

## **RULES COMMISSION OF APPEAL FOR THE EXAMS**

These regulations apply to all courses at CITAVERDE College, Gilde Educatie Activities, Gilde Opleidingen, Helicon Opleidingen, ROC Ter AA, ROC de Leijgraaf and Summa College.

**Commission address:**

**Examination Appeals Board T.a.v. Mr. W. Riechelman PO Box 1094 6040 KB Roermond  
CommissieBeroepExamens@rocgilde.nl**

## Definitions

For the purposes of these regulations:

- a. Appellant: a registrar lodging an appeal.
- b. Board of Governors: the Board of Governors of each institution separately.
- c. Appeals Committee: the Appeals Committee for the Examinations as referred to in Articles 7.5.1 to 7.5.6 of the Education and Vocational Education Act (Wet Educatie en Beroepsonderwijs, WEB) and Article 5(4) of the indexamen Besluit VO (Decree on index examinations, VO).
- d. Participant: student, course participant, pupil or exam participant of the institution. Where you read 'he' for the participant, please read 'she' or 'he'.
- e. Board of Directors: director of Gilde Educatie activiteiten B.V. (for the sake of readability, where reference is made in these regulations to "Board of Directors", this also refers to the Board of Directors).
- f. Challenged institution: the institution whose decision of an examination board or an examiner is disputed in appeal, or - in case of an appeal against a binding study advice: the decision of the program management.
- g. Institution: each institution participating in this scheme with legal personality, namely CITAVERDE College, Gilde Educatieactiviteiten B.V., Gilde Opleidingen, Helicon Opleidingen, ROC Ter AA, ROC De Leijgraaf and Summa College.
- h. Defence: document drawn up by the defendant institution setting out its response to the appeal, together with annexes where appropriate.
- i. WEB: the Education and Vocational Education Act.
- j. Working day: any day which does not fall on a weekend or during a period of school holidays fixed by the defendant institution.
- k. WVO: Secondary Education Act

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**Article 1. Examination Appeals Board, institution and competence**

1. The Executive Boards of the participating institutions jointly establish one Appeals Committee for the implementation of Article 7.5.1 and Article 8.1.7a of the WEB.
2. The Appeals Committee adjudicates on appeal on decisions taken by an Examination Board or by an examiner on the basis of a prior appeal procedure by examination candidates from each of the participating institutions.
3. The Appeals Committee rules on an appeal against a decision on a binding study advice without a prior appeal procedure.
4. A refusal to decide also counts as a decision. Where a decision has not been taken within a period of twenty working days, this shall be deemed equivalent to a refusal to take a decision.
5. The Appeals Committee operates in accordance with these regulations, which have been adopted and signed separately by each Executive Board of the participating institutions.
6. The Appeals Committee updates these regulations and submits a proposal for amendment to the Boards of Governors of the participating educational institutions. Each Executive Board decides separately on the proposed amendments and signs these regulations. A signed copy is sent to the Appeals Committee. An amendment only becomes effective when all Executive Boards of the participating institutions have agreed to it.
7. In addition to the rules of procedure, the Appeals Board regulates its working methods on the basis of internal regulations.

**Article 2. Composition of the Appeals Board**

1. Each Board of Governors shall appoint a minimum of two and a maximum of three members and possibly three alternate members to the Appeals Committee.
2. The members and deputy members of the Appeals Committee are not members of the Boards of Governors or the Education Inspectorate.
3. The Executive Boards shall ensure that the institution is expertly represented on the Appeals Committee. The expertise relates to the legal or examination technical competencies of the individual members.
4. The Appeals Board guarantees the expertise of the members of the Appeals Board.

5. The members of the Appeals Board shall elect a chairman and a secretary from among their number.

### **Article 3. Term of office and end of membership**

1. Members and alternate members shall be appointed for a minimum term of three years and a maximum term of five years, after which they shall be immediately eligible for reappointment.
2. Termination of membership shall be granted at the member's own request, or upon reaching the age of seventy, in that case with effect from the following month.
3. The Executive Boards of the institutions concerned may terminate the membership of one or more members nominated by them for urgent reasons.

### **Article 4. Appeals**

1. The appeal to the Examination Board is lodged by means of a reasoned appeal within ten working days after the person concerned has become aware, or could reasonably have become aware, of the decision regarding the appeal to the Examination Board. An appeal may only be lodged against a binding study advice without a prior appeal procedure.
2. The appeal shall contain
  - a) date;
  - b) name, address and domicile of the appellant;
  - c) designation of the body against whose decision the appeal is directed;
  - d) a description of the decision against which the appeal is directed, with the submission of a copy if the decision was made known in writing, or, if the appeal is directed against the refusal of a decision, a description of the decision which, in the opinion of the appellant, should have been taken;
  - e) the grounds on which the appeal is based;
  - f) other relevant documents.
3. The Secretary of the Committee shall inform the appellant of any omissions in the appeal lodged by him and shall invite him to rectify them within a time limit to be set by the Secretary. If the appellant fails to rectify the omissions within that period, the appeal shall be dismissed as inadmissible.

