board of the institution may grant exemption from the qualification requirements referred to in Article 7.24, first or, as the case may be, second paragraphs, to the holder of a diploma, awarded in the Netherlands or not, that is not contained in the Ministerial Order referred to in the first sentence, if such diploma in the opinion of the board of the institution is at least equivalent to the diploma referred to in Article 7.24, first or second paragraphs, respectively, without prejudice to the third and fourth paragraphs. In the event of a diploma being awarded outside the Netherlands, the board of the institution may stipulate that no examinations or components thereof shall be sat until, to the satisfaction of the examining board concerned, proof of sufficient command of the Dutch language has been produced with a view to a fruitful completion of the programme. The board of the institution may also stipulate that the person concerned shall not be enrolled as long as the proof referred to in the previous sentence has not been produced.
- 3.** In the event that requirements as referred to in Article 7.25, first or second paragraphs, have been set down by Ministerial Order, the holder of a diploma as referred to in the first and second paragraphs may not sit examinations before he has demonstrated, in a manner to be determined by the board of the institution, pursuant to an additional test, his command of the knowledge and skills to which the requirements referred to in Article 7.25 pertain.
- 4.** The board of the institution may stipulate that the holder of a diploma as referred to in the first or second paragraphs shall not be enrolled if, in its opinion, the requirements referred to in Article 7.25 are of such nature that it is reasonably to be expected that the person concerned will be unable, during his first year of enrolment in the programme, to demonstrate pursuant to an additional test as referred to in the third paragraph his command of the knowledge and skills to which such requirements pertain. The board of the institution shall determine the manner in which the person involved may be exempted from satisfying such requirements, pursuant to an additional test, with a view to his enrolment.

5. The requirements to be set in the test referred to in paragraphs two up to and including four shall be incorporated into the teaching and examination regulations.

Article 7.31a. Application no later than 1 May

1. No later than 1 May preceding the relevant academic year, a prospective student wishing to enrol in a particular propaedeutic phase of a bachelor's programme at a particular institution or, if such phase has not been established, the first period in a bachelor's programme carrying a workload of 60 credits, shall apply to Our Minister, in compliance with Article 7.31d and in accordance with rules of a procedural nature to be set down by Ministerial Order.
2. The application shall state the institution at which and the bachelor's programme in which the person involved wishes to enrol.
3. In the event that the person involved wishes to apply for more than one bachelor's programme prior to the relevant academic year, the requirement referred to in the first paragraph shall apply to one bachelor's programme.
4. Our Minister shall submit the application data referred to in this Article, and Articles 7.31c and 7.31d, to the institution or institutions for which the person involved has applied.
5. This Article shall not apply to a student applying after 1 May for a bachelor's programme other than the one he was originally enrolled in, who can demonstrate that the new application is resultant from a termination of the enrolment pursuant to Article 7.8b, fifth paragraph, at such a date as to preclude him from applying before 1 May preceding the academic year for which he wishes to enrol.

Article 7.31b. Rights and obligations upon application no later than 1 May

1. In the event that the person involved has applied for one or more bachelor's programmes no later than 1 May, in the manner referred to in Article 7.31a, first paragraph, he shall have the right to participate in study choice activities to be organised by the institution with respect to the relevant bachelor's programmes. The board of the institution may decide that participation in the study choice activities shall be mandatory for the person involved.
2. With respect to each student who has applied and participated in the study choice activities, the board of the institution shall issue study choice recommendations. A maximum number of study choice recommendations to which the person involved is entitled may be set down by Ministerial Order.
3. In the event that the second sentence of the first paragraph has been implemented and the person involved should not participate in the study choice activities referred to in that paragraph without a valid reason, the board of the institution may decide to refuse to enrol the person involved.

4. To implement this Article, the board of the institution shall set down further rules pertaining, in any case, to the nature and the content of the study choice activities for the institution or for each programme, the timeframe within which the study choice activities shall take place, the timeframe within which and the manner in which the study choice recommendations shall be issued, the consequences of failing to participate in study choice activities without a valid reason for absence, and the valid reasons for absence from participation in such activities. In setting down the further rules, the board of the institution shall make such provisions for prospective students originating from the public bodies of Bonaire, Sint Eustatius and Saba, or, as the case may be, Aruba, Curaçao and Sint Maarten, as to enable them to participate in the study choice activities without their physical presence at the institution being required.
5. This Article shall not apply to:
  - a. enrolment in a bachelor's programme for which a selection procedure is in place, and
  - b. those who, pursuant to Article 7.28, are exempt from the diploma requirements referred to in Article 7.24, first and second paragraphs, on account of the possession of a diploma earned outside the Netherlands.

Article 7.31c. Application after 1 May for another bachelor's programme

1. In the event that the person involved has satisfied the requirement referred to in Article 7.31a, first paragraph, pertaining to that other bachelor's programme, and applies for a bachelor's programme other than the bachelor's programme referred to in such provision after 1 May, the board of the institution may decide that participation in the study choice activities referred to in Article 7.31b, first paragraph shall be mandatory for the person involved.
2. This Article shall apply mutatis mutandis to the student referred to in Article 7.31a, fifth paragraph.

Article 7.31d. First application after 1 May

1. In the event that the person involved fails to satisfy the requirement referred to in Article 7.31a, first paragraph, and applies to a bachelor's programme after 1 May, the board of the institution may decide that:
  - a. it shall refuse to enrol the person involved in the bachelor's programme concerned, or
  - b. participation in the study choice activities referred to in Article 7.31b, first paragraph shall be mandatory for the person involved.
2. Article 7.31b, second paragraph shall apply with respect to the first paragraph, introduction and sub-section b. In the event that the board of the institution has issued a negative study choice recommendation, it may decide that it will refuse to enrol the person involved in the bachelor's programme concerned. With respect to this Article, Article 7.31b, third, fourth and fifth paragraphs shall furthermore apply mutatis mutandis.

3. The first paragraph, introduction and sub-section a, shall not apply to the student referred to in Article 7.31a, fifth paragraph.
4. *Our minister provides the person-specific number of the individual in question and the details within eight weeks following the acceptance at the institutional board of the institution to which the individual in question desires to register, as defined in article 7.52, second paragraph, insofar as these are provided by the individual in question.*

Article 7.31e. Assigning a personalised number upon application

1. Upon application, as meant in this paragraph, the student in question can coconsult the personal number. If the student makes it clear that the student 's personal number cannot be consulted, application takes place with consideration of the third paragraph.
2. The personal number is consulted via a document supplied by the government in which the personal data like; surname, initials, date of birth, and the gender of the conserved is provided.
3. If the student concerned makes it clear that the student's personal number cannot be consulted our minister supplies the educational number within eight weeks after the notice of application. The educational number is provided by the minister and contains the personal information ascribed to the student.
4. Our minister provides, within eight weeks after receiving the notice of application with the institutional management of the educational institution the student has applied, the personal educational number of the student concerned as meant in Article 7.52, second paragraph, to the extent the information has been made available by the student.

Article 7.31f. Application for Open University

Articles 7.31a up to and including 7.31d shall not apply to the Open University.

Article 7.32. General provisions regarding enrolment

1. Anyone who wishes to be able to make use of educational facilities, examination facilities or facilities of another nature in the context of an undergraduate programme at an institution must apply to the board of the institution for enrolment as a student or external student.
2. In deviation from the first paragraph, work-based programmes and the Open University are exclusively open to enrolment as a student.
3. Enrolment shall pertain to a programme, on the understanding that enrolment at the Open University pertains to one or more units of study. A student who wishes to follow an AD programme shall enrol in both the programme and the AD programme.

4. Enrolment in a programme shall cover the entire academic year. In the event of enrolment during the course of the academic year, it will cover the remaining part of the academic year.
5. Enrolment as a student or external student is only open to someone whose parents or guardians demonstrate, or, if he is of age and of full legal capacity, someone who demonstrates that he:
  - a. possesses Dutch nationality or, pursuant to a statutory provision, shall be treated as a Dutch citizen,
  - b. is an alien and will not have reached the age of 18 on the commencement day of the programme for which he wishes to enrol for the first time,
  - c. is an alien, will be 18 years of age or older on the commencement day of the programme for which he wishes to enrol for the first time, and will be a legal resident on that day in the sense of Article 8 of the Vreemdelingenwet 2000 [hereinafter referred to as Aliens Act 2000],
  - d. is an alien, and will reside outside the Netherlands on the commencement day of the programme for which he wishes to enrol for the first time, or
  - e. is an alien, no longer satisfies one of the conditions listed under b, c or d, and has previously enrolled, in accordance with one of those sub-sections, in a programme provided by an institution, which programme is still being attended and has not yet been completed.
6. In the event that the enrolment is subsequently found to have taken place in disagreement with the fifth paragraph, on whatever grounds, the enrolment of the student or external student shall be terminated forthwith.

Article 7.34. Rights ensuing from enrolment as a student

1. Enrolment as a student shall bestow the right:
  - a. to participate in the undergraduate courses of the institution, subject to the authority of the board of a research university, university of applied sciences or university set up on an ideological basis to decide otherwise in the event of the application of Articles 6.7a, 7.9, first paragraph, 7.30a, third paragraph, 7.30b, first paragraph, 7.42a, 7.53, third paragraph, 7.56 or 7.57h,
  - b. to sit the interim examinations of the units of study contained in the programme, and to sit the examinations of such programme,
  - c. to access the facilities and collections belonging to the institution, unless, in the opinion of the board of the institution, the nature or the interest of the education or the research dictates otherwise,
  - d. to make use of other provisions in place for the benefit of the students, including, except for, as far as the Open University is concerned, the services of a student dean, and
  - e. to student counselling; in this respect, the board of the institution shall devote particular attention to the counselling of students from an ethnic or cultural

minority whose participation in higher education lags significantly behind such participation among Dutch citizens who do not belong to such a minority.

2. In the event that the board of the institution terminates a programme, the board shall determine the date on which such decision shall take effect, in such a manner as to enable the students enrolled in the programme to complete the programme within a reasonable period of time at the same institution or at another institution.
3. With respect to students residing outside the Netherlands, the board of the Open University shall set down rules pertaining to the rights referred to in the first paragraph under a up to and including d.
4. In deviation from the first paragraph, under b, a student as referred to in Article 7.30a, first paragraph, third sentence shall not be entitled to sit the examination of the master's programme.
5. A student who follows an AD programme that is provided, in part, by an institution as referred to in Article 1.1.1, sub-section b, of the Adult and Vocational Education Act shall be entitled to access all relevant educational facilities of such institution for the time he is enrolled in the programme.

Article 7.42a. Behaviour of student in relation to future practice of a profession

1. In exceptional cases, the board of the institution may, upon the recommendation of the examining board, the dean or a body within the institution comparable to the dean, and after careful consideration of the interests involved, terminate or, as the case may be, refuse the enrolment of a student in a programme, if that student, through his behaviour or opinions ventured, has demonstrated his unsuitability for the practice of one or more professions for which he is trained by the programme he follows, or, as the case may be, for the practical preparation for the practice of the profession.
2. The board of the institution or the board of another institution providing the same or a similar programme may decide not to re-enrol the student or not re-enrol the student in that programme.
3. If the student referred to in the first paragraph is enrolled in another programme within which he follows the courses of a specialisation corresponding with or, with respect to the practical preparation for the practice of a profession, is related to the programme for which his enrolment has been terminated in accordance with the first paragraph, the board of the institution may, upon the recommendation of the examining board, the dean or a body within the institution comparable to the dean, and after careful consideration of the interests involved, decide that the student shall not be allowed to follow that specialisation or other components of that programme.
4. Article 7.42, fourth and fifth paragraph, shall apply mutatis mutandis.



**Article 7.45. Amount of statutory tuition fee**

- 1.** The amount of the full statutory tuition fee shall be set down by an implementing regulation.
- 2.** The amount of the partial statutory tuition fee shall be set down by the board of the institution and ranges between a minimum and a maximum amount. These amounts shall be set down by or pursuant to an implementing regulation.
- 3.** The partial statutory tuition fee shall not exceed the full statutory tuition fee.
- 4.** The board of the institution shall notify Our Minister of the amount the board of the institution has set down pursuant to the second paragraph.
- 5.** The amounts set down by or pursuant to an implementing regulation, as referred to in the first and second paragraphs, are subject to annual indexation in accordance with the consumer price index, in a manner set down by or pursuant to an implementing regulation.

**Article 7.45a. Claim to statutory tuition fee**

- 1.** The statutory tuition fee shall be owed by a student who:
  - a.** since 1 September 1991, according to the basic education register, has not previously earned a bachelor's degree following enrolment in a bachelor's programme or has not previously earned a master's degree following a master's programme, and
  - b.** belongs to one of the groups of persons, referred to in Article 2.2 of the Student Finance Act 2000, or possesses Surinamese nationality.
- 2.** The condition referred to in the first paragraph, sub-section a, does not apply to a student enrolling in a programme in the education or health care domain for the first time.
- 3.** The category of students referred to in the first paragraph may be expanded by an implementing regulation.
- 4.** A student as referred to in the first, second or third paragraphs, who is enrolled in a full-time programme, shall owe the full statutory tuition fee referred to in Article 7.45, first paragraph.
- 5.** A student as referred to in the first, second or third paragraphs, who is enrolled in a part-time or work-based programme, shall owe the partial statutory tuition fee referred to in Article 7.45, second paragraph.
- 6.** If a student as referred to in the first, second or third paragraphs follows more than one programme and completes the programme in which he was enrolled first, this student shall owe the statutory tuition fee for the remaining part of the academic year. In such a case, the amount owed shall be calculated in proportion to the number of months remaining of the academic year concerned.

7. With respect to the condition referred to in the first paragraph, sub-section a, the following shall be equated with a student who has earned a bachelor's degree:
  - a. a student who has passed the final examination of a professional higher education programme carrying a workload of 168 credits, in accordance with the law as it read on 31 August 2002, and
  - b. a student who has passed the kandidaats [first cycle] examination of an academic higher education programme as referred to in Article 7.8, as that Article read on 31 August 2002.
8. With respect to the condition referred to in the first paragraph, sub-section a, the following shall be equated with a student who has earned a bachelor's and master's degree:
  - a. a student who has passed the final examination of an academic higher education programme as referred to in Article 7.3, as that Article read on 31 August 2002;
  - b. a student who has passed the final examination of an academic higher education programme, pursuant to Article 18.14; and
  - c. a student who has passed the final examination of an academic higher education programme, pursuant to Article 18.15.

Article 7.51. Financial support in relation to exceptional circumstances

1. The board of a government-funded higher education institution shall make provisions for the financial support of any student enrolled in that institution who has fallen behind or is expected to fall behind in his studies owing to an exceptional circumstance.
2. The exceptional circumstances referred to in the first paragraph are:
  - a. student who has passed the final examination of an academic higher education programme as referred to in Article 7.3, as that Article read on 31 August 2002;
  - b. activities in the administrative or social domains that, in the opinion of the board of the institution, are also in the interest of the institution or of the programme in which the student is enrolled,
  - c. illness or pregnancy and childbirth,
  - d. a handicap or chronic illness,
  - e. exceptional family circumstances,
  - f. insufficient feasibility of a programme,
  - g. other exceptional circumstances as set down by the board of the institution in which a student finds himself,

- h.** circumstances other than those referred to in sub-sections a up to and including g that, if a request for financial support based thereon would not be honoured by the board of the institution, would lead to serious inequity.

**Article 7.51a. Financial support in connection with a larger workload**

- 1.** The board of the institution shall make provisions for the financial support of any student enrolled at the institution concerned in a programme to which the board of the institution has applied Article 7.4a, eighth paragraph.
- 2.** The financial support shall be provided for the period corresponding to the workload in excess of 60 credits.

**Article 7.51b. Financial support in connection with non-renewal of accreditation**

The board of the institution shall make provisions for the financial support of any student enrolled at the institution concerned in a programme whose accreditation has not been renewed, as a result of which the student no longer qualifies for student support.

**Article 7.51c. Conditions for financial support**

A student shall only qualify for the financial support referred to in Articles 7.51 up to and including 7.51b if:

- a.** the student owes the statutory tuition fee for the programme concerned; and
- b.** the student qualifies or has qualified for the performance-related grant as referred to in Chapter 5 of the Student Finance Act 2000, with respect to the programme in which he is enrolled.

**Article 7.51d. Financial support in connection with failure to satisfy the nationality requirement**

The board of the institution may make provisions for the financial support of a student enrolled at the institution concerned in a programme for which he has not yet earned a degree, who neither belongs to one of the groups of persons referred to in Article 2.2 of the Student Finance Act 2000, nor possesses Surinamese nationality.

**Article 7.51e. Financial support for non-enrolled students**

- 1.** The board of the institution may make provisions for the financial support of someone who is not enrolled at the institution concerned but who, if enrolled at an institution, would qualify for a form of student support as referred to in Article 5.2 of the Student Finance Act 2000.
- 2.** The financial support referred to in the first paragraph
  - a.** shall be set down in an agreement,
  - b.** shall only be provided for a period of one year,
  - c.** shall only be provided to someone who, in the opinion of the board of the institution, is engaged in activities in the administrative or social domains that are also in the interest of the institution and are not of a commercial nature, and

- d.** shall, in any case, comprise an arrangement on the basis of which the person for whom the provisions are made shall have access to the facilities of the institution, other than those related to the education provided.

#### Article 7.51f. Amount of the financial support

The financial support referred to in Articles 7.51 up to and including 7.51e shall not exceed the student support that has been granted to the person involved by virtue of Chapter 3 of the Student Finance Act 2000, or that would have been granted if he had claimed or would have qualified to claim such

#### Article 7.51g. Provisions for additional support

Supplementary to the provisions referred to in Articles 7.51 up to and including 7.51e, a provision for financial support may be made that, together with the financial support under the provisions referred to in Articles 7.51 up to and including 7.51e, exceeds the student support that has been granted to the person involved by virtue of Chapter 3 of the Student Finance Act 2000, or that would have been granted if he had claimed or would have qualified to claim such. This supplement shall be granted under the heading of: provision for additional support.

#### Article 7.51h. Institutional rules

- 1.** The board of the institution shall set rules of a procedural nature for the purpose of Articles 7.51 up to and including 7.51d, comprising, in any case, rules regarding the commencement, duration and amount of the financial support.
- 2.** The board of the institution may make the granting of financial support conditional upon the student's active pursuit of his studies.

#### Article 7.51i. Obligation to provide information and administrative registration

The board of the institution shall notify the student in writing of the amount of financial support, as referred to in this section, whereby the amount of the additional support shall be stated separately. Furthermore, the board of the institution shall register the financial support provided to the student in its records, stating the Citizen Service Number of the student and the amount of the grant, whereby the amount of the additional support shall be stated separately.

#### Article 7.51j. Open University

This section shall apply *mutatis mutandis* to a student enrolled for a unit of study at the Open University.

#### Article 7.59. Students' charter

- 1.** The board of the institution shall set down and make public the students' charter.
- 2.** The board of the institution shall issue the students' charter to each student upon his first enrolment in a programme. If necessary, the board of the institution shall also issue the students' charter upon enrolment for a subsequent academic year.
- 3.** The students' charter comprises a programme-specific component and an institution-specific component.

4. The programme-specific component shall comprise, in any case:
  - a. a description of the structure of the study programme and the support facilities the institution offers its students, including, in any case:
    - 1°. information regarding the set-up, organisation and delivery of the education,
    - 2°. the student services and facilities, and
    - 3°. the provisions pertaining to student counselling,
  - b. the teaching and examination regulations referred to in Article 7.13, first paragraph, and a description of procedures in place for the programme supplementary to the procedures referred to in the fifth paragraph under b.2.
5. The institution-specific component shall comprise, in any case:
  - a. a description of the rights and obligations of the students, ensuing from the provisions stipulated by or pursuant to the law, and
  - b. an overview of the regulations intended to protect the rights of students, including:
    - 1°. a description of the procedures for handling complaints and disputes, referred to in Title 4, and the procedures for handling disputes relating to participation in decision-making, and of the rights of appeal under this Act and other statutory regulations, and
    - 2°. a description of additional procedures for the protection of the rights of students implemented by the board of the institution.

#### Article 7.59a. Accessible facility

1. The board of the institution shall set up an accessible and unequivocal facility. The board of the institution shall set down further regulations pertaining to this section and section 2, which will constitute a component of the administrative and management regulations.
2. A person involved may file a complaint as referred to in Article 7.59b and lodge an appeal as referred to in section 2 to the facility on account of a decision taken by a body of a higher education institution or, as the case may be, failure to take such a decision pursuant to this Act and regulations based upon it. In the event of an appeal by a person involved to a public authority institution, Articles 6:4, first and second paragraphs, and 7:1a of the General Administrative Law Act shall not apply.
3. In this section and sections 2 up to and including 4, «a person involved» shall be understood to mean: a student, a prospective student, a former student, an external student, a prospective external student or a former external student.
4. Written appeals as referred to in section 2 shall be lodged within a period of six weeks.
5. The facility shall confirm receipt of a complaint filed or an appeal lodged in writing to the person involved and forward the same, marked with the date of receipt, to the

competent body as soon as possible. In the event of a public authority institution, Article 6:15, first and second paragraphs, of the General Administrative Law Act shall not apply.

6. The date of receipt referred to in the fifth paragraph determines whether a complaint has been filed or an appeal has been lodged in a timely manner. In the event of a public authority institution, Article 6:15, third paragraph, of the General Administrative Law Act shall not apply.
7. In the event that the facility has forwarded a complaint or appeal to a non-competent body, this body shall return the document concerned to the facility as soon as possible. The competent body shall deal with a complaint or appeal submitted directly to this body by a person involved only after mediation of the facility.

#### Article 7.59b. Complaints

The board of the institution shall deal with a complaint from a person involved, insofar as privately run institutions are concerned, with application mutatis mutandis of Title 9.1 of the General Administrative Law Act.

#### Article 7.60. Examination appeals board

1. Each higher education institution shall have an examination appeals board.
2. The appeals board shall consist of three or five members. The number of substitute members shall not exceed the number of members. The board shall sit in plenary session.
3. The board may decide to establish chambers. If the board so decides, the board shall consist of a minimum of six and a maximum of fifteen members. The number of substitute members shall not exceed the number of members. Each chamber shall have three or five members. It will sit in plenary session.
4. The chair, the vice-chair or vice-chairs, and the other members and substitute members, if any, shall be appointed by the board of the institution for a minimum term of three and a maximum term of five years or, insofar as students are concerned, for a minimum term of one year and a maximum term of two years. The members and substitute members shall not be associated with the board of the institution or the Inspectorate. Apart from the chair, at least half of the board shall be composed of teachers or members of the academic staff.
5. The chair and the vice-chair or vice-chairs shall meet the requirements for appointability as a judicial officer as referred to in Article 5 of the *Wet rechtspositie rechterlijke ambtenaren* [hereinafter referred to as *Judicial Officers (legal status) Act*].
6. Upon their own request, the members and substitute members of the appeals board shall be discharged. Upon reaching the age of seventy, they shall be discharged with effect from the next month. They shall be discharged if illness or failings

render them unfit for the performance of their duties, and in the event that they are convicted of a criminal offence by an irrevocable judicial sentence. Before being discharged pursuant to the provisions of the third sentence, the person involved shall be informed of the intention to discharge, and be afforded the opportunity to be heard in the matter.