## Article 5. Admissibility

1. An appeal against a decision referred to in Article 1 may be lodged by a Participant which considers that it is directly affected by the decision on the basis of its interest:
  - a) inconsistency of the decision with any rule of general application;
  - b) misuse of powers in taking the decision;
  - c) inconsistency of the decision with any other principle of good administration generally accepted in law.
  
2. In particular, an appeal as referred to in this Article may be lodged by a participant who considers that he or she is directly affected by the decision in his or her interest:
  - a) because the examination did not take place in accordance with the rules laid down in advance, by which I mean at least:
    - the rules of the Teaching and Examination Regulations (TER), the Examination Regulations for Vocational Education, the Examination Regulations for VMBO, the Examination Regulations for VAVO, the Assessment and Completion Plan (PTA) for VMBO and VAVO;
    - the Education Agreement, the Education Agreement for Examiners, the BPV Agreement and the Student Charter (Students' Charter) in so far as they relate to examinations.
  - b) because the treatment during the exam is careless or unreasonable;
  - c) because the examination took place under circumstances that are considered to be prohibitive;
  - d) because of a binding study advice.
  
3. In situations not provided for, the President, having heard the members of the Commission of the institution hearing the appeal and at least two members of the Commission of other institutions, shall take a decision.
  
4. If it appears that the appeal was not preceded by a prescribed objection procedure before the examination board in question, the appeal is inadmissible, with the exception of an appeal in respect of a binding study advice.
  
5. If the notice of appeal filed should have been filed with another appeal body, the Secretary of the Appeals Committee shall inform the appellant accordingly.

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**Article 6. Simplified treatment and opposition**

1. The chairman of the Appeals Committee may rule immediately if he considers that the Committee has no jurisdiction or that the appeal is inadmissible or unfounded.
2. The chairman of the Appeals Committee bases the decision referred to in the first paragraph solely on the documents submitted to the Committee that relate to the appeal lodged by the appellant.
3. Within ten working days of the date on which the decision, as referred to in the first paragraph, is sent to him, the appellant may lodge an objection to the decision, as referred to in the first paragraph, with the Committee of Occupation. The objection shall be lodged by means of a signed document stating the reasons for the objection.
4. The Appeals Board deals with the opposition.
5. If the Commission declares the objection inadmissible or unfounded, the judgment appealed against shall stand.
6. If the Committee declares the objection well-founded, the decision against which the objection was lodged shall lapse and the investigation shall be continued as it stood.

**Article 7. Procedure in the event of a full hearing**

1. The Appeals Committee is represented during an appeal case by an executive committee of three members of the Appeals Committee. None of these three members comes from the defendant institution. The appeals committee elects a chairman from among its members. An official secretary is added, who is also a member of the Appeals Committee and comes from the defendant institution.
2. All acts of the Executive Committee shall be considered as acts performed by the Appeals Committee.
3. Upon receipt of a notice of appeal, which does not qualify for simplified treatment under Article 6, the Secretary of the Appeals Committee shall appoint an Appeals Committee to consider the appeal in question.
4. The Secretary of the Appeals Committee shall ensure that a copy of the appeal is sent to the institution against whose decision the appeal is directed.

5. The Executive Committee shall determine whether the hearing shall take place orally or in writing.
6. Within ten working days after receipt by the defendant of the notice of appeal sent by the Appeals Committee, the defendant may send a statement of defence to the Execution Committee.
7. At the defendant's timely request, the chairperson of the Executive Committee may in exceptional cases extend the time limit for defence to a date to be determined by the defendant.
8. Upon receipt of the statement of defence, the Chair of the Execution Board will send a copy to the appellant.
9. The chairperson of the Executive Committee shall determine the place, day and time at which the case is dealt with by the Executive Committee.
10. If an oral hearing has been decided, the chairman of the execution committee shall call upon the parties to be present at the hearing.
11. The hearing shall be held no later than twenty working days after receipt of the notice of appeal or the corrected notice of appeal. Any exceeding of this term must be justified and will only be permitted by the executive committee in exceptional cases.

#### **Article 8. Consideration of the appeal**

1. The Executive Committee shall conduct an investigation before taking a decision.
2. If the Execution Board deems it necessary, it will give the appellant concerned the opportunity to be heard and will hear members of the Examining Board concerned or the examiners involved or the persons responsible for the binding study advice.
3. The members of the Examining Board and/or the examiners and/or those responsible for the study programme will provide the Executive Board with the information it considers necessary for the performance of its duties.
4. The executive committee is entitled to summon and hear witnesses and experts.
5. The chairperson of the Executive Committee shall determine the sequence of proceedings with due observance of the time limits set out in these regulations.