Article 7.61. Competence of the examination appeals board

1. The examination appeals board shall be competent with respect to the following decisions:
  - a. decisions as referred to in Articles 7.8b, third and fifth paragraphs, and 7.9, first paragraph,
  - b. decisions regarding the passing of the final examination as referred to in Article 7.9d,
  - c. decisions, not involving decisions of general scope, taken pursuant to the provisions stipulated by or pursuant to Title 2 of this Chapter, with a view to admission to examinations,
  - d. decisions taken pursuant to the additional test referred to in Articles 7.25, fifth paragraph, and 7.28, fourth paragraph,
  - e. decisions by examining boards and examiners,
  - f. decisions by committees as referred to in Article 7.29, first paragraph, and
  - g. decisions taken pursuant to Article 7.30b with a view to admission to the programmes referred to in that Article.
2. Insofar as public authority institutions are concerned, an appeal may be lodged, in deviation from Chapter 7 of the General Administrative Law Act, against a decision held to be in breach of the law.
3. Before considering the appeal, the appeals board shall forward the notice of appeal to the body against which the appeal has been lodged, with the request to ascertain, in consultation with the persons involved, whether the dispute may be settled amicably, insofar as public authority institutions are concerned, in deviation from section 7.3 of the General Administrative Law Act. In the event of an appeal lodged against a decision by an examiner, the notice referred to in the previous sentence shall be forwarded to the examining board concerned. If the examiner against whom the appeal has been lodged sits on the examining board, he shall not participate in the deliberation. The body concerned shall inform the appeals board within three weeks of the outcome of the deliberation, under submission of the relevant documents. In the event that amicable settlement should prove not to be possible, the notice of appeal shall be considered by the board.
4. The appeals board shall decide within ten weeks, counting from the day following the final day of the term for submission of the notice of appeal, insofar as public authority institutions are concerned, in deviation from Article 7:24, second paragraph, of the General Administrative Law Act.

5. In the event that the appeals board deems the appeal valid, it shall nullify the decision in whole or in part. The board shall not be authorised to take a new decision in lieu of the decision nullified in whole or in part, insofar as public authority institutions are concerned, in deviation from Article 7:25 of the General Administrative Law Act. It may stipulate that another decision be taken in the matter or, in the event that the decision has been refused, that a decision be taken as yet, or that the interim examination, the examination, the admission test, the additional test or any component thereof shall be administered once more under conditions to be set by the appeals board. The body whose decision has been nullified shall reconsider the matter, insofar as necessary, in compliance with the judgement of the appeals board. The board may set a time limit in its judgement in this respect.
6. In the event that extreme urgency so requires, the chair of the appeals board may make a provisional provision upon request by the lodger of the appeal, without prejudice to the provisions of Article 7.66, second paragraph, and Article 8:81 of the General Administrative Law Act. The chair shall decide on such request after having heard or at least having summoned the body concerned or, as the case may be, the examiner concerned.

#### Article 7.62. Rules of procedure

1. The examination appeals board shall set down rules of procedure, comprising further rules regarding:
  - a. the size and composition of the appeals board,
  - b. if so required, the division into chambers and the division of tasks across the various chambers,
  - c. the term of office of the members and substitute members of the appeals board,
  - d. the manner in which membership or substitute membership of the appeals board is terminated,
  - e. the procedure referred to in Article 7.61, third paragraph, and the cases in which this procedure need not be followed,
  - f. the manner in which the secretariat of the appeals board shall be provided for, and
  - g. the manner in which the chair shall be replaced.
2. The rules of procedure and amendments thereto shall be subject to approval by the board of the institution.

#### Article 7.63. Duty to inform

The bodies and staff members, as well as the examiners of the institution shall provide the examination appeals board with the information this board deems necessary for the performance of its duties.



**Article 7.63a. Competence and composition of arbitration committee**

- 1.** Each higher education institution shall have an arbitration committee. Article 7:13, first up to and including sixth paragraphs, of the General Administrative Law Act shall apply mutatis mutandis to an arbitration committee. The members of the arbitration committee shall be functionally independent.
- 2.** The arbitration committee shall advise the board of the institution regarding external appeals pertaining to decisions or, as the case may be, failure to take such a decision pursuant to this Act and regulations based upon it, other than those referred to in Article 7.61.
- 3.** The arbitration committee shall verify whether an amicable settlement between parties is possible.
- 4.** In the event of extreme urgency, the chair of the arbitration committee may, if so requested, stipulate that the arbitration committee shall advise the board of the institution as soon as possible. The chair shall determine within a week of receipt whether the external appeal pertains to a matter of extreme urgency, and shall so inform the person involved and the board of the institution as soon as possible. The board of the institution shall subsequently, insofar as public authority institutions are concerned, in deviation from Article 7:10 of the General Administrative Law Act, take a decision within four weeks after receipt of the external appeal by the facility.

**Article 7.63b. Decision after external appeals**

- 1.** The board of the institution shall take a decision within ten weeks after receipt of the external appeal, without prejudice to the decisions taken pursuant to the procedure referred to in Article 7.63a, fourth paragraph. Insofar as the public authority institutions are concerned, the board of the institution shall take a decision in deviation from Article 7:10, third paragraph, of the General Administrative Law Act.
- 2.** Insofar as privately run institutions are concerned, Articles 7:11, 7:12 and 7:13, seventh paragraph, of the General Administrative Law Act shall apply mutatis mutandis.

**Article 7.64. Higher education appeals tribunal**

- 1.** There shall be a higher education appeals tribunal, established in The Hague.
- 2.** The appeals tribunal shall have a minimum of three and a maximum of seven members, one of whom shall be the chair. The tribunal shall have an equal number of substitute members.
- 3.** The appeals tribunal shall be supported by a secretary. Our Minister may assign civil servants to the secretary.
- 4.** The civil servants who work for the appeals tribunal shall fall under the authority of this tribunal and shall exclusively be accountable to this tribunal with respect to work activities.

5. The appeals tribunal shall sit in chambers. The appeals tribunal shall appoint one of the members as chair of a chamber.
6. The appeals tribunal shall set down rules of procedure for its work activities, which shall provide for, in any case:
  - a. the division into chambers,
  - b. the division of tasks across the various chambers, and
  - c. the manner in which the chair of the appeals tribunal and of a chamber shall be replaced.

#### Article 7.66. Competence and procedures of higher education appeals tribunal

1. The higher education appeals tribunal shall pass judgement on the appeal lodged by a person involved against a decision by a body of a higher education institution taken in his respect pursuant to this Act and the regulations based upon it. The judgements by the higher education appeals tribunal are not open to any further appeal.
2. Chapter 8 of the General Administrative Law Act shall apply *mutatis mutandis*, with the exception of Articles 8:1, 8:2, first paragraph, introduction, and under a, and 8:13.
3. The bodies of the institution shall provide the appeals tribunal with the information this tribunal deems necessary for the performance of its duties.

#### Article 7.67. Court fee

*The court fee is € 42. Article 8:41, paragraph five, of the General Administrative Law Act shall correspondingly apply.*

## Chapter 9

#### Article 9.3. Composition of the executive board; legal position of members

1. The executive board shall consist of a maximum of three members, one of whom shall be the rector magnificus of the university. Their appointment shall be aimed, as far as possible, at a balanced distribution of the seats between men and women.
2. Before proceeding to appoint or discharge a member of the executive board, the supervisory board shall hear, in a confidential manner, the university council or the employees council and the body within the university established pursuant to the participative arrangement referred to in Article 9.30, third paragraph, second sentence, regarding the intended decision to appoint or discharge. Title 2 of this Chapter shall not apply. The hearing shall take place at such a time as may have a material effect on the decision-making.
3. The chair of the executive board shall be appointed from among the members by the supervisory board.

4. The administrative and management regulations shall set further rules with respect to the manner of nomination and appointment of the rector magnificus.
5. A member of the executive board may be discharged prematurely for serious reasons.
6. A member of the executive board cannot also:
  - a. sit on the supervisory board of the university concerned,
  - b. serve as Dean of a faculty or sit on the board thereof, unless a university comprises but a single faculty,
  - c. sit on the board of a programme, insofar as such has been established in accordance with Article 9.17, or
  - d. sit on the supervisory board or the executive board of another university.
7. By or pursuant to an implementing regulation, further rules shall be set regarding the legal position of the chair and the other members of the executive board.
8. *In or by virtue of a general order in council, further regulations will be established regarding the legal position of the chair and other members of the Executive Board.*

#### Article 9.7. Composition of the supervisory board

1. The supervisory board shall consist of a minimum of three and a maximum of five members.
2. The chair and the other members shall be appointed, suspended and discharged by Our Minister. One of the members shall be appointed on the nomination of the university council or the employees council and the body established pursuant to the participative arrangement referred to in Article 9.30, third paragraph, second sentence. The nomination shall contain a minimum of two names. In the event that the candidates nominated are not appointed by Our Minister, a new nomination shall be submitted. Our Minister may deviate from the second nomination in a substantiated manner. The appointments shall be aimed, as far as possible, at a balanced distribution of the seats between men and women. Our Minister shall appoint a member who enjoys the particular confidence of the university council, or jointly enjoys the confidence of the employees council and the body established pursuant to the participative arrangement, referred to in Article 9.30, third paragraph, second sentence. The appointment shall be for a maximum term of office of four years.
3. A member may be discharged prematurely for serious reasons.
4. The composition, duties and powers of the supervisory board shall be such as to enable the board to exercise proper and independent supervision. The members of the supervisory board shall not have any direct interests in the university. The members of the board shall not also be associated with a Ministry or sit in the Senate or the House of Representatives. They shall sit in a personal capacity and perform

their duties without obligations or consultation. The members of the board shall be appointed on the basis of profiles made public beforehand.

5. The executive board shall provide in the functionally independent administrative support of the supervisory board. The supervisory board shall have the right of consent with respect to the appointment and discharge of the secretary to the board.
6. The members of the executive board shall attend the meetings of the supervisory board, unless the board stipulates otherwise. They shall act in a consultative capacity in this respect.
7. By or pursuant to an implementing regulation, rules shall be set down regarding compensations of the members of the supervisory board.

#### Article 9.8. Tasks of the supervisory board

1. The supervisory board shall, with a view to the tasks of the university, as referred to in Article 1.3, first paragraph, supervise the performance of duties and the exercise of powers by the executive board, and advise and assist this board. The supervisory board shall, in any case, be charged with:
  - a. appointing, suspending, discharging and setting the remuneration of the members of the executive board;
  - b. approval of the administrative and management regulations;
  - c. approval of the budget, the annual accounts, the annual report, and the strategic plan;
  - d. if applicable, approval of the joint arrangement, referred to in Article 8.1;
  - e. monitoring observance of statutory obligations, and of the sector code referred to in Article 2.9, by the executive board;
  - f. monitoring the legitimate acquisition, and the efficient and legitimate allocation and use of the resources attained pursuant to Articles 2.5 and 2.6;
  - g. appointing an auditor as referred to in Article 393, first paragraph, of Book 2 of the Dutch Civil Code, to report to the board;
  - h. monitoring the design of the quality assurance system in accordance with Article 1.18, and
  - i. giving account annually regarding the performance of the duties and the exercise of the powers, referred to under a up to and including h, in the annual report of the university.
2. At least twice a year, the supervisory board shall consult with the university council.

#### Article 9.13. Appointment and discharge of Dean

1. The Dean shall be appointed, suspended and discharged by the executive board. He shall be appointed for a term to be determined by the executive board.

2. Before proceeding to appoint or discharge the Dean, the executive board shall hear, in a confidential manner, the faculty council of the faculty concerned regarding the intended decision to appoint or discharge. Title 2 of this Chapter shall not apply. The hearing shall take place at such a time as may have a material effect on the decision-making.
3. The Dean may be suspended or discharged prematurely for serious reasons.
4. The Dean shall have the status of professor.
5. In the event that the faculty is led by a board as referred to in Article 9.12, second paragraph, the first, second and third paragraphs shall apply *mutatis mutandis*.
6. This Article shall not apply if the rector magnificus is also the Dean.

#### Article 9.17. Administration of programmes

1. The Dean shall provide for a joint board of each programme established within the faculty. In deviation from the first sentence, a programme director may suffice.
2. In the event that a joint board is provided for, a student shall sit on such a board.
3. The faculty regulations shall set further rules with respect to the administration of the programmes.
4. A member of the board of the programme cannot also sit on the programme committee of that programme.
5. For the purpose of this Article, a programme may be understood to include bachelor's programmes and one or more contiguous master's programmes.

#### Article 9.18. Programme committees

1. *For each educational programme or group of programmes, an educational program committee is established. The committee is in charge of providing advice regarding the amelioration and safeguarding of the quality of the educational programme. The committee will henceforth:*
  - a. *have consenting rights regarding the teaching- and examination regulations, as defined in article 7.13, with the exception of the topics listed in the second paragraph, under a, f, h up to u and x, and with the exception of the requirements as defined in the articles 7.28, fourth and fifth paragraph, and 7.30b, second paragraph,*
  - b. *have the duty to annually assess the method of executing the teaching and examination regulations,*
  - c. *have advisory rights regarding the teaching and examination regulations, as defined in article 7.13, with the exception of the topics with respect to which the committee has consenting rights pursuant to part a, and*
  - d. *have the duty to, upon request, or of its own accord, issue advice or proposals to the management of the programme, as defined in article 9.17, first paragraph, and*

*to the dean regarding all matters relating to the education of the programme in question.*

*The committee will send the advices and proposals, as defined under d, for the purpose of disclosure to the faculty council.*

- 2. Regarding the advice as defined in the first paragraph, article 9.35, preamble and parts b, c and d shall correspondingly apply.*
- 3. Provided that the committee submits a proposal as defined in the first paragraph, part d, to the management of the programme or the dean, the management or the dean shall respond within two months upon receiving the proposal.*
- 4. Article 9.31, third up to the eighth paragraph, shall correspondingly apply to the educational programme committee. In negotiations between the management of a programme or the dean and the faculty council, an amendment to the faculty regulations in the form of a different method of composition of the educational programme committee may be established as opposed to election. It is annually established whether implementing a different method of composition is desired.*
- 5. The educational programme committee is authorized to invite the management of the programme or the dean at least twice a year to discuss the proposed policy in accordance with an agenda set up by the committee.*
- 6. Provided that a faculty contains merely one programme, the faculty regulation may decide that the tasks and authorities of the educational programme committee will be exercised by the faculty council, as described in article 9.37.*

Article 9.30. Choice of participation systems

- 1.** The executive board shall decide whether:
  - a.** the Wet op de ondernemingsraden [hereinafter referred to as the Works Council Act], with the exception of Chapter VII b, shall apply to the university, or
  - b.** the Act referred to under a shall not apply to the university.
- 2.** A decision as referred to in the first paragraph may be taken time and time again, but no sooner than five years have elapsed since the previous decision to that effect has come into operation.
- 3.** The decision referred to in the first paragraph, introduction and sub-section a, shall render sections 1, 2 and 4 up to and including 6 of this Title inoperative for the university concerned. This decision shall be attended by the establishment by the executive board of a participative arrangement for the benefit of the students within the university and its faculties that shall be at least equivalent to the provisions of sections 1, 2, 4 and 5 of this Title.
- 4.** Subsequent to the decision referred to in the first paragraph, introduction and sub-section b, sections 1 up to and including 6 of this Title shall apply to the university concerned.

5. In the event of the application of the first paragraph, introduction and sub-section a, the executive board shall require prior consent of the employees council for the decision to be taken by the executive board with respect to the choice of participation systems, referred to in the first paragraph, and for the establishment of the participative arrangement, referred to in the third paragraph.
6. The participation structures to be set down in the participative arrangement shall be geared, to the maximum extent possible, to the organisational structure, decision-making procedures and division of responsibilities within the institution.

#### Article 9.30a. Power of consent of joint staff/student body

1. If a decision as referred to in Article 9.30, first paragraph, sub-section a, has been taken, a joint body shall be attached to a university. This body shall be composed of the members of the employees council and the members of the body established pursuant to the participative arrangement, referred to in Article 9.30, third paragraph, second sentence.
2. The executive board shall require prior consent of the joint body for each decision to be taken by the executive board with respect to the adoption or amendment of:
  - a. the strategic plan, referred to in Article 2.2,
  - b. the design of the quality assurance system in accordance with Article 1.18, first paragraph, and the intended policy in light of the outcomes of the quality assessment referred to in Article 2.9, second paragraph, second sentence, and
  - c. the administrative and management regulations, referred to in Article 9.4.
3. The executive board shall also require prior consent of the joint body with respect to the outlines of the annual budget, whereby, in any case, attention shall be paid to the envisaged distribution of resources across the policy fields of education, research, accommodation and management, investments, and staff. Article 9.36, second paragraph, shall apply *mutatis mutandis*.
4. The executive board shall set down, in compliance with the regulations by or pursuant to this Act, regulations for the joint body. Article 9.34, second paragraph, and third paragraph, introduction and sub-sections f, g and j1, shall apply *mutatis mutandis*. The regulations may provide for the matters with respect to which the joint body, without prejudice to the second paragraph, has the power of consent. In the event that the members of the employees council and the body referred to in the first paragraph are unequal in number, the regulations shall also set out the manner in which both bodies shall be able to exert equal influence on the decision-making within the joint body.
5. The joint body shall have the right to invite the executive board at least twice per annum to discuss the intended policy on the basis of an agenda to be drawn up by it.

## Article 9.31. University council

1. A university council shall be attached to a research university.
2. The council shall have a maximum of twenty-four members.
3. Half of the council shall be composed of members elected by and from among the staff, and the other half shall be composed of members elected by and from among the students.
4. Those who sit on the executive board or the supervisory board, or fulfil the position of Dean of a faculty, cannot also sit on the council.
5. Candidates for the election of the section of the council elected from among and by the staff may be nominated by staff members and by staff organisations.
6. The members of the council shall be elected by secret written ballot. A ballot for a section of the council shall only be taken in the event that the number of candidate members for such a section exceeds the number of seats allocated to that section.
7. The council shall draw up regulations for matters of an everyday nature, and shall also provide for the manner in which the resources made available by the executive board for that council, and faculty councils and committees, as referred to in Article 9.47, shall be distributed.
8. The council shall elect, whether or not from among its ranks, a chair and one or more deputy chairs. The chair, or in the event of his absence, a deputy chair, shall represent the council in legal proceedings

## Article 9.32. General powers and duties of the university council and the council members

1. At least twice per annum, the executive board shall afford the university council the opportunity to discuss the general course of affairs in the university with it. The executive board and the council shall meet if so requested, stating the reasons for doing so, by the executive board, the council, the section of the council elected from among and by the staff, or the section of the council elected from among and by the students.
2. The council shall be competent to submit proposals and present views to the executive board regarding all matters pertaining to the university. The executive board shall, within three months, submit a written, substantiated response to the council with respect to the proposals referred to in the first sentence, in the form of a proposal. Before proceeding to submit the response referred to in the previous sentence, the executive board shall afford the council at least one opportunity to consult with it regarding its proposal.
- 2a.** The council shall also be competent to invite the executive board, at least twice per



- annum, to discuss the intended policy on the basis of an agenda drawn up by it.
3. The council shall promote, to the best of its abilities, openness, transparency and mutual consultation in the university.
  4. The council shall, furthermore, generally guard against discrimination in the university on whatever grounds, and promote in particular equal treatment of men and women, as well as the involvement of disabled or chronically ill persons, and non-native persons. The council regulations, referred to in Article 9.34, set out whether the council shall possess an authority similar to the one referred to in Article 10, second paragraph, introduction and sub-section d, of the *Wet College voor de rechten van de mens* [hereinafter referred to as the National Human Rights Institute Act]. In such a case, Article 21, second paragraph, of the *Wet gelijke behandeling van mannen en vrouwen* [hereinafter referred to as the Equal Treatment of Men and Women Act] shall apply *mutatis mutandis* with respect to the distinction referred to in that Act or in Article 646 of Book 7 of the Dutch Civil Code.
  5. At the beginning of the academic year, the executive board shall provide the council, in writing, with the basic data regarding the composition of the executive board, the supervisory board, the organisation within the university and the main points of the policy already set down. At least once per annum, the executive board shall notify the council in writing of the policy it has pursued in the past year, and of the policy intentions for the following year with respect to the university in financial, organisational and educational terms. The executive board shall notify the council forthwith of intentions with respect to the matters outlined in the strategic plan.
  6. Without prejudice to the fifth paragraph, the executive board shall provide the council, upon request or of its own accord, in a timely manner, with all the information it reasonably requires for the performance of its duties. This shall include, in any case, the provision of data, at least once per annum, regarding the scope and contents of the arrangements and agreements concerning conditions of employment for each group of persons employed by the institution, the members of the executive board, and the supervisory board.
  7. In the event that during a particular meeting or part thereof a pre-eminently personal interest of one of the members of the council is at issue, the council may stipulate that the member involved shall not attend that meeting or that part of such a meeting. In such cases, the council shall additionally stipulate that the issue concerned will be dealt with in closed session.
  8. The council shall annually report on its activities in writing, and ensure that all those involved in the university may take note of the report. The council shall ensure that the agendas and reports of the council meetings are forwarded to the executive board, to the faculty councils and to the committees, if any, as referred to in Article 9.47, and shall be deposited at a generally accessible location in the university, for perusal by interested parties. At least once per annum, the council shall afford the

committees referred to in the previous sentence the opportunity to consult with it regarding matters that are of particular concern to the committee concerned.

9. The executive board shall ensure vis-à-vis the council that the members of the council are not prejudiced in their position with respect to the university by virtue of their seat on that council. The first sentence shall apply mutatis mutandis with respect to candidate members and former members.
10. The termination of office of an employee of the university, other than upon his own request, shall not bear any relation to that person's nomination for membership, membership, or former membership of the council. A termination of office in contravention of the provisions of this paragraph shall be void.

#### Article 9.33. Power of consent of the university council

The executive board shall require prior consent of the university council for each decision to be taken by the executive board with respect to, at least, the adoption or amendment of:

- a. the strategic plan, referred to in Article 2.2,
- b. the design of the quality assurance system in accordance with Article 1.18, first paragraph, and the intended policy in light of the outcomes of the quality assessment, referred to in Article 2.9, second paragraph, second sentence,
- c. the students' charter, referred to in Article 7.59,
- d. the administrative and management regulations, referred to in Article 9.4,
- e. rules pertaining to working conditions,
- f. the choice of participation systems, referred to in Article 9.30, first paragraph, and
- g. the policy pursued by the board of the institution upon application of Article 7.51, and the rules referred to in the fourth paragraph of that Article.

#### Article 9.33a. Advisory power of the university council; advisory power of the student body

1. The executive board shall request prior advice from the university council regarding each decision to be taken by the executive board, in any case with respect to:
  - a. matters concerning the continued existence and the proper course of affairs within the university,
  - b. the budget, from which shall be apparent, among other things, the amounts of the institutional tuition fee and of the tuition fee referred to in Article 6.7, first paragraph, and Article 6.8, first paragraph, respectively.
2. The executive board shall request prior advice from that section of the university council elected from among and by the students, regarding each decision to be taken by the executive board, in any case with respect to:
  - a. the general staff and appointment policy, unless Article 9.36, second paragraph, applies,

- b.** the policy with respect to the institutional tuition fee, referred to in Article 7.46, and the tuition fee, referred to in Article 6.7, first paragraph,
  - c.** the arrangement made by the board of the institution with respect to the refund of the statutory tuition fee, as referred to in Article 7.48, fourth paragraph,
  - d.** the arrangement set down by the board of the institution with respect to the selection criteria and the selection procedure referred to in Article 6.7a, first paragraph, under b, or, as the case may be, Articles 7.26, 7.26a and 7.53, third paragraph, and, insofar as the selection procedure is concerned, Article 7.30b, second paragraph,
  - e.** the arrangement set down by the board of the institution with respect to the criteria and the procedure for exemption from payment of the higher tuition fee, referred to in Article 6.7a, first paragraph, under c, and
  - f.** the rules set down by the board of the institution with respect to the selection referred to in Article 7.9b, first paragraph,
  - g.** the rules set down by the board of the institution with respect to the study choice recommendations and study choice activities, referred to in Article 7.31b, fourth paragraph.
- 3.** *The preamble of the first paragraph shall correspondingly apply to:*
- a. an intended decision of the Supervisory Board as defined in article 9.8, first paragraph, under a, with respect to the appointment or dismissal of the members of the Executive Board;*
  - b. an intended decision of the Supervisory Board as defined in article 9.3, third paragraph, and 9.7, fourth paragraph, with respect to the profiles for the appointment of the members of the executive board or the supervisory board.*

#### Article 9.34. Regulations pertaining to university council

- 1.** The executive board shall, in compliance with the regulations set down by or pursuant to this Title, set down regulations for the university council.
- 2.** The executive board shall submit the regulations, including any amendment thereto, as a proposal to the council, and shall not adopt the same until the proposal shall have won the approval of two thirds of the membership of the council.
- 3.** The regulations shall, at least, provide for:
  - a.** the matters with respect to which the council, without prejudice to Article 9.33, has power of consent,
  - b.** the matters with respect to which the council, without prejudice to Article 9.33a, has advisory power,
  - c.** the number of council members,
  - d.** the manner and organisation of the elections of the council members,
  - e.** the term of office of the council members,
  - f.** the manner in which the executive board shall provide information to the council,

- g. the timeframes within which a decision to approve or withhold consent shall be made, and the timeframes within which advice shall be issued,
  - h. the powers exercised by the faculty councils,
  - i. the assignment to that section of the council that has been elected from among and by the staff, of the powers pertaining to working conditions that have been assigned to the participation council by virtue of the Arbeidsomstandighedenwet [hereinafter referred to as the Working Conditions Act] and the implementing regulation pursuant to Article 16 of that Act,
  - j. the assignment to the council of a power similar to the one as referred to in Article 10, second paragraph, introduction and sub-section d, of the National Human Rights Institute Act, whereby Article 21, second paragraph, of the Equal Treatment of Men and Women Act shall apply *mutatis mutandis*,
  - j1. the manner of substantiation of the power assigned to the council in Article 9.32, paragraph 2a, including the minimum period of time for inviting the executive board,
  - k. the assignment to the council or the section of the council that is elected from among and by the staff, of the powers pertaining to the working conditions in the university, insofar as these do not concern decisions to be taken by the executive board, referred to in Article 9.33 sub- section e, and
  - l. which of the disputes between the executive board and the council, for which no arbitration procedure has been set out in this Act, shall be submitted to the arbitration board, referred to in Article 9.39, who may take up the matter, and whether the arbitration board shall be requested to arbitrate or judge in the matter, insofar as the arbitration board offers a possibility to that effect in its regulations.
4. The regulations may stipulate, if such is conducive to a proper application of this Title, that one or more groups of persons associated with the university other than by virtue of statutory appointment or pursuant to an employment contract, or, as the case may be, other than pursuant to enrolment as a student or external student, shall be considered as staff members or students, respectively.

#### Article 9.35. Advice

In the event that a decision to be taken pursuant to Article 9.33a of the university council regulations must be submitted to the council beforehand for advice, by virtue of Article 9.34, third paragraph, sub- section b, the executive board shall ensure that:

- a. the advice is requested at such a time as may have a material effect on the decision-making,
- b. the council shall be afforded the opportunity to consult with it prior to issuing advice,
- c. the council is informed in writing, as soon as possible, of the manner in which the advice issued is put into effect, and
- d. the council, in the event that the executive board does not wish to put all or part of the advice into effect, is afforded the opportunity to further consult with it before taking a final decision.

**Article 9.36. Specific powers**

- 1.** The executive board shall require prior consent of that part of the university council that is elected from among and by the staff, for each decision to be taken by the executive board with respect to matters of general interest for the specific legal status of the university staff.
- 2.** The power of consent in matters as referred to in the first paragraph shall not be exercised insofar as the matter concerned has already been provided for, in terms of content, with respect to the university in a regulation issued by or pursuant to the law or a collective labour agreement. The power of consent shall neither be exercised insofar as the participation in decision-making with respect to the matter concerned has already been effected in another manner.

**Article 9.37. Faculty council**

- 1.** In the event that a university comprises more than one faculty, a faculty council shall be attached to each faculty.
- 2.** The faculty council shall exercise towards the Dean of the faculty the power of consent and the advisory power as assigned to the university council, insofar as matters are involved that are of particular concern to the faculty, and the powers concerned have also been assigned to the Dean.
- 3.** Article 9.31, second up to and including sixth paragraphs, shall apply *mutatis mutandis*.
- 4.** In the event that a university comprises but a single faculty, the duties and powers of the faculty council shall be performed and exercised by the university council.
- 5.** The staff delegation of the faculty council shall exercise towards the Dean of the faculty the rights referred to in Article 9.50, insofar as matters are involved that are of particular concern to the faculty, and the powers concerned have also been assigned to the Dean.

**Article 9.38. Power of consent of the faculty council**

The Dean shall require prior consent of the faculty council for each decision to be taken by him with respect to, at least, the adoption or amendment of:

- a.** the faculty regulations, referred to in Article 9.14, and
- b.** the teaching and examination regulations, referred to in Article 7.13, with the exception of the topics listed in the second paragraph, under a up to and including g, and v, and with the exception of the requirements referred to in Articles 7.28, fourth and fifth paragraphs, and 7.30b, second paragraph.

**Article 9.38b. Faculty regulations**

The faculty regulations shall provide for, at least, the topics listed in Article 9.34, third paragraph, sub- sections c, d and e.

**Article 9.39. Participation arbitration board**

1. There shall be a higher education participation arbitration board composed of three members, one of whom shall be the chair, and three substitute members.
2. Our Minister shall appoint the members and substitute members for a term of four years. They shall be eligible for reappointment once.
3. The joint institutions and representatives of the participation bodies shall each nominate a member and a substitute member for the appointment referred to in the second paragraph. These two members shall nominate a third member, who will be the chair, and his deputy.
4. The members shall act without instructions or consultation.

**Article 9.40. Powers of participation arbitration board and procedure**

1. The arbitration board referred to in Article 9.39 shall take note of disputes between a participation body and the executive board or the Dean regarding:
  - a. the establishment, amendment or application of the participation regulations, referred to in Article 9.34, and
  - b. disputes arising from Articles 9.30a, 9.32 up to and including 9.36, 9.38, and 9.38a.
2. In the event of a dispute between the body established pursuant to the participative arrangement, referred to in Article 9.30, third paragraph, second sentence, the university council or the faculty council, and the person who or the body that has power of decision, the executive board shall investigate whether an amicable settlement between the parties is possible. If the executive board is the body that has power of decision, the supervisory board shall investigate whether an amicable settlement is possible. Should such prove not to be possible, the participation body referred to in the first sentence, or the person who or the body concerned that has power of decision shall submit the dispute to the arbitration board.
3. In the event of a dispute that pertains to the failure to put all or part of the advice of a participation body into effect, the implementation of the decision shall be suspended for four weeks, unless the body concerned has no objections to an immediate implementation of the decision.
4. The arbitration board shall be competent to effect an amicable settlement between the parties. If an amicable settlement is not attained, the arbitration board shall settle a dispute submitted to it by binding decision, whereby it shall assess whether:
  - a. the executive board or the Dean has observed the requirements of the law and the regulations referred to in Article 9.34,

- b.** the executive board or the Dean, upon consideration of the interests involved, have reasonably been able to reach the proposal or the decision, and
  - c.** the executive board or the Dean has acted in a negligent manner vis-à-vis the participation body concerned.
- 5.** In the event that the executive board or the Dean has not obtained approval from the participation body for the intended decision, it may request permission from the arbitration board, in deviation from the fourth paragraph, to take the decision. The arbitration board shall only grant permission in the event that the decision of the participation body to withhold consent is unreasonable or in the event that the intended decision by the executive board or the Dean is necessitated by weighty, organisational, economic or social reasons. Insofar as a dispute involves the outlines of the budget and the arbitration board has not granted the executive board permission to take a decision before 1 January of the year to which the budget pertains, the executive board may avail itself, to cover expenses in that year, of a maximum of four twelfths of the amounts featured in corresponding sections of the budget for the preceding year, until the arbitration board has taken a decision regarding the granting of permission.
  - 6.** If decisions are concerned as referred to in Articles 9.30a, second and third paragraphs, or 9.33, first paragraph, under a, b, d, and second paragraph, the arbitration board shall, in deviation from the fifth paragraph, second sentence, assess whether the executive board or another body has reasonably been able to reach the decision upon weighing the interests involved.
  - 7.** The participation body may, insofar as the submission of a dispute is concerned, take over the advisory powers of the programme committee, insofar as such is in keeping with the advice from the programme committee.

#### Article 9.46. Legal standing of participation bodies

- 1.** A decision from the arbitration board shall be open to appeal with the Enterprise Division of the Amsterdam court. The first sentence shall not apply with respect to Article 9.40, seventh paragraph.
- 2.** A participation body may be a party in legal proceedings, if the appeal seeks fulfilment by the executive board or the Dean of the obligations vis-à-vis the participation body.
- 3.** The appeal shall be lodged by notice of appeal within a month from the date of the decision by the arbitration board. The opposing party shall be notified of the appeal.
- 4.** An appeal may only be lodged on the ground of erroneous application of the law by the arbitration board.
- 5.** Decisions by the Enterprise Division shall not be open to appeals with the court of cassation.

6. In deviation from Article 237 of the Wetboek van Burgerlijke Rechtsvordering [Code of Civil Procedure], the participation body may not be condemned to pay costs.

#### Article 9.47. Committees

1. The executive board shall afford the staff and the students the opportunity to, if so desired, establish a staff committee or separate committees, respectively, for specific staff categories or staff groups, and a student committee. Such a committee shall be competent to issue advice, whether solicited or of its own accord, to the university council regarding matters of particular concern to the committee involved.
2. If so requested by a committee, the university council shall notify the executive board of a written advice as referred to in the first paragraph. Article 9.32, second paragraph, third sentence, shall apply mutatis mutandis with respect to such a written advice.

#### Article 9.48. Facilities and training

1. The executive board shall permit the university council the use of the facilities it has at its disposal, and that the council reasonably requires for the performance of its duties.
2. The executive board shall afford the members of the university council the opportunity to receive, for a period of time to be jointly determined by the executive board and the council, the training the council members require for the performance of their duties. The university staff shall be afforded the opportunity to receive such training during office hours and on full pay.
3. This Article shall apply mutatis mutandis to the faculty councils and programme committees, on the understanding that the Dean shall take the place of the executive board.

## Chapter 10

#### Article 10.2. Executive board

1. The executive board shall be composed of a maximum of three members, one of whom shall act as chair. Their appointment shall be aimed, as far as possible, at a balanced distribution of the seats between men and women.
2. A member of the executive board cannot also sit on the executive board of another university of applied sciences.
3. Article 9.3, second paragraph, shall apply mutatis mutandis.

#### Article 10.3b. Administrative and management regulations

1. The executive board shall set down administrative and management regulations to provide for the administration, management and organisation of the university of applied sciences.



2. The administrative and management regulations shall set out rules regarding the establishment of the teaching and examination regulations, referred to in Article 7.13. These rules shall, in any case, pertain to the designation of the body ratifying the teaching and examination regulations.
3. In the event that the university of applied sciences comprises faculties or other organisational units, the administrative and management regulations shall additionally set out:
  - a. which faculties or units there are and which programmes have been established therein,
  - b. which powers the executive board has devolved to the faculty board or the board of the unit concerned,
  - c. the composition and working methods of the faculty board or the board of the unit concerned, and
  - d. the relation of the faculty board or the board of the unit concerned to the executive board.
4. *Provided that the university of applied sciences includes a faculty or other organizational units and that at the head of this faculty or organizational unit a joint management is seated, a student of the faculty or organizational unit in question will be enabled to attend the meetings of this management in which this student has an advisory role. In the management and administrative regulations, it is established by which method the in the previous sentence mentioned student will be appointed.*

#### Article 10.3c. Programme committees

1. A programme committee shall be established for each programme or cluster of programmes, subject to the provisions of the fourth paragraph. The committee shall be tasked with:
  - a. advising on the teaching and examination regulations before the regulations are ratified by the board of the institution,
  - b. annually assessing the manner of enforcement of the teaching and examination regulations, and
  - c. advising, upon request or of its own accord, the sub-council referred to in Article 10.25, and the faculty board or the board of the organisational unit concerned, or, in the event that the university of applied sciences does not comprise any faculties, the board of the institution, regarding all other educational matters of the programme concerned.

The committee shall forward the advice referred to under a and c, to the participation council or the appropriate sub-council for information.

2. Insofar as the advice of the committee concerned is not followed in the establishment, further arrangement or implementation of the teaching and examination regulations, the decision to that effect shall be substantiated.

3. The administrative regulations shall set rules of a procedural nature with respect to the application of the first paragraph, and set out the manner of appointment and composition of the committee, on the understanding that students enrolled in the programme shall account for half of the membership of the committee.
4. In the event that a faculty or other organisational unit comprises but a single programme, the administrative regulations may stipulate that the duties and powers of the programme committee shall be performed and exercised by the sub-council, referred to in Article 10.25.
5. *The educational programme committee is authorized to invite the executive board at least twice per annum to discuss the intended policy on the basis of an agenda to be drawn up by it.*
6. *Provided that the faculty encompasses merely one programme, the faculty regulation may decide that the tasks and authorities of the educational programme committee will be exercised by the sub council, as defined in article 10.25.*

Article 10.3d. Separation of administration and supervision

1. A university of applied sciences shall have a supervisory board.
2. The supervisory board shall, with a view to the duties of the university of applied sciences, referred to in Article 1.3, second paragraph, supervise the performance of tasks and the exercise of powers by the executive board, and advise and assist the latter. The supervisory board shall, in any case, be charged with:
  - a. appointing, suspending, discharging and setting the remuneration of the members of the executive board;
  - b. approval of the administrative and management regulations;
  - c. approval of the budget, the annual accounts, the annual report, and the strategic plan;
  - d. if applicable, approval of the joint arrangement, referred to in Article 8.1;
  - e. monitoring observance of statutory obligations, and of the sector code referred to in Article 2.9, by the executive board;
  - f. monitoring the legitimate acquisition, and the efficient and legitimate allocation and use of the resources of the university of applied sciences attained pursuant to Articles 2.5 and 2.6;
  - g. appointing an auditor as referred to in Article 393, first paragraph, of Book 2 of the Dutch Civil Code, to report to the board;
  - h. monitoring the design of the quality assurance system in accordance with Article 1.18, and
  - i. giving account annually regarding the performance of the duties and the exercise of the powers, referred to under a up to and including h, in the annual report of the university of applied sciences.
3. The executive board shall provide functionally independent administrative support

to the supervisory board. The supervisory board shall have power of consent with respect to the appointment and discharge of the secretary to the supervisory board.

4. The composition, duties and powers of the supervisory board shall be such as to enable the board to exercise proper and independent supervision. The members of the supervisory board shall have no direct interests in the university of applied sciences. They shall sit in a personal capacity and perform their duties without instructions or consultation. The members of the board shall be appointed on the basis of profiles made public beforehand. One of the members shall be appointed on the recommendation of the participation council, or the employees council, and the body that has been established pursuant to the participative arrangement, referred to in Article 10.16a, third paragraph, second sentence. The recommendation shall contain a minimum of two names.
5. The participation council or the employees council and the body within the university of applied sciences that has been established pursuant to the participative arrangement, referred to in Article 10.16a, third paragraph, second sentence, shall be afforded the opportunity to advise the supervisory board regarding the profiles referred to in the fourth paragraph.
6. At least twice a year, the supervisory board shall consult with the participation council or the employees council and the body within the institution that has been established pursuant to the participative arrangement, referred to in Article 10.16a, third paragraph, second sentence.
7. In the event that the executive board deems such desirable with a view to the ideological nature of the university of applied sciences, the university of applied sciences may, in deviation from the first paragraph, introduce a functional separation between administration and supervision

#### Article 10.16a. Choice of participation systems

1. The executive board shall decide whether:
  - a. the Works Council Act, with the exception of Chapter VII b, shall apply to the university of applied sciences, or
  - b. the Act referred to under a shall not apply to the university of applied sciences.
2. A decision as referred to in the first paragraph may be taken time and time again, but no sooner than five years have elapsed since the previous decision to that effect has come into operation.
3. The decision referred to in the first paragraph, introduction and sub-section a, shall render Articles 10.17 up to and including 10.25 inoperative for the university of applied sciences concerned. This decision shall be attended by the establishment by the executive board of a participative arrangement for the benefit of the students within the university of applied sciences that shall be at least equivalent to the provisions of Articles 10.17 up to and including 10.25.

4. Subsequent to the decision referred to in the first paragraph, introduction and sub-section b, this Title shall apply to the university of applied sciences concerned.
5. In the event of the application of the first paragraph, introduction and sub-section a, the executive board shall require prior consent of the employees council for the decision to be taken by the executive board with respect to the choice of participation systems, referred to in the first paragraph, and for the establishment of the participative arrangement, referred to in the third paragraph.
6. The participation structures to be set down in the participative arrangement shall be geared, to the maximum extent possible, to the organisational structure, decision-making procedures and division of responsibilities within the institution.

Article 10.16b. Power of consent of joint staff/student body

1. If a decision as referred to in Article 10.16a, first paragraph, introduction and sub-section a, has been taken, a joint body shall be attached to a university of applied sciences. This body shall be composed of the members of the employees council and the members of the body established pursuant to the participative arrangement, referred to in Article 10.16a, third paragraph, second sentence.
2. The executive board shall require prior consent of the joint body for each decision to be taken by it with respect to the adoption or amendment of:
  - a. the strategic plan, referred to in Article 2.2,
  - b. the design of the quality assurance system in accordance with Article 1.18, first paragraph, and the intended policy in light of the outcomes of the quality assessment, referred to in Article 2.9, second paragraph, second sentence,
  - c. the administrative and management regulations, referred to in Article 10.3b, and
  - d. the teaching and examination regulations, referred to in Article 7.13, with the exception of the second paragraph, sub-sections a up to and including g, of that Article.
3. The executive board shall set down, in compliance with the regulations by or pursuant to this Act, regulations for the joint body. Articles 10.21, second paragraph, and 10.22, introduction and sub-sections f, g and j1, shall apply *mutatis mutandis*. The regulations may provide for the matters with respect to which the joint body, without prejudice to the second and third paragraphs, has power of consent. In the event that the members of the employees council and the body referred to in the first paragraph are unequal in number, the regulations shall also set out the manner in which both bodies shall be able to exert equal influence on the decision-making within the joint body.
4. The joint body shall have the right to invite the executive board at least twice per annum to discuss the intended policy on the basis of an agenda to be drawn up by it.

5. The executive board shall also require prior consent of the joint body for a decision to amalgamate as referred to in Article 16.16.
6. The executive board shall afford the joint body, in a timely manner, prior to the request for consent referred to in the sixth paragraph, the opportunity to take note of the amalgamation impact report, referred to in Article 16.16a, sixth paragraph.

#### Article 10.17. Participation council

1. A participation council shall be attached to each university of applied sciences. In the event that a university of applied sciences comprises one or more faculties or other organisational units, a sub-council as referred to in Article 10.25 shall be attached to each faculty and each of the units concerned.
2. The membership of the council shall amount to no more than ten members for a university of applied sciences with up to 750 students, no more than fourteen members for a university of applied sciences with 750 to 1250 students, and no more than twenty-four members for a university of applied sciences with 1250 or more students.
3. Half of the council shall be composed of members elected by and from among the staff, and the other half shall be composed of members elected by and from among the students.
4. Those who sit on the board of the institution, the executive board, the governing council, the central management board or the board of a faculty or another organisational unit may not also sit on the participation council.
5. Candidates for the election of the section of the council elected from among and by the staff may be nominated by staff members and by staff organisations.
6. The members of the council shall be elected by secret written ballot. A ballot for a section of the council shall only be taken in the event that the number of candidate members for such a section exceeds the number of seats allocated to that section.
7. The council shall draw up regulations for matters of an everyday nature, and shall also provide for the manner in which the sums paid by the board of the institution for the benefit of the council, and the sub-councils if any, and committees as referred to in Article 10.34, shall be distributed.
8. For the purpose of the first paragraph, the AD programme may be regarded as an organisational unit to which a sub-council as referred to in Article 10.25 is attached. In the event that a component of the AD programme is administered by an institution as referred to in Article 1.1.1, sub-section b, of the Adult and Vocational Education Act, the staff of that institution shall be regarded as staff of the university of applied sciences for the purpose of the third and fifth paragraphs.

Article 10.19. General powers and duties of the participation council and council members

1. At least twice per annum, the executive board shall afford the participation council the opportunity to discuss the general course of affairs in the university of applied sciences with it. The executive board and the council shall meet if so requested, stating the reasons for doing so, by the executive board, the council or the section of the council elected from among and by the staff, or the section of the council elected from among and by the students.
2. The council shall be competent to submit proposals and present views to the executive board regarding all matters pertaining to the university of applied sciences. The executive board shall, within three months, submit a written, substantiated response to the council with respect to the proposals referred to in the first sentence, in the form of a proposal. Before proceeding to submit the response referred to in the previous sentence, the executive board shall afford the council at least one opportunity to consult with it regarding its proposal.
- 2a. The council shall also be competent to invite the executive board, at least twice per annum, to discuss the intended policy on the basis of an agenda drawn up by it.
3. The council shall promote, to the best of its abilities, openness, transparency and mutual consultation in the university of applied sciences.
4. The council shall, furthermore, generally guard against discrimination in the university of applied sciences on whatever grounds, and promote in particular equal treatment of men and women, as well as the involvement of disabled or chronically ill persons, and non-native persons. The participation regulations set out whether the council shall possess an authority similar to the one referred to in Article 10, second paragraph, introduction and sub-section d, of the National Human Rights Institute Act. In such a case, Article 21, second paragraph, of the Equal Treatment of Men and Women Act shall apply mutatis mutandis with respect to the distinction referred to in that Act or in Article 646 of Book 7 of the Dutch Civil Code
5. At the beginning of the academic year, the executive board shall provide the council, in writing, with the basic data regarding the composition of the executive board or the central management board, the organisation within the university of applied sciences, the division of tasks between the executive board and the central management board, and the main points of the policy already set down. At least once per annum, the executive board shall notify the council in writing of the policy it has pursued in the past year, and of the policy intentions for the following year with respect to the university of applied sciences in financial, organisational and educational terms. The executive board shall notify the participation council forthwith of its intentions with respect to the matters outlined in the plan referred to in Article 10.20, under a.
6. Without prejudice to the fifth paragraph, the executive board shall provide the council, upon request or of its own accord, in a timely manner, with all the information

it reasonably requires for the performance of its duties. This shall include, in any case, the provision of data, at least once per annum, regarding the scope and contents of the arrangements and agreements concerning conditions of employment for each group of persons employed by the institution, the members of the executive board, and the supervisory board.

7. In the event that during a particular meeting or part thereof a pre-eminently personal interest of one of the members of the council is at issue, the council may stipulate that the member involved shall not attend that meeting or that part of such a meeting. In such cases, the council shall additionally stipulate that the issue concerned will be dealt with in closed session.
8. The council shall annually report on its activities in writing, and ensure that all those involved in the university of applied sciences may take note of the report. The council shall ensure that the agendas and reports of the council meetings are forwarded to the executive board, to the sub- councils, to the committees, if any, and to the joint participation council, if any, and shall be deposited at a generally accessible location in the university of applied sciences for the benefit of interested parties. At least once per annum, the council shall afford the committees referred to in the previous sentence the opportunity to consult with it regarding matters that are of particular concern to the committee concerned.
9. The executive board shall ensure vis-à-vis the participation council that the members of the council are not prejudiced in their position with respect to the university of applied sciences by virtue of their seat on that council. The first sentence shall apply mutatis mutandis with respect to candidate members and former members.
10. The termination of office of an employee of the university of applied sciences, other than upon his own request, shall not bear any relation to that person's nomination for membership, membership, or former membership of the council. A termination of office in contravention of the provisions of this paragraph shall be void.

#### Article 10.20. Power of consent of the participation council

1. The executive board shall require prior consent of the participation council for each decision to be taken by the executive board with respect to, at least, the adoption or amendment of:
  - a. the strategic plan,
  - b. the design of the quality assurance system in accordance with Article 1.18, first paragraph, and the intended policy in light of the outcomes of the quality assessment, referred to in Article 2.9, second paragraph, second sentence,
  - c. the students' charter,
  - d. the administrative regulations, and, if Article 10.8a is applicable, the relevant part of the articles of association,
  - e. the teaching and examination regulations, referred to in Article 7.13, with the exception of the topics listed in the second paragraph, under a up to and

- including g, and w, and the third paragraph,
  - f. rules pertaining to working conditions,
  - g. the choice of participation systems, referred to in Article 10.16a, first paragraph,
  - h. the policy pursued by the board of the institution upon application of Article 7.51, and the rules referred to in the fourth paragraph of that Article, and
  - i. a decision to amalgamate, as referred to in Article 16.16.
2. The executive board shall afford the participation council, in a timely manner, prior to the request for consent to a decision to amalgamate as referred to in the first paragraph, sub-section i, the opportunity to take note of the amalgamation impact report referred to in Article 16.16a, fourth paragraph.

Article 10.20a. Advisory power of the participation council; advisory power of the students

1. The executive board shall request, without prejudice to the provisions of Article 10.20, advice from the participation council prior to each decision to be taken by the executive board, in any case with respect to:
- a. matters concerning the aims, the continued existence, and the proper course of affairs within the university of applied sciences, including an institutional amalgamation as referred to in Article 16.16, first paragraph, and an administrative amalgamation as referred to in Article 16.16, second paragraph,
  - b. the budget, from which shall be apparent, among other things, the amounts of the institutional tuition fee and of the tuition fee referred to in Article 6.7, first paragraph, and Article 6.8, first paragraph, respectively.
2. The executive board shall request advice from that section of the participation council that has been elected from among and by the students, prior to each decision to be taken by the executive board, in any case with respect to:
- a. the general staffs and appointment policy, unless Article 10.24, second paragraph, applies,
  - b. the policy with respect to the institutional tuition fee, referred to in Article 7.46, and the tuition fee, referred to in Article 6.7, first paragraph,
  - c. the arrangement made by the board of the institution with respect to the refund of the statutory tuition fee, referred to in Article 7.48, fourth paragraph,
  - d. the arrangement set down by the board of the institution with respect to the selection criteria and the selection procedure referred to in Article 6.7a, first paragraph, under b, or, as the case may be, Articles 7.26, 7.26a and 7.53, third paragraph, and, insofar as the selection procedure is concerned, Article 7.30b, second paragraph,
  - e. the arrangement set down by the board of the institution with respect to the criteria and the procedure for exemption from payment of the higher tuition fee, referred to in Article 6.7a, first paragraph, under c, and
  - f. the rules set down by the board of the institution with respect to the selection, referred to in Article 7.9b, first paragraph,
  - g. the rules set down by the board of the institution with respect to the study



choice recommendations and study choice activities, referred to in Article 7.31b, fourth paragraph.

3. The introduction of the first and second paragraphs shall apply *mutatis mutandis* with respect to an intended decision by the supervisory board:
  - a. *with respect to the profiles referred to in Article 10.3d, fourth paragraph.*
  - b. *With respect to the profiles referred to in Article 10.2, third paragraph, in conjunction with article 9.3, second paragraph, and*
  - c. *As referred to in article 10.3d, second paragraph, with respect to the appointment or dismissal of members of the executive board.*

#### Article 10.21. Participation regulations

1. The executive board shall set down, in compliance with the regulations stipulated by or pursuant to this Title, participation regulations for the university of applied sciences.
2. The executive board shall submit the regulations, including any amendment thereto, as a proposal to the participation council, and shall not adopt the same until the proposal shall have won the approval of two thirds of the membership of the council.

#### Article 10.22. Contents of the participation regulations

The participation regulations shall, at least, provide for:

- c. the matters with respect to which the participation council, without prejudice to Article 10.20, has power of consent,
- d. the matters with respect to which the participation council, without prejudice to Article 10.20a, has advisory power,
- e. the number of members of the participation council,
- f. the manner and organisation of the elections of the council members,
- g. the term of office of the council members,
- h. the manner in which the board of the institution shall provide information to the council,
- i. the timeframes within which a decision to approve or withhold consent shall be made, and the timeframes within which advice shall be issued,
- j. the powers exercised by the sub-councils,
- k. the assignment to that section of the council that has been elected from among and by the staff, of the powers pertaining to working conditions that have been

assigned to the participation council by virtue of the Working Conditions Act and the implementing regulation pursuant to Article 16 of that Act,

- l. the assignment to the council of a power similar to the one as referred to in Article 10, second paragraph, introduction and sub-section d, of the National Human Rights Institute Act, whereby Article 21, second paragraph, of the Equal Treatment of Men and Women Act shall apply *mutatis mutandis*,
- j1.** the manner of substantiation of the power assigned to the council in Article 10.19, paragraph 2a, including the minimum period of time for inviting the executive board,
- m. the assignment to the council or the section of the council that is elected from among and by the staff, of the powers pertaining to the working conditions in the university of applied sciences, insofar as these do not concern decisions to be taken by the board of the institution, referred to in Article 10.20, under f, and
- n. which of the disputes between the board of the institution and the council, for which no arbitration procedure has been set out in this Act, shall be submitted to the arbitration board with which the university of applied sciences is affiliated, who may take up the matter, and whether the arbitration board shall be requested to arbitrate or judge in the matter, insofar as the arbitration board with which the university of applied sciences is affiliated offers a possibility to that effect in its regulations.

#### Article 10.23. Advice

In the event that a decision to be taken pursuant to the provisions of the participation regulations must be submitted to the participation council beforehand for advice, by virtue of Article 10.22, under b, the board of the institution shall ensure that:

- a. the advice is requested at such a time as may have a material effect on the decision-making,
- b. the council shall be afforded the opportunity to consult with it prior to issuing advice,
- c. the council is informed in writing, as soon as possible, of the manner in which the advice issued is put into effect, and
- d. the council, in the event that the board of the institution does not wish to put all or part of the advice into effect, is afforded the opportunity to further consult with it before taking a final decision.

#### Article 10.24. Specific powers

- 1.** The board of the institution shall require prior consent of the part of the participation council that is elected from among and by the staff, for each decision to be taken by the board of the institution with respect to matters of general interest for the specific legal status of the staff of the university of applied sciences.

2. The power of consent in matters as referred to in the first paragraph shall not be exercised insofar as the matter concerned has already been provided for, in terms of content, with respect to the university of applied sciences in a regulation issued by or pursuant to the law, or by or pursuant to a collective labour agreement.
3. Before proceeding to appoint or discharge a member of the board of the institution, the participation council, or the body within the university of applied sciences designated for that purpose pursuant to the participative arrangement, referred to in Article 10.16a, third paragraph, second sentence, shall be heard in a confidential manner regarding the intended decision to appoint or discharge. The hearing shall take place at such a time as may have a material effect on the decision-making.

#### Article 10.25. Sub-councils

1. A sub-council shall exercise, vis-à-vis the board of a faculty or another organisational unit, the power of consent and the advisory power assigned to the participation council, insofar as matters are involved that are of particular concern to that section of the university of applied sciences, and the powers concerned have also been assigned to the board of that faculty or other organisational unit.
2. Article 10.17, second up to and including seventh paragraphs, shall apply mutatis mutandis.

#### Article 10.26. Mutatis mutandis application of stipulations by the participation arbitration board

1. The participation arbitration board, referred to in Article 9.39, shall be competent with respect to disputes within the universities of applied sciences.
2. Articles 9.39, 9.40, and 9.46 shall apply mutatis mutandis to the universities of applied sciences, on the understanding that therein «participation body» shall be understood to mean:
  - a. the joint body,
  - b. the employees council,
  - c. the body established pursuant to the participative arrangement, referred to in Article 10.16a, third paragraph, second sentence,
  - d. the participation council, or
  - e. the sub-council, referred to in Article 10.25.
  - f. the educational programme committee.

#### Article 10.34. Committees

1. The board of the institution shall afford the staff and the students the opportunity to, if so desired, establish a staff committee or separate committees for individual staff categories or staff groups, and a student committee, respectively. Such a committee shall be competent to issue advice, upon request or of its own accord, to the participation council regarding matters that are of particular concern to the

committee involved.

2. If so requested by a committee, the participation council shall inform the board of the institution of a written advice as referred to in the first paragraph. Article 10.19, second paragraph, third sentence, shall apply *mutatis mutandis* with respect to such a written advice.

#### Article 10.39. Facilities and training

1. The board of the institution shall permit the participation council the use of the facilities it has at its disposal, and that the council reasonably requires for the performance of its duties. The board of the institution shall afford the participation council the opportunity to meet during working hours whenever possible.
2. The board of the institution shall afford the members of the participation council the opportunity to receive, for a period of time to be jointly determined by the board of the institution and the council, the training that the council members require for the performance of their duties. The staff of the university of applied sciences shall be afforded the opportunity to receive such training during office hours and on full pay.
3. The first and second paragraphs shall apply *mutatis mutandis* to sub-councils and programme committees.

# AppEndIx III. woRKs CounCI ACt

## Introduction

The Executive Board (Dutch acronym: CvB) may decide to extend the Works Council Act (WCA, Dutch acronym: WOR) to the institution (wo: **article 9.30 paragraph 1 sub a**, hbo: **article 10.16a paragraph 1 sub a**). This implies that there will be a works council (Dutch acronym: OR) at a centralized as well as decentralized level. This appendix offers a global overview of the organization, functioning and authorities of an OR, specifically focused on the central level. Especially student councils will have to deal with an OR, but this appendix may also prove to be interesting to members of an undivided council.

## Organization of the participation via the WCA

According to the WCA, various participation bodies can be instituted. The core body is the works council. Apart from that there may be, dependent on the structure of the 'corporation', different bodies, such as a group works council, central work council and subcommittees. For the WCA it too applies that participation follows control. Therefore, make sure that when the administrative responsibilities are transferred to a certain administrative body, a participation body is included.

Normally, an institution with a divided structure shall decide to institute the works council at a central level. The works council is ought to compose a regulation (**article 8**) in which it may decide that faculties will be ascribed a subcommittee of the works council. The Executive Board should consent to this, however, but the final decision is in the hands of the works council. A subcommittee works under the responsibility of the works council and may exercise derived powers. Additionally, the works council may transfer authorities that encompass negotiations with managers. Often, several members of the council are added to subcommittees. The remaining members are chosen from the pool of staff of that part of the institution.

The works council may also institute committees (chapter VII of the Works Councils Act) that serve as a means of preparation for certain matters. For instance a reorganization committee or a committee for education & research.

In case one works council is operative per faculty or service, new subcommittees can be founded for well distinguishable components within the faculty or service. Members of the central works council are chosen via indirect elections from the pool of members of works councils.

The organization chart assumes a works council at central level with subcommittees

operative at faculties and services. The employer as described in the WCA is replaced by the Executive Board.

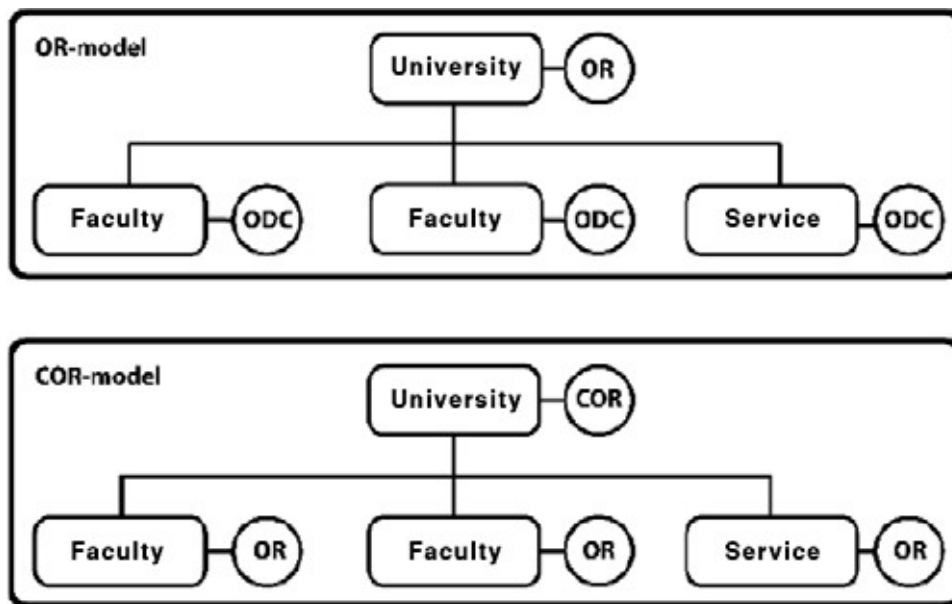


Image 3: How a works council functions

OR = Works council

ODC = Centralised works council

COR = Sub council

## Conciliation meeting works council board

The works council and the management meet within two weeks following a request from either party to do so. This meeting will cover topics that the council or the management wants to discuss or that need to be discussed according to the WCA. One member of the board will discuss with the council. These conciliation meetings will take place at least twice a year and discuss the general course of affairs.

The conciliation meetings should adhere to the rules that are established in the regulations of the works council regarding the meetings. The council and the board will jointly make agreements regarding the order, planning and reporting of the meeting. During the meetings, both the board and the council are allowed to make decisions. Please note that decision-making is an option, but that these meetings are not technically meant for decision-making. A works council is ought never to feel obligated to partake in decision-making at such a meeting!

## Provisions

The management is required to enable the council to utilize the provisions that the council needs for an adequate execution of its tasks (**article 17**). Under this heading, agreements can be made regarding i.a. the meeting room, a private workroom, telephone, photocopying equipment, fax and the use of the internal mail service. Additionally, agreements can be made regarding the staff support and matters such as pens and paper.

In principle, expenses made by the council will be for the account of the employer. This concerns costs associated with usage of provisions, salary costs for the secretary, documentation costs, costs of consulting experts and costs for taking legal action. Expenses made for education or consulting experts are ought to be notified to the board in advance.

Council members may put their work on hold for the purpose of council training. The number of training days must be established together with the board. The works council maintains the right to request at least five days per year. These include training days for committees.

## Regulations works council

As previously mentioned, the works council composes a regulation. This regulation includes articles regarding i.a. the election of the councils, the organization of the council, authorities and work method. Prior to being able to establish the regulation, the council must enable the Executive Board to express their opinions regarding the content of the regulation. Following the implementation, the council provides a copy of the regulation to the board as soon as possible. This thus differs with the procedure for implementation of the regulation of the student council, which is established by the executive board after being consented to do so.

## Authorities

The works council may also exercise their right of counsel, initiative and consent. These rights are elaborately listed in the WCA. The consenting and advisory rights of the works council are associated with the nature of the topic.

Consenting rights of the works council (**article 27**). These are basically all arrangements that concern the staff:

- pension scheme, profit-sharing, saving;
- working, rest and vacation arrangements;
- remuneration scheme, job evaluation;
- regulations on working conditions, absenteeism or reintegration policy;
- hiring policies, resignation- or promotion policies;
- regulations regarding staff training;

- regulations regarding staff assessment;
- regulations regarding the company welfare department;
- regulations regarding work meetings;
- complaint regulations;
- regulations regarding protection of personal data;
- regulations regarding provisions centered around presence, conduct and performance.

The Executive Board submits the proposal in writing to the council, in which it provides the motives and the expected consequences for the employees (**article 27 paragraph 2**). Following internal negotiations, the council will provide the board with a substantiated outline of their decision as soon as possible. The latter may occur during a conciliation meeting. Subsequently, the board will, as soon as possible, inform the council in writing which decision it has made and when the implementation will commence. Consent is not required if the topic is already included in the collective labor agreements (Dutch acronym: CAO) or the ARBO-law. Extension of the authorities can go through the CAO or by agreement between the board and the council.

Right of consultation works council (article 25)

The advisory rights that the works council may exercise concern:

- d. transfer of control on the company, or a part thereof;
- e. the establishment of, or the adoption or elimination of control on a different company, as well as entering into or the addition of an important alteration in or the termination of sustainable cooperation with a different company, including the commitment to, to an important extent altering or terminating important financial participation due to or for the sake of such a company;
- f. termination of activities of the company or of an important part thereof;
- g. important downsizing, expansion, or other changes in the activities of the company;
- h. important changes in the organization of the company, or the distribution of authorities within the company;
- i. alteration of the location from which the company executes its activities;
- j. the recruitment or hiring of groups of workers;
- k. the making of an important investment for the benefit of the company;
- l. the acquisition of important credit for the benefit of the company;
- m. the supply of important credit and the obligation to furnish security for important liabilities of another company, unless these occur in the course of normal execution



of activities in the company;

- n. introduction or modification of an important technological provision;
- o. the implementation of important measures that relate to the company's involvement in the environment, among which the implementation or modification of a policy-related, organizational and administrative provision relating to the environment.
- p. establishment of a regulation that concerns the bearing of risk, as defined in article 40, preamble and first paragraph, part a, article 40, preamble and first paragraph, part b, or article 40, preamble and first paragraph, part c, of the Social Insurance (Funding) Act (Dutch: Wet financiering sociale verzekeringen);
- q. the provision and formulation of an advisory task to an expert outside the company concerning one of the aforementioned matters.

The aforementioned advisory rights have been summarized from the WCA.

For the works council, about the same rules apply for requesting advice, conciliation and the potential deviation from these, as described in the advisory rights of the HEARA. The works council is additionally asked for advice by the Executive Board regarding each intended decision to appoint or dismiss of a member of the Executive Board. In the case of appointment the Executive Board will provide information from which the works council can formulate an assessment of said individual(s) in relation to their prospective function within the institution. The works council may exercise the right of initiative, like the central council or the student council (article 23). The works council may submit proposals and communicate their views regarding matters that concern the university. These proposals, including an explanatory note, are ought to be submitted to the board in writing. The board will hear the council about this and announce in writing how the proposal will be dealt with.

## Information for the works council

The works council has the right to information. If they desire information that they 'reasonably' need in order to function well, then the board is ought to provide this information in a timely fashion. Added to that, the board is required to provide information to the works council at the beginning of every term of office of the works council, regarding inter alia the organization of the institution and the delegation of management powers. Changes in these details should also be communicated.

- The Executive Board provides the council at least twice a year with the general info regarding the activities and the results of the institution in the expired term, either in writing or in hearing. In particular in relation to the topics about which the council provides advice.
- The board provides the works council annually, within six months after the

expiration of the fiscal year, with a balance sheet and revenue and expenditure account, both with explanatory notes (financial statements). In case the financial statement has been checked by an accountant, the statement of the accountant should also be communicated to the works council. The council should be able to form a justified assessment regarding the capacities and the results of the institution. The financial statements must meet the associated requirements mentioned in the 'Besluit versterking financiële Informatie aan ondernemingsraden 1985'.

- For the benefit of the discussion of the general course of affairs of the institution, the board will communicate, at least twice a year either in writing or orally, their expectations regarding the activities and the results of the institution in the prospective term. This specifically applies to matters for which the council is allotted advisory rights, as well as for all domestic and international investments.
- In case the Executive Board aims to compose a multi-annual plan or a framework or budget of receipts and expenditure relating to the institution, that plan will, along with the framework or budget, or a summary of those, be provided, with an explanatory note, and this will be included in the discussion. The multi-annual plan/institutional plan offer an important momentum for the participation to exert influence.
- The board provides to the council at least once a year, in writing, the general details regarding the numbers and the different groups of the employees active within the institution, as well as matters regarding the board's executed social policy for these individuals in the past year. This applies specifically to the topics on which the works council has consenting rights, the stimulating tasks of the council and the institutes upon which the council may exercise appointment rights. This plan is also known as the 'Sociale Jaarverslag' (Social Annual Report). It is not composed at every place it should.

## Other authorities and duties of the works council

The works council facilitates the adherence to guidelines to the greatest possible extent when it comes to work conditions and the safety, health and well-being of employees. Furthermore, the council stimulates work-related discussions and the transfer of authorities within the institution, in order for employees to be involved to the greatest extent with the arrangement of employment within the part of the university in which they are active.

In general, the works council safeguards against discrimination within the institution and specifically enhances equal treatment of males and females as well as the employment of disabled people and ethnic minorities.

In case of a regulation regarding working conditions or the CAO established by a public-law entity, further authorities could be allotted to the council that are not mentioned in the law. This can also be done through a written decision of the board. This decision should be consented to by the works council, a so-called works agreement. The board communicates this decision in writing to the company committee. In case of allotment of additional authorities, the advice or the consent of the council is not required if the matter concerned is arranged in a CAO or a regulation on work conditions, established by a public-law entity.

The works council needs to be requested for advice on the basis of article 30 of the WCA in each case of an intended decision to appoint or dismiss a manager to or from the company (being a member of the Executive Board). This advisory right, however, is not the same as described in articles 25 and 26, because the works council is not able to initiate legal proceedings at the Enterprise Division of the Court of Appeal in case their advice is not followed. Therefore, it is an attenuated form of the advisory rights described in article 25.

## More information

For more information regarding the WCA, you can rely on the various unions representing staff. They often have the complete version of the WCA on their website and, in case you request this, are willing to provide explanation. For example, visit: [www.abvavakbo.nl](http://www.abvavakbo.nl).

# About the AuthoRS

*János Betkó* was chair of Nijmegen's Student Union AKKU in 2005-2006, and board member of the LSVb in 2007 to 2009. Together with Lisa, he has been extensively involved with the realization of the bill 'Versterking besturing'. For over five years, he worked as a (senior) auditor at the Netherlands Quality Agency, in which he served as a panel secretary at program visitations, and provided training sessions as well as consulting processes. He currently works as a policy advisor for the municipality of Nijmegen.

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**D**o you know your rights? Knowing about the law, procedures and powers is necessary for rewarding participation work. This book is published in order to facilitate this.

**T**he implementation of various amendments like “Versterking besturing” and “Versterking bestuurskracht” has led to a number of changes in the Dutch Higher Education and Research Act (HEARA). This affects participation council work and leads to changes in student rights.

**H**ear-about this is meant as reference material and explanatory guide to the HEARA. The book is meant for student participation bodies, programme committee members, student unions, students, teachers and everyone interested in this law. Both arrangements for Dutch universities and universities of applied sciences are described.

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