## **Article 9. Provisional provision**

1. When lodging an appeal, the Chairman of the Appeals Board may, at the request of the appellant, make an interim measure if the interests involved so require with immediate effect.
2. Upon receipt of a request as referred to in the first paragraph, the chairman of the Appeals Committee shall determine as soon as possible the place and time at which the request will be dealt with. The parties will be informed of this in writing in good time.
3. After hearing the parties on the application referred to in the first paragraph, the chairman of the Appeals Committee shall take a decision on interim relief. This decision shall apply until the appeal has been settled.

## **Article 10. Exclusion or replacement of executive committee member**

1. Before the start of the hearing of the case or the hearing, a member of the Implementation Committee may, at the request of one of the parties:
  - a) if he has a personal interest in the dispute;
  - b) if he is an appellant, by blood or affinity;
  - c) if he has given an opinion on the case or discussed it with one of the parties;
  - d) if there is a high degree of enmity or friendship between him and one of the parties;
  - e) in other cases where there is a serious reason.
2. In the same cases, a member of the Executive Committee may be replaced by another member of the Appeals Board.
3. The exclusion or replacement shall be decided as soon as possible by the other members of the executive committee.
4. In the event of a tied vote, the exclusion or replacement shall be deemed to have been granted.

## Article 11. The Plenary Session

1. The session of the Executive Committee is public.
2. If a party so requests, the hearing may take place wholly or partly behind closed doors.
3. In the interests of public order or morality or for important reasons to be stated in the report of the session, the Executive Committee may determine that the session shall take place wholly or partly behind closed doors.
4. The parties shall be given an opportunity during the session:
  - a) put forward their interests or have them put forward;
  - b) take cognizance of all documents relating to the dispute, which shall, as far as possible, be made available to the parties at least five working days before the hearing.
5. The Appellant may be assisted by third parties.

## Article 12. Ruling

1. Within twenty working days of the last hearing at which the case was heard, the Implementation Committee shall issue a reasoned decision on the appeal.
2. The official secretary of the Executive Committee shall be responsible for notifying the parties concerned in writing of the decision. The decision is also sent to the Education Inspectorate as referred to in Article 5.5 of the indexamen Besluit VO (indexamenbesluit VO) and Article 7.5.2 of the WEB.
3. An admissible appeal may be declared well-founded or unfounded by the Executive Committee.
4. If the Executive Board considers the appeal lodged to be well-founded, the Executive Board annuls the decision of the Examining Board or the examiner(s) or the binding study advice of the study programme.
5. The Executive Committee may determine when the provisions of the previous paragraph shall apply:
  - a) that the examination or any part thereof is retaken under the conditions to be determined by the execution committee;
  - b) that the examination board makes a new decision;
  - c) that the examination board still makes a decision;

- d) that the training shall review the decision on the binding study advice;
  - e) reports to the Executive Committee on the progress of the decision taken in the ruling.
6. The examination board or the examiner or the person involved in the programme of study whose decision has been annulled shall, in so far as necessary, reopen the case with due observance of the decision of the Appeals Committee. The Committee may set a time limit or other conditions for this in its decision in accordance with Article 7.5.2. paragraph 6 of the WEB.
7. The Appeals Committee may issue a non-binding advice to the examination committee or study programme concerned in response to an appeal in which it has issued a decision, whether solicited or unsolicited. This advice is given within the framework of Article 1.3.6 WEB, does not form part of the decision, and is sent separately and exclusively to the examination committee or director of the study programme concerned.

#### **Article 13. Revision of judgment**

1. A decision of the Appeals Committee may be reviewed at the request of either party on the basis of established facts or circumstances which, had they been known earlier, could have led to a different decision.
2. In the event of an application for revision as referred to in paragraph 1, the provisions of Article 12 shall apply mutatis mutandis.

#### **Article 14. Entry into force**

1. These regulations, which have been adopted by the Executive Board of CITAVERDE College, the management of Gilde Educatieactiviteiten, the Executive Boards of Gilde Opleidingen, Helicon Opleidingen, ROC Ter AA, ROC de Leijgraaf and Summa College, enter into force on 1 January 2019.
2. The rules are in force from the date of signature until 1 January 2023 and are tacitly renewed for a period of three years.

Signatures:

CITAVERED Board of Governors:

Guild Educational activities:

Gilde Opleidingen Executive Board:

Executive Board Helicon Opleidingen:

Executive Board ROC Ter AA:

Executive Board ROC de Leijgraaf:

Summa Board of Governors: